Corporate Governance
In
Entrepreneurial Sustainable
Local Government

Eugene Boyle

November 2006
Introduction

While governance and the provision of a true accounting as to performance has never been more important, in terms of providing assurance to stakeholders as to efficiency, effectiveness and economy, research suggests that rather than embracing the Triple Bottom Line and Sustainability Reporting as a vehicle to promote control, accountability, transparency and Corporate Social Responsibility; Victorian Local Government appears to be falling behind in terms of accepting ‘Sustainability’ as the governance framework for 21st century.

While the concept of sustainability reporting may be new, i.e. a phenomenon of the last ten (10) years or so, the need for such a vehicle to re-vitalise corporate governance structures particularly those in local government have been around a lot longer. Such demands for change date back as far as the early 1980s when the very fabric of local government was fundamentally changed forever with the introduction of public entrepreneurship.

The global trend towards entrepreneurial local government emerged in the early 1970s and was seen as the management reform phenomenon capable of re-engineering and re-configuring the provision of local government service through the introduction of innovation, increased integrity and accountability from officials in public office (Cohen and Eimicke 1998). The major thrust of the initiative being sighted as its capacity to transform outdated bureaucracies into agile, anticipatory, problem-solving entities, operating under an umbrella of entrepreneurship and public enterprise.

In what was seen by commentators and stakeholders alike as a crisis time for local government, public entrepreneurship was cited as an opportunity to release the promise and potential for innovation and creativity that was apparent, but lay dormant within the sector itself (Osborne and Gaebler 1993, Osborne and Plastrik 1997). However support for public entrepreneurship was by no means unanimous. Opponents believed that while change was vital, the inherent risk associated with the adoption of an entrepreneurial approach was perceived as being too high (Frederickson 1995). Further discontent was based on the belief that unelected bureaucrats had no authority to “take risks with public money (Moe and Gilmour 1995). Others expressed the view that, the risk co-efficient associated with such entrepreneurship and enterprise exceeded that, which could be addressed by the corporate governance measures in vogue at the time (Schachter 1995).

Public entrepreneurship was introduced to Victoria in the form Compulsory Competitive Tendering (“CCT”) Reforms (Jones 1992) and was further enhanced by the 1988 amendments to the Local Government Act (1993) that provided for the introduction of Best Value (http://www.melbourne.vic.gov.au). The essence of CCT being that it would introduce competition for local government service contracts. Such was the structure of CCT that it opened up such contracts to competitive bidding, by pitting existing local Government authorises and their in-house trading entities against private sector organisations for the right to provided services to constituent communities and other stakeholders.
While the driving force behind ‘Best Value’ was the aspiration of the part of the State Government to ensure that Local Government Services should be provision should respond to the expressed needs and desires of the community, i.e. stakeholders should be consulted as to the nature of services to be provided, and as to details of quality, quantity and cost.

Ironically, at the very time that the Victoria was moving to introduce public entrepreneurship via the implementation of concepts such as CCT and “Best Value”, the countries upon which the models were based, i.e. the United States of America, the United Kingdom (Sheffield & Coleshill (2001), Harding (2001)) and New Zealand, were in fact unravelling their earlier attempts at such reform. Typically, the prime reason cited for such a change was the incongruence between public entrepreneurship and the need to safeguard long-term stakeholder interest (http://www.bvpi.gov.uk). In short, overseas experience indicated that the governance measures in vogue were such that they cannot adequately deal or cope with the complexities and diversities of risk generated by the use of an entrepreneurial approach to service provision within Local Government (http://www.audit.gov.nz).

Rather than moving to address the emerging corporate governance issues associated with entrepreneurial service delivery, the situation was exacerbated with the Victorian State Government’s emerging focus upon sustainability. Not only was local government service provision to be entrepreneurial, but also local government was to provide such offerings in an environmentally responsible and sustainable way. The emergence of the sustainability agenda being driven by a urgent need to address the resource consumption rates associated with an ever-increasing demands for local government services, energy, transport, etc. in times of declining water resources, peak oil prices, and unprecedented demographic change.

**Models for Corporate Governance, Public Entrepreneurship & Sustainability**

Public Entrepreneurship

The theory of entrepreneurial local government is essentially the application of the long established concept of economic entrepreneurship, i.e. the shifting of resources out of an area of low and into an area of higher productivity and greater yield (Iversen, Jorgensen et al 2005). This desire for greater efficiency, economy and effectiveness within in local government saw management operatives literally take Say’s economic model of entrepreneurship and transported it directly into the operational framework for the provision of local government services.

