LOCAL GOVERNMENT ACCOUNTABILITY: AN INVESTIGATION INTO LOCAL GOVERNMENT PROCESSES OF ASSURANCE IN THE CONTEXT OF THE DUNEDIN STADIUM

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A thesis submitted for the degree of
Master of Physical Education
at the University of Otago, Dunedin,
New Zealand

November, 2011

ABSTRACT

Stadiums generate intense politicking from both proponents and opponents alike and as Eisinger (2000) notes: "no other type of major capital expenditure – not for roads, schools, wastewater treatment facilities, public buildings, jails, or sewers – has the potential to generate such intense divisions in local politics" (p. 328). This study investigated accountability from the perspective of local government in the context of a stadium development in Dunedin. Specifically the purpose of this thesis was to analyse local government processes of assurance to meet the terms of the Local Government Act (2002). The significance of this study lies in: 1) understanding how accountability is manifest under extenuating circumstances, 2) observing the local government connections (or disconnections) with its community given the objectives of the Act and, 3) providing a template for other local authorities to understand how their accountability requirements could be met.

The present research utilizes two variants of institutional theory (historical and rational choice institutionalism) and draws specifically from Lowndes' (2005) understandings of local government as an institutional matrix. In addition to the analysis of relevant texts (e.g., legislation, council minutes, reports, media, etc.), interviews were conducted with both Chief Executives from the city and regional councils and the city's Manager of Finance and Corporate Support. As institutional entrepreneurs, their perspectives were sought regarding the ambiguities in the 'rules of the game' and the potential for these ambiguities to result in measures of assurance to manage risk/blame. Analysis of documents and interviews was focused on the processes used by local authorities to assure that public authority and resources are used in ways that ensured due process under the LGA (Aucoin & Heintzman, 2000).

Through analysis of relevant data, this thesis yielded three main findings. Firstly, Chief Executives were acutely aware of the processes required to enable due process and with this knowledge they held distinct positions of power that enabled path dependencies to develop. Previous decisions, such as distilling one proposal from six stadium options in less than a week revealed a 'locked in' decision making process that firmly placed the local authority on one set policy path. Secondly, the city council's desire to reduce the direct burden on the ratepayer empowered Chief Executives to conjure complex stadium efficiencies that mirrored Lownde's (2005) institutional matrix. Such a matrix, while solving the rates burden presented long term implications as public accountability turned opaque through the establishment of a Council Controlled Trading Organisation (CCTO). Finally, the processes of assurance came at a relatively high cost where six years was spent assuring the public of due process. It is argued that local government processes have wasted public resources, trading off public accountability for entrepreneurial arrangements and "faustian efficiencies" (Peters & Pierre, 2004) (i.e., trading off long term security for the achievement of a short term resolution).

ACKNOWLEDGMENTS

Thank you to Mike for putting up with a tortoise. Your guidance, support and patience have been unwavering. You must have dreaded hearing those knocks on your door.

A mention to Bill, who got me started, hanging those degrees on your wall.

Alice, thank you for your assistance in reading this thesis.

To Ella and Ben, I promise to be around on Sunday mornings.

To Susan, thank you for your comments, they were most useful, particularly “just get on with it” and “mine didn’t take me this long”.

Finally, thank you to the institution for enabling such research to be carried out.

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LIST OF ABBREVIATIONS

AP	Annual Plan
CE-DCC	Chief Executive Dunedin City Council
CE-ORC	Chief Executive Otago Regional Council
CST	Carisbrook Stadium Trust
CWP	Carisbrook Working Party
CCTO	Council Controlled Trading Organisation
CCO	Council Controlled Organisation
DCC	Dunedin City Council
DCHL	Dunedin City Holding Limited
DCTL	Dunedin City Treasury Limited
DVML	Dunedin Venues Management Limited
DVL	Dunedin Venues Limited
LGA	Local Government Act
LTCCP	Long Term Council Community Plan
MF-DCC	Manager of Finance and Corporate Support Dunedin City Council
MWH	Montgomery Watson Limited
ORC	Otago Regional Council
ORU	Otago Rugby Union
STS	Stop the Stadium

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CHAPTER 1
INTRODUCTION

Between 2004 and 2009, the city of Dunedin, comprising of 120,000 citizens, witnessed nearly six years of stadium deliberations. This phase finally ended in 2nd March 2009 when the two partners in Local Government (Dunedin City Council and Otago Regional Council) announced that the city would proceed with a new multi-purpose covered venue costing $188 million (Loughrey, 2008b). In this period of time, there was much 'politicking' by proponents and opponents alike. As the Chief Executive of Dunedin City stated, "No other public project in recent years has been the subject of such scrutiny or consultation" (Harland, 2004a, p. 13). Indeed during a public consultation meeting held in Dunedin in 2004 debate intensified when members of the public were questioning why they should have to pay for a stadium when it was not, in their words – "like a park or a swimming pool". Intensifying the emotional strain were interest groups such as 'Stop the Stadium' (STS) and 'Just Build It' who established themselves to represent their cases about the financial and social implications of a new facility. Public resistance to the new stadium reached its peak in 2009 when 'Stop the Stadium' organized a rally down the city's main street attracting 1300 people who threatened a rates revolt and carried banners reading, "This is the biggest swindle of ratepayers money that Dunedin has ever known" (Morris, 2009). These actions were perhaps to be expected for as Eisinger (2000) notes about stadia: "no other type of major capital expenditure – not for roads, schools, wastewater treatment facilities, public buildings, jails, or sewers – has the potential to generate such intense divisions in local politics" (p. 328).

On a larger scale, the debate focused on Dunedin as a city that needed to retain a professional rugby franchise and compete for international events such as rugby test matches to attract the visitor class to a "world class city" city (cf. Whitson and McIntosh, 1996). Here it was argued that a stadium would stimulate the Dunedin and Otago economy, place Dunedin and Otago on the map as a tourism destination and regenerate an area in connection with the University of Otago. These claims reflected the desire of local authorities to 'market' the city, to 'think big' and to show bold leadership (Sam & Hughson, 2011). It was at this time, that the Rugby World Cup 2011, a sporting 'mega event', was viewed as an opportunity to showcase New Zealand as 'a stadium of 4 million people'. The prospect of Dunedin being part of this event meant not only immediate kudos for a new stadium in Dunedin, but also affirmed the wider significance for sport as a generator of cultural, social and economic development (Horne, 2007). The attraction for cities to be involved in a 'sporting mega event' is the global media exposure, and the legacy that these events (held in stadia) are assumed to provide. Typifying such legacy strategies, New Zealand's Minister of Sport, Trevor Mallard said the Government would launch a leveraging and legacy project aimed at ensuring the tournament delivers

lasting and tangible economic, environmental and social benefits to New Zealand (Johnston, 2007). Thus, the decision to commit ratepayer funding to a new stadium would now unavoidably take place in the shadow of a global sporting context but due to the LGA (2002) also include a host of interest groups such as Stop the Stadium and Just Build It.

Prior to 2002, decisions at the local government level required little in the way of public consultation. The Local Government Act (2002) dramatically changed this, having as one of its main imperatives to promote discussions between local councils and their citizens. The new requirements of the Act (prescribing how a local authority must give consideration to the preferences and views of those likely to be affected), in combination with a contentious issue like the Dunedin Stadium, effectively ruled out the possibility of a clear, majority decision. Certainly, when local councillors received hate mail, or when the Mayor and Chief Executive were asked to resign, the issue took on a much different level of intensity than say a decision about a local playground. Indeed, after hundreds of letters to the local newspaper (the majority written by opponents), and the circulation of a petition with over 6000 signatures (Rudd, 2005) against the proposed new development, the mayor wrote a letter to all citizens of Dunedin (through the city's newspaper) asking for calm and reassuring the public that there were no predetermined decisions over the future of the stadium (Loughrey, 2007a).

The importance of public accountability[1] in the outcome of public affairs stems partly from its ubiquitousness for accountability, and according to Bovens (2007a) is one of those global concepts that no one can be against. In this light, much of what we see in terms of local government actions and conduct is aimed at being (or appearing) accountable. Indeed the instituting of new legislation and rules for consultation (e.g., allowing the public to make written and oral submissions) are emblematic of local government concerns for accountability. The introduction of new or revised accountability requirements via legislation constitute new rules for local government to respond to, work within and operate under.

Accountability in this thesis is thus understood as a set of rules within an institutional framework. Lowndes (2005) defines an institution as simply the 'rules of the game' where 'rules' are consciously designed and clearly specified, such as the requirements for annual plans, strategies or performance agreements. Equally important, according to Lowndes (2005) are rules that form unwritten customs and codes and it is these rules, which support 'positive' patterns of behaviour or underpin 'negative' frameworks. In this sense rules provide both certainty and uncertainty for political actors and can just as easily induce compliance as exploitation.

[1] Accountability in this instance is a principle of democracy. Public accountability is where the account giving process is done in the open or in public. See: accountability - what is it? In Chapter 2 for further detail.

As an example of rules creating uncertainty, consider the legislative changes that encouraged the creation of networks in local governance (see Wallis and Dollery, 2001). As a result of these changes, the 'make up' of local government now includes a diverse range of partnerships with volunteer groups, private sector business, service professionals and community activists. This mix of 'players' makes up what Lowndes (2005) describes as an 'institutional matrix' and under these arrangements, we might expect to see local government processes (designed to follow due process such as the annual plan) placed under tension when local authorities are considering the future of a stadium in a city of 120,000 citizens. Indeed as Hood, Rothstein and Baldwin (2001) observe, with greater pressures for accountability through legislative changes, there are good reasons to expect institutional distortion or strategizing as these changes are seen as increasing the threat or blame for failures or to make work more stressful and conflict-laden. Applied to the Dunedin case, changes to the LGA (2002) and to the mix of public-private institutions may help to shed light on contemporary accountability processes, including their varying interpretations and their potential distortions.

Purpose of this study

Within the context of a contentious capital development proposal, the principal aim of this thesis is to investigate the local government processes of assurance to meet the terms of the LGA (2002). Processes of assurance in this sense are the actions taken by local authorities to assure the public of due process (Aucoin & Heintzman, 2000). For local government, there is arguably no greater test than having to account for the authorisation of spending ratepayers' money on a capital-intensive project involving professional sport. Gaining citizens' *full confidence* in local government under such a divisive and contentious issue such as a rate-funded stadium was an unlikely outcome. Thus drawing from Lowndes (2005), this study examines how local government officials interpreted the prescriptiveness, complexity and ambiguity of LGA (2002), but more importantly also, how such elements of the LGA could be negotiated to provide public assurance.

This study takes the perspective of Local Government, namely the public servants at the head of their organizations, the Dunedin City Council and the Otago Regional Council. From this perspective, local government policy making is subject to a complex set of rules and terms which must be interpreted in order for each stage of the decision making process to progress. The 'enabling' nature of the Local Government Act (2002) in terms of decision-making is an important feature for local government to contend with. The Act (New Zealand Government, 2002) states that in the course of making a decision, the local authority must consider all reasonable practicable options and assess those options by considering: a) the benefits and costs of each option, b) the extent to which community outcomes would be promoted, and, c) the impact of each option on the local authority's capacity to meet present and future needs. The LGA (2002) provides local government with a framework and powers to decide

which activities they decide to undertake. The Act also aims to connect local government with communities by promoting accountability through the decision-making guidelines that include for instance, public consultation.

In 2008, the Internal Affairs Department for the incoming Minister of Local Government prepared a brief in which accountability is described as a vital balancing tool to offset the empowering provisions of the legislation (LGA, 2002). The brief makes explicit mention of the LGA (2002) as an enabler rather than a prescriber. This places local governments in an interesting position where on the one hand they are given more freedom to choose what activities they may like to engage in; on the other, there are more requirements around what accountability mechanisms are to be used (e.g. Long Term Council Community Plan [LTCCP] and public consultations) and around incorporating the local community into this decision making process. Indeed, the incoming Minister echoed these sentiments with his opening address saying, "I want the 85 local authorities to account for their spending and effectiveness in a way which gets the full confidence of their citizens" (Hyde, 2008).

Significance of this study

New Zealand followed the United Kingdom in rolling out local government reform proposing new powers to local authorities, greater accountability and an active citizenship (Chandler, 2000). Previous local government reforms in the 1980s were underpinned by neoliberal political agendas, marked by concerns for efficiency, effectiveness and cost control (Wallis & Dollery, 2001). In contrast the LGA (2002) encompasses a wider array of policy objectives, which include democratic renewal, partnerships and an improved service delivery (Thomas & Memon, 2007). The ideology behind this legislation is described as the 'Third Way', a political programme which aims to renew social democracy by including civil society as a partner in managing the economy (Thomas & Memon, 2007). Hence, policy objectives, which encourage 'public – private partnerships' (such as Council Controlled Trading Organizations) could be legitimate outcomes particularly if contemporary governance rules enable such pathways to be explored.

Thus, the LGA (2002) aims to reconnect local government with its citizenship. The creation of autonomous agencies whose managers were given entrepreneurial licenses in order to speed up decision making, had in the past liberated managers from public accountability (Elcock, 1998). So, while a significant degree of effort has gone into the establishment of a new piece of legislation, its importance lies in understanding just how well local government has connected with its community when faced with a large capital development proposal (bearing in mind, this large capital development proposal has been categorized with a local playground and household rubbish collection in terms of the LGA). That all proposals regardless of size and impact are categorized and treated under the same

conditions (LGA, 2002) has raised some interesting dilemmas for Local Government.[2] The significance of this manifests itself through local authorities' knowledge of the process and their ability to 'bridge the gap' in places where the rules create ambiguities. Bridging strategies in this case have taken the shape of consultant reports, economic impact and benefit studies,[3] cost benefit analysis, surveys, workshops (Hood, 2007). In combination with the LGA (2002), such interventions form distinct (but interacting) rule sets and according to Lowndes (2005) these rule sets change at different rates and reflect the power relationships and the 'embeddedness' of local government. Therefore new rules (such as the LGA 2002) in combination with the political mantra of the 'third way' may enable local authorities to go outside their organizational boundaries and 'partner up' to form complex webs of accountability, which include other forms of organizational design.

As this deliberation process has been underway since 2003 and has taken six years to reach a decision, the significance of cost and delayed opportunities cannot be ignored. On the City's long term community plan for example, a local community park redevelopment (Logan Park redevelopment[4]) had to be placed on hold for a period of time until the ultimate decision could be made regarding the Dunedin Stadium. Certainly it could be argued that the larger the proposal, the more time it should take to deliberate. However, from Local Government's perspective, the lengthy time under public scrutiny (and the risks that go along with it) may have been a factor in producing a set of processes, which were designed to allow progress through the requirements of the LGA (2002). The propensity for decision 'inertia' in this case was well illustrated when local authorities set a resolution to reduce the direct burden on ratepayers while simultaneously approving millions of dollars to continue stadium investigations.

Thesis Plan

Drawing from the work of Lowndes (2005) the purpose of this thesis is to investigate the local government processes of assurance to meet the terms of the LGA (2002). More particularly, it aims to explain these processes in relation to Lowndes' perspective of institutions as 'rules of the game', where the players are diverse and the rules may equally invite exploitation as well as compliance.

The following three chapters will provide a theoretical framework, the history of the case and an outline of the methods used to answer the research question. In chapter two, accountability is defined

[2] The local government act (2002) stipulates that every decision must be made in accordance with the same provisions. This means that it is up to each individual local authority to assess the significance of the decision and therefore use whatever options they deem suitable to achieve the *objective of a decision*. Entering this situation with either an open, free and frank approach or entering to obtain a certain type of decision determines just what processes are adopted.

[3] See Crompton (2006) for the difference between economic impact and economic benefit.

[4] See Logan Park now – Where to from Here pamphlet? (DCC, 2005)

as a multifaceted concept, and thus a particular perspective on accountability is offered for this thesis. Understanding accountability as an institutional arrangement, which makes up a set of rules or institutional matrix will help elucidate local governments' processes towards a new accountability requirement (LGA 2002). Chapter three provides the context to this thesis by tracing the history of local government stadium deliberations from 2003 onwards. The focus of this period will be on describing the changing nature of deliberations as local government has developed ways of contending with a more open accountability process due to new rules (LGA, 2002) that have emanated from higher tiers of government. Chapter four will outline the methods used for this thesis.

Chapter five investigates the processes of assurance to meet the requirements of the LGA prior to a decision to commit to the construction of a roofed stadium on the city's waterfront. For coherence, the five most significant processes of assurance are described. Each assurance begins with a synopsis detailing what the assurance is and in what context it occurred. A discussion follows the five assurances, focusing on how assurances as risk were managed and the implications of these risks as path dependencies (Pierson, 2000) and an institutional stickiness (Lowndes, 2005) is developed.

Chapter six investigates the processes of assurance after the decision to commit to the construction of a new waterfront stadium. This chapter describes two assurances - affidavit statements and an institutional matrix. Discussion of these two assurances is framed by the headings - opaque accountability (Flinders 2005 & Bovens, 2007b) and policy entrepreneurs. It is here where the ambiguities in the 'rules of the game' are revealed through a complex institutional matrix diagram. The matrix diagram assists in revealing the extent of a public-private partnership under the political mantra of the third way.

Chapter seven summarises the study's findings and suggests that a Faustian bargain has been struck between solving an immediate problem of 'the rates burden' while screening out much harder consequences of opaque accountability. The chapter then outlines four concluding remarks regarding local government accountability. These concluding remarks draw together the practical implications of public accountability as interpreted through the LGA (2002) and thus highlight the importance of public accountability as a principle of democracy.

CHAPTER 2
REVIEW OF LITERATURE

This chapter has the following sections. Firstly, it provides the reader with an examination of accountability as a multifaceted concept, explaining that it is difficult to specify precisely and has multiple purposes. Secondly, this chapter outlines a particular purpose of accountability. This aspect, accountability as assurance and the resulting processes of assurance, are drawn to the reader's attention to show how accountability manifests itself in the context of a proposed stadium development. A review of Hood's (2007) risk/blame avoidance strategies is considered here, to assist in explaining the processes of assurance in terms of risk for local authorities. Thirdly, in order to address the question of "what were the processes of assurance to meet the accountability requirements of the LGA", institutional theory will be elaborated on to understand how local authorities have interpreted the LGA. To further place this study in a local government context, Lowndes' (2005) interpretation of institutions as 'rules of the game' and her analogy of local government as matrices with forces for both change and continuity will also be discussed.

