

LOCAL GOVERNMENT VICTORIA

Department of Environment, Land, Water and Planning



REGIONAL LIBRARY COLLABORATION

- Future Structures/Collaborative Operating Models

Discussion Paper

Abstract:

This Discussion Paper explores alternative future models for the collaborative delivery of public library services (incorporated and unincorporated) by local governments under the proposed future legislative framework.

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Contents

1. Introduction	2
1.1 Scope of this project.....	2
1.2 Context- LGA s. 196	2
1.3 Proposed changes – the Local Government Bill 2018.....	2
2. Future Options for Councils/RLCs	4
2.1 Introduction- the ‘decision path’.....	4
2.2 Options Summary – Quick Reference Guide	6
3. Collaborative ‘Shared Service’ Models (Unincorporated)	7
3.1 Different Shared Service Models.....	7
3.2 Bi-Lateral Agreement Model	8
3.3 Multi-Lateral Agreement Model	12
4. Separately Incorporated Models	16
4.1 Options	16
4.2 Associations Incorporation Act.....	16
4.3 Cooperatives Act	17
4.4 Corporations Act.....	18

1. Introduction

1.1 Scope of this project

Mach 2 Consulting has been engaged by Local Government Victoria (Department of Environment, Land, Water and Planning) to prepare this Discussion Paper.

It explores the options that will be available to councils in future to collaboratively deliver public library services to their communities if the proposed changes to the Local Government Act (as expressed in the current Local Government Bill) proceed. This Discussion Paper is intended to be used by Regional Library Corporations (RLCs), library staff and council staff to help them better understand the impacts of the current Local Government Bill proposed changes and help them plot and navigate a path forward. It explores both the incorporated and unincorporated decision paths that are available to councils. This paper does not include a detailed financial impact assessment of the available models/options. A financial assessment is up to each council/RLC to conduct taking account of its own/local issues and conditions.

There is nothing in this Paper that has an immediate or short-term impact on the way councils delivery library services (collaboratively, through a regional library corporation or otherwise). It only effects their longer term strategic planning regarding structure.

1.2 Context- LGA s. 196

Public library services are the responsibility of local government. Many councils choose to deliver these services individually. Others, over many years, have chosen to collaborate in the delivery of library services with neighbouring councils through regional library corporations. There are eight regional library corporations currently delivering library services on behalf of 24 councils.

Section 196 is the current legal head of power for regional library corporations in Victoria. It is the legal mechanism in the Local Government Act that enables councils to execute an agreement between themselves and form a separate legal body (a regional library corporation or RLC) to deliver library services on behalf of member councils. It provides for the incorporation of an RLC as a legal entity that is separate from the individual councils that are its members.

Section 196 establishes RLCs as bodies corporate with perpetual succession. An RLC is able to own property and assets, to legally contract on their own behalf, to employ staff and able to sue and be sued.

A regional library agreement between councils, to have force and effect, must be gazetted and approved by the Minister for Local Government.

1.3 Proposed changes – the Local Government Bill 2018

Enabling Legislation:

The Local Government Bill 2018 was introduced into the Victorian Parliament on 23 May 2018. The aim of the review is to make the Local Government Act more of an 'enabling' Act for councils to work within. It aims to reduce the administrative burden that the current Act imposes on councils and give them more latitude to conduct their affairs within a broad legislative, governance and accountability framework.

Procurement:

Consistent with this 'enabling' goal, the Bill also aims to give councils more freedom to procure services (including shared services where appropriate) within the context of their own adopted procurement policy. For example, section 186(1) of the current Act requires councils to invite public expressions of interest for all proposed contracts in excess of \$100,000 (unless a Ministerial exemption is obtained).

The Bill (in its current form) proposes to retain the existing requirement for councils to develop a procurement policy. However, it would remove the requirement that currently exists for councils to seek expressions of interest for contracts of \$100,000 or more (unless a Ministerial exemption to this is obtained).

By removing the need to seek Ministerial exemption from the requirement to seek public expressions of interest, it means collaborative shared services arrangements between councils will be less onerous procedurally than under the current Act.

Regional Library Corporations:

Clause 358 of the Bill would provide for changes to RLCs that are incorporated under section 196 of the current Local Government Act.

In summary, if enacted, the changes would be as follows:

- The regional library corporation provisions (sections 196 to 197G) would be repealed;
- Existing regional library corporations would be able to continue to legally function (as if those sections 196 to 197G had not been repealed) for a period of 10 years;
- No new regional library corporations will be able to be formed and no new members will be able to be admitted to an existing RLC;
- Members of existing RLCs will be able to leave an RLC; and
- If any RLCs are still in existence after the proposed 10 year transition period, the Minister must appoint a liquidator to wind them up.

In essence, this means that the existing head of power for the incorporation of RLCs will be abolished. There will be a 10 year 'grandfathering' arrangement put in place to enable a smooth transition where councils are currently delivering library services through an RLC. This provides ample opportunity for councils to consider other library service delivery and governance models (including collaborative and individual/direct service delivery).

The new Bill makes no change to the fact that responsibility for delivery of library services rests with local government. Nor does it mean that the Government's intent is to phase out collaborative service delivery structures. On the contrary, State Government policy is to encourage local government resource sharing and shared service delivery models wherever appropriate. Indeed, a number of unincorporated collaborative library service models have emerged in recent years where RLCs have been disbanded and these models are explored in this Paper.

The rationale for the repeal of the section 196 RLC provisions is that councils are increasingly looking to shared service delivery and collaborative mechanisms across a range of different functions and service areas (including libraries). With the broad review of the Local Government Act, it has become clear that to have a specific incorporation provision to facilitate shared library services only is somewhat anachronistic.