In doing so, they relied upon the Drucker’s (1985) characterisation of a successful entrepreneur as one who defines risk, confines it, pinpoints opportunities and proceed to exploit them. The essence of public entrepreneurship being the belief that it would take the service delivery model to a new level and act as a cornerstone in the effort to banish bureaucracy.
However, the level of success achieved via the implementation of public entrepreneurship was questionable, with “financial failures” within local government being directly attributed to the increased risk co-efficient materialising as a consequence of the introduction of such an entrepreneurial approach. Such was the descent that further changes were introduced in the form of “Best Value”. This initiative saw the entrepreneurial model modified to ensure that the activities of entrepreneurial local government were subjected to external and independent scrutiny.

Corporate Governance

Historically, corporate governance was viewed as being “… the system by which corporations were directed and controlled. It was the structure that specified the distribution of rights and responsibilities among the different participants, such as the Board, Managers, shareholders and other stakeholders, and spelt out the rules and procedures for making decisions on corporate affairs. As such it provided the structures through which corporate objectives were set, and as was the means of achieving and reporting against such objectives determined…” (OECD. 1999).

The materialisation of corporate governance within organisations has tended to focus on the management of operational risk in terms of procedural correctness and operational protocols, and as a result the 1990s were littered with a multiplicity of codifications and prescriptions of operational frameworks designed to mitigate risk through control structures designed to prevent fraud, material loss or other wrongdoing by those involved in operational processes (Treadway 1993, COSO 1995, Hampel 1998, Sarbanes-Oxley 2002 & Smith 2003).

However, current thinking on the subject now suggests that corporate governance needs to move beyond the scope of simply relying on procedural correctness and protocols to exert control, and needs to address the social and humanistic aspects of corporate activity, i.e. to integrate the “management” of attitudes and social behaviour of individuals operating within organisations. Such an approach enabling governance mechanisms to evolve from a “command and control” dictum to a more proactive and continuous process that assesses, sources, measures and manages risk across an organisation in a strategic and holistic way (Westwood & Whiteoak 2000). What has emerged is the need for a governance function that not only provides for risk management, akin to the COSO theory of control and procedural correctness, but one that incorporates the attitudes and social (behavioural) aspects of individuals as they relate to operating within organisations (Simmons 1995). As a result the theoretical framework moves to encompass a much wider, in a fact an enterprise based approach to the concept of governance.

Perhaps the very essence of the function of corporate governance is summed as being “in the development of a risk sensitive culture that enables the right people to do the right things at the right time” (Stein 2003).
Sustainability

While there is a vast array of writing on the subject of sustainability, a lot of it focuses on the definitive (Brundtland 1983), or calling for further action (Carson 1960) or simply adding to the descriptive (Nicholson 1970). The underpinning theoretical basis is much less widely alluded to in the literature.

However, one of the most interesting and in fact controversial theories was popularised by Lovelock (1979) when he proposed his Gaia Hypothesis. The essence of which proposed that the Earth behaved akin to that of a ‘super organism’. In that life on Earth not only made the atmosphere, but also regulated it. Thereby, keeping it at a constant composition, and a level favourable to all living organisms. The Gaia Hypothesis is based upon the premise that, life on Earth was responsible remaining equilibrium by ensuring that the impact of the rate of resource extraction from the planet is no greater than the rate of regeneration or compensation by the planet. In short, all life forms needed to maintain equilibrium to ensure the perpetuation of a favourable environment thereby facilitating the continued survival of all life forms on Earth.

It could also be argued that Elkington’s discourse (1994) in terms of his ‘triple bottom line’ theory is formulated around such an equilibrium hypothesis. However, it must be acknowledged that Elkington has substantially built upon Lovelock’s work and moved it to a higher plane through his articulation of how such equilibrium could be proactively restored, and once achieved, maintained.

Research Methodology

To further explore and deepen the understanding of the interrelationships between corporate governance, public entrepreneurship and sustainability within the confines of local government service delivery, an exploratory research study has been undertaken.

Specifically the research is intended to address the question of:

*Are the corporate governance measures within the Victorian Local Government Public Sector perceived by stakeholders to provide them with confidence that their interests are being safeguarded in a business environment involving the potentially conflicting requirements of public entrepreneurship and sustainability?*
Underpinning the theme of the research question are the following subsidiary issues:

- Does the current legislation provide a sufficiently robust corporate governance platform to ensure an appropriate level of assurance is provided to stakeholders?

- Are the governance frameworks operated capable of adequately addressing the agency void between interest-holders, be they Councillors, constituents, ratepayers, residents or other external stakeholders and those involved in the management of Local Government, i.e. the Executive Management Groups?