Having your policies questioned, reports made available and being brought to account for your conduct in public is symbolic of public accountability in a modern democracy. However, it is difficult to specify precisely what accountability is. For example, Mulgan (2000) has suggested that the term accountability is both a complex and chameleon-like term that is now commonplace in public administration literature. On a similar note, Sinclair (1995) describes accountability as a cherished concept, which is sought after but elusive, and Barton (2006) implies that the concept of accountability is a pervasive one, which impacts on all aspects of government operations. So, we need to address the question of 'what is accountability?' in order to understand how local authorities could meet the demands of the Local Government Act and its objective of promoting accountability.

What is Accountability?

Public accountability is a relationship between the public and Government/Local Government where there is an openness to the account giving process (Ferlie, Lynne & Pollitt, 2005) , that is where information such as reports, plans, policies, meetings and communication is made available to the public for their viewing, assessment and feedback. Thus, public accountability is intended to be a principle of democracy and it is comparable to 'competition' in Adam Smith's theory of laissez-faire capitalism (Smith, cited in Barton, 2006). In Smith's words the "invisible hand" was conceived to

explain how firms and consumers could act in their own self-interest inside competitive markets and still provide economic and social benefits to communities (Barton, 2006). As each firm was functioning against one another, no one firm could exploit its position and the market therefore ensured efficiency and equity. Likewise, from the perspective of a government institution, making information publicly available and taking a responsibility towards accountability is a necessary lubricant to enable a democratic system to function (Barton, 2006). So, accountability as an equivalent to 'the market', is intended to open governments to the public, provide a degree of transparency and thus enable the public to make informed decisions about how the institutions represent them while also providing an opportunity for input.

Given accountability is both complex, multifaceted and assumes many forms, the challenge then is to understand how accountability produces different outcomes in different environments and under different interpretations. This next section will outline the multifaceted nature of accountability and initially describe accountability in broader terms, then turn to a more specific aspect, which will be used throughout this thesis. The reason for adopting a particular perspective of accountability (accountability as assurance) is that this will allow me to investigate and understand accountability not as a broad concept (or ideological principle) but more the effects (both anticipated and unanticipated) of a specific local government approach towards accountability. Simply put, accountability entails a relationship in which people are required to present information, explain and take responsibility for their actions (Gray & Jenkins, 1993; Kluvers, 2003; Lerner & Tetlock, 1999; Ranson, 2003; Scott, 2000; Sinclair, 1995). More specifically, public accountability implies a structural relationship, which is conducted in public.

This structural relationship is designed for a particular purpose or function. According to Aucoin and Heintzman (2000), the steps or processes of the accountability relationship serve three functions. These are accountability for control, learning and assurance. The first, accountability for control refers mainly to management and governance in terms of placing greater attention to risk-planning and risk management. Here, the control function is aimed at putting plans and systems in place to cope with risk without resorting to excessive micro-management (Aucoin & Heintzman, 2000). An example of this might be the provision of monthly reports to superiors as a means of tracking progress towards specified goals. The second function, accountability for learning is a process whereby assessing performance is a demand or stimuli that will promote improvements in policy and management (Aucoin & Heintzman, 2000). There must be a tolerance to errors and failures where risks and entrepreneurial behaviour are encouraged; without this approach, learning and thus continuous improvement will not incite any behavioural change (Aucoin & Heintzman, 2000). The third purpose, accountability for assurance, is based on assuring citizens that public authority and resources are used in ways that adhere to the law, public policy and to public service values (Aucoin & Heintzman, 2000). Indeed, the public must rely on government to accomplish their objectives in institutional

contexts where a degree of faith or trust exists. Here, there is a reliance on agents[5] acting in the best interests of their principals, and accountability for assurance is a necessary function as governments have degrees of responsibilities vested in them.

For the purposes of this thesis I will be interpreting accountability as assurance, specifically the processes of assurance that emanate from local authorities' interpretation of the LGA (2002). The processes of assurance can be defined as the actions, changes or functions, which bring about the result of assuring. For example, after the 2009 annual plan process 813 submissions were received. Of these 813 submissions 560 were dealing with stadium matters. To assure the public that local authorities had made an informed decision (by signing a guaranteed maximum price contract for the stadium), the city council undertook the unusual process of sending a letter to all who voiced concerns on the stadium, and in which all issues were grouped under relevant headings. Such a response is perhaps not surprising for as Hood (2001) note, institutional distortions or strategizing can be expected, particularly in circumstances where there is: 1) a change in accountability pressures due to new legislation, and 2) a potential threat of conflict and blame. In this light, it is reasonable that local authorities interpret accountability as the management of risk and adapt their processes of assurance in attempts to reduce potential passages of tension and conflict. Here we could describe such actions as attempts to avoid blame, particularly given the prospect of a new stadium in a city of 120,000 citizens.

Given the pressures for accountability and the need to conciliate public criticism, the processes of assurance thus bear a close resemblance to what Hood (2007) describes as 'blame avoidance strategies'. These strategies are based around a cognitive tendency termed 'negativity bias' where more attention is paid to negative than to positive information (Hood, 2007). Thus, there is a tendency for negativity bias to produce 'risk aversion' type bureaucracies. And, while stadiums per se attract a lot of public attention via local media (newspaper, radio, television), the degree to which this particular policy issue had a 'path dependency' may be illustrated by the type of processes that were adopted in response to the nature and level of public responses. While there is no definitive count of the various strategies authorities use, Hood (2002) identified three broad types of strategies. For the purpose of this thesis, these three broad strategies are useful to assist in understanding local authority processes of assurance under the accountability requirements of the LGA (2002). These are:

- Agency strategy
- Presentational strategy
- Policy strategy

[5] The term 'agents' is used in reference to Principal-Agent theory (1996). This theory points to a certain dilemma whereby principals employ agents to act in their best interests. The dilemma is around how principals can best manage the process. (Boston, Martin, Pallot and Walsh, 1996)

An agency strategy is where there is a transfer of risk or 'blame shifting' from politicians and bureaucrats. The central concept is to divert blame away from high officeholders (Ellis, 1994). In this situation we assume that politicians and bureaucrats face a basic choice between direct control and delegation of policy. And, while direct control is assumed to be a high risk, high reward option it can also result in high levels of blame being allocated if significant challenges are not met. For example, cities vying for an Olympic games place themselves in a high-risk situation where there can be ultimately only one winner. They place significant resources into making their bids as attractive as possible; the choice for politicians and bureaucrats in this situation is to decide whether they are directly involved in their city's bid and take the credit if it eventuates or transfer this risk through delegation. While delegation is one type of agency strategy, partnership arrangements among different institutions or between public and private organizations also serve to spread blame if things go wrong. Public – private partnership arrangements are fashionable because they can spread the blame from one to the other (Hood, 2007) and in this sense they make accountability more problematic. Another type of agency strategy is making experts responsible for technical judgments (Hood, cited in Hood, 2007). Here, expert advisors are used to illustrate well-informed decision advice, diverting or diffusing blame away from office holders. The interesting point about this type of strategy is the selection of certain experts over and above others. Hood (2002) suggests that the more experts are chosen from a specific school of thought, then the greater the chance these experts will reach unanimous conclusions. However, the more of these similar experts that are co-opted, the more their conclusions will be contested by other experts, which leads to blame-sharing between politicians and groups of experts rather than blame shifting.

Alternatively, presentational strategies are attempts to avoid blame (and assure the public) by stage-management, spin, timing, and by using justifiable arguments that accentuate the positive or by turning the public's attention onto other things (Hood, 2002). This type of strategy is more obvious when divisive issues are being addressed. The advent of media liaison staff into sport is symbolic of the need to control the flow of information towards the media. These types of personnel are a control for the risk of negative information entering the public arena and damaging not only the reputation of individuals and organizations but causing financial flow on effects. There is some evidence by Bovens (cited in Hood, 2007) to suggest that presentational strategies in the form of argument can at least sometimes be more effective than other blame avoidance strategies.

The third blame avoidance strategy is one of policy selection. Policy strategies are attempts to limit or avoid blame by selecting certain policies over and above others. Following protocols, which have been set by others, explains a tendency for governments to continue with the status quo while not introducing unpopular choices. Specifically, these strategies remove any discretion and are deemed automatic. At the local government level, city politicians adopting policies which other cities have developed (such as the pursuit of urban regeneration schemes) is seen as automatic or a means of

following protocol (Hood, 2002). With greater levels or perceived levels of negativity bias in the population, Hood (2002) explains that the more likely policy is to be dominated by these defensive approaches. Aucoin and Heintzman (2000) argue that accountability suffers when the processes of assurance do not seek to assess individuals who have responsibility with respect to their decisions and actions but rather only with respect to compliance with formal rules. As Hood (2007) explains, much of what we see as accountability has been indirect and bureaucratic rather than direct or society wide. Typifying such bureaucratic accountability is the spelling out of institutional procedures and decision rules that would otherwise be implicit, and the establishment of paper audit trails. All of these audit trails have been to verify that written rules, procedures and protocols have been followed (Pollitt, Girre, Lonsdale, Mui, & Summa, 1999; Power, 1997). Applied to the case of the Dunedin stadium, basic compliance to the LGA (2002) as a set of rules may not entirely assure the public (principal) that local authorities (agent) are fulfilling their responsibilities as intended. This issue may be further magnified by combining a large capital-intensive proposal with the LGA (2002).

So, accountability as an idea or concept is seen as a proactive, positive and symbolic approach towards good governance (Bovens, 2005). But, how does accountability (as assurance) present itself, what ignites it and what shape or form does it assume? In this case, accountability for assurance is manifest through a range of government sponsored reports, studies, presentations, letters and responses, newspaper articles and policies specifically intended to assure the public: 1) that 'due process' is followed in decision making, and 2) that public resources are being used in an equitable and resourceful manner. Institutional theory is particularly useful in this case to understand local government's approach as it draws our attention to the processes of assurance that have been utilised when local authorities are confronted with the LGA. A review of institutional theory and two strands of the new institutional theory will now be discussed. Following this discussion will be an incorporation of Lowndes (2005) work on local governments and institutional matrices. Her work will be reconciled with two dominant strands of institutional theory (Historical and Rational Choice institutionalism) to forge a connection between the broader theory of institutionalism and institutions at the local government level.

Institutions

Institutions allow us to understand political systems (March & Olsen, 2006). They are not the only way to understand politics,[6] but will serve to enhance our understanding of accountability for assurance as an institutional arrangement in this thesis. By adopting an institutional approach we are

[6] March and Olsen (2006) explain that institutionalism supplements and competes with two other broad interpretations of politics. Namely, a rational actor perspective which sees political life as an exchange between self-calculating actors and a cultural community perspective where political life is being organized by exhibited commonly shared values and world views.

suggesting that the formulation and development of policy is understood to take place within a particular organizational context (Sam, 2006). Therefore, in very simple terms institutions are understood as 'rules of the game' (Lowndes, 2005 p.292) and essential in understanding and explaining political outcomes. Also, it is important in a local government decision making context that we consider institutions that are specifically designed to approach social and political problems, to fashion, enable and constrain political actors (March & Olsen, 2006).

A core assumption of institutional theory is that institutions create elements of order and predictability for political agents (March & Olsen, 2006). Indeed, as Weber (cited in March & Olsen, 2006) explains, the rules of an institution are followed because they are seen as natural, rightful, expected and legitimate. Here, we take for granted that authority is located in the upper echelons of an administration and that relationships are followed through such hierarchies. However with new roles for partnerships and contractors in local governance, the constraints within and through which local government operates have become more problematic (Lowndes, cited in Lowndes, 2005). Increasingly, local governments adopt unconventional forms of organization such as the use of networks to manage public policy, and it is these institutional arrangements that render accountability for assurance more problematic. As Savoie (2004) points out, "Governing without boundaries now allows public servants to squirm out of the apparatus in which they are harnessed because there are different harnesses available to them, most of which are porous, and they are strongly encouraged to establish new partnerships with non-government groups". As Peters (1998) explains, "we may need to develop alternative notions of accountability that are acceptable within the context of democracy. Or, and this is more likely, we may discover that there were numerous virtues in old-fashioned administrative accountability that may need to be revived" (p.49).

Variants of Institutionalism

According to Hall & Taylor (1996), three different institutional approaches were developed in reaction to behavioural perspectives during the 1960s and 1970s. These three approaches, rational choice, sociological and historical institutionalism, provide a starting point for our analysis of accountability as an institutional arrangement. Indeed, it is two of these approaches that seem most pertinent to this study, historical and rational choice institutionalism. The first, historical institutionalism emphasizes the macro approach to constraining behaviour through constitutional provisions and the very organization of government institutions. Hence the Local Government Act (2002) is derived from Central Government and therefore local authorities and their policies are to some extent 'path dependent' (Lowndes, 2005). By this it is meant that the policies that develop out of local government are to a certain degree shaped by the rules from central government. The second strand, rational choice institutionalism emphasises the rules as a means to address strategic calculation. While this is a

more behavioural model of politics, the approach allows a more extensive appreciation for the role that actors or agents have within institutions. Therefore, the strength of rational choice institutionalism is that it allows for strategic calculation and the adoption of assurance strategies to be investigated (Hall & Taylor, 1996).

These two institutional approaches are pertinent as they: 1) provide a macro approach to understanding accountability as assurance through the LGA (2002), i.e., as a broad set of rules aimed at providing a predictable path of stability and consistency across New Zealand local authority policies, and 2) provide a micro approach whereby individual preferences and strategic calculations are accounted for. It is here where Lowndes' (2005) work on institutions and local government is relevant. The next section will make a connection with Lowndes' (2005) interpretation of institutions and the two strands of institutionalism, historical and rational choice.

Institutions, Stability and Change

Institutions, according to Lowndes (2005) are understood as "rules of the game". Local government rules are consciously designed, shaped from higher tiers and are identified as being constitutions, plans, strategies and agreements (Lowndes, 2005). These rules are described as part of an institutional matrix, in that they reflect power relationships and the 'embeddedness' of local government power in particular historical contexts. Thus we can locate Lowndes (2005) theoretical grounding on local government institutions with that of historical institutionalism. Specifically, the rules that operate on local government tend towards stability and recurring patterns of behaviour. These rules are historically passed down to local governments and set policy paths or assist in creating path dependencies for local authorities. Historical institutionalism is evident in Lowndes' work as she describes local government experiencing forces for stability or historical influences that dictate how things should be done. For example, local governments have had a historical function of providing core amenities such as roading and water infrastructure.

In contrast to the forces of stability, Lowndes describes the institutional matrix as one that has both forces for stability and forces for changes. It is these forces for change, which relate to rational choice institutionalism. Rules, according to Lowndes (2005) produce variation and deviation as well as standardization and conformity because there are always areas of ambiguity in the interpretation and application of rules. So, for local government the forces for change emanate out of the same rule sets, which are designed for stability. The institutional matrix thus allows for powerful actors and entrepreneurs to exploit the ambiguities in the 'rules of the game' and develop strategies to enhance their own interests (Lowndes, 2005). Lowndes' (2005) description of institutional entrepreneurs also allows us to locate rational choice institutionalism as a theory within her work when dealing with local

government policies. Institutional entrepreneurs, according to Lowndes are players in a game, where, in the context of local governance, the players are diverse and may include local authorities, volunteer organizations, private contractors and individuals such as service professionals, business people and community activists. Thus, rational choice institutionalism provides a specific lens that is sensitive to the actions, roles and strategies that these players take when local authorities enact processes of assurance. The dilemma for local government is based around how accountability for assurance is managed when forces for stability and forces for change coexist. Indeed there are good reasons to expect accountability for assurance to represent a significant risk to local authorities, particularly when there is pressure for an increase in public participation and openness (Hood et al., 2001). This is because arrangements designed to promote accountability such as those prescribed by the Local Government Act may induce certain types of behaviours, both anticipated and unanticipated. Examples of anticipated behaviours might include local authorities producing draft annual plans that 'go out' for public consultation, while examples of unanticipated behaviours may include local authorities responding to the LGA through providing stakeholders with preferential speaking rights to answer councillor concerns.

While 'more' accountability is almost always seen as a good thing for the public, demands for increased accountability from the perspective of local authorities may present certain dilemmas, given the co-existing forces Lowndes (2005) describes within institutional matrices. These institutional matrices not only put local authorities on a policy track, they also provide opportunities (or junctures) for deviation. It is these deviations (e.g. from a local government-led working party to an independent trust) that we are most interested in as more accountability for assurance may provide differing perceptions of risk to local authorities.

Chapter Summary

In review, accountability is complex and multifaceted. It has been described as a principle of democracy, a process, a scheme for blame/shame, an institutional arrangement, and a function of control, assurance, and learning. Through the perspective of local government, this thesis investigates how accountability for assurance manifests itself under the legislative mandate of the LGA (2002) and within the context of a proposed stadium development. To uncover these processes, two variants of institutional theory - specifically historical and rational choice institutionalism – are used to explain how local government interpreted their accountability requirements. Specifically, the work incorporates Lowndes (2005) understandings of local government as an institutional matrix in which there are co-existing forces for both continuity and change, arising from the complexities and ambiguities in the 'rules of the game'. This in turn allows for an examination of institutional entrepreneurs, their interpretations of the LGA, and the strategies they invoked to assure the public.

CHAPTER 3
HISTORICAL CONTEXT

Though this thesis is concerned with the accountability processes surrounding a new stadium, the issue is located within the historical context of the existing one – Carisbrook. This chapter provides a history of Carisbrook and the circumstances leading to its replacement. Carisbrook Stadium is situated at the southern end of Dunedin (population 120,000) and is the home of the Otago Rugby Union (ORU) and the location for the Otago provincial and Highlanders franchise home rugby matches. The ground's history dates back to the 1870's where a local cricket club (Carisbrook cricket club) leased the land from the owners, the Presbyterian Church board. The name Carisbrook originated from one of the original users, the Carisbrook Cricket Club.

Rugby was first played at the ground in 1886 when the Pirates Football Club was invited to share the use of the ground in the winter. Carisbrook's use was not limited to rugby and cricket, it also played host to a variety of activities such as race meetings, gymkhanas and band recitals. After years of financial struggle the ground lease was sold to the ORU in 1907. The ORU maintained the ground and its infrastructure, and in 1969 purchased the land freehold from the Presbyterian Church board (MWH, 2004). This significant step allowed the ORU to be the owners of the ground. Carisbrook in its present state has a seating capacity of 34,029 (MWH, 2004).

