

An ORDINARY MEETING of LISMORE CITY COUNCIL will be held at  
the COUNCIL CHAMBERS, 43 Oliver Avenue, Goonellabah on  
Tuesday, 13 September 2011 at 6.00pm.

## Attachments Excluded From Agenda



Gary Murphy  
**General Manager**

6 September 2011



# Attachments

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# Richmond Tweed Regional Library Agreement

Lismore City Council

and

**[Insert Name]** Shire Council

**[Insert Date]**

# Richmond Tweed Regional Library Agreement

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## Richmond Tweed Regional Library Agreement

### Summary Sheet

#### Administering Council:

**Name:** Lismore City Council

**Address:** 43 Oliver Avenue, GOONELLABAH NSW 2480

**Telephone:** 1300 87 83 87

**Facsimile:** 02 66 250 400

**Email:** council@lismore.nsw.gov.au

**Representative:** General Manager - Paul O'Sullivan

#### Participating Council:

**Name:** Ballina/Byron/Tweed Shire Council

**Address:** [Insert Details]

**Telephone:** [Insert Details]

**Facsimile:** [Insert Details]

**Email:** [Insert Details]

**Representative:** [Insert Details]

# Richmond Tweed Regional Library Agreement

## Parties

**Lismore City Council** ABN 60 080 932 837 of 43 Oliver Avenue, GOONELLABAH NSW 2480 (**Administering Council**)

and

**[Insert Name] Shire Council** ABN [Insert Details] of [Insert Details] (**Participating Council**)

## Background

- A The Administering Council and the Participating Council have each adopted the Act.
- B The Participating Council is willing to allow the Administering Council to undertake the function of providing, controlling and managing the libraries, library services and information services of the RTRL in its Area.
- C The Administering Council is willing to undertake that function.
- D The Parties wish to enter into this Agreement under s12(1) of the Act to give effect those arrangements.

## Operative provisions

### Part 1 - Preliminary

#### 1 Definitions & interpretation

- 1.1 In this Agreement the following definitions apply:

**Act** means the *Library Act 1939*.

**Administering Council's Assets** means Net Assets at the commencement of this Agreement used for the provision of the RTRL Services other than the Council Assets and the Shared Assets.

**Adopted Budget** means a budget adopted under clause 19.5.

**Agreement** means this Agreement and includes any schedules, annexures and appendices to this Agreement.

**Approved Rate** means the rate specified from time to time by the Minister administering the LG Act by notice published in the Gazette under s566 of the LG Act.

**Area** has the same meaning as in the LG Act.

**Commencement Date** means the date of this Agreement.

**Council** has the same meaning as in the LG Act.

**Council Assets** means assets used for the provision of RTRL Services listed in Column 1 of the Table in Schedule 1 that are owned by the Councils listed in Column 2 of that Table opposite the assets.

**Delegation** means the delegation contained in clause 3.1.

**Executive Officer** means the General Manager of the Administering Council or his or her nominee.

**Financial Year** means the period commencing on 1 July in a year and ending on 30 June in the following year.

**Function** has the same meaning as in the LG Act.

**LG Act** means the *Local Government Act 1993*.

**Library Committee** means the committee referred to in s11 of the Act and constituted in accordance with clause 16.1 of this Agreement.

**Library Council** means the Library Council of New South Wales.

**Net Assets** means the value of all assets less the value of all liabilities.

**Other Participating Council** means the party to a Similar Agreement other than the Administering Council.

**Participating Council's Contribution** means the monetary contribution for the RTRL Services payable by the Participating Council to the Administering Council in respect of a Financial Year specified in the applicable Adopted Budget.

**Participating Council's Premises** means any part of a building or land within the Participating Council's Area that is used for the provision of the RTRL Services only in the Participating Council's Area.

**Party** means a party to this agreement, including their successors and assigns.

**Regional Library Manager** means the person appointed in accordance with clause 7 of the Agreement, with the functions and duties set out in clause 18.

**Regulation** means the *Library Regulation 2005*

**RTRL** means the Richmond Tweed Regional Library.

**RTRL Services** means the libraries, library services or information services of the RTRL provided, controlled and managed by the Administering Council.

**Service Level Agreement** means the service level agreement entered into by the Administering Council and the Participating Council which is contained in Schedule 2 to this Agreement, or any amended or replacement agreement entered into by the Parties, in writing from time to time.



**Shared Assets** means Net Assets created and accumulated during the Term for the purpose of the provision of the RTRL Services.

**Similar Agreement** means an agreement relating to the RTRL on similar terms to this Agreement between the Administering Council and a Council other than the Participating Council.

**Term** means the period commencing on the Commencement Date and ending on the Termination Date, subject to clause 2.3.

**Termination Date** means 5 years after the Commencement Date subject to clause 2.3.

- 1.2 In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:
- 1.2.1 Headings are inserted for convenience only and do not affect the interpretation of this Agreement.
  - 1.2.2 A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
  - 1.2.3 If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing is to be done on the next business day.
  - 1.2.4 A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.
  - 1.2.5 A reference in this Agreement to a \$ value is a reference to the value exclusive of GST.
  - 1.2.6 A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
  - 1.2.7 A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
  - 1.2.8 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
  - 1.2.9 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
  - 1.2.10 Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
  - 1.2.11 A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
  - 1.2.12 References to the word 'include' or 'including' are to be construed without limitation.

- 1.2.13 A reference to this Agreement includes the agreement recorded in this Agreement.
- 1.2.14 A reference to a party to this Agreement includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.
- 1.2.15 Any schedules, appendices and attachments form part of this Agreement.
- 1.2.16 Notes appearing in this Agreement are operative provisions of this Agreement.

## **2 Term**

- 2.1 This Agreement commences on the Commencement Date and ends on the Termination Date.
- 2.2 Not later than 12 months before the Termination Date, each Party is to notify the other Party in writing whether it wishes to extend the Term of this Agreement for a specified period of not less 5 years.
- 2.3 If the Parties agree in writing to an extension under clause 2, the Term is extended accordingly and the Termination Date is the last day of the extended Term.

## **3 Delegation**

- 3.1 Pursuant to s12(1) of the Act and s377 of the LG Act, the Participating Council delegates to the Administering Council all of the Participating Council's functions in relation to the provision, control and management of libraries, library services and information services except:
  - 3.1.1 any function that cannot be delegated under s 377(1) of the LG Act or any other law,
  - 3.1.2 the power to enter into agreements or other arrangements on behalf of the Participating Council, and
  - 3.1.3 the power to institute proceedings at law or in equity on behalf of the Participating Council.
- 3.2 The Administering Council is to lawfully exercise functions delegated to it under clause 3.1.
- 3.3 The Parties acknowledge that the Participating Council is required by s380 of the LG Act to periodically review its delegations and nothing in this Agreement prevents it from revoking or failing to renew the delegation referred to in clause 3.1 upon such a review.
- 3.4 This Agreement terminates on the date on which any revocation or non-renewal of the delegation referred to in clause 3.1 takes effect.

## Part 2 - The Administering Council's responsibilities

### 4 Termination of previous agreement

- 4.1 Any previous agreement entered into between the Parties relating to the RTRL Services is terminated with effect on the Commencement Date.
- 4.2 Anything done or agreed by the Parties under an agreement terminated under clause 4.1 remains validly done or agreed or may continue to be done, as the case may be, unless it is contrary to this Agreement or anything done or agreed by the Parties under this Agreement.

### 5 Provision of RTRL Services

- 5.1 The Administering Council is to deliver the RTRL Services within the Participating Council's Area in accordance with the Service Level Agreement and otherwise according to law.
- 5.2 The Administering Council is to provide administrative services in connection with the RTRL Services including:
  - 5.2.1 keeping and auditing all records and accounts in accordance with all relevant legislation and by-laws,
  - 5.2.2 managing funds and reserves to maximise income,
  - 5.2.3 signing all contracts and agreements relating to the RTRL Services, and
  - 5.2.4 setting the employment conditions of all staff employed in connection with the provision of the RTRL Services.
- 5.3 The Administering Council is to develop, implement, maintain, and monitor the implementation of, a management plan for the provision of the RTRL Services in the Participating Council's Area.
- 5.4 The Administering Council is to prepare policy statements on relevant aspects of the RTRL Services and regularly review policies in order to improve the provision of library services for residents of the Participating Council's Area.
- 5.5 The Administering Council is to use reasonable endeavours to obtain the full benefit of grants and subsidies available for the RTRL Services from the governments of the Commonwealth of Australia and the State of New South Wales and from any other government agencies.
- 5.6 The Administering Council is to use reasonable endeavours to co-operate with libraries and library systems in the wider library network for the benefit of the RTRL and to enhance the provision of the RTRL Services.
- 5.7 The Administering Council is to distribute minutes from Library Committee meetings to the Participating Council as soon as reasonably practicable after the minutes are produced.

### 6 Reporting on delivery of RTRL Services

- 6.1 By not later than 30 November in each year, the Administering Council is to submit to the Participating Council in respect of the previous Financial Year:
- 6.1.1 an audited financial statement that discloses the share of the Administering Council's Assets and Shared Assets attributable to the Participating Council and each Other Participating Council,
  - 6.1.2 details of the activities of the Administering Council in relation to the provision of the RTRL Services including, but not limited to, statistics of purchases for the library collection, and
  - 6.1.3 a report outlining:
    - (a) the size, age and distribution of the collection,
    - (b) the number of borrowers and items borrowed,
    - (c) the number of library visits,
    - (d) the number and type of value-added services, and
    - (e) an assessment of the quality of the RTRL Services provided to the Participating Council by comparison to NSW Public Library Statistics published annually by the State Library of NSW.
- 6.2 In November, February and May in each year, the Administering Council is to provide a report to the Participating Council on the delivery of RTRL Services in the Participating Council's Area in the immediately preceding period.

## **7 Staffing**

- 7.1 For the purposes of providing the RTRL Services, the Administering Council may engage staff, including a Regional Library Manager.
- 7.2 Staff referred to in clause 7.1:
- 7.2.1 are to be engaged:
    - (a) in accordance with the LG Act, and
    - (b) having regard to the Library Council of NSW Standards and Guidelines for NSW Public Libraries as amended from time to time,
  - 7.2.2 are employees of the Administering Council,
  - 7.2.3 are subject to the direction and control of the general manager of the Administering Council.
- 7.3 The Regional Library Manager is to be a librarian recognised by the Australian Library and Information Association.
- 7.4 The Regional Library Manager is to report to the Executive Officer.
- 7.5 Staff referred to in clause 7.1, other than the Regional Library Manager, are to report to the Regional Library Manager.

## **8 Assets**

- 8.1 The Administering Council owns all Administering Council's Assets and Shared Assets and is responsible for managing and maintaining those assets.
- 8.2 The Administering Council is to maintain a register of all Administering Council's Assets and Shared Assets.
- 8.3 Except as provided by clause 8.4, the Participating Council's share of the Administering Council's Assets is [Drafting Note. Insert No.]%.
- 8.4 The Participating Council is entitled to [Drafting Note. Insert No.]% of the following Administering Council's Assets:
- 8.4.1 the RTRL headquarters land and building, and
- 8.4.2 mobile library vehicles used to provide the RTRL services.
- 8.5 The Administering Council may not, without the prior written agreement of the Parties and any Other Participating Councils, sell or otherwise dispose of any of the Administering Council's Assets referred to in clause 8.4 that it does not intend to replace.
- 8.6 The Participating Council is entitled to the net proceeds of any sale or disposition referred to in clause 8.5 in accordance with the share referred to in clause 8.4.

## 9 Administering Council's insurances

- 9.1 The Administering Council is to hold, during the Term, and the Participating Council may request that the Administering Council produce within 14 days of a written demand, evidence that the Administering Council holds:
- 9.1.1 building insurance for any Administering Council's Assets and Shared Assets which are buildings,
- 9.1.2 contents insurance for all Administering Council's Assets and Shared Assets contained in the Participating Council's Premises,
- 9.1.3 public liability insurance for at least \$20,000,000.00 for a single occurrence,
- 9.1.4 workers compensation insurance in relation to all staff engaged for the purposes of providing the RTRL Services, and
- 9.1.5 any other insurance required by law.

## Part 3 - The Participating Council's responsibilities

### 10 Participating Council's Contribution

- 10.1 The Participating Council is to pay the full amount of the Participating Council's Contribution to the Administering Council for each Financial Year.

- 10.2 The Participating Council's Contribution is to be paid in quarterly instalments on the first days of July, October, January and April in the Financial Year to which the payment relates.
- 10.3 Interest on any amount payable under this Agreement that is not received within 28 days of the date on which it is required to be paid accrues interest at the Approved Rate until the date it is deposited in accordance with clause 10.2.

## **11 Changes to services or resources**

- 11.1 The Administering Council may, with the agreement of the Participating Council, provide RTRL Services to the Participating Council that are not covered by or otherwise not in accordance with the Service Level Agreement.
- 11.2 The Participating Council is to reimburse the Administering Council for the cost of providing RTRL Services referred to in clause 11.1 not later than 30 days after receiving a tax invoice from the Administering Council for the provision of those services.
- 11.3 The Participating Council is to give the Administering Council not less than 6 months prior written notice of any requirement for the RTRL Services to be reduced and is to reimburse the Administering Council for the cost of reducing the services including legal, administrative and staffing costs, not later than 30 days after receiving a tax invoice from the Administering Council for so doing.

## **12 Participating Council's Premises**

- 12.1 The Participating Council is responsible for, and is to bear the costs of, the following relating to the Participating Council's Premises:
  - 12.1.1 the provision, maintenance, furnishing, equipping, cabling, lighting, cleaning, security, air-conditioning, of the premises,
  - 12.1.2 electricity, gas and other services for the premises,
  - 12.1.3 building signage for the premises,
  - 12.1.4 all rates, charges, taxes and other costs relating to the premises.
- 12.2 The Participating Council is to provide sufficient resources to support and maintain the Participating Council's Premises so as to ensure the effective and efficient operation of the RTRL Services from the premises.
- 12.3 The Participating Council is to consult with the Regional Library Manager in relation to any refurbishment of the Participating Council's Premises.
- 12.4 The Participating Council is to give the Administering Council 12 month's prior written notice of its intention to withdraw the Participating Council's Premises or any other Council Asset of the Participating Council from use in relation to the provision of the RTRL Services.
- 12.5 The Participating Council's Premises is to comply with all relevant laws, including occupational health and safety laws and the Building Code of Australia, at all times during the Term.

### **13 New or Additional Premises**

- 13.1 The Participating Council is to consult with the Regional Library Manager in relation to any new or additional premises that the Participating Council proposes to use in relation to the RTRL Services in its Area.
- 13.2 Premises referred to in clause 13.1 become Participating Council's Premises when the Regional Library Manager notifies the Participating Council in writing that the premises may be used in relation to the RTRL Services in its Area.
- 13.3 The Participating Council is to bear any additional costs incurred by the Administering Council in providing the RTRL Services resulting from any new or additional Participating Council's Premises.

### **14 Inspection and rectification of Participating Council's Premises**

- 14.1 The Administering Council is to inspect all Participating Council's Premises at least once in each year.
- 14.2 The Administering Council may give the Participating Council notice in writing that it requires works to be carried out to the Participating Council's Premises.
- 14.3 The Administering Council may only give a notice referred to in clause 14.2 if it considers that the works the subject of the notice are reasonably required:
  - 14.3.1 to ensure that the Participating Council's Premises comply with any relevant law, or
  - 14.3.2 to enable the Participating Council's Premises to be used for the provision of the RTRL Services in accordance with this Agreement.
- 14.4 Not later than 21 days after receiving a notice referred to in clause 14.2, the Participating Council may give the Administering Council notice in writing that it objects to the notice specifying the grounds of the objection.
- 14.5 The Administering Council is to consider the Participating Council's objection and is to give the Participating Council a further notice in writing stating whether the notice referred to in clause 14.2 is affirmed or varied and, if varied, specifying the details of the variation.
- 14.6 The Participating Council is to comply with a notice issued under clause 14.2 as affirmed or varied under this clause.

### **15 Participating Council's Insurances**

- 15.1 During the Term, the Participating Council is to hold:
  - 15.1.1 building insurance for the Participating Council's Premises, and
  - 15.1.2 any other insurance required by law.
- 15.2 At any time during the Term, the Administering Council may give the Participating Council a written request to produce to it evidence that the Participating Council holds the insurances referred to in clause 15.1.

- 15.3 The Participating Council is to comply with a request made under clause 15.2 not later than 14 days after it receives the request,

## **Part 4 - Library Committee and Regional Library Manager**

### **16 The Library Committee**

- 16.1 A Library Committee is constituted for the RTRL by this Agreement and any Similar Agreement.
- 16.2 The Library Committee is comprised of two members appointed by each of the Administering Council, the Participating Council and any Other Participating Council.
- 16.3 Pursuant to s11 of the Act, the Administering Council may delegate functions to the Library Committee from time to time, but may only do so with the agreement of the Participating Council and any Other Participating Council.
- 16.4 The Library Committee is subject to the direction and control of the Administering Council and has no power to direct or control any aspect of the RTRL Services except in accordance with a delegation given to it by the Administering Council in accordance with this Agreement.
- 16.5 The Parties are each entitled to appoint two persons to be members of the Library Committee and one alternate person who may attend meetings of the Library Committee if one or both members cannot do so.
- 16.6 A majority of the members of the Library Committee are to be present at a meeting in order to constitute a quorum.
- 16.7 Each member of the Library Committee present at a duly convened meeting at which a quorum is present may cast one vote of equal value in relation to any matter to be decided by the Library Committee.
- 16.8 The majority of votes cast by members of the Library Committee in relation to a matter constitutes a decision of the Library Committee.
- 16.9 The members of the Library Committee are to elect the chairperson of the Library Committee.
- 16.10 The Library Committee may only be dissolved or reconstituted by agreement between the Parties and any Other Participating Councils.
- 16.11 Except as provided by this Agreement, the Library Committee may determine the procedure for the calling of meetings, the conduct of those meetings, and the regularity of those meetings.