- Would stakeholder interests be better served by Local Government moving to a performance or “outcome” based accountability framework, as opposed to the current and more traditional consumption or “output” based reporting approach?

- Would the adoption of a Sustainability Reporting Framework (TBL, GRI or similar, provide the basis for a more robust and transparent articulation by Local Government of its accountabilities and responsibilities to its stakeholders?

Essentially the research approach will focus upon obtaining opinion of those directly involved in the entrepreneurial operations, corporate governance activities and the sustainability initiatives of a selection of municipalities and shires throughout Victoria.

The locations include:

- A large metropolitan City Council, selected as it is perceived to be ‘a leader’ in terms of responding to the issues arising in local government, e.g. corporate governance, public entrepreneurship, sustainability and service delivery.

- A rural Shire Council, select to represent the issues faced by a Shire with the ratepayer base varying from rural farm holdings, small rural communities through to rural townships. The locality selected represents the increasing demographic issue of ‘sea changers’ and coastal retirees emerging in Victoria. In addition, the Shire accommodates large influxes of tourists, weekend stayers and holidaymakers;

The interview data was supplemented by data obtained from reviews of Annual Reports, Council Strategy Plans, Council Policy Statements, Operational Frameworks, Charters and internal Codes of Practice and other special purpose documentation. Further information was obtained from interviews, discussions and analysis of information from a number of external agencies, such as State Government Departments, Special Interest Groups, NGOs, etc.
While the work of Eisenhardt (1989) and Remenyi et al (1999) would indicate the limitations of such a study is a lack of generalisation and the potential impact of localised influences, Yin (19994) would suggest that these (limitations) are offset by the increased understanding of the overall phenomena, provided that due cognisance of the limitations is acknowledged.

**Findings & Interpretations**

*Public entrepreneurship*

Public entrepreneurship was introduced to Victoria by way of the Compulsory Competitive Tendering (“CCT”) provisions embedded in the revitalised Local Government Act 1993. The intention being that the legislative provisions would ensure that the delivery of services by local government would be performed more economically, effectively and efficiently than had ever been the case.

Essentially the legislation provided a framework comprised of three available options:

- Service provision by the private sector – outsourcing of previously in-house provided activities and services;
- Formation of in-house business units, working to commercial business principles and competitive benchmarks; and
- Establishment of independent subsidiary entities, eg. wholly owned proprietary companies.

The intent of the CCT being that both in-house business units and, or subsidiary entities would compete head to head with the private sector in terms of bidding or tendering for Local Government Service Provider Contracts. It was envisaged that such competition on the so-called “open-market” would materialise the rationalisation of local government from the inside, i.e. the need to compete for service delivery contracts would unleash the previously untapped, latent ability within the existing bureaucracy of local government. In doing so, it would facilitate the evolution of an innovative, entrepreneurial and efficient public sector.

At its core, CCT was intended to set in train a process aimed at continually comparing an organisation’s performance on the critical customer requirements of quality, quantity, timeliness and cost against the best in the industry, either as direct competitors or companies recognised for their individual excellence in service provision in a particular field of endeavour. Jones (1992) contended that “… the entire mechanism would be based upon the premise that the separation of service delivery from the planning and oversight function (both previously facilitated by incumbent local government management) would provide for increased productivity in terms of service delivery and would also release the entrepreneurial potential of incumbent management...”
He went on to say that “… the intention being that such separation would allow local government managers to:

- Assess consumer demand and satisfaction;
- Develop innovative ideas as to methods of service delivery;
- Strategically assess levels of, and quality of required service delivery;
- Review and assess the required financial resources to support service provision;
- To manage the compulsory competitive tendering process; and to
- Monitor achievement against policy…”

In short, it was believed that incumbent management and the mechanisms employed by the current regime were not capable of adequately performing the joint tasks of process management and service delivery. CCT was formulated upon the premise that there was an identified need for the rationalisation of organisational structures employed within local government. Jones (1992) suggested that “… in order for the efficiencies to flow from the implementation of CCT, a “shamrock organisational style” as required to be adopted as the new norm…”

Such an organisational structure calling for adoption of a new order comprising three component parts:

- Core workers
- Council engaged contractors; and
- A flexible workforce element.

While this may have been seem as the intent, unfortunately for both stakeholders and local government alike, as the following discussion will testify, the results were far from fruitful.