A historical feature of Carisbrook was a bank area outside the ground known as the Scotsman's grandstand. Without entering the ground, you could walk along a railway track and position yourself on a bank which overlooked the ground for no cost. Indeed, trains would stop with passengers on board and take a glimpse of the game as they were passing.

With this in mind, upgrading of the Carisbrook facility occurred on a staged basis and since 1991 the following has been achieved (MWH, 2004)

1991 – Main Stand was reconstructed to provide corporate, team and premium seating facilities.
1994 – A corporate complex, including television broadcasting facilities, was built.
1997 – Railway stand was redeveloped to increase the ground's capacity, improve spectator flows and improve the catering and toilet facilities (this signaled the end of the 'Scotsman's grandstand).

The Stadium Problem

The upgrading of the facility was driven by the professionalization of rugby. In 1995, rugby union turned professional, owing to a combination of factors which included the deregulation of broadcasting in Australia and New Zealand and the competition for players between rugby union and rugby league (Owen & Weatherston, 2002). This change in status introduced additional demands on the Otago Rugby Union to not only own and manage a stadium to new standards,[7] but to take control of a professional sports franchise while still managing the administration of the amateur game in the province. These challenges are reflected in the amount of debt ($5.8m as at November 2003, MWH, 2004) the ORU carried when further upgrading was initially sought.

In March 2003 the Dunedin City Council (DCC) received an application for funding by the ORU (Sam & Scherer, 2006). The ORU applied for $5 million to develop the main stand in direct response to the NZRU's test match allocation policy, stipulating that Carisbrook was in danger of losing its Category 'A' status (see table). Also adding 'fuel' to the situation were comments made after a test match at Carisbrook by Stephen Jones, a rugby reporter from the Northern Hemisphere. It was reported after a test match at Carisbrook in 2004:

> Instead, we had to troop down to Carisbrook in bitter cold in the dead of night, park so far away that the parking spot was only just still in the South Island, and stagger about in the dark street towards what, with the greatest respect, is a shambolic stadium. …….Now we can see why they didn't have the World Cup here! (Jones, 2006)

The DCC had thus set aside $5 million in the draft annual plan in the early stages of the Carisbrook proposal.

Prior to 2002 decisions regarding public funding of facilities were made by Council, which did not require extensive public consultation. As the CEO of the Dunedin City Council explains,

> typically these projects were contained within the draft annual plan with the public being able to express their views. Now, projects such as the Dunedin Town Hall re-development, the Otago Settlers Museum and Carisbrook must be taken out for public consultation, and that is exactly what is happening (Harland, 2004, p. 13.)

[7] MWH consultants report – 2004 New Zealand Rugby Union's policy and requirements explained

	NZRU category 'A' venue requirement	NZRU category 'B' venue minimum requirement	Carisbrook presently
Stadium capacity	30,000 – 35,000	25,000 – 35,000	34,029
Seating capacity	Preferably all	Preferably all	19,750
Covered seating capacity	10,000 (in premium location)	7,500 (in premium location)	17,799 (of which 2,400 are in a premium location)

The LGA (2002) effectively prevented the DCC from granting the $5m application as there were certain processes such as consultation that needed to be adhered to.

The Carisbrook Working Party (CWP) & Carisbrook Stadium Trust (CST)

While the DCC and ORC knew that they had to involve the public in the decision making process, the LGA (2002) did not stipulate how they were to achieve this. Indeed the LGA (2002) enabled the two authorities a broadened scope[8] in terms of what activities they may pursue, coupled with a requirement[9] to involve the public in the process. This new scope enabled local authorities to explore other policies away from core infrastructure, provided they could show that there were costs and benefits in terms of both present and future social, economic, environmental, and cultural well-being (LGA, 2002). As a result of the LGA (2002), the DCC annual plan hearings committee deferred the ORU's request for $5m and asked for further information. Subsequently a working party was set up (Carisbrook Working Party, CWP) and they enlisted a consultant (MWH) who had expertise in the public sector and in dealing with the LGA (2002) (Sam & Scherer, 2006).

It was apparent then that the DCC and ORC would have to provide information to the public if they wanted the city to remain a potential international test venue and in order for a public consultation process to occur under the LGA 2002. Thus, additional information was being gathered by the DCC, in the form of a commissioned economic impact study of a test match in 2003 at Carisbrook.[10] This study indicated a total benefit to the city of $5.3m, and a value-added benefit[11] to the region of $2.3m (i.e. an assurance that rugby tests bring economic benefits to the community). These figures were used in subsequent media reports and in a pamphlet[12] titled the Great Carisbrook Curtain Raiser. The public were informed that over 50,000 pamphlets were distributed to Otago households. The pamphlet contained three options for the public to "vote" on.

1. Do nothing.
2. Spend $20m to $50m on a progressive upgrade of Carisbrook.
3. Build new at a total cost of over $100m.

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[8] The purpose of the LGA (2002) is to provide local government with
   1. A framework and powers to decide which activities they decide to undertake
   2. To provide for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach.

[9] See Section 78 p. 49 (Local Government Act 2002 - Community views in relation to decisions)

[10] (DCC & BERL, 2003)

[11] "value added benefit is the amount remaining in the region after money has leaked out through related purchases" (DCC & BERL, 2003)

[12] "More than 70,000 brochures were printed and delivered to every home in Otago. Some of those brochures may have been caught up in the other material regularly put in other people's mailboxes and might not have been read or returned" (Harland, 2004, p. 13.)

Along with this pamphlet and the commissioned reports, a telephone survey and public meetings were used to engage the public. The process that the CWP used, in terms of how the public were engaged and consulted, led to a period of intense public debate about the issue. Many letters were written to the local newspaper, both criticising the process and asking for further clarification on information.[13] The local ratepayers association set up a petition[14] against public funding for an upgrade of the existing stadium. The same association also called for both the mayor and chief executive of the City to resign because of their involvement in the process.

The CWP were faced with an interesting dilemma, as they had to both supply information to inform the public of the problem and attempt to glean a clear majority decision (Sam and Scherer, 2006). The consultants themselves explained that it was not necessary to complicate the options that were available to the public:

> But I think, my experience is that when you're engaging the community in these sorts of things you don't want to complicate it too much, you've got to keep it reasonably straight forward. Otherwise the analysis, the answer is not clear and the analysis becomes quite complicated (Sam and Scherer, 2006, p. 176).

During this consultative phase there was an announcement that the NZRU and the Government's bid to host the 2011 World Cup had been successful. New Zealand was to single handedly hold the tournament after the co-hosting arrangement with Australia fell through in 2003.

In November 2005, the work of the CWP ceased and a local business person established a trust (Carisbrook Stadium Trust, CST) to take over the process. As well as providing a suitable venue for world cup matches, the CST were also to consider a new location which could provide strong links to the University of Otago. Regarding the new arrangement of a stadium trust, a city councillor later pointed out that the reason the Council chose the Trust was to take it out of the political arena and get an informed decision on the best options available (Rudd & Loughrey, 2007). So, in August 2006, the

[13] There have been numerous letters to the editor in the local newspaper regarding the CWP's legitimacy towards providing policy advice. Here are a few examples of how some of the members of the public have expressed their concerns:

- legitimacy of the options recommended to council, O.D.T 4.11.04
- practicality of holding test matches in Dunedin considering the infrastructure, O.D.T 4.11.04
- concerns about the amount of money the CWP were consuming O.D.T 20.12.04
- Rugby as a professional business, yet wanting money from the public O.D.T 20.12.04
- Questions over why people outside Dunedin should have to subsidise the stadium O.D.T 17.1.05
- Ill founded arguments over the economic claims O.D.T 05
- Devotion of time to more important issues such as water and sewerage O.D.T 15.1.05
- The influence that television companies have on stadiums O.D.T 14.1.05
- Very few people actually knew that the public documents existed O.D.T 20.1.05
- Parents pointing their children towards soccer instead of rugby O.D.T 26.1.05
- Increase the budget of the library rather than fund Carsibrook O.D.T 29.1.05

[14] Petition raises 6000 signatures – (Rudd, 2005)

CST announced a new vision: a new stadium to replace the existing Carisbrook on a new location close to the city's waterfront (Page, 2006).

Despite acknowledging public criticism regarding the lack of information during 2006, the CST was reluctant to release too many details too soon. The chairman of the Trust explained that making premature announcements was one of the reasons behind the demise of Auckland's waterfront stadium (Loughrey, 2006). The chairman also said that, "it's important when you release something that it's based on a strong foundation" (Loughrey, 2006 p. 5). So, it wasn't until February 2007, that the CST revealed details of a new stadium vision to the public. The plans were for a new $188m multi-purpose roofed stadium situated on the fringe of the University of Otago campus and at a waterfront location similar to the stadium in Wellington. The new stadium was to provide function rooms, "sophisticated" bars and cafes and offer retractable seating that could provide space for concerts and trade exhibitions. Also revealed were "synergies" by incorporating this new vision with the University. It was stated that the two organizations would benefit by $10m by working together (Loughrey, 2007b).

After receiving instructions from the DCC, the CST was compelled to investigate six options, ranging from building a new stadium to various levels of work on the existing Carisbrook stadium. However, it was stated publicly that: 1) the CST and University of Otago are pushing for a new roofed stadium and, 2) while the Carisbrook option was the cheapest to achieve, they lacked "a compelling competitive advantage" over the rest of the country (Loughrey, 2007b). The CST also went on to state that: "A fully-enclosed world class facility that takes the weather out of the equation for all large-scale events will produce a structure that is unrivalled in New Zealand and arguably the world" (Loughrey, 2007b, p1).

Funding for this new stadium was to be divided between the following:

1. Dunedin City Council - $65m
2. Otago Regional Council - $30m
3. University of Otago synergy - $10m
4. Community Trust of Otago - $10m
5. Private sector including corporate suites and naming rights $42.5m
6. Sale of Carisbrook - $3m

Five days after the detailed public announcement of a new stadium vision, the Dunedin City Council voted at a budget meeting to support plans for the new roofed stadium and that they were unwilling to fund a stadium at Carisbrook that would have no University of Otago component (Loughrey & Rudd, 2007). At this same meeting it was voted that there would not be a public referendum, but a mailout survey in conjunction with the Otago Regional Council as well as a random telephone survey. The

Dunedin City Council Chief Executive explained that the surveys had to be done during the consultation period of the annual plan process (Loughrey, 2007c).

After another lengthy period of public discussion through articles and letters to the local newspaper, mailout surveys and telephone interviews, the new stadium was finally approved on Monday, 17 March 2008, by the Dunedin City Council (Loughrey, 2008b). Shortly after this announcement the local newspaper reported that consultation was to be blamed for the delays in decision-making. The Chief Executive noted that "informal consultation was useful…, but the formal, public process was where we get difficulties" (Loughrey, 2008c, p. 4). He also stated "the Local Government Act requires us to consult, pick a winner, have hearings…what might be obvious can take three or four years" (Loughrey, 2008c, p. 4). Finally, on Wednesday, 11 February 2009, the Otago Regional Council gave its conditional support towards funding the stadium (Fox & Loughrey, 2009).

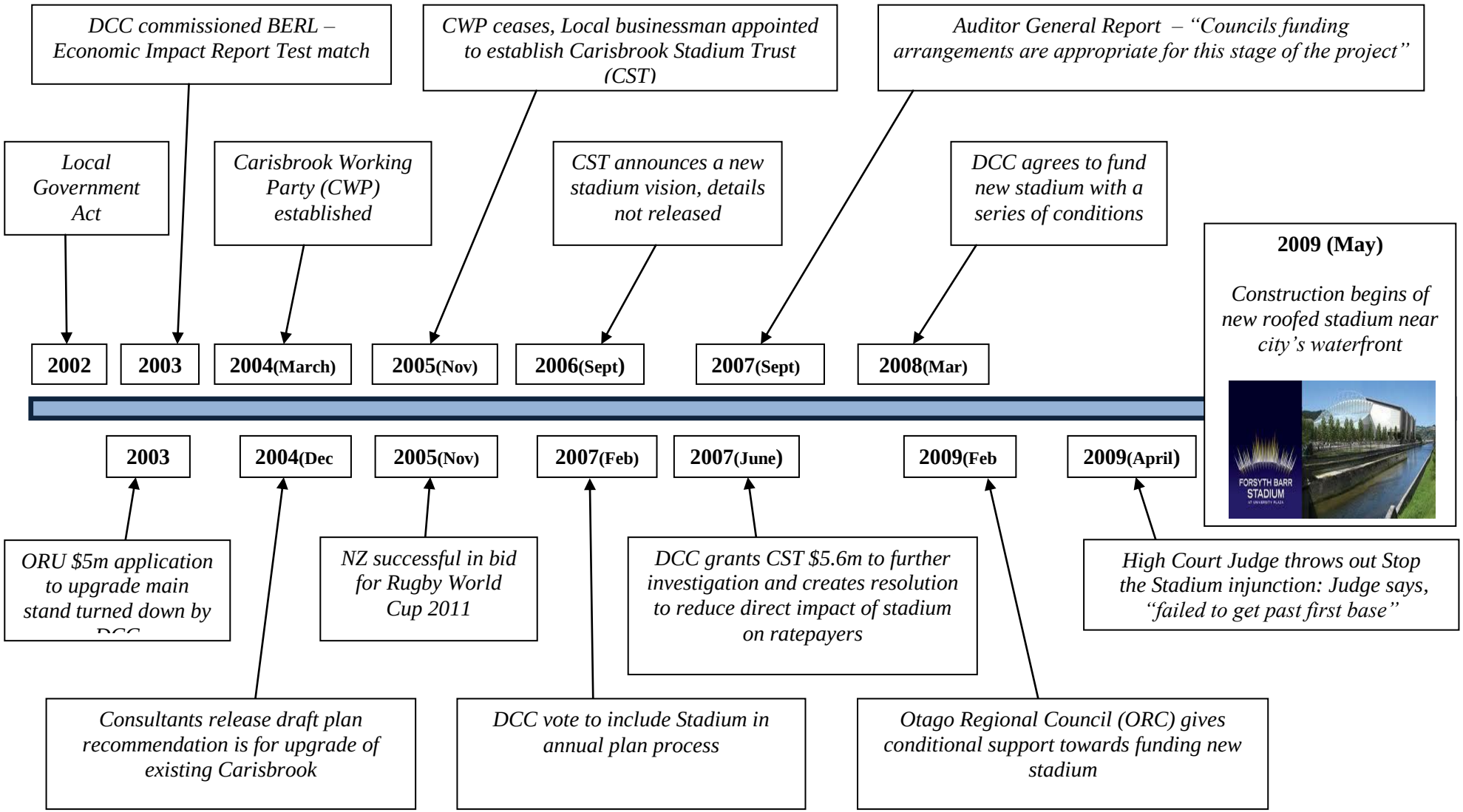


Figure 1 Time line to stadium

CHAPTER 4
METHODOLOGY

Critical Realism as Ontology

Critical realism is a philosophy of the social sciences, which focuses on the agent and the agent's relationship to structures. Importantly, it emphasises the accounts of individuals as they interpret the world and the reasons that are used to explain their experiences since those reports are ontologically[15] real (Egbo, 2005). This research study was founded on a critical realism paradigm where reality is seen as being made up of deep structures which make possible the events we observe (Lovering, cited in Wendt & Shapiro, 1997). Further, this paradigm helps to describe and understand people as conscious and social human beings where their motives, experiences and subjective interpretations are an important component of causal processes (Bulmer and March, cited in Devine, 1995).

Qualitative Research as Epistemology

Qualitative research contains certain assumptions about ontology, epistemology[16] and methodology (Yang & Miller, 2008). These assumptions are founded on an anti-positivistic inquiry, which is geared towards understanding rather than explaining (Yang & Miller, 2008). Methodologies translate ontological and epistemological assumptions into research strategies (Maykut & Morehouse, 1994). Qualitative research methods are associated with this epistemological position, and involve a range of techniques such as participant observation and interviewing. Such techniques contribute to the study of political behaviour by assisting our understanding of political actors who shape the world of politics and are shaped by the world (Devine, 1995). Interviews are appropriate in seeking to understand people's motives and interpretations (Devine, 1995). It is therefore important to observe and understand individuals in their natural settings, as subjectivity varies according to the context (Devine, 1995). This is consistent with trying to understand and interpret actions, and trying to capture unique human experiences (Devine, 1995).

[15] Ontology raises questions about the nature of reality i.e. what is real and what counts as evidence (Maykut & Morehouse, 1994).

[16] Epistemology concerns the origins and nature of knowing and the construction of knowledge. It asks questions such as "how do we know what we know" and what is the relationship between the knower and the known (Maykut & Morehouse, 1994).

In order to investigate the city of Dunedin's processes of assurance (and their subsequent adaptations) resulting from accountability through the Local Government Act (2002) the researcher drew from two sources of data: 1) documents and, 2) interviews with the Chief Executive of the Dunedin City Council and Otago Regional Council.

Document Analysis & Interviews

Given the long history of the Dunedin case, there were innumerable texts available as relevant data sources. These were:

- Relevant central government legislation such as the LGA
- DCC official documents including committee minutes, agendas, reports
- Media reports, local government responses and opinion pieces
- 3rd Party reports
- Previous research

Documents

Documents were analysed in order to gain background and context and to elucidate conflicting accounts. While there was a wide range of relevant data sources to disseminate, relevant material required using sensitizing constructs. These constructs were focused on material that presented local authorities with varying degrees of risk in terms of meeting the requirements of the LGA such as annual plan consultation (recalling that risk and blame are associated with the processes of assurance). The subjective experiences of the city's Chief Executive(s) were also important to this data collection as they provided first hand interpretations of accountability through a new set of rules as per the LGA (2002). These, along with the relevant documents such as media reports, executive reports and opinion pieces added additional background material, which served to highlight potential risk(s) with respect to new accountability for local government.

Therefore the focus of the document analysis was on looking for interpretations of the LGA. Here, the data was placed in context and questions posed to the Chief Executives with their interpretations of the LGA, such interpretations manifest themselves through how the public was assured, i.e. the processes of assurance. For example, part way through the deliberation process there was a change in how the problem was constructed; the loss of category 'A' test matches was no longer relevant as the new stadium was designed to hold less than the required seating for such events. This data was analysed in conjunction with the Chief Executives' transcripts to provide insight into the processes of assurance, which were utilised to support this change in tack. That is, the data served to examine the degree to

which the LGA enabled or constrained such processes to occur. Ultimately, this served to: 1) highlight how local authorities interpreted accountability through the LGA, and 2) illustrate how accountability manifests itself through these interpretations.