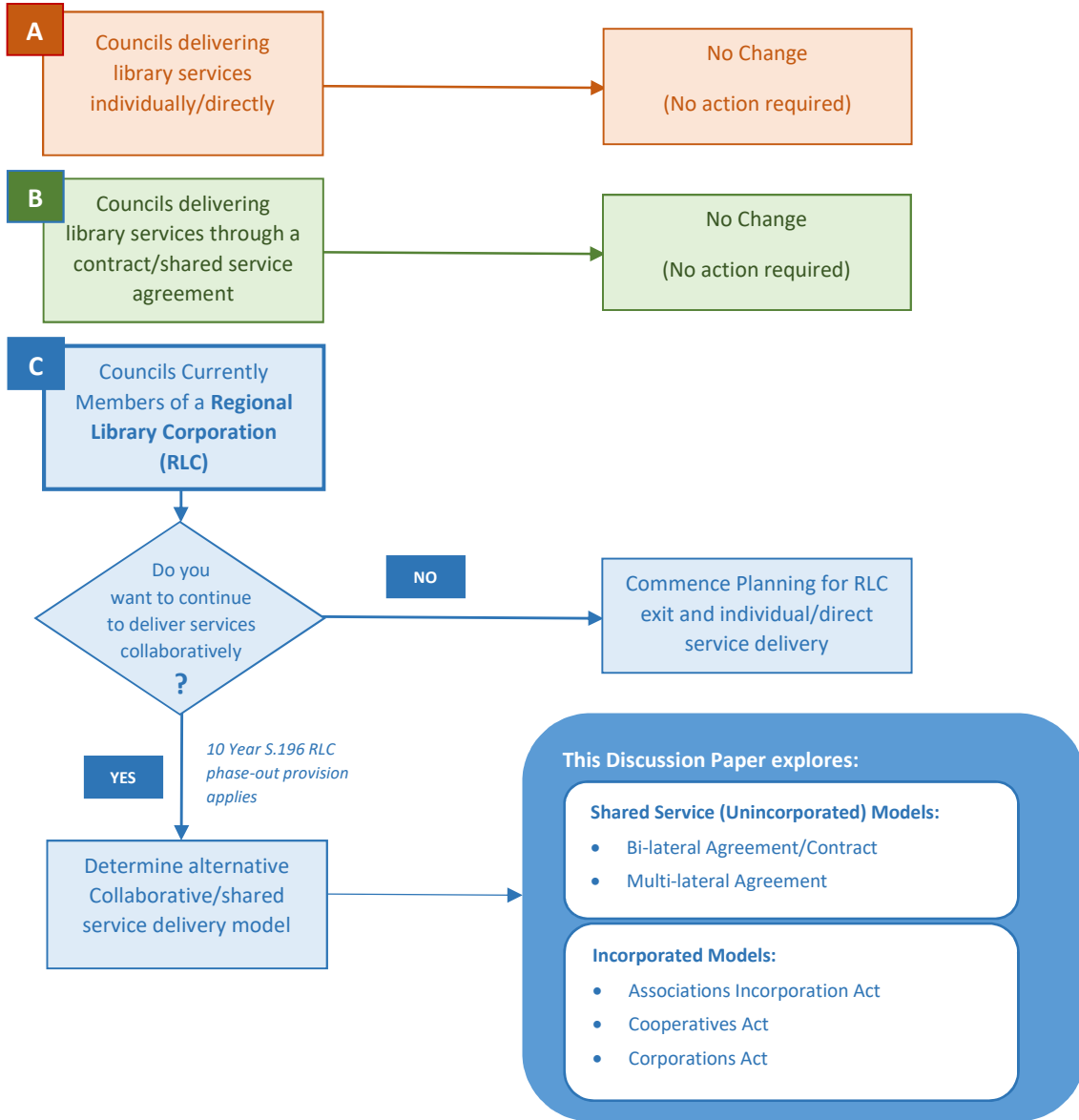
Hence, the Local Government Bill would remove the current legislative mechanism (in the Local Government Act) that is available to groups of councils that wish to deliver library services through an incorporated collaborative service model.

This Discussion Paper explores future options/models that are available to councils to deliver library services in the event the Local Government Bill is enacted in its current form.

2. Future Options for Councils/RLCs

2.1 Introduction- the 'decision path'

The proposed new Local Government Bill changes involves a **2-tiered decision path** for councils that are currently party to a Regional Library Agreement (ie; members of a section 196 RLC). This is illustrated below:



Decision 1- Collaborate or 'Go it Alone':

The first key decision for those councils currently in an RLC to make is whether or not they wish to **continue** to collaborate with other councils in the delivery of library services. Whilst this may have suited your council in the past, circumstances may have changed and the rationale for the current arrangements may not still apply. Further, these proposed legislative changes provide an opportunity for councils to review the underlying rationale for how they can best serve their community.

There are many factors to consider in making this choice including:

- Impact on service level/quality;
- Desire of Council to have (and be seen to have) direct control over the delivery of library services (as opposed to indirect delivery through an intermediary entity such as an RLC);
- Consideration of the potential resource sharing/collaboration benefits of being part of a collaborative shared service arrangement;
- Consideration of the impact/potential of the SWIFT consortium and the access it enables to inter-library lending/resource/collection sharing between libraries;
- The changing nature of the role of public libraries (ie; the shift from narrower resource lending towards information access, community programs and activities);
- Whether or not the Council has a desire for more service integration between library services and other community services through library facilities; and
- Financial impacts/cost of service delivery.

In the event that a choice is made by a council to bring library services back within their own mainstream organisational/ service structure, detailed planning for the implementation for that decision should be undertaken. There is quite a lot of transition work to be undertaken in this event. The details of this decision path are not explored in this Discussion paper.

Decision 2- Incorporated Model or Collaborative/Service Agreement:

The second option for councils is to continue to delivery library services under some form of collaborative or shared service delivery arrangement. To do this, there are two further sub-choices that are available to councils, being:

- Shared service (unincorporated) model; or
- Separately incorporated model.

2.2 Options Summary – Quick Reference Guide

The following table provides a summary of the options /model available to councils as a quick reference guide. Each decision pathway/option/model is explained in more detail in the pages following.