### **17 Functions of Library Committee**

- 17.1 The functions of the Library Committee are:



- 17.1.1 to monitor and advise the Parties on the content and implementation of the Service Level Agreements,
- 17.1.2 to represent the Parties' respective library service requirements,
- 17.1.3 to act as the primary liaison between the Parties in relation to the RTRL Services,
- 17.1.4 to develop a management plan for the RTRL Services,
- 17.1.5 to monitor and review current policies relating to the RTRL Services to ensure that they are consistent with the management plan,
- 17.1.6 to contribute to the development of new policy relating the RTRL Services,
- 17.1.7 to assist in the prioritisation of projects relating to the RTRL Services,
- 17.1.8 to identify emerging library developments relevant to the RTRL Services,
- 17.1.9 identify potential funding and partnership opportunities relevant to the RTRL Services, and
- 17.1.10 to exercise such other functions as may be delegated to it by the Administering Council.

## **18 Functions of the Regional Library Manager**

- 18.1 The functions of the Regional Library Manager are:
  - 18.1.1 to develop, maintain and implement a management plan for the RTRL Services in each Council's Area, in consultation with the relevant Council, any other staff employed in the branch library in that Area and the Administering Council,
  - 18.1.2 to provide advice to the Administering Council on all matters relevant to the policy, planning and development of the RTRL Services,
  - 18.1.3 to implement or assist in the implementation of decisions made by the Administering Council upon matters delegated to it under this Agreement,
  - 18.1.4 to provide advice and support to the Library Committee in order to assist it to properly exercise its functions,
  - 18.1.5 to manage the resources necessary for provision of the RTRL Services in a cost-effective manner,
  - 18.1.6 to select and purchase library books and materials in accordance with a management plan adopted by the Administering Council for the RTRL Services,
  - 18.1.7 to advise the Parties on the operation and staffing of branch libraries in their Areas,
  - 18.1.8 to act at all times in a professional and competent manner,
  - 18.1.9 to manage staff,

- 18.1.10 to develop and implement a training plan for all staff and volunteers engaged in the provision of the RTRL Services,
  - 18.1.11 to provide reports to the Executive Officer on the management of the RTRL Services and implementation of the management plan, and
  - 18.1.12 such other duties as determined by the Executive Officer from time to time.
- 18.2 The management plan referred to in clause 18.1.1 is to be consistent with the relevant Service Level Agreement, and is to include objectives for:
- 18.2.1 collection development,
  - 18.2.2 service development and delivery,
  - 18.2.3 staff training and development,
  - 18.2.4 staff evaluation and performance measures, and
  - 18.2.5 building maintenance and improvement.

## **Part 5 - Finance and budgeting**

### **19 Adopted Budget**

- 19.1 Not later than 31 March in each financial year, the Administering Council is to give the Participating Council a copy of the proposed budget for the RTRL Services for the following financial year.
- 19.2 The proposed budget referred to in clause 19.1 is to include the amount of the Participating Council's Contribution for the following financial year calculated in accordance with Schedule 3.
- 19.3 The Participating Council's Contribution in the proposed budget referred to in clause 19.1 is to be determined consistently with the Service Level Agreement.
- 19.4 The Administering Council is not to adopt the proposed budget referred to in clause 19.1 unless it has consulted with the Participating Council about the Participating Council's Contribution to be included in that budget
- 19.5 The proposed budget referred to in clause 19.1 is adopted for the purposes of this Agreement when the Administering Council signs and serves a copy of it on the Participating Council which shall be no later than 30 June each year.

## **Part 6 - Termination, Distribution of Assets and Disputes**

## **20 Termination on notice**

- 20.1 Either Party may terminate this Agreement after providing 12 months prior written notice to the other Party of its intention to do so, or on such shorter period of notice as is agreed between the Parties.
- 20.2 If the Participating Council terminates this Agreement under clause 20.1, it bears all costs reasonably incurred by the Administering Council as a result of the termination, including legal, administrative and staffing costs.
- 20.3 Clause 20.2 has effect after the date of the termination until all such costs are paid by the Participating Council.

## **21 Termination due to default of a Party**

- 21.1 If a Party to this Agreement considers that the other Party is in breach of any obligation under this Agreement, it may give the other Party notice in writing requiring the breach to be rectified to its satisfaction.
- 21.2 A notice referred to in clause 21.1 is to allow the Party to whom it is given not less than 28 days to rectify the breach or such further period as the Party giving the notice considers reasonable in the circumstances.
- 21.3 If a notice referred to in clause 21.1 relates to a breach of clause 5.1, 10.1 or 14.6 and is not complied with, the Party who gave the notice may terminate this Agreement after giving a further 14 days notice in writing to the other Party of its intention to do so.
- 21.4 Clause 24 does not prevent notices being given under clause 21.1 or 21.3 and does not apply to such a notice or the circumstances relating to the giving of the notice, and any procedure commenced under clause 24 ceases to apply when the notice is given.

## **22 Costs incurred as a result of default**

- 22.1 This clause applies if a Party terminates this Agreement due to default by the other Party and incurs costs in relation to the default.
- 22.2 Any costs referred to in clause 22.1 that are incurred by the Administering Council or Participating Council may be recovered as a debt due in a court of competent jurisdiction.

## **23 Distribution of Net Assets on termination**

- 23.1 Upon termination of this Agreement, the Participating Council:
  - 23.1.1 is entitled to the shares of the Administering Council's Assets provided for in clause 8,
  - 23.1.2 is entitled to the share of the Shared Assets that equates to the proportion that the Participating Council's Contributions bears to the sum of similar contributions made by:

- (a) the Administering Council under this Agreement and any Similar Agreements, and
  - (b) Other Participating Councils under Similar Agreements, during the period starting on the Commencement Date and finishing on the date at which the Agreement is terminated.
- 23.2 The composition of any distribution of the Participating Council's shares of the Administering Council's Assets and Shared Assets under clause 23.1 is to be determined by the Administering Council in consultation with the Participating Council so as to minimise the impact of any such distribution on the continuing delivery of RTRL Services.
- 23.3 The Administering Council may defer any distribution of the Participating Council's shares of the Administering Council's Assets and Shared Assets under clause 23.1 for a period of not more than 2 years from the date of termination of this Agreement, but if it does so the value of the Participating Council's shares accrues interest at the Approved Rate during the period of the deferral.
- 23.4 If all Similar Agreements are terminated before the period referred to in clause 23.3 expires, on termination of the last Similar Agreement, the Administering Council is to distribute the Participating Council's shares of the Administering Council's Assets and Shared Assets calculated in accordance with clause 23.1.
- 23.5 Nothing in this clause 23 affects the ownership of the Council Assets.
- 23.6 If the Agreement is terminated, the Participating Council is liable for the Participating Council's share of the liabilities, including contingent liabilities, of the Administering Council relating to the provision of the RTRL Services, including in relation to termination of staff, at the date of the termination.
- 23.7 This clause 23 continues to apply after the termination of this Agreement.

## 24 Dispute Resolution

- 24.1 A dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the dispute.
- 24.2 If a notice is given under clause 24.1, the Parties are to meet within 14 days of the notice in an attempt to resolve the dispute.
- 24.3 If the dispute is not resolved within a further 28 days, the Parties are to mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time and are to request the President of the Law Society, or the President's nominee, to select a mediator.
- 24.4 If the dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in relation to the dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.
- 24.5 Notwithstanding anything else in this clause, under s12(5) of the Act, if a Party applies to the Library Council for settlement of a dispute under this

Agreement, that dispute is to be settled by arbitration by an arbitrator appointed by the Library Council.

## **Part 7 - Other Provisions**

### **25 Assignment**

- 25.1 No party can transfer assign, novate or otherwise transfer its interest under this Agreement.

### **26 Notices**

- 26.1 Any notice, consent, information, application or request that is to or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:
- 26.1.1 delivered or posted to that Party at the address set out in the Summary Sheet, or
  - 26.1.2 faxed to that Party at the fax number set out in the Summary Sheet, or
  - 26.1.3 emailed to that Party at the email address set out in the Summary Sheet
- 26.2 If a Party gives the other Party 3 business days notice of a change of its address or fax number or email address, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed or emailed to the latest address or fax number or email address.
- 26.3 Any notice, consent, information, application or request is to be treated as given or made if it is:
- 26.3.1 delivered, when it is left at the relevant address,
  - 26.3.2 sent by post, 2 business days after it is posted, or
  - 26.3.3 sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number, or
  - 26.3.4 sent by email, if the sender does not receive a delivery failure message from the sender's internet services provider in relation to the email within a period of 48 hours of the email being sent.
- 26.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, or the period referred to in clause 26.3.4 expires, on a day that is not a business day or after 5pm on a business day, it is to be treated as having been given or made at 9am the next business day.

## **27 Approvals and Consent**

- 27.1 Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party.
- 27.2 A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

## **28 Costs**

- 28.1 The Parties are to bear their own costs of preparing, negotiating, executing and stamping this Agreement, and any document related to this Agreement.

## **29 Entire Agreement**

- 29.1 This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with.
- 29.2 No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.

## **30 Further Acts**

- 30.1 Each Party is to promptly execute all documents and do all things that another Party from time to time reasonably requests to effect, perfect or complete this Agreement and all transactions incidental to it.

## **31 Governing Law and Jurisdiction**

- 31.1 This Agreement is governed by the law of New South Wales.
- 31.2 The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them.
- 31.3 The Parties are not to object to the exercise of jurisdiction by those courts on any basis.

## **32 Joint and Individual Liability and Benefits**

- 32.1 Except as otherwise set out in this Agreement:
- 32.1.1 any agreement, covenant, representation or warranty under this Agreement by 2 or more persons binds them jointly and each of them individually, and

32.1.2 any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

### **33 No Fetter**

33.1 Nothing in this Agreement is to be construed as requiring any Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing is to be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

### **34 Representations and Warranties**

34.1 The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement is not to result in the breach of any law.

### **35 Severability**

35.1 If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it is to be read in the latter way.

35.2 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

### **36 Modification**

36.1 No modification of this Agreement is to be of any force or effect unless it is in writing and signed by the Parties to this Agreement.

### **37 Waiver**

37.1 The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.

37.2 A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given.

37.3 It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

### **38 GST**

- 38.1 In this clause:
- Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Supply and Tax Invoice** have the meaning given by the GST Law.
- GST Amount** means in relation to a Taxable Supply the amount of GST payable in respect of the Taxable Supply.
- GST Law** has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- Input Tax Credit** has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a party includes an Input Tax Credit for an acquisition made by that party but to which another member of the same GST Group is entitled under the GST Law.
- Taxable Supply** has the meaning given by the GST Law excluding (except where expressly agreed otherwise) a supply in respect of which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.
- 38.2 Subject to clause 38.4, if GST is payable on a Taxable Supply made under, by reference to or in connection with this Agreement, the Party providing the Consideration for that Taxable Supply is to also pay the GST Amount as additional Consideration.
- 38.3 Clause 38.2 does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Agreement to be GST inclusive.
- 38.4 No payment of any amount under this clause 38, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note as the case may be to the recipient.
- 38.5 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, is to exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability.
- 38.6 This clause continues to apply after expiration or termination of this Agreement.



**Schedule 1**

(Clause 1.1)

**Part A****Council Assets**

Asset	Council Owner

**[Drafting Note.** Insert details of assets used for RTRL Services which are owned by the Participating Council, Other Participating Council or the Administering Council and which are not intended to be distributed amongst the Councils on termination].

**Schedule 2**

(Clause 1.1)

**Service Level Agreement**

**[Drafting Note. Annex Service Level Agreement with Participating Council]**

### Schedule 3

(Clause 19.2)

#### Participating Council's Contribution

The Participating Council's Contribution is based on the Participating Council's share of:

1. branch costs,
2. mobile library costs,
3. book stock costs,
4. computer systems costs, and
5. headquarters costs.

##### Branch Costs

The Participating Council is to pay all direct staffing costs associated with the provision of RTRL Services in its Area.

##### Mobile Library Costs

The Participating Council is to pay a percentage of all costs associated with the mobile library.

The percentage is calculated as follows:

$$\text{Total Mobile Library Costs} \times \left( \frac{\text{Number of Mobile Library Opening Hours in Participating Council's Area}}{\text{Total Number of Mobile Library Opening Hours in the Areas of the Parties and Other Participating Councils}} \right)$$

##### Book Stock Costs

The Participating Council is to pay a percentage of all RTRL costs associated with book stocks.

The percentage is calculated as follows:

$$\text{Total Book Stock Costs} \times \left( \frac{\text{Estimated Population in Participating Council's Area}}{\text{Total Estimated Population in the Areas of the Parties and Other Participating Councils}} \right)$$

##### Computer Systems Costs

The Participating Council is to pay a percentage of all costs associated with the computer systems.

The percentage is calculated as follows:

$$\text{Total Computer System Costs} \times \left( \frac{\text{Number of PCs for Participating Council's Area}}{\text{Total Number of PCs for the Areas of the Parties and Other Participating Councils}} \right)$$

**Headquarters Costs**

Each Council is to pay a percentage of all costs associated with headquarters.

The percentage is calculated as follows:

Total Headquarters Costs x (Estimated Population in Participating Council's Area/Total Estimated Population in the Areas of the Parties and Other Participating Councils)

## **Execution**

**Executed as an Agreement**

**Dated:**

---

**Executed on behalf of Lismore City Council**

---

**General Manager**

---

**Witness/Name/Position**

---

**Executed on behalf of [Insert name] Shire Council**

---

**General Manager**

---

**Witness/Name/Position**

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## Document Control

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Version	Date	Reviewed PM	Approved PD
Draft Report 1.0	19 <sup>th</sup> September 2009	Jane Cowell	
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Final Report	30 October 2009	Jane Cowell	
Final Report Revision	5 November 2009	Jane Cowell	

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## **Executive Summary**

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### **Background**

The Richmond-Tweed Regional Library (RTRL) provides library services to residents of four (4) local government areas over an area of 3,650 square kilometres servicing the shires of Ballina, Byron and Tweed and the City of Lismore. Evolving from three (3) separate service agreements from the 1970s, RTRL is now not recognised as a legal arrangement under the Local Government Act 1993 or the Library Act 1939. The original agreements indicate, and subsequent legal advice confirms, that the Executive Council responsibility and associated risks and responsibilities for RTRL rest with Lismore City Council. Recent legal advice confirms that the current governance model for RTRL is untenable with Lismore City Council currently exposed to high risk.

In considering the available options it is vital to understand that the current library agreement cannot be amended to reflect current operations and management of RTRL as RTRL is not a legal entity. The Minister for Local Government has also advised that the option of a company limited by guarantee is not valid.

- **Data Gathering**

This report was informed by:

- Literature Review: to develop a clear understanding of the current status quo and the requirements for the revised business model.
- Benchmarking Exercise: to develop a clear base model of library service delivery the RTRL performance was benchmarked against the Living Learning Performance Standards 2008-2009.
- Stakeholder Consultations: to develop a clear understanding of all parties of an acceptable, legal business model as a way forward from the current untenable situation consultation was undertaken with representatives from the following key stakeholder groups.
  - RTRL Library Steering Committee
  - State Library of New South Wales
  - Department Local Government
  - Individual member Councils within the RTRL
- Financial Analysis: to establish an indication of the likely financial implications of adopting each of the three models discussed.

### **Literature Review**

Critical findings from the literature review are that RTRL can no longer continue to operate in its current business form and must move to a new Business model. While legal opinions differ between the Crown solicitor and the legal advice sought by RTRL, on a way forward, all legal advice received to date indicates that RTRL is definitely not a legal entity in its current form.

Indeed, this is also recognised in the forward plan for RTRL with detailed specific actions to be undertaken by the Library Director to resolve the issue in the coming twelve months.

### **Benchmarking Exercise**

The high level findings of the benchmarking exercise are compiled in the Table below. The complete analysis, to individual Council level is detailed in Appendix A.

Table E:1: RTRL Performance Standards

Criteria	RTRL Performance against the Living Learning Performance Standards
Opening Hours	<ul style="list-style-type: none"> <li>Above average</li> </ul>
Borrowers as Percentage of the Population	<ul style="list-style-type: none"> <li>Baseline level (48.4%)</li> </ul>
Circulation per Capita	<ul style="list-style-type: none"> <li>Exemplary</li> </ul>
Visits per Capita	<ul style="list-style-type: none"> <li>Baseline level</li> </ul>
Expenditure on library materials per capita	<ul style="list-style-type: none"> <li>Baseline level for 2009/2010 budget</li> </ul>
Total Expenditure on library services per capita	<ul style="list-style-type: none"> <li>Significantly below the baseline level</li> </ul>

### Stakeholder Consultations

The complete representation of key stakeholders involved in the consultation meeting are listed in **Table E:2**. *The findings of this consultation informed the Business Plan analysis.*

For a complete transcript of the outcomes of the stakeholder consultation meetings *see Appendix B*.