Unfortunately, the result achieved in the first round of the CCT tendering process was less than favourable, with a generic success rate of 90% of tendered contracts being “won” by either in-house business units or subsidiary entities formed under the umbrella of their controlling entity. Such was the embarrassment of the initial results of CCT, coupled with private sector animosity regarding the lack of a level playing field that substantial changes were made to both the CCT framework and the tendering methods and evaluation processes within Local Government.

The failure of the initial attempt at public entrepreneurship reinvention was blamed on the fact that the “public sector based business units” were perceived as having too much of a head-start over the private sector in terms of their “no tax advantage”, low cost of capital, etc. For the reforms to be successful – more changes were considered necessary, these involved in the introduction of tax equivalent tender pricing and other accounting devices and adjustments to bring about “true equity “ in terms of ensuring a level “playing field” between the so-called entrepreneurial public sector and the established competitive structures of the free-market.
But of fundamental concern should have been the apparent failure of the structure(s) applied to achieve the aspiration of the State Government, i.e. the introduction of public entrepreneurship. Only on municipality adopted the ‘government preferred’ option, involving the creation of subsidiary corporations, while most opted for in-house trading entities sanctioned by internal service agreements and ‘managed’ by way of internal, cross-corporate bureaucracies.

The result leading to questions as to how such a bureaucratic and resource intensive approach response could be seen as a viable response to the call for agility, innovation and entrepreneurial service delivery. In extreme cases, local government authorities simply outsourced the service delivery entirely and in-house resources were restricted to a contract management function.

But politics, being politics – things change. Some commentators would say that the initial attempts at entrepreneurial local government in Victoria were derailed by the introduction, in 1999, of the Best Value initiative of the Bracks Labour Government. Again, these provisions would be embedded in the core legislation used to regulate the behaviour of Victorian Local Government entities – a further reincarnation of the much over-worked Local Government Act 1993.

The underpinning philosophy of the Best Value Initiative was as the number of service providers competing for local government contracts; the more successful the entrepreneurial approach to service delivery would be, i.e. stakeholders could rest assured that they were indeed receiving best value.

Embedded in the legislation were mechanisms that required local government agencies to report to State Government against performance criteria that were designed to illustrate the provision or otherwise of identified best value outcomes and criteria.

The theory being that the concept would ensure that:

- Community needs were indeed being by local government service providers;
- Introduce rigour in the assessment and reporting process and ensure external scrutiny of reported performance achievements;
- To introduce the principles of free-market competition to all aspect of the operations of local government; and
- Expose local government to scrutiny of National Competition and Competitive Neutrality Policies.

So yet again legislation was used the primary vehicle to drive local government towards the entrepreneurial approach of the private sector. Perhaps such the need for such continual intervention on the part of the State Government was an indication that despite the desirability of the prize, whatever it might be, the goal was nevertheless to remain beyond achievement, if Local Government was left to its own devices.
As with previous initiatives, the legislative provisions for Best Value were expansive, in that they outline the intent of ‘what was required’ and the ‘how achievements were to be documented’ but left the ‘how to’ open to interpretation. Once again the response was variable at best and the outcomes unfulfilled.

While such rationalisation of the failure of both CCT and Best Value may indeed be appropriate on the surface, however the research findings unearth some other, even more fundamental reasons for the lack of success of the initiatives. History indicated that despite an initial appetite to embrace the new operational philosophies of entrepreneurship and Best Value such enthusiasm was to be short-lived. The changes mandated by way of CCT, internal restructure, downsizing of EFT establishments, the introduction of flexible working arrangements, etc. have substantially gone. With all research candidates now having returned to or exceeded there pre-CCT staffing compliments.

While the need for change within local government is acknowledged, it remains the collective opinion that while the State legislated for change, the absence of a defined framework or preferential model, undermined the achievement of the desired outcome, due to the multiplicity of choices made available to deliver on the aspiration.

In expressing such an opinion, it would appear that the change exercise was sighted as one of presentational adjustment rather than that of substantive incremental and lasting change. In reality entities perceived that rather than being asked to change their service delivery approach, they could ‘accommodate’ the required outcome by adjusting the accountability and reporting mechanisms, i.e. they could effectively do the same things, the same way, but simply report it differently.

At this juncture, it is important to recognise and clearly acknowledge the unmistaken absence of external review of outcome achievement under either CCT, or indeed the latter initiative of Best Value. In fact, there was a unanimous agreement as to the lack of need for such a mechanism, as it was believed that such examination along the lines of New Zealand’s Public Audit Act 2002, or the Audit Commission in the United Kingdom was totally uncalled for. Such a view would logically call into question the organisational acceptance of the underlining philosophy of the initiatives of both CCT and Best Value.