PARAMETERS/VARIABLES:	UN-INCORPORATED (Shared Services)		INCORPORATED		
	Multi-lateral agreement	Bi-lateral agreements	Incorporated Association	Cooperative	Company ¹
Minimum number of councils required	2	2	5	5	2
Instrument governing the arrangement	Agreement/contract	Agreement/contract	Adopted Rules	Adopted Constitution	Adopted Constitution
Ministerial exemption /approval required to procure under this arrangement?	No ²	No ²	No	No	No
One council designated as service provider?	Yes ³	Yes ³	Inc. Assoc.	Cooperative	Company
Separate legal entity (and associated costs)?	No	No	Yes	Yes	Yes
Level of control by service provider					
Audit required?	No	No	No <small>Financial review may be required</small>	Possibly <small>Subject to annual turnover, financial review/audit may be required</small>	Possibly <small>If large private, public company or company limited by guarantee</small>
Staff – Head Office/Admin	Service Provider <small>(Subject to agreement)</small>	Service Provider <small>(Subject to agreement)</small>	Inc. Assoc. <small>(Subject to rules/agreement)</small>	Cooperative <small>(Subject to Constitution /agreement)</small>	Company <small>(Subject to Constitution /agreement)</small>
Staff – Tech services	Service Provider <small>(Unless shelf-ready procurement applies)</small>	Service Provider <small>(Unless shelf-ready procurement applies)</small>	Inc. Assoc. <small>(Unless shelf-ready procurement applies)</small>	Cooperative <small>(Unless shelf-ready procurement applies)</small>	Company <small>(Unless shelf-ready procurement applies)</small>
Staff - Branches	Councils	Councils	Councils	Councils	Councils
Library Management System	Single license costs shared available through SWIFT	Single license costs shared available through SWIFT	Single license costs shared available through SWIFT	Single license costs shared available through SWIFT	Single license costs shared available through SWIFT
Library website	Subject to agreement <small>(can be integrated with Council websites to extent desired)</small>	Subject to agreement <small>(can be integrated with Council websites to extent desired)</small>	Subject to agreement <small>(can be integrated with Council websites to extent desired)</small>	Subject to agreement <small>(can be integrated with Council websites to extent desired)</small>	Subject to agreement <small>(can be integrated with Council websites to extent desired)</small>
Cost sharing	Subject to agreement	Subject to agreement	Subject to rules/associated agreements	Subject to rules/associated agreements	Subject to rules/associated agreements
Delivery/couriers	Service Provider	Service Provider	Inc. Assoc. <small>(Subject to agreement)</small>	Cooperative <small>(Subject to agreement)</small>	Company <small>(Subject to agreement)</small>
Asset ownership (including collection materials)	Per agreement	Per agreement	Inc. Assoc. <small>(Subject to agreement)</small>	Cooperative <small>(Subject to agreement)</small>	Company <small>(Subject to agreement)</small>

Notes:

1. General description only - a more detailed description of features of different types of companies is contained in section 4.4 of this Discussion Paper.
2. This assumes that the Local Government Bill 2018 is enacted in its current form (repealing section 186 of the Local Government Act 1989)
3. The mechanism for designating who provides the shared service provider/'hub' function is wholly subject to the terms of the agreement executed between participant councils which, in turn, is dependent on what they want to achieve. An agreement may name a specific council as the 'hub' or service provider (or any other preferred name) or, alternatively, it may define the process for allotting this role/function. Similarly, it may nominate different councils (or even third party bodies) to break up and undertake different parts of a service provider/'hub' role.

3. Collaborative ‘Shared Service’ Models (Unincorporated)

3.1 Different Shared Service Models

Unincorporated collaboration /shared service models are being encouraged as a shared service delivery model. Unincorporated models do not involve forming a separate legal entity from the individual councils that are part of a collaborative service delivery arrangement. Over the past few years, a number of former RLCs throughout Victoria have been wound down and replaced by a less formalised (unincorporated) shared service delivery model.

In particular, this has occurred with the former Central Highlands RLC, High Country RLC and the Yarra Melbourne RLC some years ago. These were all RLCs incorporated under section 196 of the Local Government Act. The Upper Murray Regional Library Service was also disbanded some years ago. The UMRLS had a number of council members including the City of Albury (NSW), the City of Wodonga (Vic) and various smaller rural councils on both the NSW and Victorian side of the border. The UMRLS was incorporated under the Corporations Act due to jurisdictional issues associated with its cross-border service footprint. Other RLCs are also considering future options.

The key drivers behind decisions by member councils to discontinue an RLC vary from situation to situation. However, typically they include the following factors:

- A view by councils that library services should be (and be seen to be) a core and direct local government service and that the existence of an RLC intermediary undermines that direct connection in the public eye;
- Desire on the part of individual member councils to have more direct control over library service investment, collection curation, and the policy and programming ‘levers’;
- The fact that the SWIFT consortium (and the associated State Government supported inter-library loans scheme) now enables seamless collection sharing across libraries more broadly at a State-wide level (without the need for an RLC);
- Desire to refocus library services and/or integrate them more with other council services with a social/community engagement role (ie; the so-called community ‘lounge room’ model);
- Concern about high costs/overheads associated with having a separate RLC entity (ie; with separate head office, CEO, admin staff, facilities, governance, audit etc.); and
- Concern about the equity of cost sharing arrangements/financial contributions by members under the Regional Library Agreement and how this relates to representation on the governing board of the RLC.

Councils that choose to be part of an RLC library service structure do so for a range of reasons. These include the need for scale for certain services and the view that by having a focused, specialist library service provider organisation contributes to better quality library services.

Decisions to disband an RLC sometimes reflect other political considerations and differences/conflict between members. In some cases, where an RLC consists of a large regional centre and a number of smaller rural towns, it is driven by a perception that an unfair share of the cost burden is borne by the regional centre (where apportioned substantially on a per capita basis) and/or there is not enough policy influence/control (reflecting the level of financial contribution) on the governing RLC board. Equally, smaller partners in a regional library service agreement may feel marginalised and/or without sufficient ‘say’ in policy and service delivery issues.

In general terms however, member councils choosing to opt out of an RLC structure have formed a view, on balance, that their ratepayers could achieve more service autonomy and better value for money through a different delivery structure. In some cases, they have opted to ‘go it alone’ and in others, chosen to be part of a less formalised (unincorporated) shared service/collaborative service model.

This Discussion Paper explores two specific unincorporated collaborative library service models:

- Bi-lateral shared service agreement;
- Multi-lateral shared service agreement.

(As noted in section 1.3, the existing requirement for councils wishing to enter a shared service agreement to obtain Ministerial exemption from the section 186(1) provisions of the Local Government Act is proposed to be removed under the Local Government Bill).