Table E:2 Key Stakeholders

Organisation	Name	Position	Representing
RTRL Library Steering Committee	Cr. Isaac Smith	Chair Regional Library Committee	Lismore City Council
RTRL Library Steering Committee	Cr Richard Staples	Deputy Chair	Byron Shire Council
RTRL Library Steering Committee	Cr. Susan Meehan	Library Committee Member	Ballina Shire Council
RTRL Library Steering Committee	Cr Katie Milne	Library Committee Member	Tweed Shire Council
RTRL Library Steering Committee	Martin Field	Director, RTRL	RTRL
RTRL Library Steering Committee	Rino Santin	Executive Member	Lismore City Council
RTRL Library Steering Committee	Paul O'Sullivan	General Manager	Lismore City Council
State Library of NSW	Cameron Morley	Acting, Director Public Libraries and Community Learning Services	State Library NSW
NSW State Department of Local Government	Michael Fleming	Director Reform Implementation Executive Branch	Department Local Government
NSW State Department of Local Government	David Alderman	Manager, Investigations and Review	Department Local Government
Ballina Shire Council	Phil Silver Paul Hickey Peter Morgan	Mayor General Manager Finance Manager	RTRL Member Council
Byron Shire Council	Mark Arnold  Jim Bolger	Acting General Manager Manager Community Services Finance Manager	RTRL Member Council
Tweed Shire Council	Joan van Lieshout Dot Holdom Mike Raynor David Oxenham  Gary Corbett  Troy Green	Mayor Councillor General Manager Director Community & Natural Resources Manager Community & Cultural Services Director, Technology & Corporate Services	RTRL Member Council
Lismore City Council	Jenny Dowell Paul O'Sullivan Rino Santin	Mayor General Manager Finance Manager	RTRL Member Council



## **Business Models**

The current RTRL business model has developed out of signed agreements between the member Councils pursuant to the Library Act 1939. Under the terms of the agreements, Lismore City Council acts as the Executive Council and bears the ultimate responsibility and associated risks for the library service under the agreement. Since 1985, the delivery of Library Services by the member Councils has been delegated to the RTRL Library Committee. All parties pay their contributions to the Library Committee, which then directs the operation of the library service through the Library Director. In practice, the RTRL Library Committee has delegated all Library Service operations to the RTRL Library Director who reports regularly to the Committee on service delivery, operations and financial matters.

**Before considering the available options it is vital to understand:**

- 1. The current library agreement cannot be amended to reflect the current operations and management of RTRL as RTRL is not a legal entity.**
- 2. Advice from the Minister for Local Government has also ruled out the option of a company limited by guarantee.**

The two business models which are considered to meet the established legislative requirements are a County Council and an Administrative Council model. Within the Administrative Council model there is an option for a Shared Services approach. The analysis findings in each case were that the current service delivery standard could remain unchanged.

### **County Council**

The County Council model has support at a local government elected level and has also been identified as the most suitable model to maintain the current structure in a Review of RTRL undertaken in 1995. Since 1995 the State political landscape has changed and the current State Government position is not supportive of creating small Councils, including County Councils. There is also a push for increased shared service models with future amalgamations of Councils in NSW a definite possibility. Implications for RTRL are that any future amalgamation possibilities would include the Richmond Valley Councils and would exclude the Tweed Shire. This has implications for the Tweed Shire in entering into a permanent County Council model at this time.

There is some doubt whether the Library subsidy can be paid to a County Council with the fundamental question of whether a County Council constitutes a Local Authority for the purpose of the Library Act currently being assessed by the Crown solicitor.

In assessing this model the significant time and cost involved in setting up a County Council for the delivery of library services needs to be considered against the current significant risk faced by the Executive Council and the need for this risk to be resolved as quickly as possible.

Given that Ministerial consent for a County Council will not eventuate in the short-term and cannot be guaranteed over the long-term, the County Council model is not ideal at this time.

### **Administrative Council**

The Administrative Council fundamentally changes the current autonomous model under which RTRL operates, with control moving from the Library Committee to the Administrative Council. Under the Administrative Council approach the administration of the library service is embedded within a broader Council administrative framework and has the potential to maintain current staff operational structures, ensuring minimal disruption for library staff and functionality across Shire boundaries and would maintain an inherent flexibility. All library staff would be employed by the Administrative Council.

Significant goodwill must exist between member Councils to ensure that a Service Level Agreement and a new Terms of Reference for the advisory role of the Library Committee

could be developed and agreed to quickly. It should be noted that each Council agreed to an ongoing role of the Library Committee, albeit in an advisory capacity.

Early consultations identified support for the Administrative Council model; however, the support was contingent on one of the other Councils acting as Administrative Council as all member Councils recognise the additional risk that would be borne by the Administrative Council.

This model is achievable and does not require Ministerial approval to implement. To ensure maximum effectiveness for the Administrative Council this model would need to be committed to by member Councils for a minimum of 5 years with an option for a further 5 years. This has implications for RTRL in that any future amalgamation possibilities would include the Richmond Valley Councils and would exclude the Tweed Shire. This poses some risk for the Tweed Shire in entering into a long-term Administrative Council model when the makeup of the Administrative Council may change in the long-term. This risk is lessened if Tweed Shire becomes the Administrative Council.

The development and agreement of the Service Level Agreements could take significant time if there is not significant goodwill and trust between all member Councils. The Library Committee would need to agree to an advisory role with new Terms of Reference developed. Recommendation may depend on financial impacts and risks.

### **Shared Services**

The Shared Services model is achievable in the short-term, does not require Ministerial approval to implement and requires significantly less rigorous service level agreements to be put in place, than the Administrative Council model. The Shared Services model also has the potential to be delivered under a County Council model with only the cooperative services being delegated to a County Council to deliver.

However, it fundamentally changes not only the autonomous model under with RTRL currently operates, but also the fundamental regional library operational model. This model relegates the responsibility for the delivery of library services back to the individual member Councils with efficiencies maintained with selected Shared Services such as Library Management System, Mobile Library, and collection acquisition.

Under this model the current staff operational structures will be significantly changed with library staff operating in the branch libraries being employed by the individual Councils and the Shared Services staff being employed by the Council administering / co-ordinating the agreed Shared Services.

## **Financial Analysis**

### **Implementation Costs**

The transition to any of the three models under consideration is almost certain to incur one-off implementation costs. Some of these implementation costs will be common to each of the models while others will vary depending on the model adopted.

One significant cost that is likely to vary according to the chosen model relates to the need for Councilor and Council staff resources in order to reach a mutually acceptable basis for the establishment and operation of the chosen model. Staff resources would be needed for the development of service level agreements and in reaching agreement on the appropriate disposal/allocation of assets. The scale of the establishment costs is likely to be determined by the willingness of each of the four Councils to co-operate when discussing the available options.

Once established a County Council can only be disbanded with Ministerial approval. The permanency of such a structure is likely to require additional resources to ensure the new body is appropriate for all parties and meets the appropriate corporate governance requirements. The need for additional resources is likely to mean the County Council model would take longest to establish and have the highest implementation costs. The requirement that all participating Councils agree to a minimum term as part of an Administrative Council model is also likely to incur significant implementation costs,

which although lower than for a County Council, are likely to be higher than for the more flexible Shared Services Model.

It is not possible to estimate the actual establishment costs that would be incurred in adopting each model due to the uncertainty around Council negotiating options. However, by way of illustration, based on a range of hourly costs per person involved (including staff time, accommodation, expenses and materials) the following table provides an indication of the costs to each Council.

**Table ES.1. Estimated RTRL Business Model Establishment Costs per Council**

Costs per Hour	\$50	\$60	\$70	\$80
Hours				
50	\$2,500	\$3,000	\$3,500	\$4,000
100	\$5,000	\$6,000	\$7,000	\$8,000
150	\$7,500	\$9,000	\$10,500	\$12,000
200	\$10,000	\$12,000	\$14,000	\$16,000

Source: AECgroup

The table shows the impact of the time required to reach agreement and the involvement of more senior staff on the total implementation costs to each Council.

**Operating Costs**

Given the success of the existing service delivery mechanism, it has been determined that where possible no change should be made to the customer facing elements of RTRL. Therefore, it has been assumed the costs of providing these services including purchasing books and other library materials and branch employee expenses would remain the same irrespective of the model adopted. The fundamental differences in the costs associated with each model relate to the functions which support service delivery.

The following table disaggregates constant costs (which remain the same under each model option) and variable costs (likely to change depending on the model implemented).

The changes in the variable costs are principally related to the service delivery support functions. The constant costs are taken from the RTRL 2008-2011 Forward Plan. Employee expenses have been reduced by the costs of the Library Manager's Contract and the salaries and on costs associated with the Regional Librarian, HR Manager and IT staff.

Table ES.3. Estimated Operating Costs Incurred Under each Model

Item	County Council	Administrative Council	Shared Services
<b><i>Constant Operating Costs</i></b>			
Administration	\$97,900	\$97,900	\$97,900
Salaries and Overhead Expenses	\$3,211,047	\$3,211,047	\$3,211,047
Travelling Expenses & Subsistence	\$16,800	\$16,800	\$16,800
Expenses of Providing Assets	\$140,500	\$140,500	\$140,500
Library Service Working Expenses	\$226,510	\$226,510	\$226,510
Publications	\$260	\$260	\$260
Computer Processing Centre Expenditure	\$185,700	\$185,700	\$185,700
Fixed Assets/ Capital Expenditure	\$925,399	\$925,399	\$925,399
Transfers to Restricted Assets	\$100,962	\$100,962	\$100,962
<b><i>Variable Operating Costs</i></b>			
<ul style="list-style-type: none"> <li>• Increased Workcover Contributions: Additional costs incurred by Council as employer compared to RTRL. Premium is calculated as percentage of payroll: <ul style="list-style-type: none"> <li>○ Libraries 1.80%</li> <li>○ Council 2.89%</li> </ul> </li> </ul>	\$-	\$39,743	\$39,743
<ul style="list-style-type: none"> <li>• SLAs: Service Level Agreements between service provider and service taker. Costs based on: <ul style="list-style-type: none"> <li>○ 16 hours preparation time (\$75 per hour)</li> <li>○ 4 hours administration time(\$ 75 per hour)</li> <li>○ 4 hours general manager time (\$100 per hour)</li> <li>○ 1 hours Council time (\$1,000 per hour)</li> </ul> </li> </ul>	\$14,000	\$14,000	\$14,000
<ul style="list-style-type: none"> <li>• Dividend: Additional payment above service delivery costs required by service provider to compensate for risks. Estimate based on: <ul style="list-style-type: none"> <li>○ 2.5% of operating expenses Administrative Council</li> <li>○ 1.5% of operating expenses Shared Services</li> </ul> </li> </ul>	\$-	\$134,303	\$80,582
<ul style="list-style-type: none"> <li>• General Manager: Responsible for coordinating the whole library service including both service delivery and support. Estimated cost based on: <ul style="list-style-type: none"> <li>• 1 FTE \$120,000 salary plus 30% oncosts<sup>(a)</sup></li> </ul> </li> </ul>	\$156,000	\$-	\$-
<ul style="list-style-type: none"> <li>• Regional Librarian: Responsible for the coordination of service delivery through the service area. Estimated cost based on: <ul style="list-style-type: none"> <li>• 1 FTE \$100,000 salary plus 30% oncosts</li> <li>• <i>Note Current Regional Reader Services Manager paid \$86,000 plus 30% oncosts</i></li> </ul> </li> </ul>	\$130,000	\$130,000	\$111,800 <sup>(b)</sup>
<ul style="list-style-type: none"> <li>• Local Government Compliance Officer: Responsible for ensuring all processes are fully compliant with the requirements of the Department for Local Government. Estimated cost based on: <ul style="list-style-type: none"> <li>○ 0.5 FTE \$65,000 salary plus 30% oncosts</li> </ul> </li> </ul>	\$42,250	\$- <sup>(c)</sup>	\$- <sup>(c)</sup>

Item	County Council	Administrative Council	Shared Services
<ul style="list-style-type: none"> <li>Finance Officer: Responsible for the management of Library finances. Estimated cost based on:                             <ul style="list-style-type: none"> <li>0.5 FTE \$65,000 salary plus 30% on costs</li> <li>Note: Current finance officer appointed to RTRL paid \$10,800 gross with the current Director RTRL the designated Finance/Accounting Officer</li> </ul> </li> </ul>	\$42,250	\$- <sup>(c)</sup>	\$- <sup>(c)</sup>
<ul style="list-style-type: none"> <li>HR Officer: Responsible for all library HR requirements. Estimated cost based on:                             <ul style="list-style-type: none"> <li>0.5 FTE \$65,000 salary plus 30% oncosts</li> <li>Currently RTRL HR Manager salary is \$49,000 plus oncosts for 4 days per week</li> </ul> </li> </ul>	\$42,250	\$- <sup>(c)</sup>	\$- <sup>(c)</sup>
<ul style="list-style-type: none"> <li>IT Officer: Responsible for all IT services including in branch services. Estimated cost based on:                             <ul style="list-style-type: none"> <li>Currently 1FT IT Manager \$82,000 plus oncosts and 1FT Trainee Assistant \$45,000 plus oncosts assumed no change under County Council model</li> <li>Administrative Council and Shared Services 1.5 FTE IT staff both positions at \$65,000 each as Management position no longer required</li> </ul> </li> </ul>	\$165,750	\$126,750	\$126,750
<ul style="list-style-type: none"> <li>County Council Meeting Attendance Costs: Costs of payments to County Councilors</li> </ul>	\$30,000	\$-	\$-
<b>Constant Operating Costs</b>	<b>\$4,905,078</b>	<b>\$4,905,078</b>	<b>\$4,905,078</b>
<b>Variable Operating Costs</b>	<b>\$605,461</b>	<b>\$444,796</b>	<b>\$372,874</b>
<b>Total Operating Costs</b>	<b>\$5,510,678</b>	<b>\$5,349,874</b>	<b>\$5,277,952</b>

Notes: (a) Current Director's salary \$118,000 plus 30% oncosts (b) The Shared Services Coordinator role is a lesser role than the Regional Librarian role and calculated at 1FTE \$86,000 salary plus 30% oncosts, (c) Councils indicated these roles and costs could be absorbed within existing Council resources  
 Source: AECgroup

The differences in costs between the models relate to the management functions required to support library service delivery. In the County Council model, these functions are provided internally by the stand alone body. As a result, there are additional costs compared to the other models where consultations suggest these functions could be absorbed within existing Council operations at little additional cost and without the need to recruit additional staff or to secure other accommodation.

The additional costs under each management model show the same order as the establishment costs, with the County Council being more expensive than the Administrative Council and the Shared Services model having the lowest costs and reflect the higher costs involved in establishing the more permanent structures of the County Council and Administrative Services model.

It is essential to recognise these estimates are based on Councils being able to achieve the efficiency savings they identified during consultations and the responsibilities for library services combined with an existing division of Council with the Regional Librarian reporting to an existing Director. If these savings cannot be delivered the costs of services under the Administrative Service and Shared Services models could be significantly higher.

Were the Administrative Council required to increase its staff complement by two FTE positions and a Director, this would increase operating costs by approximately \$247,000 (based on a salary of \$100,000 for the Director and \$45,000 and on costs of 30%). This change would be large enough to make the Administrative Council more expensive than the County Council model and significantly increase the costs of the Shared Services model.

## **Findings and Recommendations**

The following sections provide a summary of the key findings following the analysis of the business model options available to the member Councils.

### **Findings**

1. There will be costs associated with the transition to any new model, in particular the cost of establishing the initial service agreement. The extent of these costs will be determined by the negotiating position adopted by each Council but are likely to be highest for the County Council and Administrative Council, with the establishment costs of the Shared Services model significantly lower.
2. A County Council model on the scale of the RTRL is likely to incur administrative inefficiencies compared to other models which would use the larger size of Council(s) existing support functions to absorb the costs of supporting library service delivery. There is ongoing uncertainty over the legal status of a County Council and its ability to receive the State Government library subsidy as well as an indication that the Department of Local Government may also have objections.
3. The ability of Councils to deliver the stated efficiency savings is a key risk in assessing between models. If Councils are unable to deliver these savings as stated the cost of operating the Administrative Services or Shared Services model could increase significantly.
4. Some Councils indicated they would be unwilling to support the establishment of another County Council unless it could be combined with an existing County Council model. However, the management costs of combining County Councils which cover different geographic areas combined with competing priorities for staff time are thought to make this an unworkable solution. It is also unknown whether this would receive State Government approval.
5. An Administrative Council model, which incorporates a role for the Library Committee, would comply with all relevant legislative requirements, allow member Councils to continue to deliver the existing regional library service while accessing the benefits of economies of scale in the provision of support functions.

6. An Administrative Council model is reliant on a member Council accepting the role including becoming employer to an additional 100 staff and being answerable for service delivery both within and outside of the Council boundary.
7. An Administrative Council model could be established relatively quickly (subject to agreeing terms and conditions), and could be used as a building block towards adoption of a County Council model if there was sufficient interest in pursuing this option over the longer-term.
8. The Shared Services model allows Councils greater control over service delivery within their boundary while accessing efficiency savings in strategic support functions such as procurement and IT support. By becoming employer, each Council would be able to absorb the additional requirement for support within their existing operations.
9. The Shared Services model would be the most flexible, avoiding the extended commitment inherent in the alternative options.
10. The Shared Services model could erode some of the service delivery benefits associated with the regional library approach.
11. The avoided costs associated with the Administrative Council and Shared Service models are dependent upon Councils being able to provide the required support services within their current resources as they have indicated they could do.

### **Recommendations**

1. Given that the current Executive Council is exposed to significant risk which needs to be resolved quickly and the current political landscape, the County Council model should not be pursued as a first option at this time.
2. Councils should establish whether any of the four Councils is willing to act as the Administrative Council.
3. If a Council is willing to act in this role, the Administrative Services model should be pursued as a first option in order to implement a library services management model which is:
  - a. Fully compliant with the terms of the legislation
  - b. Could maintain the current service delivery model
  - c. Would not require the establishment of a new entity
  - d. Is not thought likely to incur significant additional operating costs
  - e. Has support at a State Government level
4. If an Administrative Council Model is pursued, a working committee made up of representatives from all four Councils should be established to consider:
  - a. The treatment of the HQ building, the mobile library and other RTRL assets
  - b. The appropriate term of any agreement
  - c. The notice period to leave the group
  - d. The appropriate handling of Councils that wish to reduce their payments
  - e. Terms of reference for the Library Committee
5. If no Council is willing to act as Administrative Council, Councils should establish whether any of the four Councils would be willing to accept the administration role in the Shared Services model.
6. If a Council is willing to act in this role, the Shared Services model should be pursued in order to implement a library services management model which is:
  - a. Fully compliant with the terms of the legislation
  - b. Would not require the establishment of a new entity
  - c. Is not thought likely to incur significant additional operating costs

- d. Has support at a State Government level
- 7. If a Shared Services model is pursued a working committee made up of representatives from all four Councils should be established to consider:
  - a. Which services should be shared and which should become the responsibility of individual Councils
  - b. The most appropriate treatment of the HQ building, the mobile library and other RTRL assets
  - c. The most appropriate co-ordination strategy for the Shared Services model
  - d. The most appropriate strategy for the transfer and recruitment of RTRL library staff to each individual Council



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1.