**Corporate Governance**

Despite the advances corporate governance evidenced by the move from the descriptive codifications (Treadway 1993, COSO 1995) to non-prescriptive governance principles (Dunlop 1999) and ‘risk sensitive culture-based models’ (Stein 2003), research indicates that corporate governance measures with Local Government have remained in something of a time-wrap. Unfortunately for stakeholders local government continues to rely on an embedded philosophy of operational correctness, based upon procedural documentation, practice / policy statements, and charters outlining required behaviours in order to regulate their functional environments.
Historically the accountability structures and requirements for Local Government have been embedded in the State Government legislation, i.e. the Local Government Act 1993. The specific requirements of which; include the preparation, audit and subsequent presentation of an annual performance statement, incorporating a full set of financial accounts. However in recent times and in recognition of the increasing complexity of service delivery within the local government sector the State Government moved to require the provision of four (4) Year Strategic Council Plans coupled with Financial Resource Allocation Plans base upon similar timeframes. The legislation also requires the preparation of Best Value Reviews and attestations as to the effective operation of Audit Committees by each Local Government entity.

Therefore, while service delivery has become entrepreneurial and operational functionality has trended towards that of the ‘private sector’, the fundamental structures and functionality of corporate governance within local government has remained essentially stagnant. Perhaps such inaction might explain why, despite all the attention to detail, the codification of accountability, the legislative requirements, etc. there still have been an unacceptable number of Local Government authorities that have found themselves in difficulty to varying degrees of seriousness. It is also critical to note that of all the governance measures required by legislation; only the Annual Accounts and the associated ‘output-based’ Performance Statements are in fact subject to any kind of external verification or review.

Before the local government reforms of 1994, the governance model in vogue was a relatively simple affair, focusing primarily on the need for Council to comply with the provisions of the Local Government Act as it when was. Since the Act provided a detailed framework of what was possible and more importantly what was not. Council through its governance framework could assure itself of compliance with the legislative provisions.

This being the case, corporate governance primarily focused upon the periodic monitoring of the execution of Council’s mandate through the collective actions of the Executive Management Group, the Council Committee structures and the operational functionality of the Council staff at large. At this time, the main thrust of the governance model was again embedded in the Local Government Act of the day, in that it provided for:

- The annual publication of Council’s annual financial and performance statements;
- The appointment and operation of an Audit Committee; and
- The engagement of an operational internal audit function to actively review the efficiency, effectiveness and economy of the operations of the City.

However, the introduction of CCT, corporatised trading enterprises and latterly the move to “Best Value Practices” changed all of that. No longer could local government see itself as the sole provider of services; i.e. it was no longer in control of all of its previous functions, instead it had become a contract manager and facilitator of service provision.
The move to entrepreneurship not only subjected Council to free-market methodologies and the competitive business environment, but it also exposed Councils to a level of risk co-efficient unprecedented in the history of Local Government in Victoria. In response to this dilemma, Councils attempted to adopt a more “corporatised” approach to its governance model and in particular to the operation and constitution of their Audit Committees. These changes saw the introduction of externally appointed members, such members being “invited” to sit on the Committee based purely in terms of their business acumen, their individual business advisory skills and competencies coupled with their standing in the professional business community.

While the Council’s interest on the Audit Committee were safeguarded by the installation of Councillor representatives and members of the Executive Management Group in an ex-officia advisory capacity. However, it is important to remember that their Charter and Terms of Reference typically define the operational functionality and mandate of the Audit Committee. Such documents being formulated by the elected Councillors and not by provisions of the legislation and therefore the potential for true independence and scrutiny is somewhat at risk.

What becomes apparent is that while the internal operational environment of local government has move closer to a ‘private sector’ or entrepreneurial approach, the corporate governance frameworks have remain almost entirely the same as they were pre-reform.

But as Dunlop (1999) commented, Australia is already significantly, if not excessively regulated and controlled, and therefore any moves to further regulate or legislate for whatever reason, including that of corporate governance should be viewed simply as adding to an already over-regulated society and business community alike. Despite such warnings, the conceptualisation of public entrepreneurship, Best Value, etc. did simply add to the already voluminous amounts of control-based legislation and regulation.

At this juncture, one might take the opportunity to ask why, or more precisely how legislation became the instrument of choice in respect of the institutionalisation of corporate governance?

While recognising or at least acknowledging that the substantive control mechanism for the regulation of the operation of local government has been legislation and regulation, the corporate world has, it would appear, also been unable or at least incapable of avoiding the mantle of, and in fact the imposition of the mandatory governance and control by legislative means.