3.2 Bi-Lateral Agreement Model

Description:

A bi-lateral service agreement is an agreement or contract between two councils through which one of the councils purchases a service from the other under agreed terms and for an agreed price. The agreement can be as simple or detailed as the parties desire. In the case of providing a library service (or a component thereof), a formalised written agreement of some form would be expected. Such an agreement should, at a minimum, address the following matters:

- Objectives of the agreement;
- Description of the scope of service to be provided;
- Detailed description and quantification of the level of service to be provided;
- Role/expectations of the service provider;
- Role/expectations of the service purchaser;
- Performance measures/indicators;
- Agreement term, exit provisions/conditions, period of notice required by each party etc.;
- Price of services to be charged and/or method/formula/process for calculation of costs to be charged (and periodic review of this if required);
- Invoicing provisions; and
- Dispute resolution processes.

Under this type of arrangement, a council that is already geared up with a service capacity (for their own needs) is typically selling its operational/service capability to other councils. Such an arrangement may be motivated by financial considerations (cost sharing) or regional collaboration/mutual support goals (or a combination thereof).

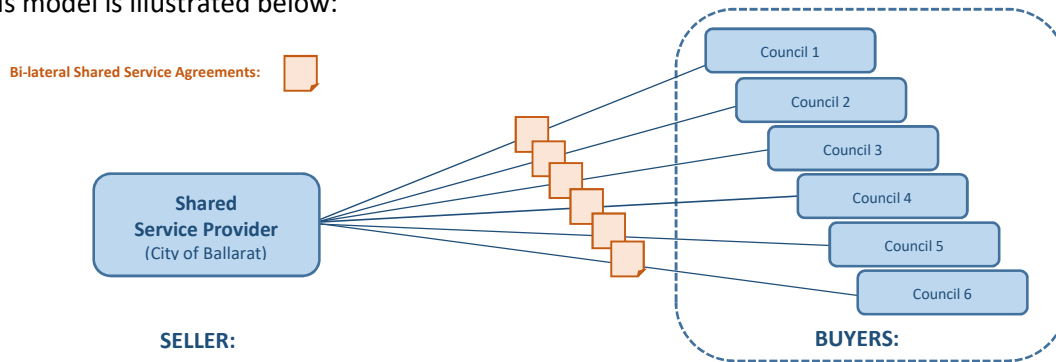
Under this scenario, the 'seller' council may be involved in any number of such bi-lateral contracts. Further, where a 'seller' council is involved in numerous shared service contracts with other councils, these may be on the same, similar or identical terms. However, as each is a separate legal bi-lateral agreement, there is nothing to say that such agreements can't differ from each other.

Central Highlands Libraries Group:

The Central Highlands Libraries Group is an example of **bi-lateral agreement-based shared services arrangement**. The Group has seven members including the City of Ballarat and the councils of Ararat, Central Goldfields, Hepburn, Moorabool, Pyrenees and Southern Grampians. It was previously incorporated as the Central Highlands Regional Library Corporation under a section 196 agreement before it was wound down in 2011.

Since 1 August 2011, the Central Highlands Regional Library Group has operated as a collaborative library service with the same seven members but is not separately incorporated. The legal mechanism for this collaborative service model is a series of **six bi-lateral shared service agreements** executed between the City of Ballarat and each of the other councils.

This model is illustrated below:



The goal of the Central Highlands arrangement is to create a structure where it continues to function as a regional 'group' or collaboration and this is reflected in the statement of objectives. Accordingly, these bi-lateral agreements are consistent for each group member in relation to the core terms. However, there are also some marginal differences in the agreements in terms of specific local issues and service requirements.

The City of Ballarat is the shared services provider (seller) to each of the other councils who are service purchasers. It provides the administration and former 'head office' type services to the other councils and charges each of the councils for those services. This is basically a 1:1 contract service delivery arrangement whereby Ballarat City employs organisational capacity/capability and then on-sells that capability to the other councils in the group. There is an annual price-setting process that is defined in the agreement.

Service Responsibility/Demarcation:

Under this bi-lateral agreement model, the City of Ballarat provides the following services to each of the respondent councils:

- Administration services including:
 - support for the Library Management Group
 - development of generic service policy (adopted individually by each other council);
 - development and monitoring of accounts
 - service level agreement (SLA) monitoring and reporting
 - membership of and reporting to external organisations/peak bodies etc.
- Collection services/resources including:
 - Collection development policy
 - Procurement of resources/administration of shelf-ready procurement program
 - Shared resource/database subscriptions/access
 - Maintenance of on-line catalogue
- Information technology services:
 - Library Management System licence subscription (SWIFT)
 - LMS support /procedural guidelines/statistical reports/training/induction etc.
 - PC booking service maintenance
 - localised ICT problems/issues

The service 'buyer' councils agree to adhere to the terms of the agreement with the service provider and pay for the services provided to them under the agreement. The 'buyer' councils generally retain full autonomy for all service planning, delivery and programming decisions within the broad context of those shared services detailed above. They are also responsible to planning, delivering and meeting the cost of all direct and indirect functions associated with branch operations.

Other key features of the Central Highlands model are

- Collection materials are selected/procured by the City of Ballarat;
- All materials are selected/procured shelf-ready (hence there is no substantive technical services function);
- Other partner councils are able to express preferences in procurement/resource collection but this remains the domain of the City of Ballarat);
- The Group has a single LMS license through the SWIFT Consortium;
- The collection is generally treated as ‘floating’ (with the exception of the main Ballarat Library collection); and
- There is no formalised Group-level decision-making forum/process embodied in the agreement (ie; they hold bi-annual meetings/networking get together but decision-making remains (in a formal/contractual sense) the domain of the City of Ballarat as the service provider/‘seller’).

Cost Sharing/Apportionment:

Under this bi-lateral agreement model, the City of Ballarat directly employs additional administrative and coordination staff to undertake the ‘head office’ type services on behalf of the Group.

The City of Ballarat carries the risk associated with having this organisational capability and incurs all the direct and indirect costs in relation thereto. The costs incurred by the City of Ballarat are then apportioned back to each member of the group (including itself) based on a “user pays” arrangement. Under the terms of the agreement:

- a user pays and unit costing method/approach is applied as far as possible/practicable;
- where user pays /unit costing is considered impractical or impossible, the agreement stipulates that a per capita cost method be applied;
- costs are apportioned/charged as incurred (rather than based on estimated costs); and
- The City of Ballarat (as service provider) charges an additional 10% margin on direct costs incurred to cover administrative overheads incurred by Council in relation to the service.