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# 1. Introduction

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## 1.1 Background

The Richmond-Tweed Regional Library (RTRL) provides library services to residents of the shires of Ballina, Byron and Tweed and the City of Lismore over an area of 3,650 square kilometres. The service consists of 12 stationary library branches (including the head quarters building which also houses reference and genealogy services) and one mobile library stopping at over 18 different locations around the region.

RTRL evolved from three separate library service agreements signed during the 1970's between Lismore City Council and the Shires of Ballina, Byron and Tweed. The original agreements indicate that the Executive Council responsibility and associated risks and responsibilities rest with Lismore City Council. However, over time RTRL has taken over as employer and asset holder<sup>1</sup>. Recent legal advice confirms that the current governance model for RTRL is untenable.

For some time RTRL has made efforts to address the issues around its legal status in order to become compliant with the relevant legislative requirements. Despite these efforts, it has not been possible to find a solution acceptable to all parties. It is now imperative that a revised governance model is adopted which complies with the relevant legislation while maintaining current service delivery standards.

## 1.2 Need for the Report

The current RTRL business model is untenable and so it is imperative that an acceptable alternative model be developed and implemented as soon as possible. However, it is also important that any decision is considered within a broader context. In developing recommendations the following impacts have been considered:

- Current political landscape, both at State and Local level;
- Operating risks;
- Governance model functionality;
- Time to implementation;
- Financial impacts; and
- Service delivery impacts.

## 1.3 Report Objectives

The main objective from the report is to provide a robust assessment of the viable options for the management of the library service. Stakeholder consultations have clearly identified that Councils want to maintain current library service delivery. However, a revised governance framework is required which will meet all of the legislative requirements and facilitates the continuation of the current service standards without imposing unnecessary costs on ratepayers.

The current library service delivery model does not meet the legislative requirements and so is not considered as a viable structure in this review. However, the current service delivery outcomes will be used to assess any potential impacts on service delivery under either of the options under review.

# 2.

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<sup>1</sup> It is recognised RTRL is not entitled to hold assets, however this discussion relates to those assets purchased using RTRL funds which were contributed by the four member Councils.

## Data Gathering

### 2.1 Literature Review

The objectives of the literature review were to develop a clear understanding of current operations and the requirements for the revised business model. A summary of each component of the data reviewed is contained in the table below.

**Table 2.1. Summary of Key Findings from the Literature Review**

Literature	Summary
<p>Current Governance Arrangements for the Richmond Tweed Regional Library:</p> <ul style="list-style-type: none"> <li>• Agreement between City of Lismore and Municipality of Ballina (1971)</li> <li>• Agreement between City of Lismore and Shire of Tweed (1973)</li> <li>• Agreement between City of Lismore and Shire of Byron (1978)</li> </ul>	<ul style="list-style-type: none"> <li>• The current agreements set out the parameters for the provision of a Regional Library Service for the delivery of library services to each Council area residents:</li> <li>• The Agreement sets out the establishment of a joint Library Committee and specifies the makeup of that Committee and appointment of members.</li> <li>• The sole arbiter in the event of any disagreement shall be: <ul style="list-style-type: none"> <li>○ Library Board of New South Wales for City of Lismore and Shire of Tweed,</li> <li>○ Public Libraries Division of the State Library of NSW for City of Lismore and Shire of Byron</li> </ul> </li> <li>• Not detailed in the agreement with City of Lismore and Municipality of Bryon however, determination of apportionment of bookstock in the event of termination of the agreement rests with the Chief Librarians of each Council.</li> </ul>
<p><i>Review of Richmond Tweed Regional Library</i> Library Consultancy Services Pty Ltd April 1995</p>	<p>The review brief was to:</p> <ul style="list-style-type: none"> <li>• Examine practical ways for a regional library service to be undertaken while maintaining library service levels</li> <li>• Establishment of an autonomous Library Committee and Organisational Structure and identification of a staffing structure</li> <li>• Examine roles and responsibilities for staff supervising Library operations in each Council local government area.</li> </ul> <p>The findings of the review were:</p> <ul style="list-style-type: none"> <li>• A County Council represented the most effective long term structure for the library service, but given that Ministerial consent was required a new Interim Corporate structure under the Library Act was needed</li> <li>• A new Library Management structure be adopted, including the appointment of a Library Director</li> </ul>
<p>Legal Advice for Regional Library Manager RTRL 8 April 1998 Phillips Fox Lawyers</p>	<ul style="list-style-type: none"> <li>• The Library Act 1939 does not provide for the only means by which a regional library may be operated by a group of Councils</li> <li>• The Library Act does not preclude a subsidy under the Act from being given to councils operating a regional library otherwise than in accordance with that Act</li> <li>• The Legal arguments in regard to the above matters were detailed in the written response.</li> <li>• This legal opinion has not been tested in a Court of Law</li> </ul>
<p>Legal Advice for Lismore City Council 23 February 2009 Lindsay Taylor Lawyers</p>	<p>Legal advice was sought on the creation of a County Council amendment to the agreement entered into between Lismore City Council and Ballina, Byron and Tweed Shire Councils</p> <p>The findings are confidential: <i>Currently, the Public Library Consultative Committee has requested a series of questions regarding Regional Libraries which includes questions regarding the creation of a County Council, and its eligibility for the library subsidy, to the Crown Solicitor for advice.</i></p>

Literature	Summary
Taking Stock, Draft Forward Plan 2009-2011 RTRL	<p>Sets out a detailed forward plan to meet the planned objectives in the 2006-2011 Strategic Plan, including six key areas:</p> <ul style="list-style-type: none"> <li>• Customer Service</li> <li>• Collections and Services</li> <li>• Staff, 'Friends' and Volunteers</li> <li>• Accommodation and Access</li> <li>• Promotion Publicity and Advocacy</li> <li>• Technology</li> </ul> <p>Within this Plan, 5.3.1 details the following:</p> <ul style="list-style-type: none"> <li>• To establish a Regional Library Agreement that is satisfactory to all constituent Councils, and the State Library of NSW.</li> <li>• Performance Targets 2009-2011 set that are relevant to this review</li> <li>• The Director to maintain liaison with all stakeholders to gain approval for the Richmond Tweed Regional Library to establish as a legal entity, as a matter of urgency</li> <li>• To develop a new Regional Library Agreement within six months of the Regional Library being established as a legal entity.</li> </ul> <p>Note: This Forward Plan had not been adopted at the time of this review</p>

Source: AECgroup

Critical findings from the literature review are that RTRL can no longer continue to operate in its current business form and must move to a new Business model. While legal opinions differ between the Crown solicitor and the legal advice sought by RTRL, on a way forward, all legal advice received to date indicates that RTRL is definitely not a legal entity in its current form.

Indeed, this is also recognised in the forward plan for RTRL with detailed specific actions to be undertaken by the Library Director to resolve the issue in the coming twelve months.

## 2.2 Benchmarking Library Service Delivery

In order to establish a baseline Library service delivery level for the Richmond-Tweed Library Service (RTRL), a benchmarking exercise was undertaken using 2008-09 performance data available from the NSW Public Library Statistics (PLS) and the Living Learning Libraries: Standards and Guidelines for NSW Public Libraries 2008.

The benchmarks provide comparisons of key performance measures of the four (4) individual local government areas that comprise the RTRL, against the Living Learning Performance Standards 2008-2009 to develop a clear base model of library service delivery.

It is recognised that these Councils have varying levels of population, and this is accounted for in benchmarks that provide per capita comparisons.

The following key indicators are examined:

- Opening hours;
- Borrowers (registered library members) as % of Population;
- Visits to library per capita;
- Circulation per capita;
- Expenditure per capita.

For a full breakdown of all performance benchmarks and supporting tables and graphs see **Appendix A**.

### 2.2.1 Total Opening Hours

This indicator shows the total library opening hours, including all central and branch opening hours, and mobile library stops (i.e. the number of hours that mobile libraries are accessible to the public).

When benchmarked with the Living Learning Performance Standards, all library services recorded an above average level, with Tweed reporting the highest weekly opening hours (144.13 hours).

### **2.2.2 Borrowers as a Percentage of the Population**

This indicator shows the number of people who are registered library members, expressed as a percentage of the resident population.

Both Byron Shire (59.0%) and Lismore (54.3%) recorded the highest percent of population who are library members in 2008/09, higher than the 'Enhanced' (53.0%) standard. Ballina recorded a 'baseline' level at 50.5% while Tweed recorded membership levels below the 'baseline' level (40.5%).

Overall, the RTRL service as a whole (48.4%), reported a 'baseline' level when compared with the Living Learning Performance Standards.

### **2.2.3 Circulation per Capita**

This indicator shows the number of items loaned from all service points expressed per head of population. For the 2008/09 period, all Council areas within the RTRL reported an 'Exemplary' level of circulation per capita.

The highest loans per capita for the 2008/09 period was recorded in Ballina (11.60 issues per head of population) and Lismore (11.49 issues per head of population).

Whilst Tweed (8.87) recorded the lowest circulation per capita out of the four benchmarked libraries, the service achieved an 'Exemplary' level compared with the Living Learning Libraries: Standards and Guidelines for NSW Public Libraries 2008.

### **2.2.4 Visits per Capita**

This indicator shows the number of 'in person' visits to all library service points, expressed per head of resident population. As can be seen, Byron Shire (7.8) reported an 'Exemplary' level when benchmarked with the standard (6) and above other Council areas.

Ballina (4.9) and the RTRL as a whole is in line with the 'baseline' level (4.8).

Tweed (4.2) and Lismore (4.5) recorded the lowest visits per head of population, and below the 'baseline' standard (4.8).

### **2.2.5 Expenditure on Library materials per Capita**

This indicator shows the level of expenditure spent on library materials expressed as a proportion of the resident population.

As can be seen, the RTRL reported close to an 'Enhanced' (\$4.65) level of library materials expenditure at \$4.57 per head of population for the 2007/08 period.

When compared with the 2009/10 current Budget for all Councils, the RTRL service recorded a 'baseline' level at \$4.06 (compared to \$3.95).

### **2.2.6 Total Expenditure on Library Services per Capita**

The RTRL reported \$27.60 total expenditure per capita in 2009/10, significantly below the 'baseline' average (\$38.66).

## **2.3 Stakeholder Consultation**

The objectives of the stakeholder consultation phase were to develop a clear understanding of all parties of an acceptable, legal business model as a way forward from the current untenable situation.

Consultation was undertaken with representatives from the following key stakeholder groups:

- RTRL Library Steering Committee
- State Library of New South Wales
- Department Local Government
- Individual Councils within the RTRL
  - Ballina Shire Council
  - Byron Shire Council
  - Tweed Shire Council
  - Lismore City Council

For a complete transcript of the outcomes of the stakeholder consultation meetings **see Appendix B.**

**2.3.1 RTRL Library Steering Committee**

The Richmond Tweed Regional Library Committee met with AECgroup consultants Jane Cowell and David Sinclair on Friday 24 July, 2009 from 9.30am – 11.30am at Byron Shire Council Offices in Mullumbimby. The agenda for the meeting was to discuss the proposed business models from the Library Committee view and determine pros and cons for each model.

**Table 2.2. RTRL Meeting Attendees**

Name	Position	Representing
Cr. Isaac Smith	Chair Regional Library Committee	Lismore City Council
Cr Richard Staples	Deputy Chair	Byron Shire Council
Cr. Susan Meehan	Library Committee Member	Ballina Shire Council
Cr Katie Milne	Library Committee Member	Tweed Shire Council
Mr. Martin Field	Director, RTRL	Richmond Tweed Regional Library
Mr. Rino Santin	Executive Member	Lismore City Council
Mr Paul O'Sullivan	General Manager	Lismore City Council

**2.3.2 State Library of New South Wales**

A meeting was held at the State Library on 18th August, 2009 from 11 am – 1pm. The agenda for the meeting was to discuss the proposed business models in conjunction with the Library Act 1939, other regional library models across the State, current regional library issues resulting from the recent forum and discuss a way forward.

**Table 2.3. Public Libraries NSW Meeting Attendees (18th August 2009)**

Name	Position	Representing
Cameron Morley	Acting, Director Public Libraries and Community Learning Services	State Library NSW

Note: Frances Sims, Acting State Librarian was an apology for this meeting.

**2.3.3 NSW Department of Local Government**

A meeting was held at the NSW Department of Local Government Offices, 323 Castlereagh Street, Sydney on 18th August, 2009 from 9.30am – 10.30am. The agenda for the meeting was to discuss the proposed business models and seek advice from the Department regarding a way forward.

**Table 2.4. NSW Department of Local Government Attendees (18<sup>th</sup> August 2009)**

Name	Position	Representing
Michael Fleming	Director Reform Implementation Executive Branch	Department Local Government
David Alderman	Manager, Investigations and Review	Department Local Government

**2.3.4 Individual Shire Councils**

On Wednesday 26<sup>th</sup> and Thursday 27<sup>th</sup> AECgroup consultants met individually with Senior staff and elected officials at each of the Councils participating in the Richmond Tweed Regional Library Service (RTRL). Invitations were sent to the Mayors, General Managers, and Finance Managers and to the Library Committee delegates from each Council. The attendees were as follows:

**Table 2.5. Local Government Consultations Attendees (27<sup>th</sup> and 28<sup>th</sup> August 2009)**

Council	Attendee	Position
Ballina Shire Council	Phil Silver	Mayor
Ballina Shire Council	Paul Hickey	General Manager
Ballina Shire Council	Peter Morgan	Finance Manager
Byron Shire Council		Acting General Manager
Byron Shire Council	Mark Arnold	Manager Community Services
Byron Shire Council	Jim Bolger	Finance Manager
Tweed Shire Council	Joan van Lieshout	Mayor
Tweed Shire Council	Dot Holdom	Councillor
Tweed Shire Council	Mike Raynor	General Manager
Tweed Shire Council	David Oxenham	Director Community & Natural Resources
Tweed Shire Council	Gary Corbett	Manager Community & Cultural Services
Tweed Shire Council	Troy Green	Director, Technology & Corporate Services
Lismore City Council	Jenny Dowell	Mayor
Lismore City Council	Paul O'Sullivan	General Manager
Lismore City Council	Rino Santin	Finance Manager

The agenda for the meetings included an introduction of the three models under discussion:

- County Council Model
- Administrative Council Model
- Shared Services Model

Discussion was held under each model and the pros and cons for Council were discussed.

The findings from these consultations have been consolidated within the rationale and analysis of each Business Model in the following chapter.

**3.**



## Business Models

The current RTRL business model has evolved out of agreements between the member Councils pursuant to the Library Act 1939. Under the terms of the agreements, Lismore City Council acts as the Executive Council and bears the ultimate responsibility and associated risks for the provision of library services. Since 1985, the delivery of library services has been delegated to the RTRL Library Committee. Currently, RTRL employ staff and hold assets. The Library Committee has effectively delegated library service operations to the RTRL Library Director who reports regularly to the Committee on service delivery, operations and financial matters.

### 3.1 Available Options

**Before considering the available options it is vital to understand:**

- 1. The existing library agreement cannot be amended to reflect the current operations and management of RTRL as RTRL is not a legal entity.**
- 2. Advice from the Minister for Local Government has also ruled out the option of a company limited by guarantee.**

The two business models which are considered to meet the established legislative requirements are a County Council and an Administrative Council. Within the Administrative Council model there is the opportunity to pursue a Shared Services approach, providing a third option. Each option has been assessed separately.

### 3.2 County Council

The County Council model was the most favoured by the elected members and the RTRL Library Committee. The reasons given were that the County Council model:

- Was already understood from interactions with Rous Water;
- Had permanence and would foster the adoption of a strategic approach to library services; and
- Allowed for the continued direct involvement of elected officials from each Council in the decision making process.

However, it was acknowledged there would be limited chance of gaining Ministerial approval for a new County Council prior to the next State election. Consultation with representatives from the Department of Local Government did not give a clear indication whether this model would gain the necessary approval from the relevant Minister. However, it was suggested that there is less support for County Councils in NSW than in the past and that the approval process is likely to be lengthy.

Stakeholders also suggested the possibility of utilising an existing County Council to operate the regional library service in addition to the service it was originally set up to deliver. While this approach might allow the combined County Council to access efficiencies in the delivery of support functions, risks associated with this approach include:

- None of the existing County Councils in the region operate over the same geographical area as the Richmond Tweed Regional Library;
- No other County Council in NSW has ever run more than one regional service; and
- It is unknown whether a County Council could legally operate regional services across two different geographical areas.

Finally, representatives from the State Library of NSW advised that a clarification was being sought from the Crown regarding the legality of the County Council model as a Local Authority under the Library Act and the ability for the Library subsidy to be paid to a County Council.