History indicates that the legislative-based governance phenomenon had its origins in the 1930s with the emergence of the contradictory beliefs of Dodd (1931) who considered that managers in the corporate environment exercised the disciple of social responsibility to stakeholders. Horizontally opposed to this view was Berle who championed the cause of shareholders’ rights as being paramount.
This scholastically based argument continued until the 1950s when Berle succumbed to Dodd’s belief that “… managerial discretion was a positive virtue that permits them, as managers to act in the interest of society as a whole…’.

Hansmann & Kraakman (2000) cited the normative appeal of this approach “… as the rationale for the various legal developments that have materialised in the USA in the 1950s and 60s. The nature of the legislation being enacted was such that it supported the approach popularised by Dodd, rather than seeking to or attempting to exercise control or impose regulation per se. However, they go on to suggest that the boom, and subsequent burst experience in the turbulent 1970s and 80s literately left the so-called managerial model in tatters. They exposed the reality that ”… when managers are given great discretion over corporate investment policy, they most end up serving themselves, however well –intentioned they may be…”.

With the continued failure of the various self-management models, the corporate world has left itself exposed to the inevitable solution, state intervention, and so was born the mandated governance role of legislation and regulation (Shoonfield 1967). While it must be accepted that legislation, regulations and Government Department Guidelines have their place in a governance framework, as Hansmann & Kraakman (2000) pointed out “… there is an increasing consensus of opinion that the current corporate law model is becoming an ineffective tool for the regulation and control of ever divergent business corporations…”.

Again drawing on the experience of the corporate sector, some commentators draw the following perspective in relation to the debate on legislation-based governance initiatives “…implying that the objective of governance legislation is to eliminate stakeholder risk, while in reality this is simply not possible. Rather than needlessly focusing on the unachievable, it would be in everybody’s best interests to pursue a strategy involving and indeed promoting prudent risk taking…” (Dunlop 1999).

Regardless of the environment, i.e. public or private, what remains as a consistent dilemma is the redundant belief retained by some that: corporate governance is an end in itself, rather than simply a component part of an economic operation of an entity, be it public or private. What needs to be focused upon is the potential, and in fact, the need for governance to add value in an ongoing and dynamic way, and not to retrench to a framework reliant upon legalisation and regulation. True dynamic corporate governance goes well and truly beyond that facilitated by legislation.

Corporate governance needs to aspire to set out or to mandate direction, patterns of behaviour, etc. governance is about trust and framing human behaviour in by way of indirect influence rather than relying on a scripted solution, a rule-book or the regulatory powers of a Parliament.
As Dunlop (1999) explained “... the crux of the governance issue is encapsulated in Lord Acton’s now famous dictum ...power corrupts – absolute power corrupts absolutely.... In essence governance comes down to one fundamental question: How do you achieve performance, which requires the exercise of power, whilst at the same time avoiding abuse of that power? ...”.

The is no proof that any one model of corporate governance leads to optimum performance, indeed to make any such assumption would be extremely foolish given the diversity of entities operating in today’s modern economies. Flexibility must be encouraged, and in order to do so, it requires recognition and utilisation of the most appropriate governance and control model, and this can only be determined in relation to a particular entity and the business environment in which it operates.

In the final analysis corporate governance is about establishing a structure within which creativity can flourish, while at the same time engaging in a broader strategy, which manages the level of stakeholder risk exposure. However, having said that, can the same be said of local government entities, which in themselves are becoming more and more corporate-like and indeed entrepreneurial in their thinking and operational activities. This being case and applying the simplest definition of corporate governance as being “... the promotion of corporate fairness, transparency and accountability...” (Wolfesohn 1999), the question could and, in fact should be asked is ‘have the corporate governance measures employed within Local Government keep pace with the changes in the mode of service delivery and other business activities?’ Unfortunately, the answer is no.

There can be little doubt that Victorian Local Government has attempted to embrace the entrepreneurial nature of the changes embodied in both the CCT (1993) and the Best Value (1999) legislative amendments. However, research indicates that in accepting the challenges posed by the Reforms, the governance resources available to Councils and the managerial oversight of the elected Council members has undoubtedly been stretched.