Interviews

To further understand the DCC's responses to the LGA, this study gain some insight into the subjective experiences of those within local government. The participants in this thesis were identified as those closest to, and knowledgeable of the LGA (2002). They are key intermediaries and interpreters to this process, and it is they who must manage the co-existing forces of both change and stability while following the appropriate (or 'due') process. Therefore, the Chief Executives of the Dunedin City Council and the Otago Regional Council were selected as they are directly responsible for the administration of their respective organizations and to their Councillors for the supply and interpretation of information for governance. Also selected was the Dunedin City Council's Manager of Finance and Corporate Support. This position reported directly to the Chief Executive of Dunedin City and was responsible for financing, property operations, property development and asset management (DCC, 2010). This position was also identified as a key intermediary because of its specialist function in recommending asset advice to the Chief Executive of Dunedin City Council. Significantly, these three administrators consistently offered comment to the media concerning the stadium, making them key figures in public perceptions of local government accountability. Recent comments by the mayor of Dunedin reiterated the Chief Executive as a key figure by saying that the Chief Executive had been particularly diligent in progressing plans for the new Forsyth Barr Stadium to a position which allowed the council to make a fully informed decision (Loughrey, 2010). Therefore, the bureaucrat's perspective was chosen to specifically gain insight into the subjective experiences of individuals in such unique positions. This has the added dimension of providing an interpretation of accountability for other local government managers, specifically on how they could reconcile their approaches to accountability under a new set of rules and given the scale of their decision-making.

For this reason, local and regional councillors were not selected as they were not in such key intermediary positions; they are local government politicians whose role is to act on behalf of their communities, to promote their well being now and into the future.[17] A councillor's role is to provide policy direction within a set of principles.[18] By contrast the actual responsibility of implementing the

[17] http://www.localcouncils.govt.nz/lgip.nsf/wpg_URL/About-Local-Government-Local-Government-In-New-Zealand-How-Councils-Should-Make-Decisions?OpenDocument

[18] These principles are outlined in the Local Government Act 2002. Section 14 requires all councils to take a consistent approach to their activities, by conducting their business in a clear, transparent and democratically accountable way. Specifically they must a) operate in an efficient and effective manner, b) make themselves aware of and having regard to the views of all their communities, c) take account of the diversity of their

direction lies with the role of the Chief Executive[19] and members of the management team. Therefore this thesis is also a reflection of how the two Chief Executives acted as the link between their elected members and their executive. Their positions were central to this study because councillors relied heavily on the advice they received from their Chief Executive (see Harland (2008) report) and also specialist advice from selected employees (see Loughrey (2011b)). Local authorities relied on management to take responsibility for the process (i.e., process accountability, which is accountability for inputs within an institutional context).

Procedures

The two Chief Executives (Dunedin City Council & Otago Regional Council) and the Manager of Finance and Corporate Support were chosen for interviews. During the stadium deliberation phase the two Chief Executives were immersed in the deliberation process, acting as intermediaries for councillors, staff and public. The Manager of Finance and Corporate Support also provided assurances at various stages through responses to media questions. This position had to form an effective team with the Chief Executive.

After obtaining University of Otago Ethics approval, consent from the participants was secured by making a follow up phone call (after written consent is obtained) and also at the time of the interview process. A sample pool of questions (see appendix A for interview guide) was used in the interviews to assist in facilitating the interview process. This interview guide was emailed to the interviewees along with the initial request for an interview. Each interview began with an outline of the purpose of the thesis and how the interview would proceed. It was explained to the participants that anonymity cannot be assured due to the small selection of interviewees and the specific requirement of having three individuals in such unique positions. The interview process used semi-structured interviews, as it allowed for flexibility and an opportunity for further probing (Bailey, 1987). Interviews were taped and transcribed. It was recognized that discussion may differ between interviews as each position may

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community's interests, both current and future and, d) provide opportunities for Māori to contribute to council decision-making processes, e) collaborate and co-operate with other local authorities and bodies appropriate to promoting or achieving the council's priorities and desired outcomes, f) conduct commercial transactions according to sound business practice, g) ensure prudent stewardship and the efficient and effective use of their resources, in the interests of the district or region the council represents and h) take a sustainable development approach (thinking about the social, economic and cultural well-being of people and communities, the need to maintain and enhance the quality of the environment, and the reasonably foreseeable needs of future generations).

[19]http://www.oag.govt.nz/2002/chief-execs/part4.htm#understanding

4.4 The Chief Executive has four particular responsibilities (section 119D):

(a) implementing the decisions of the local authority:
(b) providing advice to members of the local authority and any community boards:
(c) ensuring that all the functions, duties and powers delegated to him or her or to any person employed by the local authority, or imposed or conferred by any Act, regulation or bylaw are properly performed or exercised:
(d) ensuring the effective, efficient, and economic management and planning of the local authority.

have differing interpretations of how the LGA (2002) should be implemented and therefore differ in their expectations about their accountabilities. Probing into these differences was a key determinate of their subjective experiences and illustrated how each reconciled their interpretations.

The interviewer acknowledged that this type of policy process involving a sports stadium is both divisive and contentious. Therefore to gain the trust of interviewees it was explained that the focus of the interviews was not to reach a conclusion on the merits or not of a new stadium, but rather to gain a greater understanding of what accountability must have 'felt like', considering a responsibility for the process under the structural influences of the LGA (2002). For the sake of brevity the Chief Executives and Manager will be referred to as CE-DCC (Chief Executive Dunedin City Council), CE-ORC (Chief Executive Otago Regional Council) and MF-DCC (Manager of Finance and Corporate Support Dunedin City Council).

Analysis

These semi-structured interviews took an hour to an hour and a half. Information from these interviews was transcribed and placed into categories, based on the theoretical grounding in chapter two. For example, information, which related to how accountability (while under the influence of the LGA (2002)), was interpreted will be entered under the heading accountability as an institution. Transcripts were offered to the interviewees for checking, this was designed to increase the trustworthiness (Maykut & Morehouse, 1994) of the interview data.

This study was designed to investigate the processes of assurances through subjective interpretations of the LGA (2002), therefore the backgrounds of the interviewees, i.e., their personal preferences were not relevant. However, it is important to acknowledge that personal opinion may affect behaviour and actions and that this is likely regarding the context of this study (large scale capital project regarding professional sport). With this in mind, the design of this study was based on subjective interpretations and understandings and therefore was a test of the LGA (2002) under extenuating circumstances for local authorities. While this study could be replicated on a range of policy, the challenges presented in this particular context where local authorities are trying to reach a clear decision is magnified regardless of any personal opinions.

CHAPTER 5

PATH DEPENDENCY AND INSTITUTIONAL STICKINESS

> Jim Hacker: I thought these planning inspectors were supposed to be impartial?
> Bernard Woolley: Oh really, Minister. So they are, railway trains are impartial too, but if you lay down the lines for them that's the way they go. (Lynn, 1986)

This chapter will investigate the processes of assurance to meet the requirements of the LGA prior to a final decision to commit to the construction of a roofed stadium on the city's waterfront. These processes are a reflection of the problem being shaped firstly by a local authority led working party, and secondly, re-shaped by a local authority approved trust (Carisbrook Stadium Trust) who took ownership of the stadium problem and became the promoters of their ideas and concepts.

Before such analysis, this chapter will reiterate the purpose of the study and then define what constitutes a process of assurance by local authorities and outline the assurances that were uncovered by the data. A discussion of these assurances will follow.

One function of accountability is to provide assurances to the taxpaying public that public authority and resources are used in ways that adhere to the law, public policy and to public service values (Aucoin & Heintzman, 2000). So, the purpose of this chapter is to investigate the local authority processes of assurance to meet the terms of the LGA (2002) in the context of a proposed stadium development and to explain those processes using historical institutionalism, where institutions can create path dependencies for local authorities (Lowndes, 2005). The significance of this study is to further understand how accountability presents itself particularly under extenuating circumstances such as the proposed construction of a stadium in a city of 120,000 citizens.

Assurances in this instance are defined as the activities of local authorities intended to demonstrate due process under the LGA (2002). For example, the commissioning of economic impact reports was aimed at assuring the ratepayers that the requirements of the LGA were met. Specifically, the LGA specifies that any new activities (i.e. a stadium development) must exhibit benefits in terms of social, economic, cultural and environmental well-being. So, the commissioning of economic studies is a process of assurance as it suggests that a new stadium will provide an economic wellbeing to the ratepayers. Spanning nearly 7 years, this case yielded many discrete instances that could be interpreted as assurances e.g. City Bulletins[20] (a magazine style publication produced by the Dunedin City

[20] City bulletins, a magazine style publication produced by the Dunedin City Council. Examples of assurances in this publication are:

Council), but for the sake of coherence, the five most significant processes of assurance are outlined below along with a brief analysis of their implications.

Assurance # 1 – Establishing the Carisbrook Working Party (CWP)

Synopsis – Local authorities established the Carisbrook Working Party (CWP) that in turn issued a pamphlet titled "The Great Carisbrook Curtain Raiser" to assure the public that a problem existed with the existing stadium. The pamphlet affirmed that it was necessary to solve this problem by using the decision-making processes of the LGA through the provision of 3 options.

In the early stage of the process (2003-2006), assurances were shaped by the position local authorities were in and their construction of a complex problem. They were part of a working group, which was given the task of not only assisting the ORU with its request for funds but also informing the public about the problem and the alternatives to solving the problem. While still mindful of the LGA, local authorities had attempted to take an arms length approach by enlisting the services of a consultancy firm to assist them. Assurances at this stage of the process were manifest through a pamphlet titled the 'Great Carisbrook Curtain Raiser'. The challenges that emanated for local authorities during this phase were that they were trying to simplify a complex problem. As CE-DCC explains –

> The basic problem goes back to the NZRU having some criteria for international test hosting across NZ… places like Hamilton, Tauranga, New Plymouth, Hawkes Bay, Dunedin, Christchurch, Auckland etc. who were all potentially having or wanting to have All Black tests, and it was getting a bit out of hand (personal communication 2010).

Constructing the problem in this manner meant that the public was getting assurances from their local authorities that a problem did exist and that public funding is a reasonable practical option and there are levels of funding which could be considered. Hence, due process was through 3 options, illustrated through a DCC pamphlet delivered to mail boxes in the Otago region. The pamphlet described the existing stadium as being in need of an upgrade and presented 3 options in terms of how to solve the problem.

What was interesting at this stage of the process is that the question - should public money be allocated towards a stadium, was never raised through the DCC processes. Even though the stadium was under private ownership at this time, it was taken as a given that public money could fund a

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1. Information about how the LGA process can bring about change through ratepayers and residents having their say (City Talk, March 2009)
2. Updates on community outcomes such as the Wealthy community (City Talk, Dec 2008)
3. Messages from both the Mayor and Chief Executive outlining milestones towards significant city projects (City Talk, Dec 2010)

stadium and therefore the problem shifts to how do we address the criteria set by the NZRU. By leaving out this fundamental question, assurances were focused on a certain problem and a certain series of solutions. Assurances were simplified to meet due process under the LGA. The three options (i.e. assurances that 'seek to identify all reasonable practicable options), do nothing, progressive upgrade and build new were fundamental to laying a path for future policy based around a new stadium development on the city's waterfront. While unknown by local authorities at this point, by following due process under the structural influences of the LGA, the three options would open one door, while closing another.

Assurance # 2 – Outsourcing investigations to the Carisbrook Stadium Trust (CST)

Synopsis - This process was designed to

1. Enable local authorities to provide assurances that all the information would be made available before any decision was made
2. Release the Dunedin City Council and Otago Regional Council from direct public criticism

The CST formally launched themselves in August 2006 and went back to first principles. Thus, their work and the stadium problem were characterized by emphasizing the multipurpose capabilities of a new stadium at a waterfront location as opposed to upgrading Carisbrook on its existing site. As this was a much more complex set of ideas and concepts it required a serious amount of working capital and in June 2007 local authorities granted a further $5.6m to the CST to further its work (Loughrey & Oldham, 2007).

The significance of changing 'policy vehicles' was seen by Chief Executive as "fundamental" to enable local authorities to be freed up from the tension and divisive nature of the issue.

> It was a fundamental to enable it to be, the problem of Carisbrook that everybody agreed there was a problem to enable the problem of Carisbrook without becoming personally abusive, to either or both CE or Mayor or CE and Chair. It was not possible to go any further with the degree of abuse that was there and needed to be (CE-ORC, personal communication 2010).

In contrast to the DCC, the Otago Regional Council (ORC) was required to go through a process which was designed to enable them to consider funding the stadium. This meant that they had to find out from their territorial local authorities whether they agreed that they should be undertaking this new activity, i.e. should they even be investigating putting funds into a stadium. This meant there was a three-step process for the ORC if they were to fund the new stadium. Firstly they had to consult on

whether it was a function of a Regional Council to consider this new activity. Secondly, if all territorial local authorities agreed, the ORC had to invoke the special consultative procedures of the LGA (see LGA, 2002, p. 53). They too, could then consider the options and thirdly the ORC had to consult on the preferred proposal.

Therefore, the LGA (2002) enabled the ORC to consider the investigation of putting funds into a stadium. As the CE-ORC explained:

> Well, the first key process for regional council is in fact to be able to undertake a new activity and so that is specified in 2002, and that was a material change from previous legislation, it's probably fair to say without that law change this council could never have been involved without act of parliament (personal communication).

The first step in the process (to decide if it is a function of the ORC to be involved in a stadium) was done in conjunction with the DCC in a region wide mail out survey. Significantly, in 2007 the timing of this step in the process was such that the CST had already developed a clear stadium vision. This vision was profiled in the mail out survey, yet even before the survey had been conducted and a decision made that it was a necessary change of regional council function, the ORC had been contributing towards funding for the CST to continue its investigations into a new stadium.[21] While funding was required to further investigations, the ORC followed behind the DCC who did not have to consult on whether it is an appropriate function of a local authority. What this means is that the decision for the ORC, to undertake a new activity was not made until the CST had significantly developed and proposed its concept.

Indeed, continual funding was required for the CST to fully develop their ideas and concepts into a proposal that could be considered by both the ORC and DCC.[22] With the CST being publicly funded before any decision had been made (by both the DCC and the ORC) to construct (or not) the stadium, risks emerged in taking further steps along the path for local authorities. The more resourcing that was required to fund the ideas of an independent trust, the greater the challenges of justifying that expenditure if the proposal is halted. Here the costs of changing direction increase with each movement forward, with the proposal absorbing a significant degree of funding, local authorities were heading down a 'one way' path. The question we need to ask is – were they aware?

The assurances from the DCC and ORC were that by outsourcing the work to the CST this would enable the Councils to make a decision with all the information available.

[21] 2006 Press Release - ORC agrees to fund further Carisbrook investigation: "The Finance and Corporate Committee today agreed to recommend that Council contributes $200,000 towards the cost of further investigation by the CST, to enable the compilation of the options assessment for a new or redeveloped stadium."

[22] The DCC had allocated $11.5m in its budgets to assist the CST in developing the project's viability (Loughrey, D & Oldham S, 2007).

As the mayor stated in the local newspaper the council had "the right and the duty" to fund the trust until all the necessary information was known (Loughrey, 2007c). Stating that no decision had been made about the future of the stadium through a letter to all ratepayers in the local newspaper to assure citizens that - "… we believe you can rely on our collective resolve to remain uncommitted to any particular outcome, until after we have seen the trust's report and have heard your responses to the options they submit for our consideration" (Loughrey, 2007a, p. 3.).

What this meant is that while the local authorities were reporting that they were uncommitted to making a decision, they had been (and would continue to be) committed to funding the CST to further its investigations and therefore create significant inertia and future opportunities.

Assurance # 3 – Distilling one proposal from six options

Synopsis – CST publicly release the Masterplan and feasibility report containing six options to fulfill the requirements of the LGA.

The LGA (77, p. 49) requires local authorities to identify reasonably practical options for the achievement of the objective of a decision, and further to this the LGA (78, p49) also requires consideration be given to those most likely to be affected by or have an interest in the matter. Recalling from Chapter 4, the Dunedin City Council voted for the roofed stadium option, five days after the public release of the Masterplan and feasibility report from the CST. This report contained six stadium options and at a budget meeting (five days after the public release), the DCC reduced these six options to one proposal, which was then signaled in the 2007/2008 annual plan. The day after the public release of the Masterplan and feasibility report, the CST held a public meeting, which was attended by approximately 120 members of the public (Rudd, 2007). At this meeting, critics were told to take up their argument with the DCC, meaning the public had only five days to consider the six options and communicate this to their councillors. So, when the councillors met at the budget meeting they were acting on behalf of those who had expressed their views. The local newspaper then reported that residents would still be free to have their say on whether the council should contribute to any of the CST's six options, or to no option at all through the AP process (Loughrey & Rudd, 2007). However, the CE-DCC explained that it was not possible to re-open discussions on the other five options due to the LGA requirements at the annual plan stage. In his words:

> "there were people who were fairly unhappy during the submission process because they wanted to have a debate with the councillors on the merits of an upgraded Carisbrook versus new and all the rest of it, but we couldn't do that, we could listen to them" (personal communication 2010).

The CST's public meeting was designed to follow due process, yet as a form of assurance, its timing following the day after the public release and the timing of the subsequent budget meeting shortly afterwards was an aspect of the LGA left to the Chief Executives discretion. The ambiguity around this period was highlighted by the local newspaper stating that it would still be okay to discuss the other options at the upcoming annual plan, when, in reality it was not. Here, the Chief Executives are putting the LGA into action, the potential impact that one small step has is unknown at this stage by the ratepayers.

Assurance # 4 – Managing the Annual Plan (AP) Process

Synopsis - Assurances are focused on meeting the terms of the LGA through the annual plan process. They consisted of outsourced work that would form the framework towards the city's long term planning (LTCCP).

With funding being approved for the CST to continue its work, it meant local authorities would then be able to focus on the long term council community plan (LTCCP) and annual plan (AP) process which formed the requirements of the LGA. An amendment (i.e. the proposal for a new waterfront stadium) was required because setting long term plans for the council occurs once every 3 years. Outside of this period dictates an amendment. This amendment contained the 'bones of the proposal' (CE-DCC, personal communication 2010) from the CST and stated that there were effectively two options or "paths" to take:

- The first path is to invest in stadium infrastructure to a level that strengthens Dunedin's and the Otago region's position as a centre for international and national sporting competition and events over the long term. It is envisaged that this path will contribute to economic development through increased visitor numbers from significant sporting events (test match rugby), concerts and promotions, conferences/commercial activity, and a professional sport franchise.