**3.2.1 Service Delivery**

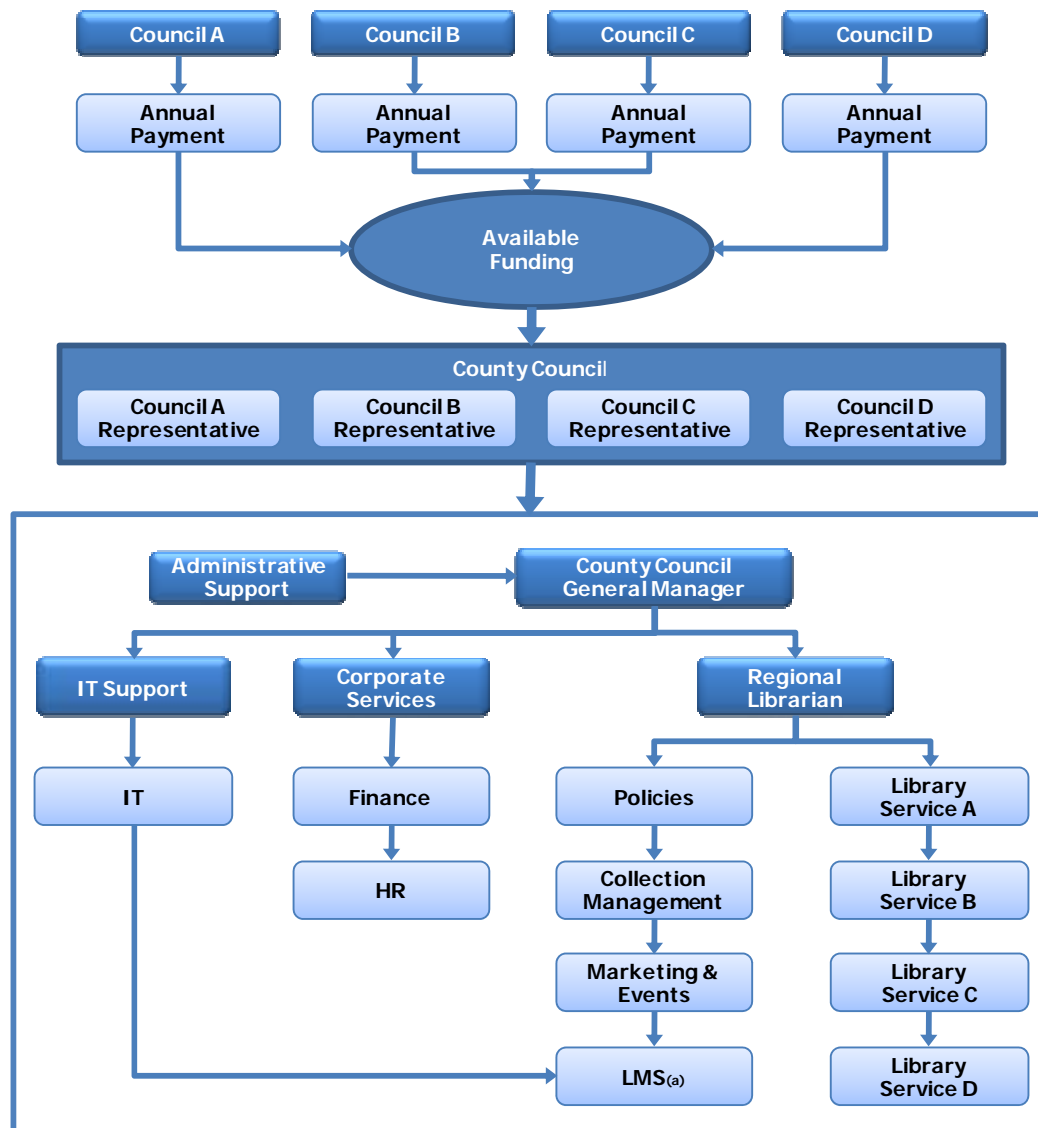
Key service delivery features of the County Council model include:

- County Council may delegate many of the operational functions of a regional library service to the General Manager;
- All current library staff would become staff of the County Council and would operate under the direction of the General Manager;
- The service delivery standard would be determined by the County Council, with input from Councillors;
- The current service delivery structure could be retained, including staff flexibility to operate from a number of locations and across Shire boundaries; and
- It is very unlikely there would be any noticeable service disruption to library users.

**3.2.2 Governance**

The County Council model is the closest to the existing structure and allows for the Library Service to operate autonomously, under its own governing body made up of elected representatives from the member councils, in this case, Ballina Shire, Byron Shire, Lismore City and Tweed Shire.

Figure 3.1. Strategic Overview of a County Council Model



Notes: (a) Library Management System  
Source: AECgroup

The current role of the Library Committee would be undertaken by the County Council's governing body with each member Council having equal representation. Adoption of a County Council model would require the appointment of a General Manager, with previous reports recommending that this role would be undertaken by the Library Director, however, the role would require a detailed understanding of the requirements of the Local Government Act and operation of Councils in addition to library service management and service delivery.

**Table 3.1. Identified Pros and Cons of the County Council Model**

Pros	Cons
Whole region view	Loss of direct control by Councils with the service delivery standard determined solely by the County Council
Permanent structure	Lack of support for a single service County Council model
Known structure	Significant time required to establish
Can borrow for significant capital investment when required	Current political environment in the State of NSW
Support of local elected members	General Manager required that has significant understanding of the Local Government Act and the operation of Councils
Maintains current Library Service autonomy	Requires long term commitment in a time of possible change in the Local Government political landscape
Is a recognised legal entity under the Local Government Act	

Source: Consultation

Key Governance requirements for a County Council include:

- Requires establishment by the Governor under Section 387 of the Local Government Act;
- Governing body made up of members elected from participating Councils;
- Governing body elects a chairperson annually;
- General Manager must be appointed;
- Must meet 4 times per year;
- Member Councils make contributions to the County Council;
- Must provide a Public Annual Report and audited statement of accounts including:
  - An annual report which includes a copy of the audited statement of accounts for the Regional Library Service;
  - Details of the activities of the Regional Library Service including, and not limited to, statistics of purchases for the library collection;
  - A report outlining:
    - The collection size, including its age and distribution;
    - The number of borrowers and of items borrowed;
    - The number of library visits;
    - The number and type of value-added services; and
    - An assessment of the quality of service provided to each Member Council by the Regional Library Service.

### **3.2.3 Financial Impacts**

#### **RTRL Assets<sup>2</sup>**

Under the County Council model, all RTRL assets (including the head quarters building, mobile library and the book stock) would be transferred to the County Council.

<sup>2</sup> It is recognised RTRL is not entitled to hold assets, however this discussion relates to those assets purchased using RTRL funds which were contributed by the four member Councils.

**Establishment Costs**

The main set up cost associated with the County Council model would be incurred by the existing Councils in reaching consensus on the founding agreement. Once established a County Council cannot be disbanded without Ministerial approval and so Councils must be satisfied that the entity they create is not going to become a burden on ratepayers in the future. Initial discussions are likely to require Council briefing to agree a position, report back to a working group, and provide regular progress reports. These costs would be incurred by all four Councils.

The County Council is also the only model which would require separate accommodation, all other models would absorb support staff within their existing operations. However, it would be anticipated that a County Council would be based out of the current RTRL headquarters building, contingent on the four Councils agreeing to transfer this asset to the County Council, negating the need for the purchase of a new building.

**Operating Costs**

Given the success of the existing service delivery mechanism, it has been determined that where possible no change should be made to the customer facing elements of RTRL. Therefore, it has been assumed the costs of providing these services including purchasing books and other library materials and branch employee expenses would remain the same irrespective of the model adopted. The fundamental differences in the costs associated with each model relate to the functions which support service delivery.

Under each of the three business models, the constant cost of continuing the current level of service provision are estimated to be \$4,905,078 in 2009-10. Employee expenses have been reduced by the costs of the Library Manager's Contract and the salaries and on costs associated with the Regional Librarian, HR Manager and IT staff as these are expected to vary between the three models.

Under a County Council model it is estimated that in order to maintain the current level of support to service delivery functions, six service delivery support staff would be required and that additional costs would be incurred associated with County Councillor expenses and staff time spent managing the Service Level Agreements between the Councils. The following table sets out the estimated variable costs associated with the County Council model.

**Table 3.2. Variable Operating Costs of the County Council Model**

Position	Salary	FTE	On Costs	Total Cost
<b>General Manager (existing position):</b> responsible for overall running of the County Council including ensuring compliance with the relevant provisions of the Local Government Act, currently this role is undertaken by the Director RTRL	\$120,000	1	30%	\$156,000
<b>Regional Librarian (existing position):</b> responsible for overseeing the delivery of the library services program, currently this is undertaken by the RTRL Reader Services Librarian	\$100,000	1	30%	\$130,000
<b>LG Compliance Officer:</b> responsible for ensuring all processes are fully compliant with the requirements of the Department for Local Government	\$65,000	0.5	30%	\$42,250
<b>Finance Officer:</b> responsible for the management of Library finances	\$65,000	0.5	30%	\$42,250
<b>HR Officer:</b> responsible for all library HR requirements	\$65,000	0.5	30%	\$42,250
<b>IT Manager:</b> responsible for the co-ordination of all IT services including in branch services	\$82,000	1.0	30%	\$106,600
<b>IT Support:</b> responsible for the provision of IT support as required	\$65,000	0.5	30%	\$42,250
<b>Service Level Agreement Management &amp; Administration:</b>				\$14,000
<b>County Council Attendance Costs</b>	\$30,000			\$30,000
<b>Total Variable Costs</b>				<b>\$605,600</b>

\*Note: Existing HR Management costs have not been included and would be expected to continue  
Source: AECgroup

The County Council model requires a standalone administrative resource including finance, HR and IT support services as well as a regional librarian. Further, a County

Council would be subject to reporting and other requirements which are not required of the individual service delivery components of local governments.

Other costs would include managing the service level agreements between the County Council and the participating local governments and Councillor expenses. Stakeholders agreed that once established the costs of managing SLA's were unlikely to be material, reaching an initial agreement was likely to be time consuming and costly especially given the likely resources required at a senior level.

### **Other Issues**

The risks to Councils, other than Lismore, would be unchanged under a County Council model as RTRL effectively operates as a devolved entity to which each Council makes an annual payment in return for an agreed level of service. For Lismore, the County Council approach would be likely to reduce their current risk exposure to the level of the other three members of the RTRL. However, the permanent nature of the County Council means that member Councils are likely to require additional certainty that such a structure will continue to provide the best value for money outcome over the long-term.

### **3.2.4 Likelihood**

The County Council model has the most support among elected members. It was also identified as the most suitable model to maintain the current structure in a Review of Richmond-Tweed Regional Library in 1995. However, the political landscape has changed since 1995 and the current position of the State Government is not to support the creation of small Councils, including County Councils. There is also a push for increased shared service models with future amalgamations of Councils in NSW a possibility. There could be significant implications for RTRL if, as anticipated, any future amalgamations divide the Richmond Valley Councils and the Tweed Shire.

As well as political obstacles to a County Council, the Crown solicitor is currently assessing whether a County Council constitutes a Local Authority for the purpose of the Library Act. Given that Ministerial consent for a County Council will not eventuate in the short-term and cannot be guaranteed over the long-term, RTRL need to consider a model which can be implemented to the satisfaction of all member Councils while maintaining current service levels and addressing the legal concerns evident in the current model.

## **3.3 Administrative Council (Library Act Section 12 (1))**

Under Section 12 (1) of the Library Act the level of delegation of functions in relation to the provision, control and management of libraries, library services and information services must be specified within any agreement between participating Councils. Each Council must agree to delegate the functions of providing, controlling and managing the library service within its area to the Administrative Council.

### **3.3.1 Service Delivery**

Key service delivery features of the Administrative Council model include:

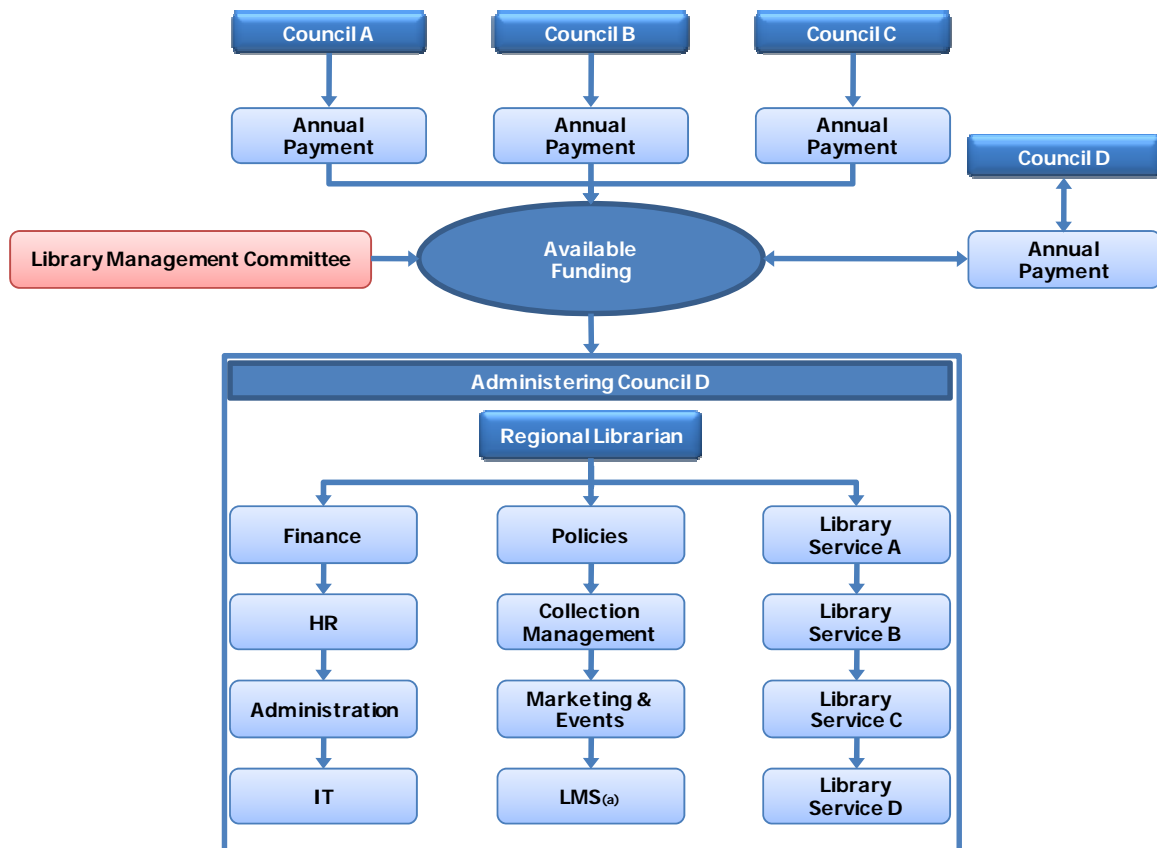
- The Administrative Council engages all staff for the Regional Library Service;
- Staff engaged at branch libraries are:
  - Subject to the disciplinary control of the Administrative Council and
  - Accountable to the Regional Library Manager for:
    - Library procedures;
    - The standard of customer service; and
    - Such promotion of the service as is necessary to implement the library policies of the Administrative Council within the branch library.
- Current library staff operational structure could remain though the Library Director would report to the Administrative Council and not to the Library Committee as is the current practice;

- Service Delivery standard is determined by the Service Level Agreements;
- Inherent flexibility of staff to operate from a number of locations and across Shire boundaries would be maintained; and
- No service disruption to library customers would eventuate from the implementation of an Administrative Council model.

**3.3.2 Governance**

This model would require one of the four participating Councils within the RTRL to administer the Regional Library Service on behalf of the other three Councils. This model could be implemented in a relatively short timeframe if there is sufficient goodwill between the participating Councils and a service level agreement can be agreed. The Administrative Council model also has the advantage that it is already approved by the State Government. The model would not retain the current autonomy that RTRL operates under in the current structure. The regional librarian would be subject to direction from the General Manager of the Administrative Council and all service delivery support functions would be absorbed within the existing structures of the Administrative Council.

**Figure 3.2. Strategic Overview of an Administrative Council Model**



Source: AECgroup

The Library Committee could be maintained in this model although its role would become advisory rather than controlling. It is recognised that there is no legislative requirement for the Library Committee and its continuance will depend on the Service Level Agreement.

**Table 3.3. Identified Pros and Cons of the Administrative Council Model**

Pros	Cons
Solves current legal issues	Perceived bias from one Council imposing its will on the other three member Councils
Service Level Agreements can be put into place to effectively manage service delivery	Absence of shared responsibility One Council must absorb the extra responsibility for service delivered across four Councils
Already has State Government approval	Extra costs borne by one Council
Can be implemented quickly	One Council to pass on standard corporate overheads to other Councils
Current assets would remain with each participating Council <ul style="list-style-type: none"> <li>• Land branch libraries are on</li> <li>• Branch library buildings</li> </ul>	Additional risk borne by one Council
Aligned with State objectives Easier/Quick to implement	Depending on the one Council model put in place can lose cohesion and direction of the service
Single service providing uniform service to the Region	Regional assets owned by One Council
Staff part of one organisation	Tension can develop as member Councils do not control final decisions e.g. the one Council will determine outcomes for tenders based on their policies which may not be the optimum outcome for the library service
Ongoing role of Library Committee as an advisory committee	Requires medium term commitment in a time of possible change in the Local Government political landscape

Source: Consultation

Key Governance requirements for an Administrative Council include:

- The Administrative Council is to provide full administrative services to the Regional Library Service including:
  - Keeping and auditing all records and accounts, in accordance with all relevant legislation and by-laws;
  - Managing funds and reserves to maximise income for and on behalf of the Regional Library Service;
  - Signing all contracts and agreements relating to the Regional Library Service;
  - Setting the employment conditions of all the staff employed on behalf of the Regional Library Service; and
  - Develop and maintain Library Policy framework, to be reviewed annually.
- The role of the Library Committee would change to an advisory role with input into the Strategic Forward Plan, and provide representation for member Council's library service delivery levels. Terms of reference would be developed and signed off by member Councils.
- The Administrative Council would develop, maintain and monitor the implementation of an agreed management plan for the Regional Library Service.
- The Administrative Council would apply directly for, and if successful receive, all grants and subsidies made available by the Commonwealth, the State and others agencies.
- Each year, the Administrative Council would submit:
  - An annual report including a copy of the audited statement of accounts for the Regional Library Service;
  - Details of the activities of the Regional Library Service including, and not limited to, statistics of purchases for the library collection;
  - A report outlining:



- The collection size, including its age and distribution;
- The number of borrowers and of items borrowed;
- The number of library visits;
- The number and type of value-added services; and
- An assessment of the quality of service provided to each Participating Council by the Regional Library Service.