The agreement covers core/budgeted services for each council. Individual councils may purchase additional services over and above this through negotiation with the service provider.

Under the agreement, costs are estimated as part of the annual budget preparation process. An indication of the total costs of the service are provided to councils before the start of each financial year and the budget is agreed. Participant councils are invoiced quarterly based on actual costs incurred.

Collection and Assets:

Under the Central Highlands shared service agreement collection resources (both the pre-existing resources and new purchases) are owned by the individual member councils in the group. Each item in the collection has one of the member councils in the group designated in the LMS as the ‘**owning agency**’ and one as the ‘**holding agency**’ (these may be the same council or different). The ‘holding agency’ designation reflects the fact that, under the agreement, the group collection is floating (with the exception of the central Ballarat City branch resources and all magazines and local history /reference resources).

The ‘owning agency’ is designated (at the post-procurement branch despatch stage by City of Ballarat collection management staff) to reflect the resource level contributed by each council to the total procurement budget of the group.

All other branch assets are owned and acquired as needed by the individual councils in the group. Administrative (overhead type assets) are owned by the City of Ballarat.

Performance Indicators:

The bilateral service agreement includes a number of performance indicators for each aspect of service delivery (quality, responsiveness, customer requests, processing/loan turn-around times, reporting etc.)

Agreement Term/Exit Provisions

The Central Highlands service agreements are for a five year term. If a council wants to exit are required to give at least 6 months notice. If a council chooses to exit that arrangement, the City of Ballarat would recalculate the service delivery unit and per capita costs and these would then be apportioned over the new narrower membership base of the Group and charged to other councils on that revised basis. The City of Ballarat would also review its organisational capability (in light of a potentially reduced workload) and consider downsizing its capability or look at alternative ways to utilise/redeploy that capability.

Advantages/Disadvantages:

The main benefit of this model is that it returns the visibility and direct responsibility for library services back to the local government. This offers councils in the group a direct opportunity to meet and serve community needs in a more direct and visible way. A key criticism of the RLC structure in the past has been that the visibility of library services as a local government service, and the linkage of it to other community services, is broken/interrupted by the RLC delivery structure in between.

This is also a simple and relatively low cost shared service model. There is no separate legal entity involved with the attendant governance and administrative/head office costs and overheads. Whilst the model still involves 'head office' type shared service costs, these are generally limited to direct and necessary costs of providing a coordinated regional library service (ie; collection management, procurement, ICT/LMS services, deliveries/sorting/couriers etc.). For the 'buyer' councils this model offers maximum policy and operational autonomy, with efficiency. It also offers the opportunity/flexibility for these councils to make an annual purchase decision in relation to shared library services.

For the service provider ('seller') council, it ultimately carries the financial risk associated with the staffing and operational capability that it employs/incurs to meet the service level expectations of the other respondent councils with which it has entered into an agreement. If one or more councils withdraw from the agreement, (and the attendant unit costs increase as a result), there is a risk that the value equation through the eyes of remaining members will also be degraded potentially causing a 'snowball effect'.

For the 'buyer' councils, a disadvantage of an arrangement such as this (with six months exit notice required by either party) is that it offers no service delivery certainty beyond that six month notice period.

Despite these issues, the ultimate test remains the 'value equation' for members. This applies with this model as with any other contract-based procurement decision. It is noted that under the present Local Government Act provisions, members of this Group need to obtain approval of the Minister for Local Government to procure the services of the service provider without going through a tender process (LGA section 186). This requirement, however, is not included in the current Local Government Bill and so this would cease to be an issue if the Bill is enacted in its current form.

Summary:

The feedback from the participating councils about this arrangement is generally positive. The broad consensus is that it:

- Is a cost-effective model;
- Maximises local policy/service delivery/programming autonomy;
- Provides latitude for councils to invest in different aspects of their own services; and
- Provides a structure for resource sharing in the key areas where this is required.

The Central Highlands shared library model offers the member councils cost effectiveness with maximum policy and service delivery autonomy. Inter-library resource sharing (of most State-wide resources through the SWIFT consortium) is available to library users and the local regional collection is also shared locally through a floating collection (with the exception of the Ballarat City collection). The member councils are able to control their own branch operating hours, service delivery policy, fees/fines. collection/acquisitions policy and profile.

The member councils benefit from the reduced overhead costs that are involved in this service model and are able to invest funds in library and/or other services as they see fit. Member councils have the ability to tailor their services to meet their own needs and develop specific programming that suits the local community.

3.3 Multi-Lateral Agreement Model

Description:

The multi-lateral shared service model is where a **single multi-council agreement** or contract is executed between two or more councils. Through such an agreement, one of the councils is nominated as the ‘service provider’ (or the ‘hub’ council). Alternatively, the agreement may specify the process for the agreement of the ‘service provider’ or ‘hub’ council. Under the agreement, the members agree to purchase specified services from the hub service provider under agreed terms and on a price basis set out in the agreement. This is similar to the bi-lateral agreement structure described in section 3.2 except there is only one agreement in place executed by all parties.

As with a bi-lateral arrangement, this can also be as simple or detailed as the parties desire. However, for a library contract, a formalised agreement would be expected and should, at a minimum, address the same core matters as would a bi-lateral agreement (see section 3.2).

In addition, a multi-lateral agreement needs to define either:

- Which council is the nominated ‘service provider’; and/or
- A process for the determination of the designated ‘service provider’ role.

Under a multi-lateral arrangement, the service provider/hub council needs to be geared up with a service capacity to meet the needs of all members and then sells its operational/service capability to other councils. This arrangement may be motivated by financial considerations (cost sharing) or regional collaboration/mutual support goals (or a combination thereof).

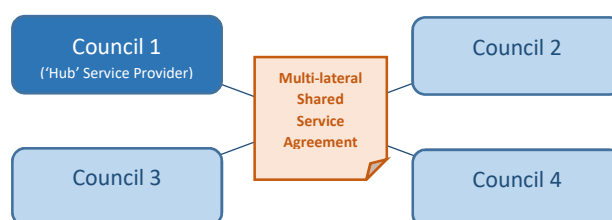
A fundamental difference between this multi-lateral model and the bi-lateral model is that, in this case, there can, by definition, only be one uniform agreement and terms. Within that single agreement however, differing conditions and terms may be specified for different members but all parties need to sign off on those differences.