- The second path is to accept that Dunedin and the Otago region will not be a centre for international and national sporting competition over the long term. It is envisaged that alternative investment would need to occur to generate the economic development and city vibrancy to a level comparable to the first path" (DCC Annual plan 2007/2008)

Also in the amendment was the Carisbrook Stadium Trust's view that the option of a new stadium at the new Awatea Street best satisfies the first path described above for the city and the Otago region. A stadium with a fixed roof over the pitch was preferred for two key reasons:

- It provides a superior environment for event attendees and promoters resulting in higher spectator numbers, events and revenue.

- It gives Dunedin a point of difference compared to the stadia of other major New Zealand cities (DCC Annual Plan 2007/2008).

There are four relevant observations to this amendment. Firstly, local authorities adopted the structure of the proposal from the CST and also expressed their preferred view in the amendment. This meant an independent body (CST) had expressed a preferred view towards a stadium with a roof. So, there was the creation of an arms length distance between local authorities and the decision maker. Now, local authority's responsibility was to consider the preferred option generated by an independent trust rather than generate a preferred option themselves. Until this point, assurances had been focused on ensuring the information was made available so that a fully informed decision could be made. With claims that the new stadium would be superior for events, the observation is important as it sets up opportunities for future assurances.

Secondly, local authorities had stated that there were two paths they could take. The first path was one of economic development through the construction of a new roofed stadium that would increase visitor numbers through its associated activities, the other path was that the region would not be a centre for international and national sporting competition and that an alternative investment would be needed to generate the level of economic development described in the first path. Here, the options are simplified by local authorities to 'we either take path one or path two'. No other alternative options in terms of economic development are provided, meanwhile there was no guarantee that sporting events and subsequent economic impacts could eventuate.

The ORC also considered this aspect through their annual plan in 2008 with the CE-ORC clearly identifying the risks. As a result of the limited options available, the CE-ORC felt it was important that his councillors were informed of the wider risks of investing in this project. Inviting the CST, University of Otago, Otago Rugby Union and engineers to speak directly to his councillors was, according to the CE-ORC, a professional approach: "Professionally, I wouldn't have been doing my job if I hadn't made sure that councillors had access to everything and able to question the people directly for all matters around the project" (personal communication).

This CE-ORC also explained that collecting all the necessary information was done in private, rather than in the public sphere. A process forced upon him because of the abuse that had developed throughout the earlier process. He explained that the worst of the abuse came privately, but there was also abuse in the public gallery and that he took the unprecedented step of ensuring there was police protection in the chamber.

The CE-ORC felt that in order for his councillors to consider funding the proposed roofed stadium, informative decision-making should occur by meeting privately with each of the key 'players' and providing his councillors with the opportunities to ask questions away from the public arena.

> …the public can't provide this [information], and it's not going to be provided by these organizations in public, it has to be secured privately. Who in their right mind from any of those sorts of organizations would actually have the abusive hordes sitting there when we are trying to answer questions (personal communication 2010).

Through justifying his actions in the local newspaper, the CE-ORC revealed that he firstly, had a duty and secondly, that he was the guardian of the council process – "…it is my duty to ensure councillors are fully informed before they voted on it…I am the guardian of the council process. It was my decision to invite the trust and I stand by it" (Rudd, 2008, p. 4.).

These actions by the CE-ORC were criticized by one of his councillors who expressed the following: "The whole [stadium] debate needs to be open and transparent. We can't give people any opportunity to think it is being done using `wink wink, nod nod' methods" (Rudd, 2008, p. 4). Declaring himself as the 'guardian' of the council process starts to raise some questions around the influence that the CE-ORC on the entire process.

As a third observation, the amendment to the LTCCP (recommending a new roofed waterfront stadium) actually determined the scope of the decision for city councillors and the scope of consultation for the public. Both councillors and the public could participate, but only on what was placed in the LTCCP amendment, i.e. what councillors would vote on is what the public had been consulted on. That is, the amendment provided by the CE-DCC sets the scope of the decision. If the public or councillors wanted any 'significant changes' to that amendment, it must follow the terms of the LGA where another round of public consultation would occur with problem definition, alternative solutions and preferred options made apparent to the public. Then an amendment or review of the LTCCP would have to occur depending on the year and subsequent council approval.

As the CE-DCC explains regarding the submission process on the new stadium:

> the councilors choice was if they were not comfortable with the submissions and their views and the context of the proposal for a new one (amendment) then, they would have

> to abandon that proposal and go on again, and alright let's have a consultation just about putting stuff on Carisbrook (personal communication 2010).

Indeed the CE-DCC identified this technical aspect of the LGA as an area of concern. They felt the Act limited the ability of discussions to branch any further than what had been consulted on, with CE-DCC explaining:

> I've certainly lobbied for this to be changed, the processes being wrapped into one so you could have more of an enquiry where you say here is our problem, here's our 5 possible solutions, we either have a preference for this or we don't but either way, we have got an open mind what do you think, turn up and then you could, you picked a proposal, and said we prefer this or something in between and you could do that based on submissions and we actually now prefer this or something in between and you could do that based on submissions which you can't do that necessarily today and I think that is pretty cumbersome (personal communication 2010).

Given the Chief Executive's familiarity with this aspect of the Act, it would seem that no steps were taken to avoid the pitfalls of the amendment process, i.e. by including more options in the amendment for councillors and the public to consider – see six options in Chapter 3. Indeed by 1) adopting the CST's framework and 2) allowing the CST to express their preferred option, they effectively granted the CST 'speaking rights' to express their views. Such privileged access to the amendment process by a private sector group would seem unusual given no other group was given the same opportunity to express their view point. Thus as a form of assurance overseen by the management, the amendment process led to further risks.

Assurance # 5 – Crafting fall back options and out clauses

Synopsis – Local authority assurances were in the form of fall-back options such as building a new stadium without the roof and out clauses which involved a rates 'credit' if the project did not proceed.

The risks for local authorities of building a roofed stadium on the waterfront surrounded several milestones and conditions that needed to be met. For example the final decision to go ahead with the stadium was subject to a number of conditions. These conditions were appearing as assurances designed to 'safeguard' local authorities if high-risk aspects of the stadium failed. For example, confirmation was required that the growing of the turf would be successful. Also a "fall back" option was included where excluding the roof would reduce the cost by $37.5m. 'Out clauses' appeared suggesting how the finances of the project would be wrapped up and credited to the following years rates if the investigations ceased. Created by management, these conditions assured both councillors and the public that if council decided to terminate the funding to the CST, there would be a plan in place to allow and manage this process. What these assurances provided was an option for council to

reduce its commitment or cease commitment if the milestones and conditions could not be met. Thus unlike assurances found in the Amendment (relating to community outcomes), assurances were tied to the 'progress of work' and became objectives for the CST to meet. The 'risks' identified in the amendment also highlighted ownership, where local authorities requested advice be sought for 'optimum ownership' and governance structure for the stadium facility. Here, local authorities through this assurance were beginning to signal the role that Dunedin City Holdings Limited would play.

The untested nature of assurances

Thus, what this case demonstrates is that rhetorical assurances need not be coherent with one another since they can be issued at very distinctive points in the LGA process.

For example, despite the CST's earlier claims of the benefits of a multipurpose public venue, the assurances given by local authorities for selecting pathway one were based around the stadium's ability to attract sporting events both nationally and internationally, for the 'visitor' class. While the former assurance emphasized the 'public-ness' of the facility and access for citizens (via university teaching and research space, concerts, functions, exhibitions and community events'), the latter stipulated the benefits of attracting the 'visitor class' for the purposes of generating economic wealth as the full-page advertisement illustrated in the local newspaper. This advertisement detailed the stadium use as being multi-purpose and gave specific multi-use examples: Markets, Equestrian, Wine and Food festivals, Music concerts, Soccer, Christmas Events, Live shows, Community Events, Marching Bands, School Sports Days, Masters Games, Brass Band competitions, Ice spectaculars and fashion (Our Stand, Our Stadium, 2008).

In the end the CST's multi-purpose promises and assurances were not tested through the annual plan and LTCCP processes, and in fact, the search for alternate uses for the stadium would not begin until stadium construction was well under way (Rudd, 2009). Once again, the local authorities' strict preference for economic assurance precluded the analysis of the project's viability forcing the assurance process down one of two pathways: either adopt the economic development path by constructing a new stadium or don't. This uncritical acceptance of the information and reports given by the CST led to several requests to the Office of the Auditor General.

In 2007, the Auditor General received several requests for enquiries relating to the amount of ratepayer funds that might be contributed towards a proposed stadium, the relationship with a non-council controlled organization and the uncertainty within the Otago region about the nature of the Council's involvement (Brady, 2007). The findings of this enquiry further acted as assurances (for local authorities) that the Council's accountabilities were suitable for this stage of the process.

As MF-DCC commented:

> there had been representations made to the office of auditor general, that the council hadn't consulted properly, that the accountability for the use of public funds was not appropriate, … they have the power to undertake investigations and undertake enquiries, so the Auditor General as part of the assuring that public funding is being used appropriately can conduct an enquiry into the use of public funds which is what they decided to do and basically they looked at the accountability mechanisms between the Regional Council and the City and the CST. They looked around how we were controlling the funds which we were expensing and the means by which we assess those payments represent value and how we comply with good practice, so, it was pretty serious bit of work done by them. They were under pressure to expand their enquiry to include the consultation work undertaken and the processes, based on what they had seen and their experience of the project they were not moved to expand their terms of enquiry. So that was good from our point of view (personal communication 2010).

Released in September 2007, the Office of the Auditor General's report stated that it had not come across any issues with the consultation and decision making processes of the Council's and that as a result of those findings there was no further inquiries necessary. The report specifically stated that it had been suggested to the Office of the Auditor General that the DCC had not complied with section 84(3) of the LGA when the DCC amended its LTCCP to include the proposed stadium; the findings stated that the DCC processes were not inconsistent with the Act.

These findings confirmed to local authorities that their assurance processes (i.e., those established to meet the interpreted accountability requirements) were appropriate. What this highlights is that even though there was continual discontent from some members of the public regarding the activities of the CST, the findings supported how local authority (DCC & ORC) interpreted its accountabilities. What we can draw from this is that the processes of assurance were compliant with the LGA, but a critical assessment of the CST's work and any subsequent assurances of that assessment did not eventuate. This may have been understandable from local authority's perspective considering at this stage of the process (i.e. before a final decision had been made) there had been considerable investment in the processes. However, it is difficult to imagine the designs of the LGA had this type of 3rd party, contractual arrangement in mind when prescribing local authorities to weigh costs and benefits to proposals.

Discussion – Path dependency and institutional stickiness

Stadiums attract the public's attention because they are large capital-intensive structures, which in most cases require public funding as a means of financing their construction. The existing case, where a proposal to redevelop an existing stadium (Carisbrook) in Dunedin has evolved to a new stadium on the city's waterfront has also heavily attracted ratepayers attention. In fact, it has been a 7-year process and arguably gone in a direction that was not predicted at the beginning of the formation of the Carisbrook Working Party in 2003. There have been numerous assurances provided by both local authorities in this 7-year period. The significance of these assurances is that they revealed certain paths that local authorities have adopted. By understanding how local authorities interpreted their accountability under the LGA we are inviting a view of accountability as not only a mechanism for blame or shame but also as a way to read into the politics of local government.

These assurances provide insight into the interpretation of accountability as a 'due process' under the legislative mandate of the LGA. With the initial proposal to re-develop the existing stadium (Carisbrook) turned down because it was felt (from the CE-DCC perspective) that politically it was too difficult to sell to the mayor and governors, local authorities could well have withdrawn their involvement at that point. However, it is significant that the previous decision (i.e. for 3 options – do nothing, upgrade or build new) set a path for subsequent actions. This explanation of events, where a previous decision lays appropriate paths for future decision-making is described as path dependence (Lowndes, 2005). According to Hall and Taylor (1996), historical institutionalists are strong proponents of social causation that is 'path dependent' where situations and the courses available are influenced or inherited from the past. We can further understand historical institutionalism by looking at 'critical junctures' where periods of continuity are broken or punctuated with a change (Hall & Taylor, 1996). Lowndes (2005) argues that the further policy makers head down a certain path, the higher the costs of changing direction. Here, the notion of increasing returns applies as the probability of further steps down the same path will increase with each move down that path. Indeed this axiom is related to the 'exit costs' of considering new alternatives (see Pierson, 2000). Therefore, 'path dependency' is a risk for local authorities as the further along they remain committed to building a waterfront stadium the greater the costs of exiting. This is due to the need for even more assurances by local authorities, explaining to ratepayers that resources are being used in ways that adhere to the law. Thus more reports and consultant fees are generated producing a self re-enforcing cycle where each step of assurance increases the costs of exit whereby an 'institutional stickiness' is created.

I will now discuss the implications of 'path dependency' using the processes of assurance that met the requirements of the LGA. Firstly, the initial proposal to upgrade an existing stadium (Carisbrook) was

shaped by local authorities obligations towards the LGA,[23] evidenced through a pamphlet which assured the ratepayer that they had followed due process by outlining 3 potential stadium options. These 3 options, do nothing, progressively upgrade or build new were focused on achieving the objective of a decision for the future of Carisbrook. It was generally agreed that the existing Carisbrook stadium, owned by the ORU was in need of some form of an upgrade.

What is important to note is that in making this assurance that due process was being followed, the question of should ratepayer funds be used to fund a stadium was side lined. This question may have forced local authorities to consider what else ratepayer funds could be used for and therefore assurances would have to follow a separate course, i.e. that funding a stadium was achievable alongside other city objectives.

So in 2003, it seemed the most likely scenario was to upgrade the existing facility; however one of the other options presented was to build new at a different location. This 'other' option – to build new was adopted at a 'critical juncture', where a local government appointed working party outsourced their work to a local businessman who formed a trust (CST). Given that the previous work had already presented this option, this enabled the CST to take that particular path rather than re-start the process of problem definition and alternative solutions. In other words, the path was taken because of previous 'historical inheritance' where due process had been performed in a previous period. Following Pierson (2000) , the previous path (re-develop existing stadium) mattered because it tends to provoke a reaction in some other direction i.e. at a critical juncture. This direction (to build a new stadium on the waterfront) finally led to the 2007/2008 annual plan process where again the ratepayer was assured that due process was being followed through an amendment to the city's long term plans. It was in this amendment where two pathways were presented, the first pathway, to adopt the preferred option of the CST and build a new stadium on the city's waterfront. This was detailed as an opportunity for economic development through the attraction of sporting events to the Otago region. While the other option was to not seek that option and forego the economic opportunity as no other options were presented. Since the LGA asks local authorities to 'give consideration to the views of persons likely to be affected or have an interest in the matter' Chief Executive gave specific invites to interested parties. This meant that while one Chief Executive thought he was fully informing his councillors of the risks associated with the one option, his interpretation meant that privileged access was granted for the CST, engineers, University and ORU to express their assurances to council outside the public consultation process of the LGA. There is no question their views were relevant because they all had a vested interest in the outcome and they were unconstrained by the time limits of the public consultation sessions. The final decision to commit to the stadium by councillors was therefore made by engaging those with vested interests in the matter. Significantly therefore, the intents and

[23] The LGA stipulates that in the course of decision-making, a local authority must identify all reasonable practical options for the achievement of the objective of a decision.

prescriptions of the LGA, to promote local authority accountability to its citizens, relied heavily on the Chief Executives interpretations. Viewed in institutional terms, the Chief Executives actions may be understood as a powerful cycle of self-reinforcing activity where listening to interested parties may have re-enforced the relative benefits of a new stadium, simply because no other pathways were available to offer assurances of economic benefits (potentially derived from an alternative investment).

It was as Lowndes (2005) describes, an institutional 'stickiness' that continued to mark the progress by the Chief Executives. Councils were so far along a certain path, that each decision they made continued to reinforce the initial direction, to commit to a new waterfront stadium. Recall for example, the report from the Auditor General, which re-enforced that their accountability mechanisms were appropriate; this again suggested that local authorities were following due process. Indeed, this type of positive feedback is likely to be particularly powerful within local authorities given the legally binding nature of the rules that delineate a chosen path (Lowndes, 2005). In short, a legally binding path cannot be contested and is therefore considered 'watertight'.

The annual plan amendment illustrated an assurance process that effectively 'locked in' local authorities to one option, an option that had borne significant costs to date.[24] To 'exit out' of the CST's preferred option and re-open the Carisbrook debate was, in the Chief Executives opinion, not possible under the existing legislation (personal communication). So, the timing of the assurance process, (from the public release of six options and subsequent reduction to a single proposal in the period of a week), had a monumental impact. The process became irreversible according to the CE-DCC unless another phase of consultation could occur on the other options and then proposed as part of the annual plan. Having comprehensive knowledge of the LGA, the CE-DCC was likely to have understood the implications of this. As there was no attempt to re-correct the information in the newspaper or offer alternative types of consultation on the six options then management were satisfied that they had followed due process.

Hence, by adopting the CST's preferred option it would seem by way of 'no choice' (through councillors' vote) that the CE-DCC placed this (the singular assurance of the stadium's economic returns) into the amendment and thereby delimit the other alternatives. This apparent 'locking in' to one pathway (build stadium for economic development) does raise the question whether the CE-DCC was in fact sanctioning a final result to the stadium decision. Given the 2007 Auditor General's report stated that the accountability (and communication) processes were adequate between the local authorities and the CST, it follows that the CE-DCC should have been aware of the progress that the CST was making towards the waterfront stadium as a preferred option. Being 'locked' into this option cannot have occurred 'over night', as the MF-DCC explained when asked whether the LGA ultimately shaped the way information was presented - "it's about how you decide things…, how you get to a

[24] The costs to fund the CST investigations were $5.6m in June 2007 (Loughrey & Oldham, 2007)

decision, … sometimes it's better to just take your time, not rush this" (personal communication). This seemed to intimate that local authorities have a choice about how they decide, i.e. the processes that revolve around a decision take time, although as we have revealed, some processes take more or less time than others.