### **3.3.3 Financial Impacts**

#### **RTRL Assets<sup>3</sup>**

- RTRL assets would be transferred to the Administrative Council with a clear mechanism to distribute the proceeds of any future disposal of those assets amongst the contributing Councils; and
- An assessment of the ongoing requirement for the entire Central Administration building and land would be made. If it were decided to divest this asset, any proceeds should be distributed equitably between member Councils.

#### **Establishment Costs**

The Administrative Council model would rely on all Councils making at least a medium term commitment to the new structure, without this the model would not be viable given the risks to the Administering Council. Although not as permanent an entity as a County Council, withdrawing from an Administrative Council model would not be a swift process and Councils could incur similar costs to those associated with establishing the initial agreement for a County Council model.

#### **Operating Costs**

Given the success of the existing service delivery mechanism, it has been determined that where possible no change should be made to the customer facing elements of RTRL. Therefore, it has been assumed the costs of providing these services including purchasing books and other library materials and branch employee expenses would remain the same irrespective of the model adopted. The fundamental differences in the costs associated with each model relate to the functions which support service delivery.

Under each of the three business models, the constant cost of continuing the current level of service provision are estimated to be \$4,905,078 in 2009-10. Employee expenses have been reduced by the costs of the Library Manager's Contract and the salaries and on costs associated with the Regional Librarian, HR Manager and IT staff as these are expected to vary between the three models.

Under the Administrative Council model, the administration and support of the service delivery functions would be embedded within the Administrative Council. Such an approach is aligned to the State Government's support for shared service delivery. By centralising support functions such as Finance, Human Resources and Information Technology it is possible to access economies of scale which allow services to be provided at a lower marginal cost than where the same services are provided to a smaller pool of employees.

Consultations with Council finance staff found agreement that support services could be provided with minimal additional costs to the Administrative Council, all stakeholders agreed there would be no requirement for Council to take on additional staff to provide administrative support to the library staff.

However, there would also be a series of additional costs under an Administrative Services model which a County Council would not have to meet. A County Council would pay a lower worker cover premium than a Council. Further, it is unlikely that a Council

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<sup>3</sup> It is recognised RTRL is not entitled to hold assets, however this discussion relates to those assets purchased using RTRL funds which were contributed by the four member Councils.

would be willing to take on the additional responsibility and risks associated with the Administrative Council role without compensation. Charging a margin, to be recovered from the other Councils, would increase the costs of the library service. For example, if an Administrative Council was to charge a fee of 2.5% of the operating costs, this would equate to an increase of approximately \$134,303 (in 2009-10 dollar terms) based on budgeted 2009-10 operating expenditure. The estimated variable costs of this model would be \$444,796.

### **Other Issues**

The cost estimates are based on the administrative Council being able to absorb the administrative roles within their current staffing levels and the responsibility for the Library Service would be combined with an existing division of Council and an existing Director. If the Administrative Council were unable to achieve this, there could be significant cost increases which could make the administrative services model more expensive than the County Council model.

Any Administrative Council would be expected to seek a long-term agreement from the other councils. Without this the Administrative Council would face the significant risk that a member council could walk away from the agreement, leaving the Administrative Council to try to recover the majority of the costs of the library service from the remaining Councils.

Consultations identified support for the Administrative Council model, however, in each case this was contingent on one of the other Councils acting as the Administrative Council.

### **3.3.4 Likelihood**

The Administrative Council model is achievable and does not require Ministerial approval to implement. However, it fundamentally changes the current autonomous model under which RTRL operates, with control moving from the Library Committee to the Administrative Council. This model has the potential to maintain current staff operational structures, ensuring minimal disruption for library staff and functionality across Shire boundaries while maintaining flexibility.

This model would require significant goodwill to exist between member Councils to ensure that a Service Level Agreement could be reached and a Terms of Reference for the advisory role of the Library Committee.

While this model had the support of three General Managers and was the second choice for the elected members, no one Council indicated that they would be willing to undertake the Administrative Council role for the regional library service as all member Councils recognise the additional risk that would be borne by the Administrative Council.

Elected Members also recognised that there could be minimal representation for their local Library Service delivery options on an ongoing basis as this would be governed by the Service level agreement.

To ensure maximum effectiveness for the Administrative Council this model would need to be committed to by member Councils for a minimum of 5 years with an option for a further 5 years. This has implications for RTRL in that any future amalgamation possibilities would include the Richmond Valley Councils and would exclude the Tweed Shire. This poses some risk for the Tweed Shire in entering into a long-term Administrative Council model when the makeup of the Administrative Council may change in the long-term. This risk is lessened if Tweed Shire becomes the Administrative Council.

This model would provide minimal disruption to RTRL staff structures and the current staff operational functionality, but would require one Council within the four member Councils to agree to undertake this significant role. However, the current autonomy of the Regional Library Service, with its ability to operate separately to all four member Councils, would not be maintained.

The development and agreement of the Service Level Agreements could take significant time if there is not significant goodwill and trust between all member Councils. The

Library Committee would need to agree to an advisory role with new Terms of Reference developed. Recommendation may depend on financial impacts and risks.

### **3.4 Shared Services (Library Act Section 12 (2))**

A cooperative model is also available under the Section 12 (2) of the Library Act. In this model one Council is given the power to deliver specific areas of provision, control and management of libraries, library services and information services on behalf of the other Councils in the region. This can be simply the provision of a library management system and centralised procurement of the collection for all the libraries within the region.

#### **3.4.1 Service Delivery**

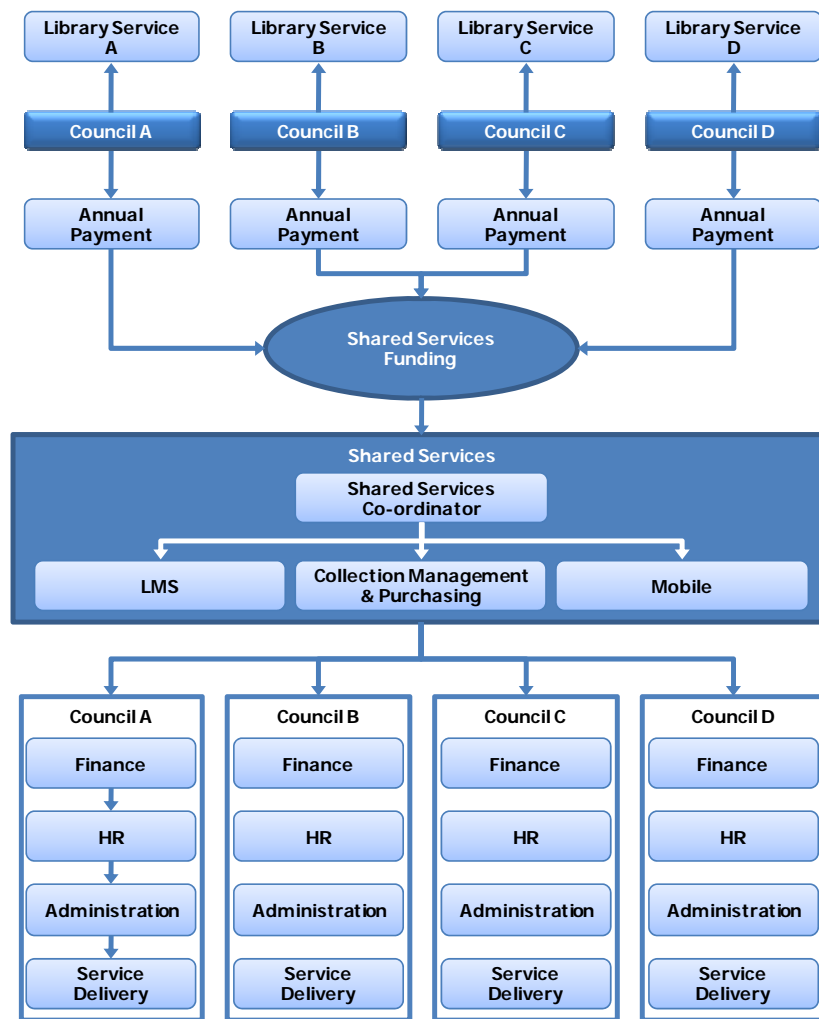
Key service delivery features of the Shared Services model include:

- The Administrative Council engages the library service staff required for the co-ordination of the shared library services.
- Library Staff are employed by each individual Council with the current Head Librarians becoming the Librarian in Charge for the Shire and are:
  - Subject to the disciplinary control of the Shire Council for which they are employed; and
  - Accountable to the reporting structure within each individual Shire Council for:
    - Library procedures;
    - The standard of customer service; and
    - Such promotion of the service as is necessary to implement the library policies within the Shire library service.
- Current library staff operational structure would not remain and assessment of a Regional Library Director position would need to occur;
- Service Delivery standard is determined and controlled by each Council;
- Inherent flexibility of staff to operate from a number of locations and across Shire boundaries would not be maintained, though this could be solved.
- No service disruption to library customers would eventuate from the implementation of a Shared Services model if current policies and service standards are maintained.

#### **3.4.2 Governance**

One Council, the Administrative Council, operates selected shared library services on behalf of the member Councils. In this model each Council could, if they so choose, manage and deliver library services to their communities while delegating central administration of certain functions of a library service to another Council.

Figure 3.3. Strategic Overview of a Shared Services Model



Source: AECgroup

The need for a Regional Library Director would be dependent on the amount of delegation of library services. The most common Shared Services in this type of arrangement for Library Services are:

- Library Management System;
- Collection acquisition; and
- Mobile library

In this model each Council is responsible for the library service delivery standard and for employing the library staff operating the libraries in their Local Government Area. The Administrative Council would co-ordinate the agreed cooperative functions and charge the costs of these functions to the other three Councils.

Table 3.4. Identified Pros and Cons of the Shared Services Model

Pros	Cons
Administrative Council co-ordinates / provides Shared Services	Each Council operates own Library Service
Could operate in the interim	Limited co-operation maybe a backward step
Requires less agreement	Support of two Councils
Less risk /burden for Administrative Council	No role for the Library Committee
Quick to implement	Renders the current library staff structure inoperable

Pros	Cons
Elected members vote directly on the library service standards in their own municipality	Could be seen as a reduction in current cooperation within the Regional Library Service
Maintains a cooperative model in the current political environment	

Key Governance requirements for a Shared Services model include:

- Each participating Council would delegate selected library services to the Administrative Council under Library Act 1939, Section 12 (2);
- The Administrative Council would co-ordinate the delivery of the agreed Shared Services to the member Councils;
- Each Council would be required to operate their own Library Service with elected Members voting directly on their own library service standards and delivery levels;
- Each Council would be required to report to the State Library on their Library Service with the Administrative Council providing the statistical information required from the Shared Services:
  - Library Management System reporting
  - Collection acquisition reporting
  - Mobile Library reporting for individual Council regions
- There is no role for a Regional Library Committee;
- The Service Level Agreement pertains only to the Shared Services;
- The Administrative Council would report only on the financial costing and operation of the Shared Services to member Councils.

### 3.4.3 Financial Impacts

#### RTRL Assets<sup>4</sup>

RTRL assets would either be distributed amongst member Councils where those assets are used in front line service delivery (e.g. library stock), or transferred to the Administrative Council where assets are used to deliver Shared Services (e.g. the library management system). An assessment of the ongoing requirement for the entire Central Administration building and land would be made. If it were decided to divest this asset, any proceeds should be distributed equitably between member Councils.

#### Establishment Costs

The Shared Services model is the most flexible of the three models considered. It would be anticipated that this would be the quickest to establish and at the lowest cost. Depending on the level of collaboration, any Council which was unhappy with the arrangement could withdraw and establish an independent library service. However, if services which require a substantial capital investment are shared, e.g. the Library Management System, a longer commitment may be required than if services without the need for significant capital investment were shared for example outsourced procurement services.

#### Operating Costs

Given the success of the existing service delivery mechanism, it has been determined that where possible no change should be made to the customer facing elements of RTRL. Therefore, it has been assumed the costs of providing these services including purchasing books and other library materials and branch employee expenses would remain the same irrespective of the model adopted. The fundamental differences in the costs associated with each model relate to the functions which support service delivery.

<sup>4</sup> It is recognised RTRL is not entitled to hold assets, however this discussion relates to those assets purchased using RTRL funds which were contributed by the four member Councils.

Under each of the three business models, the constant cost of continuing the current level of service provision are estimated to be \$4,905,078 in 2009-10. Employee expenses have been reduced by the costs of the Library Manager's Contract and the salaries and on costs associated with the Regional Librarian, HR Manager and IT staff as these are expected to vary between the three models.

The Shared Services model provides member Councils with the opportunity to access efficiency savings from collaboration whilst maintaining their own library service to manage delivery functions. All service delivery functions would be the responsibility of individual Councils. It would be expected that the shared service model would require one staff member in the Administrative Council to carry out the central co-ordinating role bringing together the head librarians of each library service on a regular basis to review performance and discuss new shared service opportunities. It is estimated that the co-ordination role would be at a lower level to that of Regional Librarian in the preceding models with an estimated total cost of \$104,000 per annum.

As in the Administrative Council model, Councils running their own library service would be faced with higher workcover premiums. Other additional costs would be incurred in managing the transactions between Councils and the Shared Services group but these are unlikely to be extensive and would be offset by savings associated with the removal of the position of the Library Director position, the disbandment of the Library Committee Group and efficiency savings from embedding support functions within each Council's existing administration functions.

The estimated variable costs of adopting the Shared Services model would be \$372,874.

#### **Other Issues**

As in the Administrative Services model, the cost estimates are based on Councils being able to absorb the management and administrative elements of the library service within current staffing levels. If it is not possible to deliver these services without incurring costs this could significantly increase the apparent cost of the Shared Services model.

As in the Administrative Council model, one of the four Councils would need to take on responsibility for some services. The extent of this undertaking will largely be determined by the level of co-operation between Councils. Greater co-operation is likely to result in the administering Council seeking some premium on their costs in order to compensate for the additional risks they face. Services the administering Council might need to deliver include the employment of the co-ordinator and the mobile library. Where the extent of co-operation is lower, it is likely a Council could be found to provide this service at cost.

Council would have direct control over service delivery in the same way that they do with other Council functions rather than through the Library Committee and there would be a transparent connection between revised levels of expenditure and service levels. However, by choosing to operate an independent service delivery model, Councils may risk losing some of the benefits of the current regional approach.

#### **3.4.4 Likelihood**

The Shared Services model is achievable in the short-term, does not require Ministerial approval to implement and requires significantly less rigorous service level agreements to be put in place. The Shared Services model also has the potential to be delivered under a County Council model with only the cooperative services being delegated to a County Council.

However, it fundamentally changes not only the autonomous model under which RTRL currently operates, but also the fundamental regional library operational model. This model relegates the responsibility for the delivery of library services back to the individual member Councils with efficiencies maintained with selected Shared Services such as Library Management System, Mobile Library, and collection acquisition.

The model could be implemented more quickly than the others but would have an impact on the operational structure. While all member Councils would continue to act co-operatively in the development of the Shared Services, each Council would develop and

operate their own Public Library Service according to their own resident's needs. This model provides significantly less risk and burden for the Administrative Council and can operate in the short-term until there is more certainty in the local government political landscape, while maintaining significant co-operation.



## **4. Findings & Recommendations**

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The following sections provide a summary of the key findings following the analysis of the business model options available to the member Councils.

### **Findings**

1. There will costs associated with the transition to any new model, in particular the cost of establishing the initial service agreement. The extent of these costs will be determined by the negotiating position adopted by each Council but are likely to be highest for the County Council and Administrative Council, with the establishment costs of the Shared Services model significantly lower.
2. A County Council model on the scale of the RTRL is likely to incur administrative inefficiencies compared to other models which would use the larger size of Council(s) existing support functions to absorb the costs of supporting library service delivery. There is ongoing uncertainty over the legal status of a County Council and its ability to receive the State Government library subsidy as well as an indication that the Department of Local Government may also have objections.
3. The ability of Councils to deliver the stated efficiency savings is a key risk in assessing between models. If Councils are unable to deliver these savings are stated the cost of operating the Administrative Services or Shared Services model could increase significantly.
4. Some Councils indicated they would be unwilling to support the establishment of another County Council unless it could be combined with an existing County Council model. However, the management costs of combining County Councils which cover different geographic areas combined with competing priorities for staff time are thought to make this an unworkable solution.
5. An Administrative Council model, which incorporates a role for the Library Committee, would comply with all relevant legislative requirements, allow member Councils to continue to deliver the existing regional library service while accessing the benefits of economies of scale in the provision of support functions.
6. An Administrative Council model is reliant on a member Council accepting the role including becoming employer to an additional 100 staff and being answerable for service delivery both within and outside of the Council boundary.
7. An Administrative Council model could be established relatively quickly (subject to agreeing terms and conditions), and could be used as a building block towards adoption of a County Council model if there was sufficient interest in pursuing this option over the longer-term.
8. The Shared Services model allows Councils greater control over service delivery within their boundary while accessing efficiency savings in strategic support functions such as procurement and IT support. By becoming employer, each Council would be able to absorb the additional requirement for support within their existing operations.
9. The Shared Services model would be the most flexible, avoiding the extended commitment inherent in the alternative options.
10. The Shared Services model could erode some of the service delivery benefits associated with the regional library approach.
11. The avoided costs associated with the Administrative Council and Shared Service models are dependent upon Councils being able to provide the required support services within their current resources as they have indicated they could do.

### **Recommendations**

1. Given that the current Executive Council is exposed to significant risk which needs to be resolved quickly and the current political landscape, the County Council model should not be pursued as a first option at this time.