In terms of the Councils, i.e. the collective body of elected members, their mandate is to manage their authorities on behalf of their ratepayers and other stakeholders. They are collectively elected based upon their foresight for and on behalf of those that they represent, and not seen as a board of directors are in terms of a bona fide corporate entity. Therefore, it is important to acknowledge that while the current service offerings maybe the same as those previously delivered by business units within the Councils’ former structures, the delivery process is entirely different. The move to entrepreneurship, with its need of large volumes, low margins, competitive business strategies and structures more akin to that of the private sector do not readily fit with the management and governance models as operated within local government.
Along similar lines are the issues faced by the so-called ‘trading enterprises’ set up under the public entrepreneurship umbrella, which allows them to escape the realities that they aspire to have to deal with as they allegedly operate to an entrepreneurial agenda. Whereas the controls exercised by their parent Councils and indeed the State Government mean that it is literally impossible for the operational units to release themselves fully from the “apron strings” of their parent body. That is to say that, in reality, there remains a substantial safety net that exists as a protection mechanism that a true corporate entity would never be able to put in place in a ‘normal’ business situation.

The dichotomy faced by such operations is that while their constitutions and memorandums of association allow them to enter into extensive financial commitments and instruments such as leases without question, their ability to raise its equity capital or borrowings are strictly limited in terms of the need for either Departmental (State Treasury & Finance) or Ministerial approval.

A further, but last resort safety vehicle also exists, in that such operations are totally underwritten by the Councils themselves, who in terms are effectively underwritten by State Government in terms of the Local Government Act 1993. To draw a similar parallel from the commercial world – it would be like the Federal Government standing behind each and every business operation in operation in Australia.

Keynote to Victoria’s experience in terms of operating to an entrepreneurial local government model has indicated that there remain aspects of the municipality’s operation for which there is either no commercial opportunity. In that attempts to introduce them to the free market have failed and therefore the provision of service has had to be brought back into the Council’s operations as a matter of course. These typically include compliance-type functions administered by Councils, e.g. activities such as building certification and regulation, food and health permits and the like. In such cases attempts to ‘commercialise’ these activities have failed as the provision of such products and services to the customers and consumer at a profit by the private sector have been rejected.

The overall concern being that while Councils have indeed moved to engage in a ‘corporatised’ model in response to the legislatively required reforms, the governance structures set down as the basis for control of the entities created as result of those reforms were insufficient, and as such cannot ensure appropriate governance, accountability and stewardship of the entities created.

Based upon such revelations regarding the fundamental shortfalls in key areas of the governance model, it appears that while there has been considerable effort made to create a unified and co-ordinated approach to issue of corporate governance across the diversity of local government functionality, including the entrepreneurial enterprises, the reality is that to date, such efforts has been less than successful.
As a consequence there is an increasing awareness that while the basic corporate governance and risk management models employed by local government may have indeed be appropriate for use within an local government pre-reforms, they fall short of being a sufficiently effective governance tool for operation within an entrepreneurial local government environment, where the magnitude and nature of risk is more diverse and the consequences of failure are much more acute.

What remains of much interest, is that while all previous change initiatives and associated governance measures have been imposed by legislative means, the Victorian State Government have steadfastly resisted any attempt to follow the lead of New Zealand and adopt a governance framework for local government similar to that provided by the Public Audit Act (2002).

The New Zealand legislation which was introduced to the Parliament by the New Zealand Auditor-General, was in many ways a similar response to the issues resolved by the Sarbanes Oxley Act in the United states of America, but with the obvious difference that the New Zealand legislation was intended to ‘govern’ the public sector, i.e. New Zealand Government Departments and Local Government entities. However, the sentiment was exactly the same in that the Auditor-General was seeking to re-establish and re-affirm the rule of law in terms of governance, stewardship and corporate reporting within the New Zealand Public Sector.

**Sustainability**

In addition to the legislative requirements of entrepreneurship and corporate governance, the Victorian State Government and Local Government alike have, in more recent times moved to embrace the concept of sustainability. This latest demand upon municipalities and shires alike has been received a mixed response, some move to actively engage the concept and continue to work extremely hard at its integration into ‘business as usual’, while others have sight it of more of an incumbrance.

The research findings to date have reinforced the view that as far as Local Government is concerned sustainability, its role in service delivery and Council’s obligations to stakeholders remains unclear. While some commentators would suggest that iconic achievements have already materialised, e.g. construction of ‘six-star rated environmentally sustainable buildings have been constructed, protocols for water and energy reductions have been developed, the same commentators will refer disparagingly to the nature of local government vehicle fleets, continued use of landfill waste disposal techniques, etc.

But perhaps the greatest contradiction that exists is the failure of local government to concede to the need to report and account its stewardship to its stakeholders in terms of a triple bottom line. That is to say that they report their achievements and account for their performance in terms of progress to required outcomes instead of their continued adherence to the more ‘consumption-based’ output format that continued to be in vogue.
The retention of such mono-dimensional performance reporting primarily based upon accounting for the historical consumption of resources and the associated production of outputs giving stakeholders little if any real insight into actual achievement against strategic outcomes.