High Country Regional Library Network:

The High Country Regional Library Network is an example of a **multi-lateral shared service agreement**. It operates on the basis of a ‘shared services hub’ and has four member councils (Alpine Shire, the Rural City of Benalla, Mansfield Shire and the Rural City of Wangaratta). It was previously incorporated as the High Country Regional Library Corporation under a section 196 agreement before it was disbanded in July 2016.

Similar to the Central Highlands model, the High Country Regional Library Network operates as a collaborative library service but is not separately incorporated. The mechanism for this model is a single **multi-lateral shared service agreement** executed by all four member councils.

This is illustrated below:



Service Responsibility/Demarcation:

Under this arrangement, a single multi-lateral '**shared service agreement**' has been executed between the four network members. Under the agreement, one member of the network (Alpine Shire) is designated as the 'Hub' service provider and provides the administration and former 'head office' type services to the other councils on a cost sharing arrangement.

An explicit goal under the agreement is to establish a '**Library Management Group**'. The Group provides the mechanism for ongoing collaboration, networking, professional development, resource sharing and information sharing across the Group.

The Library Management Group has a balance of Council management and direct library management members. It provides for the establishment of sub-committees to deal with specific matters of programming and operational policy. Through the structure and processes defined in the agreement, the High Country model formalises the regional collaboration mechanism more than is the case with the Central Highlands model (which embodies a less formalised approach). However, this is a choice the High Country councils have made and is a feature of the agreement that has been executed (as opposed to being necessarily a feature of the multi-lateral shared service model per se).

The 'Hub' Service Provider:

Under the agreement, the Hub council provides the following services to the other councils:

- A team of Hub employees;
- Liaison with library branches;
- Development and implementation of procedures (as recommended by the Library Management Group)
- Management of Network collection in accord with Collection Management policy / principles;
- Secretariat services for the Library Management Group;
- Maintenance of the Network website;
- Data preparation for the Local Government Performance Reporting Framework;
- Ordering and purchasing of books and materials;
- Management of courier services;
- Processing or books and materials to shelf-ready standard;
- Maintenance of magazine subscriptions;
- Maintenance of inter-library loans and SWIFT processes;
- Monitoring of usage of on-line resources; and
- Representation of the Network at external meetings.

This model includes a technical services function for processing and cataloguing of materials. Again, this is a feature of this specific agreement as opposed to the multi-lateral model itself.

The agreement provides a very detailed description of each of the services and the operating/staff structure of the Hub. It stipulates the assets/facilities to be provided by Alpine Shire as resources to the Hub and that a rental component is to be included in the shared service agreement costs. The agreement has appendices that very specifically detail the respective responsibilities of each party in the Hub, being:

- The designated 'Hub' service;
- The branch library; and
- Member councils.

Cost Sharing/Apportionment:

Under this model, the Hub Council (Alpine Shire) directly employs the required administrative and coordination staff to undertake the 'head office' type services on behalf of the Group and incurs all costs in relation to providing Hub services. These actual positions, their titles and the EFT load are specified in the agreement.

Direct branch staffing and other operating costs are incurred directly by members.

The costs incurred by the Hub provider are apportioned and charged back to each member of the group (including itself) based on a simple 'cost attribution formula' that is based on population of each member council.

Under the terms of the agreement, the budgetary/financial process is as follows:

- the Hub service provider prepares an annual Hub budget for the next financial year;
- the draft budget is approved by the Library Management Group;
- the Hub provider invoices Group members for services per the cost attribution formula; and
- variances to the budget amounts of up to 10% only are allowed under the agreement.

Participant councils are invoiced biannually. The agreement covers a range of other aspects of shared service delivery including insurances and financial reporting and also appends the agreed collection management principles.

Collection and Assets:

Under this model (similar to the Central Highlands arrangement), collection resources (both pre-existing resources and new purchases) are owned by the individual member councils in the group. The owner council is designated (at the post-procurement branch despatch stage by Hub collection management staff) reflecting the resource level contributed by each council to the total procurement budget of the group. In this case, the whole group collection (without exception only of magazines, reference and local history) is floating.

All other branch assets are owned and acquired as needed by the individual councils in the group. Administrative (overhead type assets) are owned by the Hub council.

Agreement term/Exit Provisions

The initial shared service agreement is for a 34 month term (reflecting the time of year it was first entered into) and it has provisions for the entry of new members to the Group. Parties to the agreement seeking to exit are required to give at least 6 months notice and provision is made for financial arrangements in such circumstances. Provision is also made for an annual review of the agreement by the Library Management Group to consider the appropriateness of its provisions and relevance to current needs.

Advantages/Disadvantages:

As with Central Highlands, the key benefit of this model is that it returns the visibility and direct responsibility for library service provision back squarely to the local government. It offers the councils a direct opportunity to meet and serve community needs in a very visible way. A key criticism/ of the RLC structure in the past has been that the visibility of library services as a local government service, and the linkage of it to other community services, is broken/interrupted by the RLC delivery structure in between.

This is also a simple and relatively low cost shared service model. There is no separate legal entity involved with the attendant governance and administrative/head office costs and overheads. Whilst the model still involves 'head office' type shared service costs, these are generally limited to direct and necessary costs of providing a coordinated regional library service (ie; collection management, procurement, ICT/LMS services, deliveries/sorting/couriers etc.).

For the member councils this model offers maximum policy and operational autonomy, with efficiency. It also offers the opportunity/flexibility for these councils to make an annual purchase decision in relation to shared library services.

For the Hub service provider council, it ultimately carries the financial risk associated with the staffing and operational capability that it employs/incurs to meet the service level needs of the other

member councils under the Agreement. However, these issues, in the event of a member exit are specifically dealt with in the agreement. If one or more councils choose to withdraw from the agreement, (and the attendant unit costs increase as a result), there is a risk that the value equation through the eyes of remaining members will also be degraded potentially causing a 'snowball effect'. For the 'buyer' councils, a disadvantage of an arrangement such as this (with six months exit notice required by either party) is that it offers no service delivery certainty beyond that six month notice period.