What became abundantly clear is that Chief Executives faced substantial costs to exit out of the inertial forces and re-start another process. This would have been too risky, given the self re-enforcement through commissioned reports and studies and thus the progress they had made to date. Rather than exiting out and re-consider other options, the staff set a series of future-focused assurances that were designed to assure the public that if they had to opt out at any stage, it would be due to the CST failing to meet objectives and not because of the faltering public assurances of the project's economic returns. Indeed while critics offered analyses of the likelihood of cost overruns, the Council could assure the public that they had a plan in place to manage this process. While appearing to have followed due diligence, this type of assurance screened out the impact that the stadium would have on the city's other community outcomes.[25] Local authorities were only providing certain assurances, and these future focused assurances did not necessarily mesh with claims that the new stadium would bring benefits to the city's wellbeing. Assurances such as 'out clauses' and 'future focused targets' were specific assurances delivered at very distinctive junctures of the LGA. They were not aimed at assuring ratepayers that the stadium would be multi-purpose as the CST had suggested (as a major selling point), they were focused on re-assuring ratepayers that contingencies were in place if the CST could not meet the city's conditions.

By selecting what required assuring and when that would occur, the coherence of the assurance process could not be synchronized with the promoter's (CST) claims. Given that the CST promised the stadium to be truly multi-purpose, the lack of assurances by local authorities around these claims coupled with assurances about meeting future targets suggests some claims could not be justified at the 2007/2008 annual plan stage. Realistically of course, the stadium's assurances of being multipurpose could only be assessed many years later and this could therefore be justifiably left alone by local authorities (there is brief mention of how the stadium might fit community outcomes in the amendment, however the main assurance is based on its economic development potential). However, claims that the new stadium will attract national and international sporting events and thus serve as an economic stimulus were defended (amendment stated that $268m - $310m impact would occur over 50yr lifecycle). This economic development pathway has repeatedly been self re-enforced by local authorities, even though claims regarding stadiums as engines of economic growth are disputed through independent research (Coates and Humphries, 2003; Siegfried & Zimbalist, 2000). In this case local authority behaviours have been shaped by a powerful self re-enforcing cycle of

[25] Community outcomes are – Active City, Safe and Healthy People, Accessible City, Sustainable City and Environment, Supportive Community, Culture and Learning (DCC, 2010)

commissioned studies, audits and reports. These studies and reports have not been commissioned to measure the amount of ratepayer funding which could be removed from the economy and therefore represent a contraction. Instead, they were commissioned to assess the benefits of substituting fiscal spending. Why these economic claims could not have been more critically examined only serves to highlight that institutions enable certain types of behaviours, and in this case also re-enforces certain types of behaviours. So, it is what has been ignored by local authorities in terms of assurances and the timing of the assurances, which reveal the political nuances of accountability through the LGA. The significance of these findings is that while accountability is understood as a principle of democracy, it is rarely observed in a bureaucratic sense as a collection of assurances which can self re-enforce and 'lock in' the processes of decision making.

This is an interesting feature and perhaps highlights an unintended consequence of the LGA. By way of the scale of this project, so much investment is needed to investigate risks that for Chief Executives to fully inform their councillors, the idea turns into a concept, which turns into a working project, which then allows it to be marketed as viable and so on. This investment then becomes a political risk to councillors, as significant resourcing means that to opt out of the proposal would represent a significant spend of ratepayer funds has gone into nothing, hence a waste of resources. As the CE-DCC commented,

> …so by the time we have finished the land purchase, the developed design, the concept design and all the consultation, about $50m had gone by, out of, say a $200m project so you're investing some pretty serious money and you still potentially would be walking away before you sign a construction contract (personal communication 2010).

Local authority outsourcing to a 3rd party has arguably released local authorities from a degree of tension when developing stadium concepts, however the tradeoff has been that the other principles of accountability as assurance, the public service values and public policy in general have been left lagging and this was not the intention of the LGA 2002 in terms of re-connecting with the public.

CHAPTER 6
THE INSTITUTIONAL MATRIX

This chapter will investigate the processes of assurance after the decision to commit to the construction of a new waterfront stadium. Specific focus will be on a judicial review regarding how the stadium is funded and subsequent affidavit statements as assurances and the 'stadium set up' as a Council Controlled Trading Organization (CCTO) revealing a public-private matrix.

Prior to the analysis, a review of local authority entities (LATEs and CCOs) and Lowndes (2005) institutional matrix will set the context for the chapter.

LATEs & CCTOs

Prior to 1989, Local government was structured with direct line reporting from a Council to both: 1) Town clerk with departmental heads reporting to the clerk, and 2) City or county engineer with departmental heads reporting to the engineer. The Local Government Amendment Act 1989 changed the structure of local government. It enabled a greater concentration of authority or power with the Chief Executive (formerly known as town clerk) and encouraged corporatization through the transfer of commercial activities[26] to LATEs (Local Authority Trading Enterprises) (Boston, Martin, Pallot & Walsh, 1996). The local government reforms were in line with neo-liberal agendas that radically reshaped central government in New Zealand. The underlying principles behind these reforms were - a) quest for clear line accountability, b) transparency in policy formulation and c) greater operational efficiency (Boston, et al., 1996). LATEs provided managers and councillors with opportunities to set up self-contained business units with contracts to deliver services. Note: The LGA 2002 renamed LATEs as Council Controlled Organizations (CCOs) or Council Controlled Trading Organizations[27] (CCTO) (LGA, 2002).

The LGA (2002) is designed to empower local authorities to promote the wellbeing of its communities. Specifically, the act requires long term planning processes where an emphasis is placed on leadership and thus testing the skills of local authorities (Miller, 2006). In order to achieve the objectives set out in the long term plans, local authority leaders are required to develop a skill set

[26] Examples of commercial activities include transportation, energy, forestry & tourism.
[27] CCTOs have a specific mandate to generate profits (LGA, 2002)

which includes partnering, consulting and cooperating with other public sector agencies and other stakeholders such as business and community groups (Miller, 2006).

In this light, council controlled organizations or CCTOs fit within this model of governance. As council-owned, self-contained business or service units, CCTOs vary in function (e.g. Energy industry, Tourism, Forestry) and require differing skill sets to govern. By acknowledging these specialist skills, the Manager for Finance & Corporate Support made the comment, "thank god we don't have to do that inside the council" (personal communication 2010). This comment reflects the challenges that local authorities face when they are confronted with co-existing forces, both for entrepreneurship and predictable decision-making. Thus, while the LGA (2002) enables councils to explore commercial disciplines and engage specialist expertise through the construction of CCTOs this model relies on effective accountability mechanisms between Council and the CCTO. These mechanisms are now reflected in the LGA (2002) where CCTOs are required to provide a statement of intent[28] and are subject to the provisions of the Official Information Act and also subject to the provisions of the Ombudsman (Auckland Transition Agency, 2010).

Institutional matrix & entrepreneurs

Recalling from Chapter 3, rational choice institutionalism allows an extensive appreciation for the role that actors play within institutions. This variant of institutionalism draws our attention to the rules and the strategies as the agent (local authority managers) works within the prescribed structure (LGA). With respect to the specific local government context, Lowndes (2005) describes the domain of local governance as one, which includes a much wider playing field than just local authorities. Here Lowndes (2005) introduces us to the concept of institutional entrepreneurs who exploit the ambiguities in the 'rules of the game', and who may represent significant 'others', for example local business groups and community organizations. In this context, LATEs or CCTOs are significant entrepreneurs because they ultimately become complicit in the financial process of assurances and form part of the institutional matrix. Recalling from Chapter 2, an institutional matrix is a product of forces for stability i.e. path dependencies which reveal 'how things are done around here' and forces for change i.e. 'rules of the game' which produce variation and deviation. This means the same rules, which produce one set of behaviours (i.e., path dependencies), also produce another set (i.e., variation and change through interpretation). Therefore, understanding institutions in a local government context as the 'rules of the game' (Lowndes, 2005) provides insight into how local authorities interpreted their accountability requirements after the decision to commit to a stadium on the city's waterfront. This

[28] Statement of intent - The purpose of the SOI is to provide an opportunity for the owner (i.e. the Council) to influence the organisation's direction in an open and transparent manner. The public has the opportunity to influence the Council through normal democratic council processes (Auckland Transition Agency, 2010).

next section will focus on two assurances, the affidavit statements by both the Chief Executive and Manager for Finance and Corporate Support (in response to the judicial review) and the stadium set up as a CCTO forming an institutional matrix.

Assurance # 1 – Producing Affidavit statements

Synopsis - Affidavit statements providing assurances that there has been no significant change to the funding of the stadium prior to construction were required for a judicial review. The purpose of the review was to investigate whether there was any significant change to the ratepayer funding of the stadium since what was consulted on in the 2008/2009 annual plan.

There were some concerns held by an anti-stadium group (Stop the Stadium, STS) that since the decision to commit ratepayers' funds to the project, there had been some significant change to how the project was being funded and that as per the LGA, re-consultation should occur on that change. So, just prior to the DCC signing the construction contract to build the stadium, a judicial review was brought to the city by STS in April 2009. The STS argued that because of the increase in land purchase costs (+$10m) and a reduction of Community Trust funding (-$3m) that a significant change to the funding of the stadium had occurred. In response, local authorities provided assurances that the Central Government funding of $15million had offset these losses and so the net effect was that there had not been significant change (Loughrey, 2009). As the CE-DCC explains –

> … on Friday 12th April we got a judicial review paper served on us by the STS group and we had a hearing on the subsequent Thursday with a decision on the Friday, so we had very little time, we had about 2 working days, 2.5 working days, put together our affidavits in response, and put together a winning brief and the council got a week extension for it to sign the contract on the Monday and by that stage $50 odd million had been expended which was quite significant (personal communication 2010).

The judge ruled in favour of the local authorities. STS were not prepared to accept this decision and so they appealed the decision in the high court in August 2009. Their argument was again based on a significant change to the funding of the project. While they were again unsuccessful in their appeal, it was revealed through the Manager for Finance and Corporate Support affidavit statement that the $15m government grant was not being used to offset the land sale and community trust funding shortfalls, but rather it was being used to offset the reduction in private sector funding (a revised assumption from the CST – instead of 100% private sector funding being received at the time of the stadium opening this would now be 53% (Stephens, 2009)). Through his affidavit statement, Stephens explained that the total cost of the stadium had increased since what was signaled in the 2008/2009 Annual Plan, however when the stadium would be handed over to the council controlled organization (Dunedin Venues Limited, DVL) the debt servicing costs would not be significantly different to those

forecast in the annual plan because there was a reduction in interest rates. Therefore according to the MF-DCC the cost to the average value residential property ratepayer remained unchanged.

The tables below highlight the sources of funding, the total cost of construction and the change in stadium debt.

Table 1 Sources of funding from the 2007/2008 draft annual plan

Sources of funding	Amount
Otago Regional Council	$37,470,000
University of Otago	$10,000,000
Otago Community Trust	$10,000,000
'other ' sources of funding	$42,530,000
Sale of Carisbrook	$3,000,000
subtotal	**$103,000,000**
DCC construction funding	$85,000,000
Total funding required	**$188,000,000**
DCC 50-yr major maintenance funding required	$6,359,000
Total funding required for construction and major maintenance	**$194,359,000**

Table 2 Factors making up the increase of $18.2m

Increase in Land costs	$10m
Net reduction in other funding sources (mainly $3m less than anticipated from the community trust)	$3.2m
Additional interest expense during construction	$2m
Reduction in dividend from DCHL (Dunedin city holdings limited). This money will no longer be transferred from DCHL to the DCC, it was felt that it should remain in DCHL to manage any unforeseen risk (Stephens, 2009)	$3m
Total	$18.2m

Table 3 Change in DCC stadium debt

2007/2008 – 2016/2017 LTCCP	Total debt ($85m + $6.7m)	$91.7m
2009/2010 – 2018/2019 LTCCP	Total debt	$109.9m*

*Note this marks an increase of $18.2 M from the original $91.7 M forecast

Despite an increase in debt of $18.2m, the affidavit argued that it had been offset by a reduction in interest rates by 2% and thus the annual debt servicing costs of approximately $10m over a 20-year period (forecast in the 2008 decision to commit to the project) remained unchanged. It is important to note that the reduction in interest rates was achieved by securing protection contracts from Dunedin

City Treasury (a company that forms part of the Dunedin City Holdings Limited), and signing five year 'deals' for a weighted average interest rate of 6.29% (personal communication). So, to service the $10m annual debt over the 20-year period Figure 2 explains:

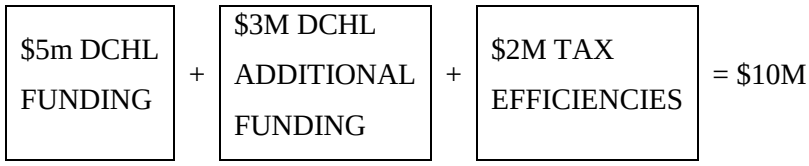


Figure 2 How the debt will be serviced

This process of assurance does reveal a significant degree of complexity involving how the stadium is to be funded and the changes that have occurred during subsequent annual plans/LTCCP to meet the terms of the LGA. While local authorities have been able to show that there is no significant change to ratepayer funding due to a reduction in interest rate charges, the assurance in this case is that by transferring ownership to a council controlled company it is able to borrow from its own treasury department (Dunedin City Treasury Limited). The implications for ratepayers are that this is an extremely difficult scenario to not only follow, but to understand the tradeoffs to the various scenarios.

Assurance # 2 – Conjuring the institutional matrix

Synopsis - In order for local authorities to reduce the direct impact on ratepayers, the Stadium is placed into a CCTO resulting in a matrix of transactions and movements.

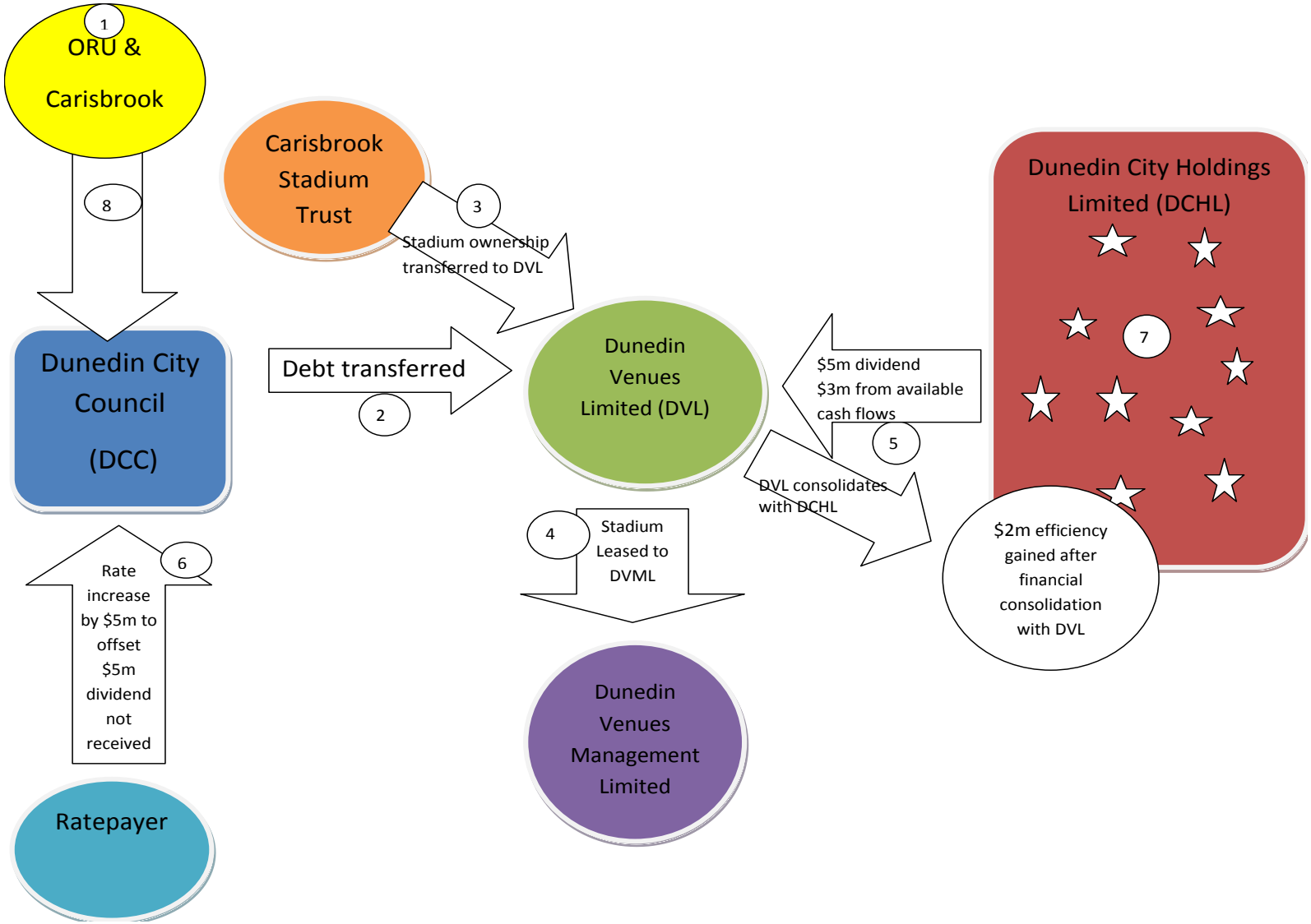


Figure 3 The institutional matrix shows how the stadium is removed from direct DCC control

Table 4 The institutional matrix is explained using a numbering system

Activity	Explanation of activity
1. Existing Carisbrook Stadium	Carisbrook owned by the Otago Rugby Union (ORU).
2. DVL - DCC	Once stadium is constructed, debt is transferred from DCC to DVL.
3.CST - DVL	Stadium ownership is transferred from CST to DVL
4.DVL - DVML	New stadium is leased to DVML to operate along with other facilities
5. DCHL - DVL	$5m dividend received from DCHL $3m additional cash flow DCHL
6. Ratepayer - DCC	Additional $5m in rates required to offset $5m dividend not received from DCHL
7. DCHL	$2m efficiencies gained from depreciation and deductible interest when all DCHL ☆companies are consolidated.
8. ORU - DCC	Carisbrook sold to DCC by ORU

The institutional matrix is a complex blend of public and private sector partnerships. The entire matrix and its associated transactions are explained in Figure 2 above. Certain features of the matrix will be analysed to provide relevant observations.