2. Councils should establish whether any of the four Councils is willing to act as the Administrative Council.
3. If a Council is willing to act in this role, the Administrative Services model should be pursued in order to implement a library services management model which is:
  - a. Fully compliant with the terms of the legislation
  - b. Could maintain the current service delivery model
  - c. Would not require the establishment of a new entity
  - d. Is not thought likely to incur significant additional operating costs
  - e. Has support at a State Government level
4. If an Administrative Council Model is pursued, a working committee made up of representatives from all four Councils should be established to consider:
  - a. The treatment of the HQ building, the mobile library and other RTRL assets
  - b. The appropriate term of any agreement
  - c. The notice period to leave the group
  - d. The appropriate handling of Councils that wish to reduce their payments
  - e. Terms of reference for the Library Committee
5. If no Council is willing to act as Administrative Council, Councils should establish whether any of the four Councils would be willing to accept the administration role in the Shared Services model.
6. If a Council is willing to act in this role, the Shared Services model should be pursued in order to implement a library services management model which is:
  - a. Fully compliant with the terms of the legislation
  - b. Would not require the establishment of a new entity
  - c. Is not thought likely to incur significant additional operating costs
  - d. Has support at a State Government level
7. If a Shared Services model is pursued a working committee made up of representatives from all four Councils should be established to consider:
  - a. Which services should be shared and which should become the responsibility of individual Councils
  - b. The most appropriate treatment of the HQ building, the mobile library and other RTRL assets
  - c. The most appropriate co-ordination strategy for the Shared Services model
  - d. The most appropriate strategy for the transfer and recruitment of RTRL library staff to each individual Council

## Appendix A: Benchmarking

In order to establish a baseline Library service delivery level for the Richmond-Tweed Library Service, a benchmarking exercise was undertaken using 2008-09 performance data available from the NSW Public Library Statistics (PLS) and the Living Learning Libraries: Standards and Guidelines for NSW Public Libraries 2008.

The benchmarks provide comparisons of key performance measures of the four (4) individual local government areas that comprise the RTRL, against the Living Learning Performance Standards 2008-2009 to develop a clear base model of library service delivery.

It is recognised that these Councils have varying levels of population, and this is accounted for in benchmarks that provide per capita comparisons.

The following key indicators are examined:

- Opening hours;
- Borrowers (registered library members) as % of Population;
- Visits to library per capita;
- Circulation per capita;
- Expenditure per capita.

### Opening Hours

#### Central Library Opening Hours

This indicator shows the Central Library's opening hours, with the key aim of opening at optimal times to ensure residents maximize usage of the library service.

When benchmarked with the Living Learning Performance Standards, only Ballina was in line with the suggested minimum opening hours per week for a Central Library Service (53 hours). Tweed recorded low weekly opening hours (43 hours) compared to the population levels within the Shire (13 hours below the suggested minimum standard).

**Table A: 1 Central Library Opening Hours**

	Population	Central Library Opening hours	Living Library Standard	
			Hours Per Week	Population
Lismore	45,115	49.5	53	20,000-50,000
Byron Shire	31,113	42.5	53	20,000-50,000
Ballina	41,628	52.5	53	20,000-50,000
Tweed	85,759	50	56	50,000-100,000

Source: Richmond Tweed Regional Library Statistics 2009, Living Learning Libraries: Standards and Guidelines for NSW Public Libraries 2008

#### Total Opening Hours

This indicator shows the total library opening hours, including all central and branch opening hours, and mobile library stops (i.e. the number of hours that mobile libraries are accessible to the public).

When benchmarked with the Living Learning Performance Standards, all library services recorded an above average level, with Tweed reporting the highest weekly opening hours (144.13 hours).

It should be noted that there are a range of factors influencing opening hours, including current structure and service models, number of branches and size and geographical locations.

**Table A:2 Total Opening Hours**

	Population	Total Opening hours	Living Library Standard		
			Hours Per Week	Hours	Population
Lismore	45,115	135.75	53+(no. of branches x 28)	109	20,000-50,000
Byron Shire	31,113	122.87	53+(no. of branches x 28)	109	20,000-50,000
Ballina	41,628	119.38	53+(no. of branches x 28)	109	20,000-50,000
Tweed	85,759	144.13	56+(no. of branches x 30)	109	50,000-100,000
Richmond-Tweed	203,615	479.12	58+(no. of branches x 41)	123	100,000 +

Source: Richmond Tweed Regional Library Statistics 2009, Living Learning Libraries: Standards and Guidelines for NSW Public Libraries 2008

### **Borrowers (registered library members) as % of Population**

This indicator shows the number of people who are registered library members, expressed as a percentage of the resident population.

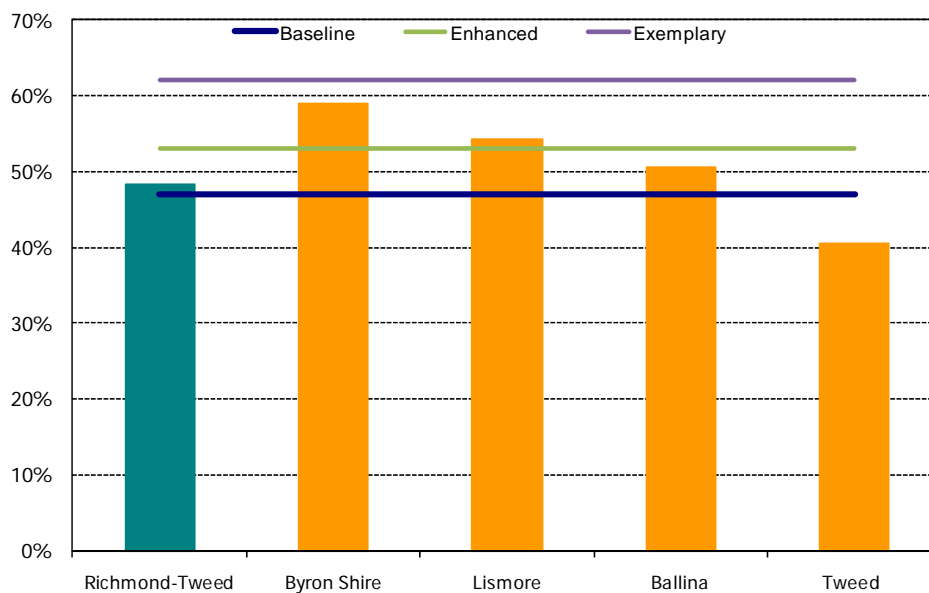
As can be seen, both Byron Shire (59.0%) and Lismore (54.3%) recorded the highest percent of population who are library members in 2008/09, higher than the 'Enhanced' (53.0%) standard.

Ballina recorded a 'baseline' level at 50.5% while Tweed recorded membership levels below the 'baseline' level (40.5%).

Overall, the RTRL service as a whole (48.4%), reported a 'baseline' level when compared with the Living Learning Performance Standards.

It is important to note that some people access the library without becoming members (e.g. read magazines / newspapers).

**Figure A: 1 Borrowers (registered library members) as % of Population**



Note: RTRL data includes total active registered patrons as at 30th June 2009, includes mobile library and HQ membership  
 Source: Richmond Tweed Regional Library Statistics 2009, Living Learning Libraries: Standards and Guidelines for NSW Public Libraries 2008

### **Circulation per capita**

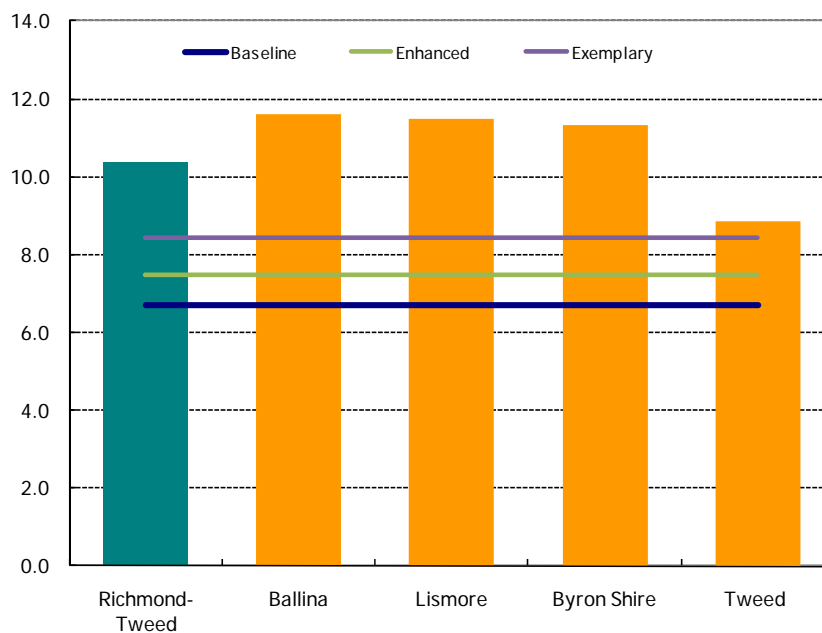
This indicator shows the number of items loaned from all service points expressed per head of population. For the 2008/09 period, all Council areas within the RTRL reported an 'Exemplary' level of circulation per capita.

The highest loans per capita for the 2008/09 period was recorded in Ballina (11.60 issues per head of population) and Lismore (11.49 issues per head of population).

Whilst Tweed (8.87) recorded the lowest circulation per capita out of the four benchmarked libraries, the service achieved an 'Exemplary' level compared with the Living Learning Libraries: Standards and Guidelines for NSW Public Libraries 2008.

It should be noted that this indicator is affected by the length of circulation period, number of items allowed to be borrowed at one time and renewal policy.

**Figure A:2 Circulation per Capita**



Source: Richmond Tweed Regional Library Statistics 2009, Living Learning Libraries: Standards and Guidelines for NSW Public

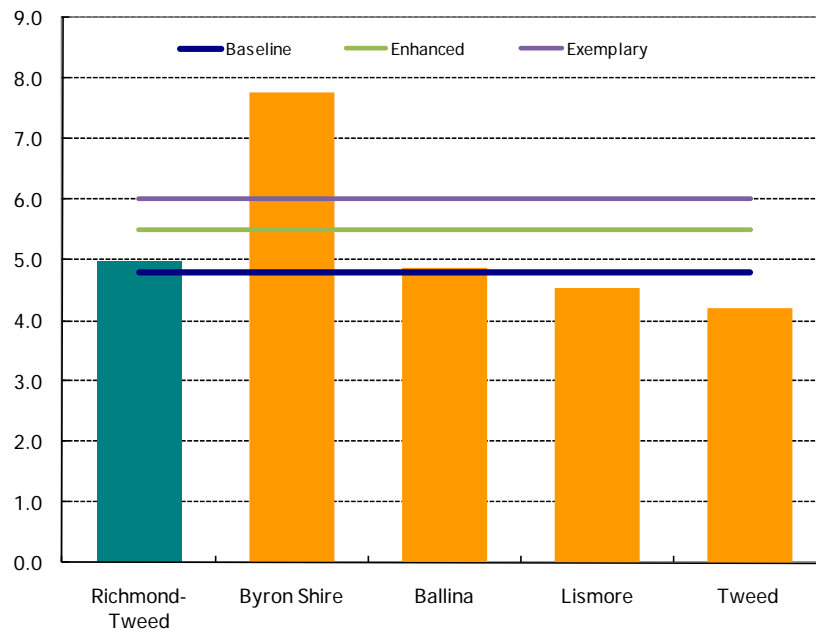
## Visits Per Capita

This indicator shows the number of 'in person' visits to all library service points, expressed per head of resident population. As can be seen, Byron Shire (7.8) reported an 'Exemplary' level when benchmarked with the standard (6) and above other Council areas.

Ballina (4.9) and the RTRL as a whole is in line with the 'baseline' level (4.8).

Tweed (4.2) and Lismore (4.5) recorded the lowest visits per head of population, and below the 'baseline' standard (4.8).

Figure A:4 Visits per Capita



Source: Richmond Tweed Regional Library Statistics 2009, Living Learning Libraries: Standards and Guidelines for NSW Public

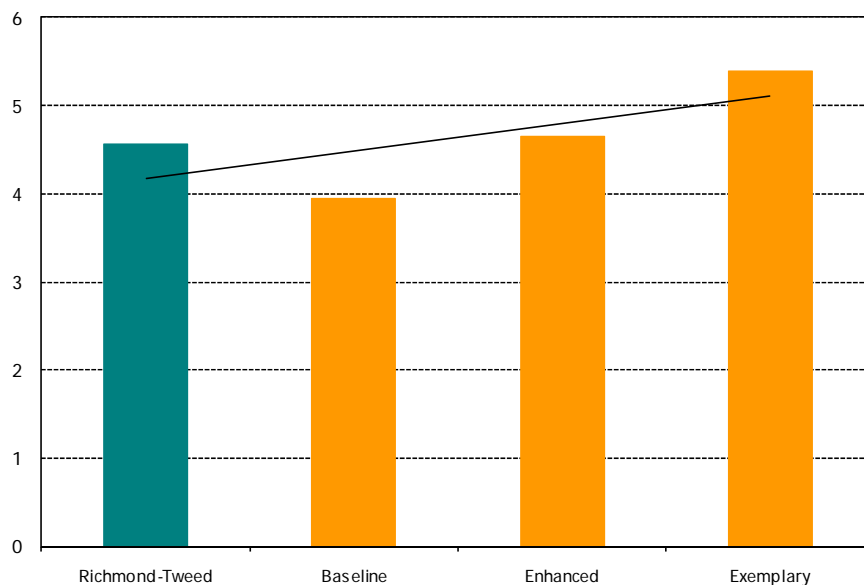
### Expenditure on Library Material Per Capita

This indicator shows the level of expenditure spent on library materials expressed as a proportion of the resident population.

As can be seen, the RTRL reported close to an 'Enhanced' (\$4.65) level of library materials expenditure at \$4.57 per head of population for the 2007/08 period.

When compared with the 2009/10 current Budget for all Councils, the RTRL service recorded a 'baseline' level at \$4.06 (compared to \$3.95).

Figure A:5 Expenditure on Library Material Per Capita

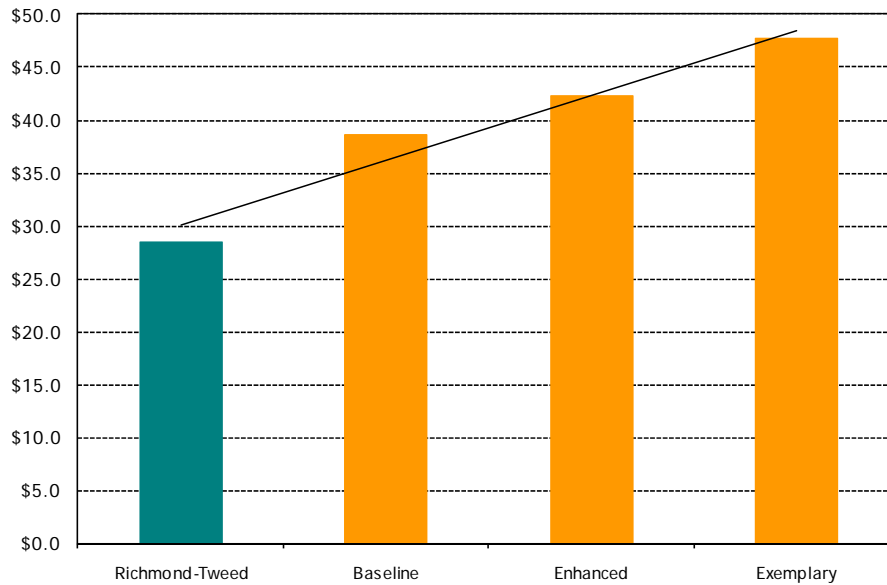


Source: Richmond Tweed Regional Library Statistics 2007/08, Living Learning Libraries: Standards and Guidelines for NSW Public

### Total Expenditure Per Capita

The RTRL reported \$27.60 total expenditure per capita in 2009/10, significantly below the 'baseline' average (\$38.66).

**Figure A:6 Total Expenditure Per Capita**



Source: Richmond Tweed Regional Library Statistics 2009, Living Learning Libraries: Standards and Guidelines for NSW Public

## Appendix B: Consultation Report

### Steering Committee Workshop

The Richmond Tweed Regional Library Committee met with AECgroup consultants Jane Cowell and David Sinclair on Friday 24 July, 2009 from 9.30am – 11.30am at Byron Shire Council Offices in Mullumbimby. The attendees were as follows:

Name	Position	Representing
Cr. Isaac Smith	Chair Regional Library Committee	Lismore City Council
Cr Richard Staples	Deputy Chair)	Byron Shire Council
Cr. Susan Meehan		Ballina Shire Council
Cr Katie Milne		Tweed Shire Council
Mr. Martin Field	Director, RTRL	Richmond Tweed Regional Library
Mr. Rino Santin	Executive Member	Lismore City Council
Mr Paul O'Sullivan	General Manager	Lismore City Council
Jane Cowell	Senior Consultant	AECgroup
David Sinclair	Financial Analyst	AECgroup

### Model 1: County Council Model

- The County Council Model is a model that has been operating in New South Wales for a number of years and has been used to manage water and weeds.
- Political willpower is required to enable a County Council to be formed.