As with the other model, the ultimate test remains the 'value equation' for all members which applies for any contract-based procurement decision. It is noted that under the present Local Government Act provisions, members of this Group need to obtain approval of the Minister for Local Government to procure the services of the service provider without going through a tender process (LGA section 186). This requirement, however, is not included in the current Local Government Bill and so this would cease to be an issue if the Bill is enacted in its current form.

Summary:

The High Country shared service model achieves much the same ends as the Central Highlands model. The key differences are that, firstly, the High Country model uses a single multi-lateral agreement as opposed to numerous bi-lateral agreements under the Central Highlands model.

Secondly, the High Country shared service agreement is considerably more 'scripted' (ie; specific and detailed) in its terms. It provides a more detailed articulation of the how the arrangement is to work in any given circumstances and the roles and responsibilities of each party. It also specifies the staffing/resource levels that are to apply to the Hub service provider role whereas these details are not explicitly set down in the Central Highlands model. The Central Highlands model, on the other hand, provides a more general (high-level) description of services to be provided by the service provider to other member councils. It focuses on specifying performance measures/outcome-based metrics in terms of the service level to be provided as opposed to an input/staff-based approach.

Thirdly, The High Country model formalises the joint decision-making and collaboration aspects of the arrangement more specifically (by establishing/defining the role and functioning of the Library Management Group as a core of the agreement). The Central Highlands model, on the other hand, operates more as a pure bi-lateral 'purchaser-seller' arrangement whereby the service provider (as the owner of the service provider capability) has more power and control over the arrangement.

Feedback from the participating councils about this arrangement is also generally positive. The broad consensus is that it:

- Is a very cost-effective model;
- Maximises local policy/service delivery/programming autonomy;
- Provides latitude for councils to invest in different aspects of their own services; and
- Provides a structure for resource sharing in the key areas where this is required.

The High Country shared service model offers member councils cost effectiveness with maximum policy and service delivery autonomy. Inter-library resource sharing (of most State-wide resources through the SWIFT consortium) is available to library users and the local regional collection is also shared locally through a floating collection (with the exception of magazines, refence and local history). The member councils are able to control their own branch operating hours, service delivery policy, fees/fines. collection/acquisitions policy and profile.

The member councils all benefit from the reduced overhead costs that are involved in this service model and are able to invest funds in library and/or other services as they see fit. Member councils have the ability to tailor their services to meet their own needs and develop specific programming that suits the local community.

The High Country multi-lateral agreement model most closely resembles the system used for regional library collaboration in NSW. In NSW, regional libraries use a multi-council agreement under section 12 of the Library Act 1939. Where a group of councils executes a regional library agreement, one of the councils is designated to be the 'Executive Council' (the equivalent of the Hub Service provider Council).

4. Separately Incorporated Models

4.1 Options

There is no overwhelming or compelling need for a collaborative service delivery model to be separately incorporated, even though this is how it's been generally done in Victoria in the past. Separately incorporated models are those that would result in the formation of a separate legal entity from the individual councils that are part of a collaborative service delivery arrangement. Broadly, if the section 196 provisions are repealed (as proposed), there would be three options available to Councils, being:

- Incorporation under the Associations Incorporation Act; or
- Incorporation under the Cooperatives Act; or
- Incorporation under the Corporations Act, including:
 - proprietary (private) company; and
 - company limited by guarantee.

Any of these options are subject to the provisions of the current Local Government Act 1989. In the event that the Local Government Bill 2018 repeals and replaces the 1989 Act (as is proposed), these options will become subject to the provisions of the new Act.

NB: Councils seeking to pursue a separately incorporated collaborative service model should seek specific professional guidance and advice in order to understand options that meet their specific circumstances and needs.

4.2 Associations Incorporation Act

Description:

This option is the simplest and lowest cost path to creating a separately incorporated legal entity for the purposes of collaboratively delivering library services. This Act is mostly used by community groups and sporting clubs as their legal incorporation structure. There are no cases where this legal structure is applied for collaborative library service delivery. Key features are:

- Must have at least 5 members;
- May trade but not in order to distribute profits;
- Members don't own shares (ie; no share capital);
- Separate legal entity that can enter into contracts, employ staff, own property etc.; and
- Members and office bearers protected against personal liability.

A group of councils (5 minimum) could form an incorporated association. To do this, they would need to draft and adopt a set of rules that specifically provides for an institutional membership comprising councils. The rules would also need to specify all matters and processes relating to role demarcation, service delivery, and cost sharing (as is the case with any other entity).

Advantages/Disadvantages:

The advantages of this model are:

- Simple and low cost;
- Easy to administer and procedurally straight forward;
- Provides requirements of separate legal entity for asset ownership, contracting purposes; and
- Protects members from individual liability from debts of the association.

The disadvantages of this model are:

- Requires a minimum of 5 members (relatively high in this context); and
- Most commonly associated with sporting clubs and community groups;
- Despite having the technical capability to borrow funds (ie; there is no legal barrier), incorporated associations are likely to face challenges in this regard if debt finance is needed.

Summary:

As stated, incorporated associations are most commonly associated with sporting clubs and community groups and having a membership comprising real persons rather than bodies corporate (such as councils). Similarly, this use probably does not reflect the legislative intent of the Associations Incorporation Act.

The main impediments to using this Act as the legal mechanism to incorporate for the purposes of collaboratively delivering library services appears to be the minimum membership of 5 and its likely implications/limitations on financial capacity and raising any debt finance (if required).

4.3 Cooperatives Act

Description:

A co-operative is a democratic organisation, owned and controlled by its members for a common purpose and benefit. Co-operatives are traditionally based on the values of mutual self-help, shared responsibility and equality. The legislation governing cooperatives in Australia was brought under a single national framework through the Cooperative National Law Act (2012).

This option is also a relatively simple and low cost path to creating a separately incorporated legal entity for the purposes of collaboratively delivering library services. It is most commonly used by community groups and groups of producers with a shared purpose. In NSW, a State-wide cooperative exists as a shared service entity for the procurement and bulk lending of LOTE resources for lending through the State's public libraries.

There are two types of cooperatives – **distributing** and **non-distributing**- for which there are different rules and disclosure requirements.