As an overview, the matrix begins with the ownership of Carisbrook by the Otago Rugby Union and culminates with the sale of Carisbrook to the DCC. The outcome is that the ORU ceases to own and manage a stadium, while the DCC through its associated companies, partially funds and owns a new stadium. The final process is the sale of the old stadium Carisbrook to local authorities.

There are three relevant observations to this matrix. The first is in relation to the complexity of developing these arrangements. In order for the stadium ownership to be transferred to a CCTO, a series of negotiations and agreements need to be taken involving numerous parties outside of local authorities. Indeed, establishing the roles of the CST, DVL, DVML and DCHL as 3rd party entities (aimed at shifting the ownership and operations of the stadium away from local authorities to a CCTO) is a much more complex arrangement than say the ownership of the city's swimming pools and parks which involves dealing with internal staff and in-house policies.

Secondly, as a result of the ownership and management arrangement, the funding mechanism shifts from the local authority via rates to the local authority-owned holding company (DCHL – see step 5). Here we see a number of companies that are designed to provide a steady flow of payments to increase development for future cashflows or offset rates for local authorities (Dunedin City Holdings Limited, 2010). For example, Aurora Energy Ltd (100% wholly owned by the DCC) is an energy company,

which distributes power to Dunedin customers through leasing lines and cables to competing electricity companies who then market to customers. Thus, where the DCC would normally expect $5m in dividends from these companies to offset rates or increase developments, these dividends are being 'cut off at the pass' and allocated to DVL along with an additional $3m in dividends (see step 5). Thus the following counterbalance effect is created:

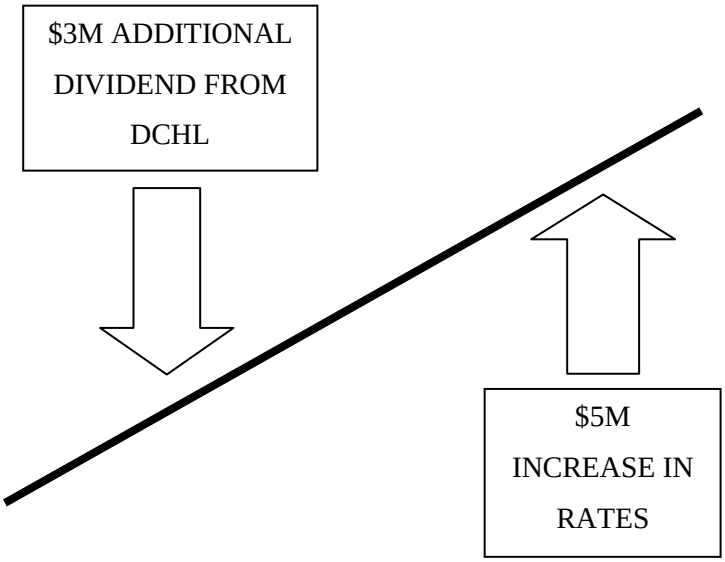


Figure 4 The counter balance effect

The effect of this step is that under a CCTO model, the debt repayments ($8m) now directly manifests with DCHL as opposed to the Ratepayer and the ownership with DVL as opposed to the DCC (see Figure 4).

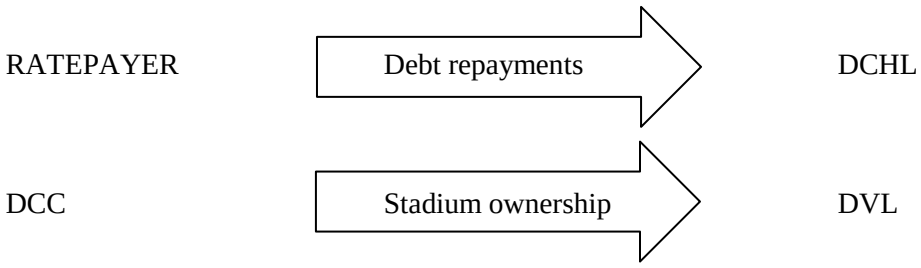


Figure 5 Represents debt repayments and stadium ownership transfer under a CCTO.

Therefore the risks are carried by limited liability companies, i.e., companies set up to take on risks as opposed to exposing ratepayers; however, by transferring this debt payment system from ratepayers to local authority-owned companies, the following concerns were expressed in the local newspaper by a councillor: a) the group of companies may not always be able to raise the dividends required through company profit and therefore have to borrow money to do so and, b) DCHL was reducing the equity that the shareholder DCC had in the business (Loughrey, 2011b).

As a result, one councillor made the comment that "we're effectively mortgaging the business to pay the city" (Loughrey, 2011b). This meant that in order to afford to pay the annual $10m debt required

for the stadium, the companies would have to obtain a mortgage (a loan) against the value of their assets. In response to these concerns, council Manager for Finance and Corporate Support Athol Stephens responded by saying, "It's been spelled out in black and white", meaning that councillors had been informed prior to making the decision to commit to funding the waterfront stadium. This begs the question as to whether the councillors and public understood the matrix and its consequences at the point in time when they committed to the decision to proceed with a waterfront stadium.

This also raises a third significant observation: the complexity of this institutional matrix as an assurance makes it virtually impossible to analyse, interpret and ultimately debate. Thus while tax advantages accrue because the stadium reduces the consolidated company profits though deductible interest on debt and depreciation on the stadium fit out (MF-DCC, personal communication, 2010) these assurances can only be provided by specialists who understand the implications of the public-private matrix. The DCC's management first mooted the matrix in a 21-page report (not including 121 pages of appendices) to councillors one week before council's finance and strategy committee meeting on Monday 17th March 2008 (Hepburn, 2008). There were three key statements made in the report that reflected the management's work: 1) management stated they had found a way of funding the stadium that fulfilled the June 2007 resolution calling for a reduction in ratepayer funding to be met, 2) management suggested if the council chose to proceed with the stadium, it would recommend that the council construct and then sell the stadium to a CCTO, and 3) management suggested that the last key point they needed to consider was "the proposed reduction of $91.4 million in the ratepayers share of capital costs based on the establishment of Otago Venues Ltd and other possibilities" (p. 21).

Alarmingly, there is very little emphasis placed on the risks that are posed for the city's companies, for example Harland states in the report that "this is the highest level yet of cash movement to the shareholder and based on recent results will be a stretch" (Harland, 2008, p. 7). This was an extremely important stage in the process and arguably key to the stadium progressing. This report assured council that through a CCTO, there would be a removal of debt servicing costs as a direct charge on ratepayers, but it would have the effect of reducing the dividends from the companies. The report assured council that while risks remain, "there is a way of funding the stadium and meeting the requirement of the June 2007 resolution calling for a significant reduction in ratepayer funding" (Harland 2008, p. 3). As a result, council then voted through a recommendation made by its finance and strategy committee to commit funding to build the waterfront stadium.

Further assurances regarding the ratepayer impact of placing the stadium into a CCTO were outlined in the 2008/2009 annual plan for public consultation. These assurances were a summary of the Harland (2008) report and consisted of two tables showing direct council ownership versus CCTO ownership and the total cost saved by utilizing a CCTO model. Ultimately this revealed that there would be a 25% reduction in charges for ratepayers over the first 10-year period (Annual plan,

2008/2009). It was explained in the annual plan that placing the stadium into a CCTO was financially and operationally attractive as it was a more efficient use of ratepayer funds than having direct ownership and management. The risks of this arrangement were disclosed in the annual plan under the title "trading group results", the following was recorded: "The council-owned companies operate in competitive markets and conditions in those markets can vary. That said, the record of the companies in the last decade is of steadily improving returns" (DCC – annual plan, 2008, p12).

More 'assurance detail' appeared when council Finance and Corporate Services Manager Athol Stephens publicly explained the matrix in January 2009. In this newspaper article an explanation was given as to how it will only directly cost ratepayers $66 a year by using council owned companies. The manager stated, "there are opportunity costs. That's the same with every project" (Loughrey, 2009). In attempting to explain the matrix, he also indicated later it was not well understood, saying there are "only 3 or 4 of us who actually understand it" (personal communication). This lack of understanding is ironic given that the reason the CST took over the stadium process was so that councillors and members of the public could have all the information required for decision making and be fully informed (see chapter 5). It further affirms that the development of the matrix, including its required knowledge of local authority holding companies, would most likely have been instigated by local authorities. This does raise the question while promoter's claims were forthcoming from the CST regarding the multi-purpose nature of the stadium and subsequent future focused assurances from local authorities, did councillors fully understand the assurances made by their staff regarding the future funding arrangements? Were assurances expressed in enough 'risk detail' at the time when councillors considered their CE-DCC report and were there sufficient assurances in the 2008/2009 annual plan to fully inform ratepayers?

Further to this, an editorial appeared on 19th March 2011 questioning why councillors were now 'bickering' over the true extent of the Forsyth Barr stadium funding. The editorial read: "the local body equivalent of a bar-room brawl broke out over the stadium, and the council debt accrued to sustain it". Revealed at this 'bar room brawl' meeting was that the council's holding company (DCHL) was meeting its dividend obligations to stadium debt not through generated income, but by taking out further loans (Editorial, 2011); in other words, it was borrowing money to pay off debt.

Following on from these affordability issues, the DCC held a further meeting to discuss the matters of Dunedin City Holdings Limited. The public were excluded from this meeting "to allow the council to carry on without prejudice or disadvantage negotiations including commercial and industrial negotiations" (Loughrey, 2011a), citing commercial sensitivity as the reason to exclude the public upset one councillor who also revealed that they (councillors) were asked to make far too big a decision without a report and no time to reflect.

Discussion

The affidavit statements and the public-private matrix are assurances which have revealed interesting implications for accountability as the aim, via legislation, is to re-connect local authorities with the community and create opportunities for public participation in decision making. Implications such as 'opaque accountability' and the role that policy entrepreneurs play in the design of a complex matrix will now be discussed.

Opaque accountability

The term opaque accountability has been used in reference to public-private partnerships (Flinders, 2005) and to multi-leveled government (Bovens, 2007b). It has been used to represent intricate webs of accountability regimes, risk transfer and efficiency savings.

From the public's perspective the public-private matrix is a complex arrangement that requires linking assurances together which do not flow in a consistent and timely fashion. The full extent of this arrangement is only revealed once affidavit statements and subsequent newspaper articles are 'pieced' together. Given the assurances provided by management in their reports and assurances in the 2008/2009 annual plan, it is not immediately apparent how the stadium debt would be repaid by the city companies. Further to this, no assurances were forthcoming about the company's ability to service such debt using existing cash flows and what effect it would have on equity that the city held in their companies. What these assurances did reveal is that staff had thought of ways to reduce the direct burden on the ratepayers by utilizing CCTOs as prescribed in the LGA (2002). Therefore these assurances were specifically targeted at showing what efforts had been made to reduce the burden on ratepayers and therefore make the decision to commit more amenable for councillors. This is something councillors had requested (in the June 2007 resolution when they granted the CST a further $5.6m to continue investigations) that staff looks at ways to significantly reduce the impact on the ratepayer. Now that the city's companies are borrowing to pay off the stadium debt, the MF-DCC provides assurances by stating there are opportunity costs, and where the companies get the money - whether through profit or debt or a combination - is up to them (Loughrey, 2008a). Since the city companies operate with a reduced level of public accountability the link between ratepayers and the stadium is not only lengthened to allow greater autonomy but also unexpectedly severed when it comes to where the companies draw their funds from i.e. as the Manager for Finance and Corporate Support said in reference to where the companies find their repayments - its up to them. Thus transparent accountability through such partnership arrangements turns opaque very quickly when it comes to a council controlled trading organization set up to own a stadium in Dunedin. This degree of opaqueness, while within the LGA rules, paradoxically, serves to illuminate the work generated to

form the matrix while almost ignoring the darker side of the arrangement. Hence, to enable council to reach a consensus knowing that the June 2007 resolution has been fulfilled, staff solve an immediate problem through the 'set up'. This then allows the next stage of the process to proceed - the construction phase.

While members of the public and councillors subsequently questioned whether the stadium was affordable, the local authority's assurances had focused on the future focused milestones and conditions (e.g., meeting contract deadlines, etc.). Had the public–private matrix been revealed with full understanding of how the city companies would have to borrow to afford paying the costs (debt) of the stadium, then the decision would have been considered in a much different light than the degree of opaqueness that was proposed at the 2008/2009 annual plan. In fact the annual plan contained only summarized information regarding the matrix (compared to the Chief Executive's report). Again, the timing of assurances is critical to the progress made on the stadium. Assurances such as the efficiency of the CCTO were valued (evident by the tables showing cost reductions) and thus timed to meet council meeting deadlines, while other assurances relating to the effects of the CCTOs on city companies are not disclosed in detail to meet council meeting deadlines, thus adding to the opaque nature of the partnership for ratepayers.

Thus 'opaque accountability' culminated in tension at the 'bar room brawl' council meeting, and the propensity for discussions to be in private citing 'commercial sensitivity'. These meetings involve the setting of an agenda, yet the ability of the public to have input is nullified. As the stadium is to be transferred into a CCTO and debt repayment is linked to the city's holding companies then commercial sensitivity is able to be used to discuss matters in private. This further increases the tension regarding whether or not the stadium is affordable and again causes more opaque accountability between the public and the CCTO.

So, by appointing the CST to bring all the information together for decision-making, the staff were able to work on the funding arrangements and assure their councillors and public that the stadium was affordable. The word 'affordable' in this case meant the $66 per average household, which was quoted as being the *only* cost to ratepayers. Without full knowledge of the 'matrix' as a funding model, councillors were taking their staff's assurance on face value when voting to commit to the waterfront stadium and probably thinking their staff had made significant efficiencies. It is likely that councillors could 'stomach' this assurance ($66 per average household) as it was the least possible impact on rates that could be achieved. In essence, the assurance became akin to a 'Faustian bargain' where the short-term gain in achieving a palatable cost per household, would be traded against the long-term costs on the ratepayer via the bleeding of the city's holding companies, their opportunity costs and mortgage risks. For Peters and Pierre (2004), the Faustian bargain is characteristic of this type of 'multi-level

governance' where core values of democratic input and accountability may be forfeited for short-term problem-solving efficiency and consensus.

It was clear that staff sought to achieve 'efficiencies' in other ways also. For example the payment of bills via the city's holding companies would be smoothed out over a 20-year period, meaning the real cost (principal and interest) will only become apparent when other capital items are considered later on by local authorities. Indeed entrepreneurial staff would later be rewarded for following the LGA and creating a 'matrix' that could shift attention off council business and place the stadium into a much less understood commercial environment. The council recommended increasing the Chief Executive's pay, stating that:

> ... the Chief Executive had been particularly diligent in progressing plans for the new Forsyth Barr Stadium to a position which allowed the council to make a fully informed decision when considering its commitment to the project and, since the council's decision to proceed, that he has continued to play an important role in ensuring the stadium project will come in on time, on budget and fit for purpose. (Loughrey, 2010)

In light of this, questions around the Chief Executives actions still exist. Specifically, were Chief Executives acting purely for self-interest, fashioning a matrix to protect their own interests? Or, were they operating to protect their councillors from political risk at election time? While these questions fall beyond the scope of this thesis, they certainly merit further research consideration.

Policy entrepreneurs

By policy entrepreneurs we are referring to the Chief Executives who have an in-depth understanding of the 'rules of the game', i.e. LGA 2002. As there were challenges made by the anti stadium group regarding the word 'significant' in the LGA, it was the CE-DCC and MF-DCC who provided the assurances via affidavit statements signaling that even though costs had increased, the borrowing terms were able to offset these increases. The CE-DCC and MF-DCC were able to articulate the set up of the matrix through their affidavit. These assurances (that there had not been a significant change to the $66 average cost) were reliant on the CE-DCC and MF-DCC having in depth knowledge of CCTOs and the matrix. With in-depth knowledge of the matrix, it is evident that Chief Executives play a significant role as key intermediaries, exploiting these creative spaces that exist within a set of rules. Specifically, the CE-DCC assured councillors through a report tabled one week before the final decision was made that the stadium debt would be serviced via its holding companies. What was missing (and perhaps a 'sleight of hand') is that they did not provide assurance that the stadium 'could viably' be financed using existing cashflows. The fragmented nature of the assurance processes, while extremely important, arguably prevented the full picture from ever being completely known.

With such a large capital intensive project, this short length of time (one week) between when the CE-DCC report was tabled and a final decision made to commit funding must have left councillors with some unanswered questions as evidenced by the 'bar room brawl' meeting. Therefore, how can ratepayers inform their councillors when this matrix is not publicly released and how can councillors effectively reflect the views of their communities? The enormity of the decision was the culmination of work done by staff that has gone undetected since the CST began promoting the waterfront stadium. Further to this, the 'funding switch' from ratepayers to the city's companies serves to illustrate something resembling a zero sum game (as it is ratepayers who own the companies via an elected body). As Hood et al. (2001) explain, there are good reasons to expect institutional distortion when there are demands for greater accountability, transparency and public participation. This institutional distortion takes on the form of a complex matrix, however in reality the matrix is simply a form of obfuscation, with the full costs of the project borne and smoothed out through less transparent means. The dilemma created by policy entrepreneurs (i.e., city managers) is for local government to bridge the accountability gap that is created through public-private partnerships (Stoker, 1998). This gap identifies the challenges that staff face in terms of balancing the forces for stability, i.e. have appropriate accountabilities in place to provide stable decision making, while simultaneously developing entrepreneurial policies.

Perhaps the most telling comments came when the Manager for Finance and Corporate Support was asked how the city companies would pay for the stadium, his response was that "where the companies got that money was up to them…that's their choice" (Loughrey, 2011b) and in line with this clear separation of functions, the MF-DCC also stated in his interview, "thank god we don't have to do that inside council" (personal communication). Now that the city's companies are responsible for paying off the stadium debt, the staff and councillors are released from the pressure of having to justify payments directly out of ratepayer funds. Thus the risk of the stadium being carried directly under city ownership is now mitigated. It is now the city's companies who bear the risk, and to this extent the greater the capital expenditure on the stadium, the more financial risk that is carried by the companies. However under this logic, with higher levels of capital expenditure there are greater efficiency gains to be made through deductible interest on debt and depreciation. Hence, the irony is that the Chief Executive relied on relatively high levels of debt to promote efficiencies that enabled assurances to be focused on a CCTO, i.e. high levels of debt drew the attention of the MF-DCC towards a CCTO and therefore enabled efficiencies to be exploited. This placed the staff into a position of power, as the rules enabled the staff to uncover efficiencies via CCTOs as per the LGA requirements by using their technical knowledge. It was deemed appropriate to investigate the stadium as a CCTO because the rules permitted what actions were available and what seemed logically appropriate at the time (Lowndes, 2005). Transferring the risk of the stadium to a CCTO was logically appropriate, as this was an outcome that they were allowed to affect and indeed, they were permitted to take this option through continued pressure to reduce the impact on the ratepayer. This pushed the Chief Executive's

advice to the fore, enabling their public-private partnership arrangements to gain legitimacy. As entrepreneurs the staff was able to promote the advantages of the partnership through relieving the continued pressure from the ratepayer and thus deliver what appeared to be an attractive option. While stadiums will always be contentious, the pressure to build a new stadium in a city of 120,000 citizens has drawn staff into a short-term assurance focus without any assurances of the intergenerational effect that this level of capital expenditure will create.