While outcome and triple-bottom line reporting has been in vogue internationally for some time, in fact the corporate world it has been recognised and indeed utilised as a source of competitive advantage for some considerable time, Victorian Local Government continue to resist the inevitable and succumb to the need to accept change. Initial indications from the research being conducted suggest that it is a combination of factors that have given rise to the continued reluctance to accept what is rapidly becoming the new internationally accepted benchmarking in corporate reporting. This being the perception that moving towards a reporting structure such as GRI or similar exposes the entities to a lack of control of their own disclosure thresholds and in doing so put ‘too much’ information in the public domain.

Accepting such a view is counter-productive as history clearly demonstrates that if an entity has so-called bad-news to impart, utilising a TBL or GRI Reporting format means that the entity involved has ‘first-mover advantage’ and in doing so defuses the entire situation before it’s has a chance to escalate into what might otherwise be damaging press. The other most common issue is the derailing of any moves to comprehensively move to sustainable operations and reporting is the misapprehension that it comes at a high cost to efficiency and operational effectiveness.

Despite several attempts to introduce sustainable assessments to its operations and sustainability reporting to its Corporate Performance Reporting Function, one of the research locations continues to struggle with the transition to using such an approach. Their initial attempt involved the use of Elkington’s triple-bottom line approach, the initiative was greeted with such enthusiasm that it became unstuck as the results generated could not stand up to the rigour of external examination, and in fact examination of the internal processes highlighted evidence of data tapering to ensure the perception of favourable outcomes were achieved in cases of unsustainable project proposals. A latter attempt to utilising the recently released GRI Reporting Index again failed the ultimate test, this time then results achieved could not be replicated or indeed verified by external parties.

However, perhaps even more fundamental than the previous assertion is the reality that the entire agenda within local government is being derailed by a lack of understanding at worst, or an absence of a clear articulation of what exactly sustainability means in the local government context, at best. Some continue in the belief that it simply represents a framework for environmentally sensitive operations and decision-making, while others believe that it is a favour or a seasoning to be ingrained into every facet of local government operation and service delivery, i.e. it is a new cornerstone or foundation for the operation of the entire entity.
Such a view allowing it (sustainability) to become the means of ‘doing business be it corporate or public sector based, in doing so it becomes or is allowed to becomes a framework capable of supporting and indeed conditioning all outputs, and more importantly all outcomes.

However, given the status quo, and unlike New Zealand, the Victorian Local Government and the Australian Federal Government alike appear to have little (if any) appetite for a legislatively driven requirement for local government to adopt TBL, TBL +1 or indeed GRI as the corporate reporting tool of choice. As a result stakeholders must continue to endure the limitations of the mono-dimensional reporting targeting financial and output-based accounts of performance, with little prospect of change in the foreseeable future.

**Continuance of Research**

To date, analysis of the data gathered has focused on the content of the subject matter and interpretation has been “limited” to explanation of what has materialised in respect of the initiatives, with little (if any) attention being afforded to how, or indeed why the results and outcomes have materialised. The next phase of the analysis, and in fact the area of research which is rapidly becoming the underpinning concept of my PhD Thesis is the influence exerted by way of organisational structuration.

The analysis will primarily be based upon the theories developed by Giddens (1984), and Blaikie (2000) as regarding the influences exerted upon operatives within organisations and the influence exerted by organisations on the functional operatives within them.

**Closure**

The PhD Thesis upon which this paper is based is due to be submitted for examination to the Research Faculty of RMIT University, Melbourne no later than 12 February 2009.
References


Dunlop, I., 1999, Corporate Governance – Partnership in Policy Making – A Private Sector Perspective,


Harding, 2001, Best Value Under Scrutiny – Once Again

Iversen, J., Jorgensen, R. Matchow-Moller, N. &Schjerning, B., 2005, Defining and Measuring Entrepreneurship, Centre for Economic and business research, Copenhagen Business School, Denmark

Jones, Michael, 1992, Competitive Tendering – The Overseas Experience.

Leeson, R. 2000, Sustainable Corporation and Sustainable City – Moving Melbourne Through the Triple Bottom Line, Melbourne City Council

Lovelock, James, 1979, Gaia: A New Look at Life on Earth, Oxford University Press.

http://www.oecd.org


Sheffield & Coleshill, 2001, Developing *Best Value in Scottish Local Government*