In this context, a non-distributing cooperative would be the relevant option in relation to collaborative delivery of library services. Key features of a non-distributing cooperative are:

- Must have at least 5 members;
- May trade but cannot distribute profits to members;
- Members own shares;
- Member voting based on one vote per member (not per share);
- Requires 'active' membership (per an 'active membership' test);
- Separate legal entity that can enter into contracts, employ staff, own assets etc.; and
- Members and office bearers protected against personal liability.

A group of councils (5 min) could form a cooperative as a vehicle for a shared service arrangement. To do this, they would need to draft and adopt a set of rules that specifically provides for an institutional membership comprising councils. The rules would also have to describe all other matters as to how the arrangement is to work, including roles, responsibilities of the members and cost sharing etc. A cooperative would then be able to operate in a similar fashion to an RLC.

Further, an existing corporate entity (ie; an RLC) can apply to the registrar to be registered as a cooperative under the Cooperatives National Law.

Advantages/Disadvantages:

The advantages of this model are:

- Simple and low cost (especially if a group of 5+ councils decide to simply convert from RLC to a cooperative);
- Easy to administer and procedurally straight forward;
- Collaborative library service delivery is broadly consistent with the cooperative principles;
- Provides requirements of separate legal entity for contracting/asset ownership purposes;
- Able to borrow funds as required; and
- Protects members from individual liability for debts of the entity.

The disadvantages of this model are:

- Requires minimum of 5 members; and
- One vote per member requirement limits capacity to reflect different sized /population councils in decision-making.

Summary:

Cooperatives are generally associated with groups of like-minded primary producers who need a structure to enable commercial collaboration for the marketing of goods or services. It is also applicable to groups of people seeking to provide a community service or function collaboratively.

Like incorporated associations, there does not appear to be any impediment to a group of 5+ councils using the Cooperatives Act as the legal mechanism to incorporate for the purposes of collaboratively delivering library services. Further, there is precedent for this in the collaborative delivery of library services (the NSW Multi-Cultural Purchasing Cooperative Ltd.).

The need for at least 5 members is a clear barrier to any smaller number of councils want to collaborate through an incorporated arrangement. The one vote per member requirement effectively gives each member equal power at a cooperative AGM. However, the rules may be drafted to specify a different board membership/governance structure.

4.4 Corporations Act

Description:

There are various types of company that are available as a path to incorporation under the Corporations Act 2001. There are broadly 2 types of company considered relevant in this current library service discussion context:

- Proprietary (private) company limited by shares; and
- Company limited by guarantee.

(NB: a public company is not considered relevant in this context).

Either type of company meets the basic incorporation needs being:

- Separate legal entity that can enter into contracts, employ staff, own assets etc.; and
- Members and office bearers protected against personal liability.

The following table summarises the key features of these two types of company:

PARAMETERS/VARIABLES:	COMPANY TYPE ¹	
	Proprietary Company	Company Limited by Guarantee ²
Number of members	2 to 50	2 or more
Instrument governing the arrangement	Adopted Constitution	Adopted Constitution
Ministerial exemption /approval required to procure under this arrangement?	No	No
New Local Government Bill provisions would apply (if enacted)	Yes	Yes
Members own shares	Yes	No
Separate legal entity (and associated overhead costs)?	Yes	Yes
Audit required?	No <small>Unless large company</small>	Yes
Governed by Corporations Act 2001	Yes	Yes
Annual AGM	Yes	Yes
AGM member voting based on	Shares owned	Membership
Can distribute profits (dividends) to members?	Yes	No
Limit of potential member liability for debts	Par (face) value of shares owned	Nominal guarantee amount (say \$10 defined in deed of guarantee)
AGM member voting based on	Shares owned	Membership
Asset ownership (including collection materials)	Company	Company

Note:

Source: ASIC website, 2018

1. This document provides a high-level summary only. There are various other specific and technical differences between company types and structures the details of which have not been described in this document. It is therefore important that councils seeking to address options to seek professional advice.
2. See also summary table following regarding different sized companies limited by guarantee.

Proprietary Companies:

A proprietary company can either be **limited by shares** or **unlimited** with a share capital and must have no more than 50 members. A company limited by shares is the most common type of proprietary company. In this case, it means the personal liability of each shareholder is limited to the amount they have agreed to pay for the shares (the par or nominal value).

Companies Limited by Guarantee:

A company can either be **limited by guarantee** does not have a share capital. Rather, the members that agree to its establishment guarantee any future liabilities that the company might incur up to a stated maximum amount (usually this is a nominal amount of say \$10 per member) in the event the company is wound up.

There are different requirements that apply for companies limited by guarantee of different sizes. This a summarised in the following table:

PARAMETERS/VARIABLES:	COMPANY LIMITED BY GUARANTEE:		
	SMALL (Annual revenue <\$250,000)	MEDIUM (Annual revenue \$250,000 to \$1M)	MEDIUM (Annual revenue over \$1M)
Must prepare annual financial report?	If directed by ASIC or a member	Yes	Yes
Members notification of financial report	Notify members of availability	To be given to members electing to receive	To be given to members electing to receive
Must prepare directors report (and associated disclosures)?	If directed by ASIC or a member	Yes	Yes
Financial review /audit required?	Financial Review or audit	Audit	Audit
Governed by Corporations Act 2001	Yes	Yes	Yes
Can it have Deductible Gift Recipient (DGR) Status?	No	Yes	Yes

Note:

Source: ASIC website,2018

Advantages/Disadvantages:

The advantages of a company as a joint venture entity for a shared library service are:

- Available to small groups of councils wanting to collaborate (ie; may have only 2+ members)
- Easy to administer and procedurally straight forward;
- Choice of company type to meet specific needs (ie; proprietary, limited by guarantee etc.);
- May or may not have a share capital;
- Protects members from individual liability to debts.

The only disadvantage of this model is that there is there likely to be some additional costs involved in preparation of a constitution and annual lodgement fees (and potentially audit fees) etc.

Summary:

In general terms (and subject to the specific goals and needs of a group of councils), a company is likely to be an appropriate corporate structure for a collaborative shared library service delivery arrangement between councils. Whether or not a company limited by guarantee or a proprietary company is the most appropriate structure will depend on a range of specific and local issues and needs.

Key among these is whether or not a company **with a share capital** is needed to meet the group’s needs. A share capital provides the means through which members can contribute capital to the company (in equal or various amounts) and have financial equity (ie; ownership) that reflects that contribution.