CHAPTER 7
CONCLUSION

The aim of this thesis was to investigate and explain the processes of assurance to meet the terms of the LGA (2002) in the context of a stadium development. The significance of this research is in furthering our understanding of local government accountability, specifically in identifying how local authorities interpret their accountability requirements by following due process. This research seeks to add to the literature, which focuses on public–private partnerships and how these arrangements fit into the existing accountability framework exercised at the local government level. This framework is exemplified by local residents making submissions or filling out surveys to express their opinion on items such as playground developments and rubbish collection systems at annual plan periods or during other times when specific community submissions are sought by local government.[29] Arguably when issues (such as a stadium) cut across public and private spheres, citizens and councillors need to have a degree of understanding about - 1) *when* local government processes occur so that they can consider expressing their view, 2) *how* problems come to be identified and understood within this institutional setting and, what exactly the nature of the problem is to allow problem definition to be understood, 3) *what* the short and long run implications are in terms of solving the problem within a series of options and for one particular proposal within council-owned companies. So, in order to further our understanding of local government accountability this thesis has proceeded to analyse the processes of assurance (as a result of the LGA 2002) both before and after the decision to commit to a waterfront stadium.

This perspective (i.e. assurances provided by local authority Chief Executives and Manager) lends itself to institutional theory where institutions such as the Local Government Act (2002) shape, enable and constrain political behaviour (March & Olsen, 2006). I have utilized two variants of institutionalism (rational choice and historical institutionalism) in this thesis. I have firstly focused on the concept of path dependency (drawn from historical institutionalism) in the early stage of the process where previous decisions at critical junctures lay pathways for future decisions. After the decision to commit funding towards a waterfront stadium I focused on Lowndes' (2005) concept of an institutional matrix (drawn from rational choice institutionalism) where institutional entrepreneurs exploit the ambiguities in the rules to create a complex matrix of transactions. This matrix is in line with what Peters & Pierre (2004) describe as a 'Faustian bargain' where the attraction of solving the immediate problem (directly reduce burden on ratepayers) overshadows the darker consequences of

[29] Of course reflecting an even more basic level of accountability, citizens can make contact with their elected representatives, the Council members themselves, to express their opinions.

the arrangement such as opaque accountability. The research informs us that within an institutional framework, democratic renewal and enhanced public participation are desirables, but they also carry risks. Indeed when staff describe themselves as 'guardians of the process', we are subject to their interpretations of the rules and their innate understanding of how the 'game' should be played.

The Chief Executives and Manager were subject to a combination of forces, which revealed both historical path dependencies (such as following the processes laid out in the LGA) and opportunities for change brought about by the ambiguities in the LGA. In this case, opportunities lay in the entrepreneurial arrangements prescribed within the LGA that enabled other rules to be incorporated such as the Companies Act 1993 and the Financial Reporting Act 1993, contributing further to the complexity of the institutional matrix. Along the way, critical junctures were identified such as a council resolution to reduce rates in June 2008 (while at the same time committing $5.6m to further investigations). These junctures enabled a partnership to be explored with other companies, financial solutions to be crafted and public accountability to turn opaque through the increasingly specialist and technical knowledge of the council bureaucrats.

This thesis has understood accountability as a series of assurances designed to demonstrate that public authority and resources are used in ways that adhere to the law, public policy and to public service values (Aucoin & Heintzman, 2000). In doing so, this research is necessarily underpinned by the wider ideological context of contemporary governance in general and the LGA as 'third way' politics in particular (Thomas & Memon, 2007). It is in this context where public managers form a certain view on their role as governors, influenced by the very institutions they work within. In contrast with their traditional administrative function, Chief Executives roles now extend to partnering, coordinating and facilitating outcomes with significant others, that may include other local authorities, community groups, volunteers, business people, service professionals and community activists. Thus partnering seeks to obtain the advantages of a wide range of specialist knowledge and skills that exist in communities, and results in a complex network of arrangements forming the process of public policy. Hence, under this 'third way', local government processes towards developing policy reveal preferred deliveries (i.e. governance over government), or as Savoie (2004) comments, steering rather than rowing the boat. Indeed this thesis reflects the same concerns held by Savoie (2004) who highlights the challenges for accountability when broad policy frameworks are combined with high degrees of management autonomy. These accountability challenges, he notes, relate to bureaucrats who deal with risk in combination with fewer and fewer restrictions on their discretion. As Savoie (2004) suggests,

> Governing without boundaries now allows public servants to squirm out of the apparatus in which they are harnessed because there are different harnesses available to them, most of which are porous, and they are strongly encouraged to establish new partnerships with non-government groups (Savoie, 2004, p.15).

The consequences for public accountability in such an environment are far reaching and potentially alarming. Here I make four concluding remarks regarding local government accountability.

Knowledge of the process

For Dunedin, a city of only 120,000 citizens, exploring the realm of building a new stadium arguably relies heavily on a robust accountability framework as the impacts of making such a decision are more intensified on the population. Through an analysis of the assurances presented before a decision was made to commit to funding a new waterfront stadium, the data revealed a process that was path dependent by the 'locking in' (Pierson, 2000) of bureaucratic decisions that determined subsequent debates. The most striking example appeared when six options were narrowed down to one proposal within a period of 5 days. This critical period of decision making 'locked in' one option, and precluded other options from being re-opened. It is these subtle timings that place staff into positions of power as they have significant discretion in shaping timelines, agendas, meetings, reports and critical decision-making. Indeed the staff themselves acknowledged that only they had the level of knowledge required to understand the impact(s) of such a tight time frame and the resulting implications. Drawing from Lowndes (2005), it is important to point out that these finer 'rules of the game' are not prescribed in the legislation, but rather they are interpreted and thus create gaps which the staff have a responsibility towards filling. Therefore, public accountability relies heavily on management to both inform and educate the public about the process as well as fulfilling administrative procedures such as writing reports and setting agendas. Findings therefore revealed that staff took a responsibility for the coordination of the processes and managed the timing of assurances to meet consultation.

Depoliticizing through complexity, specialisation and volume

The subtle inertia that developed through the process culminated in such a complex and high volume of information that it became virtually impossible for members of the community to understand. Hence, while interest groups (i.e. Stop the Stadium, Just Build It) formed to try piecing together the information, the staff fulfilled their responsibilities by setting the next agenda, compiling reports or discussing the next phase. This meant that when it came down to decision time for councillors, management had almost depoliticized the process through technical knowledge and problem solving regimes. Consider the following example, which was aimed at reducing the direct financial burden on ratepayers: Dunedin Venues Limited (DVL) enters into loss-offset arrangements with DCHL in order

for tax efficiencies to accrue. To make this work, DVL must transfer its loss under a subvention[30] payment to DCHL, such that the DCHL can reduce its net profit and subsequently obtain tax advantages (Harland, 2008). The stadium then must present a loss on its books in order for DCHL to obtain the losses.

However, the value of the stadium, as per the assurance in the 2007/2008 annual plan is on its ability to contribute to economic development through increased visitor numbers, meaning DVML's core responsibility is to attract events where visitors spend money in the region. In summary, we do not necessarily look at DVL as to how well the stadium is meeting its objective of economic development, rather we turn to (commissioned) economic impact studies which look at an event held in the stadium and how much that event has contributed to the local economy through additional visitor spending. Research on critiquing economic impact studies identified 11 misapplications that can occur (Crompton, 1995). What these studies highlight is that there are decision-making layers that underpin economic impacts and therefore require knowledge to assess. What these studies do not highlight is the distortions and misapplications enabled by the arrangements themselves.

The implications for public accountability are quite disturbing under this regime; indeed what does the future hold when the public are denied opportunities to debate the value of a stadium without first having to untangle the complex matrix of council-owned companies, their ties with one another, their capacities to hide debt, etc? The matrix is a resoundingly intricate structure, which on face value reduces the direct impact on the ratepayer; however, the full financial impact on the city's companies is yet to be fully understood. In these terms the carefully constructed arrangements of public-private institutions truly embody opaque webs of accountability (Bovens, 2007b), for they depart from the values of transparency intended by the LGA. There is no more obvious of an example than trying to understand and access reports under a CCTO model. The 'person on the street' needs to be not only process aware but also legally and financially literate to raise important questions. **This raises the question, how will the public be able to evaluate the financial and non-financial value of the Stadium?** Of course the classical model of hierarchical accountability has limited value under these circumstances, with the MF-DCC simply stating 'it's up to them' in terms of how the stadium debt is to be paid. With the CE-DCC being rewarded for the matrix, ironically he has been rewarded for creating volumes of complicated reports that councillors did not fully understand. Or more to the point, the CE-DCC has been rewarded for the creation of an opaque accountability framework. It may be entrepreneurial government, but is it good entrepreneurial government when the vast majority of the public is left out due to a lack of understanding?

[30] A subvention payment is a payment by the profit company to the loss company. A subvention payment reduces the profit company's net income and the loss company's available net losses for tax purposes by the amount of the payment. (www.ird.govt.nz)

Searching for efficiency – A Faustian Bargain?

We have yet to take stock of the long run consequences of such a matrix, and local authorities in the quest for more efficiency are not discouraged by the vast array of transaction costs (Williamson, 1981) that now pervade the local government scene (i.e. there are no accounts of the costs in terms of monitoring, evaluating and engaging with the private sector). Clearly this is the direction under the third way, but where to from here for public accountability under such a thirst for efficiency?

Placing the stadium into a CCTO was by local authority logic a more efficient proposition through escaping the controls of the public sector. The staff saw the value in this arrangement and commented that it would be more efficient as a CCTO utilizing specialist employee and governance knowledge, free of political and bureaucratic processes. So, just like the city forests, power sub stations and lines, asset management and infrastructure contracting, airport and city treasury, the stadium sits outside the organizational boundaries of local authorities. This too raises interesting questions. Since the city's libraries, parks and swimming pools are not under a CCTO, might they be deemed (under this logic) more efficient if they were not subject to local authority processes? Will we see such arrangements in the future that fall to this narrow focus? Is this a continuation of what Rhodes (1994) describes as the 'hollowing out' of the public service?

Interestingly, the city of Christchurch (population 348,000) has been through similar matrix models with the set up of V-base (a CCTO set up to manage AMI Stadium and other city entertainment assets). It has recently been revealed that prior to the city's earthquakes in 2011, V-base was in financial trouble, recording $75 million of debt. The debt was attributable to the construction of new spectator stands at AMI Stadium in preparation for the World Cup. However, the funding model was prepared during a financial boom and now has been shown to be less robust. The outcome is that the Christchurch City Council has taken back the ownership and control of the stadium, during the venue rebuild and business recovery phase (Benton, 2011). Electing to take direct control and ownership of their CCTO reflects their desire to closely manage the company's affairs. What this shows is that entering into these public-private partnership arrangements is a form of risk for local authorities, and while they may solve immediate issues such as intensive public scrutiny and bureaucratic processes, there lies deeper and much darker consequences when a public service ethos is not upheld through the lifecycle of the asset.

So within the Dunedin context, local authorities saw the attraction of a CCTO to enable stadium efficiencies and thus the 'Faustian bargain' gained political support. However, every bargain has its price and in this case, the sacrifice would be public sector principles such as probity, transparency, responsiveness and inclusiveness, **not surprising when a new stadium is built with a small critical**

mass of 120,000 citizens. Every ounce of financial efficiency was needed to overcome the risk of the stadium not proceeding, and management was aware of this.

Ultimately, avoiding political debate also bears less tangible costs. Turning the process into a problem-solving exercise using specialists with technical knowledge means public frustrations will continue and the chase for public accountability will remain elusive. With intense public scrutiny following the stadium deliberation process, changes in Dunedin at the local government level have been indicative of these tensions. After 21 years of the public having speaking rights at committee meetings, a new system has been proposed which allows a 2-hour public forum every 6 weeks, meaning the public would not be able to discuss an issue before a decision was made by the committee (Loughrey, 2008d). Such changes serve to reduce the accountability 'insertion points' and thus mean at the local government level there are reduced opportunities for public input at the time that the matter is being discussed.

Learning & control – a case for commercial sensitivity

Like assurances, learning and control are other functions of accountability. It is not entirely unexpected that staff learn from their experiences with the LGA (2002), as another purpose of accountability is learning through continuous feedback (Aucoin & Heintzman, 2000). Hence if the influence of staff in selecting efficiencies (i.e., CCTO) and setting up future directions for their councillors can be repeated in other cities and with similar private sector relationships, then this perhaps reveals the frequent invocations of 'commercial sensitivity' as a growing concern for public accountability. If management learn and fine-tune the art of taking divisive policy out of the public sector through legislation such as the LGA then we have a very weak accountability framework, or we have very weak hierarchical control between management and their governors. The control of management is a much more difficult set of problems.

This thesis has set out to analyse how local government Chief Executives and one senior Manager interpreted their accountability requirements. We have revealed that public accountability has some serious limitations as interpreted through the LGA (2002). These are mainly attributed to a lack of understanding of the process, too much complexity and volume of information, and a preference for efficiency over the darker, harder sides of the arrangements.

This research has raised some searching questions regarding public accountability, and the challenges that remain should be focused on further research regarding how well members of the public understand the significance of the process and whether they recognize that critical junctures 'creep up' without warning. We would also obtain value from observing the actual amount of opportunities

presented for political discussion, the types of opportunities and whether they remain focused on the merits (or lack thereof) of a stadium or whether they focus on shorter-term objectives such as efficiency and problem solving. I would be remiss to conclude without reflecting on the comments that were made by the CE-DCC who stated: "The Local Government Act requires us to consult, pick a winner, have hearings . . . what might be obvious can take three or four years," (Loughrey, 2008c, p. 4).

If we are prepared to trade off public accountability for entrepreneurial government and efficiency then local government processes are wasting public resources. In this light, perhaps we should adopt the same stadium mantra for renewing public accountability and 'just build it'.

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APPENDIX A

INTERVIEW QUESTION POOL

L.G.A (2002) as an institution

1. My understanding of the L.G.A (2002) was that it was intended to provide a consistent platform from which local government decision making could occur. The act enabled local authorities to consider activities which have benefits in terms of social, economic and cultural provided the costs and benefits were made apparent and the public had an opportunity to have some input.

Does that sum it up sufficiently?

2. Would it be fair to say that you have an in-depth knowledge of the L.G.A?

3. With respect to stadium deliberations, do you think the L.G.A (2002) is a suitable structure to work with?

4. Given what you know about this process up to now, would you have done anything differently in terms of how you interpreted the L.G.A (2002)?

5. How did you determine a direction or outcome by using the L.G.A on such a contentious and divisive issue?

6. Were there any particular approaches you took on this process (stadium deliberations) which was different, say, to how you decided what type of rubbish collection system to use?

7. Would you say, for instance, that it has inadvertently created a burden for what appear to be more straightforward decisions (like parking etc)?

8. Given that very few members of the public would be familiar with the L.G.A and its prescriptions, were you frustrated by public misconceptions – do you recall trying to educate people about it?

9. How did you strike the balance between the ways things used to be done in terms of decision making and what you were confronted with in terms of the L.G.A(2002).

10. Did the L.G.A (2002) ultimately shape the way you presented information? If so, how?

11. Do you think there were there any constraining or enabling effects of the L.G.A (2002) on this deliberation process?

Accountability

12. Someone in your position seems to have multiple accountabilities, how do you contend with these?

13. Accountability or more accountability is generally described as a good thing; do you think this is true? Under what circumstances?

14. At one stage the ratepayers association were calling for your resignation, did you feel that you were being blamed for this whole situation?

15. Do you think the L.G.A was an effective tool for the promotion of accountability?

16. Rodney Hide is frequently talking about local governments needing to be more accountable, transparent and responsible, do you agree with this?

17. Given changes to the deliberation process, like the change from the working party to an independent trust, how and why did this arise?

General

What would you recommend to a chief executive about to undergo decision making process under the L.G.A about whether they should build a new stadium?

Who decides what actually makes the agenda for decision making?

APPENDIX B

SAMPLE LETTER OF INTRODUCTION

School of Physical Education
University of Otago
P.O. Box 56
Dunedin

Date:

Interviewee's address

Dear [Name]:

> We would like to request your help in a study aimed at gaining a uniquely New Zealand perspective on the subject of local government accountability and a sports stadium. While there seems to be increasing pressures for more accountability typified through the legislative mandate of the Local Government Act 2002, the interest is to understand and explain how this may manifest in the context of a proposed stadium development. To investigate this further, we thought it best to seek your views regarding your experiences with the L.G.A (2002).

We would therefore like to ask for your assistance by participating in some (1hr to 1hr 30 min) interviews. As we are very aware of your time concerns, interviews can be arranged to suit your schedule.

We will be contacting you during the upcoming week to secure your cooperation in the study. For your records, please find attached an information sheet and consent form (that we can discuss further at the time of the interview). Alternately, should you have any questions about this research, please contact us by phone at (03) 479 5886 or via e-mail at Daniel.porter@otago.ac.nz. Thank you for your consideration.

Sincerely, Daniel Porter (Masters Candidate)

APPENDIX C

CONSENT FORM FOR PARTICIPANTS

I _____ consent to participate in the study being conducted by Daniel Porter under the supervision of Dr. Mike Sam, lecturer in the School of Physical Education at the University of Otago. It is further understood that I have received the following information concerning the study:

1. The study has been explained to me, I understand the explanation that has been given and what my participation will involve.
2. I understand that my participation is entirely voluntary.
3. I understand that I am free to discontinue my participation in the study at any time without penalty.
4. I understand that, at my request, I can receive additional explanation of the study at any time.

SIGNATURE_____ DATE_____