#### County Council Model

- Is a legal entity
- Can borrow money
- Can own assets
- Can tender
- Can lease
- Will provide a legal framework to operate the RTRL
- Will address the current gaps in legal and administrative rigor of operations
- Insurance, especially Workcover etc.
- Can employ staff
- Will mitigate current exposure to litigation in areas of
- Will mitigate current risks in the following areas
  - Human resources
  - Accounting
  - Compliance responsibility
- Provide a strong strategic direction for RTRL

**County Council Pros and Cons**

Pros	Cons
Solves current legal issues	This model locks Councils in and binds them
Service Level Agreements can be put into place to effectively manage service delivery	Time will be required to put this model in place
Permanency of a County Council can provide certainty for <ul style="list-style-type: none"> <li>• Councils</li> <li>• Staff</li> <li>• Community</li> </ul>	Autonomy of this model Member Councils can lose control (This could be mitigated with effective SLAs)
Transparent cost sharing model can be put in place	County Council may act irresponsibly with no control by Councils able to curb this (ability to borrow money etc.)
Current assets would remain with each participating Council <ul style="list-style-type: none"> <li>• Land branch libraries are on</li> <li>• Branch library buildings</li> </ul>	County Council is dependent on Member Councils' contributions
Clear independence with no bias to one Council	This is a permanent model with only the State Government able to dissolve this entity
	There are extra costs to this model <ul style="list-style-type: none"> <li>• Councillor fees</li> <li>• General Manager will need to be employed</li> </ul>

**Model 2: One Council as Service Provider**

- This model requires one of the four (4) member Councils of RTRL to manage the Regional Library Service on behalf of the other three (3) Councils and ensure delivery of library services to their own and the other three (3) Councils' communities.
- There are two (2) possible structures for this model
  - One Council operates the RTRL employing all library staff across the region and providing full strategic direction for the regional library operation and delivery.
  - One Council acts as the Central Administration for the RTRL in the provision of Collections, Library Management System, and provides the Policy development for circulation, membership, public internet use and collections. Each individual member Council would be responsible for the employment of library staff within the branch libraries who would report to supervisors within each Council.

**One Council Model responsible for the whole library service**

- One Council delivering library services to its own and all member Councils' communities
- Effective Service Level Agreements can be put in place
- Policy, Fees and Charges can be the same across the whole region
- Strategic Direction can be set and effective planning can be put in place, developed in consultation with member Councils
- The Library Steering Committee would not be in place in its current form
- Collection assets would be owned by one Council
- Complaints would be able to be managed centrally

**One Council Model responsible for Central Administration**

- Additional complexity in managing staff with reporting and supervising lines blurred
- Additional complexity in putting in place agreed strategic and implementation planning across the region



- Impacts of One Council Model on the Council undertaking the role
- Director of the Library Service
- Human Resources (additional 116 staff with complex part-time and casual roles)
- Finance
  - User pays and costs to be charged
  - Ensure transparency of the charging model
- One Council may take an entrepreneurial view of charging
- Information Technology
- Councillors (complaints regarding the library service from a resident in another Council)
- Contact Centre staff
- General Manager

**One Council Model Pros and Cons**

Pros	Cons
Solves current legal issues	Perceived bias from one Council imposing its will on the other three member Councils
Service Level Agreements can be put into place to effectively manage service delivery	Absence of shared responsibility <ul style="list-style-type: none"> <li>• One Council must absorb the extra responsibility for a service delivered across four Councils</li> </ul>
Already has State Government approval	Extra costs borne by one Council
Can be implemented quickly	One Council to pass on standard corporate overheads to other Councils
Current assets would remain with each participating Council <ul style="list-style-type: none"> <li>• Land branch libraries are on</li> <li>• Branch library buildings</li> </ul>	Additional risk borne by one Council
	Depending on the one Council model put in place can lose cohesion and direction of the service
	Regional assets owned by One Council
	Tension can develop as member Councils do not control final decisions <ul style="list-style-type: none"> <li>• e.g. the one Council will determine outcomes for tenders based on their policies which may not be the optimum outcome for the library service</li> </ul>

**NSW Department of Local Government**

A meeting was held at the NSW Department of Local Government Offices, 323 Castlereagh Street, Sydney on 18th August, 2009 from 9.30am – 10.30am.

The attendees were as follows:

Name	Position	Representing
Michael Fleming	Director Reform Implementation Executive Branch	Department Local Government
David Alderman	Manager, Investigations and Review	Department Local Government

Jane Cowell	Senior Consultant	AECgroup Ltd
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### **Model 1: County Council Model**

It is the understanding of the Department of Local Government that there is a series of questions regarding Regional Libraries being put to the Crown Solicitor for clarification.

The fundamental questions regarding the County Council model are:

- Does a County Council constitute a Local Authority for the purpose of the Library Act
- There is some doubt regarding the legality of a County Council model for the delivery of library services to attract Library subsidy. This is the reason why this question is fundamental to the County Council governance model being assessed as an acceptable model for the management of a Regional Library Service.

There would be significant time and cost involved in setting up a County Council for the delivery of library services should this be approved.

County Councils as a governance model for the management and delivery of a single service to a number of Councils is not as popular in NSW as it once was.

The Department of Local Government can give no advice on this matter until such time as the Crown Solicitor gives his ruling regarding the question on whether a County Council constitutes a Local Authority for the purpose of the Library Act.

### **Model 2: One Council as Service Provider**

This is a legal model under the Library Act and there currently there are a number of different levels of cooperation between Councils for the delivery of a Regional Library Service across NSW.

The Department of Local Government gives no advice on the levels of cooperation or structure within this model but did mention that there were a number of different models in operation across the State.

### **State Library of New South Wales**

A meeting was held at the State Library on 18th August, 2009 from 11 am – 1pm.

The attendees were as follows:

<b>Name</b>	<b>Position</b>	<b>Representing</b>
Cameron Morley	Acting, Director Public Libraries and Community Learning Services	State Library NSW
Jane Cowell	Senior Consultant	AECgroup Ltd

Frances Sims, Acting State Librarian was an apology for this meeting.

### **Regional Library Arrangements under the Library Act 1939 & the Local Government Act 1993**

*Note: The term regional library is used to refer to arrangements whereby a local authority within the meaning of the Library Act 1939 enters into an arrangement with another local authority or more than one other local authority for the provision of library services within the area or areas of the other local authority or authorities. Such arrangements are expressly provided for in s12 of the Library Act.*

The following list of questions were developed from the SLNSW Forum held on regional libraries in July 2009:

#### **State Library of NSW 29 July 2009**

#### **Questions for the NSW Crown Solicitor**

**Regional Libraries under the Library Act 1939**

Note: the term regional library refers to library services managed under s12(1) or s12(2) of the Library Act 1939, i.e. where one local authority agrees to manage a public library (or specified public library functions) on behalf of another local authority or other local authorities.

**County Councils**

1) Does a County Council meet the definition of local authority for the purposes of the Library Act 1939?

**Background**

Library subsidies are payable to NSW local authorities under the Library Act 1939. The Library Act 1939 (Part 2 Definitions) defines a local authority is as follows:

- Local authority means a council within the meaning of the Local Government Act 1993.

2) Does a council "within the meaning of the Local Government Act 1993" include a County Council?

3) If so, could library subsidy be paid to a County Council under the Library Act 1939?

**Background**

It is noted that previous advice from the Crown Solicitor (ART016.27) refers to the 2nd reading speech for the bill of the Library Act which indicates that County Councils would not be eligible for library subsidy.

4) What weight does the 2nd reading speech carry, given that the Library Act itself does not explicitly preclude County Councils? In general, what weight does a 2nd reading speech have in the interpretation of a law?

5) In the event that a County Council does in fact meet the definition of a council under the Local Government Act 1993, does the 2nd reading speech (or any other matter) preclude the payment of subsidy to councils managing a library service under a County Council?

**Relationship between the Local Government Act 1919, the Library Act 1939 and the Local Government Act 1993**

**Background**

It has been suggested in discussions with NSW regional library managers that ss11 and 12(1) and 12(2) of the Library Act 1939 were necessary provisions to enable councils to more easily establish regional libraries at a time when the provisions of the Local Government Act 1919 were less flexible in terms of inter-council cooperation / management.

It has been further suggested that amendments to the Local Government Act when it was remade in 1993 (including s355) enable councils to manage services jointly with another council or councils.

6) Is the Local Government Act 1993 more flexible than its predecessor in terms of joint or cooperative ventures between councils?

7) Are the terms of the Library Act 1939 s11, s12(1) and s12(2) out of step with, or less flexible than, the Local Government Act 1993?

8) If so, in what ways is the Local Government Act 1993 more flexible than the Library Act 1939 in terms of models for joint management or cooperation between local councils.

**Potential Amendment to the Library Act 1939 s12**

It has been suggested by the Public Libraries NSW- Country Association that the Library Act 1939 s12 is amended with the addition of a clause such as the following:

TWO OR MORE LOCAL AUTHORITIES MAY ADOPT A MODEL THAT MEETS THE REQUIREMENTS OF THE LOCAL GOVERNMENT ACT 1993 FOR THE JOINT PROVISION OF LIBRARY SERVICES

9) What implications would the addition of this clause (or similar) to s12 have on the operation of the Library Act 1939 Part 3.

10) Would the addition of this clause (or similar) necessitate other amendments to the Library Act 1939?

11) Would the addition of this clause (or similar) necessitate changes to the Local Government Act 1993?

12) If regional libraries were able to operate under models analogous with those available under the Local Government Act (and still receive subsidy under the Library Act 1939), what are the available models for joint management?

**Richmond Tweed Regional Libraries Proposed Amendments to the Questions for the Crown Solicitor**

The following list of questions includes input from Richmond Tweed Legal advisor Lindsay Tanner.

It is proposed that these questions will be put to the NSW Public Library Council Committee at their meeting on 31 August 2009 for approval. These questions will then be forwarded to the Crown Solicitor.

**Operation of Libraries by Councils**

- Does the Local Government Act 1993 give councils (within the meaning of that Act) the power to establish and operate libraries and enter into regional library arrangements?
- If so, does the Library Act in any way restrict the exercise of the power of councils to establish and operate libraries and enter into regional library arrangements under the Local Government Act?
- For example, if a council has adopted the Library Act, is it bound to only operate libraries and enter into regional library arrangements as provided for in Division 2 of Part 3 of the Library Act?

**Operation of Libraries by County Councils**

- Does the Local Government Act authorise County Councils to operate libraries and, if so, can this be done with the agreement of a council instead of or for and on behalf the council concerned?
- Despite the definition of "local authority" in the Library Act and "council" in the Local Government Act, can any argument be put that a County Council is a local authority within the meaning of the Library Act?

**Subsidies**

- Although under the Library Act a council is only entitled to a subsidy from the Library Council in the circumstances set out in s13 of that Act, does anything in that Act preclude the payment of a subsidy to a council or County Council at the discretion of the Library Council or the Minister administering the Library Act?

**Potential Amendment to the Library Act**

- It has been suggested by the Public Libraries NSW-Country Association that s12 of the Library Act be amended to recognise regional library arrangements entered into by councils under the Local Government Act in circumstances where the arrangements are different to those envisaged by s12 of the Library Act
- What implications would this have for the operation of Part 3 of the Library Act and particularly the payment of subsidies by the Library Council to the councils concerned?
- Would this amendment necessitate other consequential amendments to the Library Act?

**Delegations**

- Section 12(1)(c) of the Library Act gives a council that operates a regional library subject to an agreement under s12(1) "... the powers and duties of a local authority relating to the provision, control and management of libraries, library services and information services as may be delegated to it by the agreement" (emphasis added).
- Does s12(1)(c) permit a council which has entered into an agreement under s12(1) to make a delegation under that agreement which could not otherwise be made under s377 of the Local Government Act?

### **Model 1: County Council Model**

There is some doubt regarding whether the County Council governance model constitutes a Local Authority under the Library Act and therefore whether the Library subsidy can be paid to the County Council.

This is one of the questions that it is proposed to be put to the Crown Solicitor for clarification. Once this question is resolved then there can be further debate on the relevance of this model.

It is the opinion of the State Library that should this be resolved and the Library subsidy become payable to a County Council, the subsidy must be fully expended on the provision of library services as per Section 10 of the Library Act and could not be used to offset any administrative costs that the operation of a County Council incurs.

### **Model 2: One Council as Service Provider**

Under Section 12 of the Library Act there are two (2) models for Regional Library arrangements. The first is for an Administrative Council to run the Library Service on behalf of the other Councils. This is usually put into effect when one large Council is providing the services for surrounding much smaller Councils such as is the case in the Riverina Regional Libraries with the Administrative Council being Wagga Wagga. The assets are owned by individual Councils within this model.

State Library of NSW has developed a Draft Library Agreement for Councils participating in this type of arrangement under S 12 (1) of the Library Act. The full draft agreement can be found in Appendix 1.

#### **One Council Model : Administrative Council responsible for delivery of the whole library service to all Councils within the Regional Library**

Under Section 12 (1) of the Library Act the level of delegation of functions in relation to the provision, control and management of libraries, library services and information services must be specified within any agreement between participating Councils. Each Council must agree to delegate the functions of providing, controlling and managing the library service within its area to the Administrative Council .

A Guide to the responsibilities of an Administrative Council are included in the proposed SLNSW Draft agreement and are listed below:

- The Administrative Council is to provide, control and manage the Regional Library Service in accordance with the Act.
- The Administrative Council is to provide full administrative services to the Regional Library Service including:
  - Keeping and auditing all records and accounts, in accordance with all relevant legislation and by-laws;
  - Managing funds and reserves to maximise income for and on behalf of the Regional Library Service;
  - Signing all contracts and agreements relating to the Regional Library Service; and
  - Setting the employment conditions of all the staff employed on behalf of the Regional Library Service.

- The Administrative Council is to develop, implement, maintain and monitor the implementation of a management plan for the Regional Library Service.
- The Administrative Council is to prepare policy statements on relevant aspects of the Regional Library Service and [annually] review all policies in order to improve the provision of library services for residents of the Region.
- The Administrative Council is to use its best endeavours to obtain the full benefit of grants and maximum subsidies made available by the Commonwealth, the State and other respective instrumentalities and agencies for the Regional Library Service.
- The Administrative Council is to cooperate with libraries and library systems in the wider library network on such terms and conditions as may be agreed between them.
- The Administrative Council is to submit to each Delegating Council in respect of the previous financial year:
  - An annual report which includes a copy of the audited statement of accounts for the Regional Library Service;
  - Details of the activities of the Regional Library Service including, and not limited to, statistics of purchases for the library collection;
  - A report outlining:
    - The collection size, including its age and distribution;
    - The number of borrowers and of items borrowed;
    - The number of library visits;
    - The number and type of value-added services; and
    - An assessment of the quality of service provided to each Participating Council by the Regional Library Service.
- The Administrative Council is to engage staff for the Regional Library Service in accordance with Australian Library and Information Association standards, as amended from time to time, and the Library Regulation 2005.
- Staff engaged at branch libraries are:
  - Subject to the disciplinary control of the [insert appropriate council as desired, eg. Participating Council, Administrative Council etc.]; and
  - Accountable to the Regional Library Manager for:
    - Library procedures;
    - The standard of customer service; and
    - Such promotion of the service as is necessary to implement the library policies of the Administrative Council within the branch library.

#### **Cooperative Model with One Council responsible for selected Central Library Administration functions**

A cooperative model is also available under the Section 12 (2) of the Library Act. In this model one Council is given the power to deliver specific areas of provision, control and management of libraries, library services and information services on behalf of the other Councils in the region. This can be simply the provision of a library management system and centralised procurement of the collection for all the libraries within the region.

In this model each Council could, if they so choose, manage and deliver library services to their communities while delegating central administration of certain functions of a library service to another Council.

The need for an overall Regional Library Director, in this model, would be dependent on the amount of delegation of library services to the one Council and the level of responsibility this would require.

State Library of NSW has developed a Draft Library Agreement for Councils participating in this type of arrangement under S 12 (2) of the Library Act. The full draft agreement can be found in **Appendix 2**.

Individual Councils

On Wednesday 26<sup>th</sup> and Thursday 27<sup>th</sup> AECgroup consultants met individually with Senior staff and elected officials at each of the Councils participating in the Richmond Tweed Regional Library Service (RTRL). Invitations were sent to the Mayors, General Managers, and Finance Managers and to the Library Committee delegates from each Council. **Table 4.1** details the attendees at these meetings.

**Table 4.1 Council Consultation Participants**

Council	Attendee	Position
Ballina Shire Council	Phil Silver	Mayor
Ballina Shire Council	Paul Hickey	General Manager
Ballina Shire Council	Peter Morgan	Finance Manager
Byron Shire Council	???	Acting General Manager
Byron Shire Council	Mark Arnold	Manager Community Services
Byron Shire Council	Jim Bolger	Finance Manager
Tweed Shire Council	Joan van Lieshout	Mayor
Tweed Shire Council	Dot Holdom	Councillor
Tweed Shire Council	Mike Raynor	General Manager
Tweed Shire Council	David Oxenham	Director Community & Natural Resources
Tweed Shire Council	Gary Corbett	Manager Community & Cultural Services
Tweed Shire Council	Troy Green	Director, Technology & Corporate Services
Lismore City Council	Jenny Dowell	Mayor
Lismore City Council	Paul O'Sullivan	General Manager
Lismore City Council	Rino Santin	Finance Manager

The agenda for the meetings included an introduction of the three models under discussion:

- County Council Model
- Administrative Council Model
- Shared Services Model

Discussion regarding these models and the most beneficial for Council was then held.

**Model 1: County Council Model**

The County Council model was the most favoured by the elected members who attended the meetings. The reasons given were that this was a known structure; it had permanence and continued the presence of elected officials having oversight of the Regional Library Service.

However, there was acknowledgement that there would be limited opportunity to gain approval for a new County Council to run one regional service in the next two years given the current political climate in the State of NSW.

One Mayor raised the possibility of utilising an existing County Council to operate the regional library service as well as the service it was set up to deliver. Currently there is no County Council in the region that operates across the same geographical footprint as the Richmond Tweed Regional Library. No other County Council has ever run more than one regional service and it was unknown whether it could operate across two different geographical areas.

Only one General Manager stated a preference for the County Council model with all others preferring an Administrative Council model.

**Governance**

Pros	Cons
Whole region view	Loss of direct control by Councils



Permanent structure	Lack of support for a single service County Council model
Known structure	Significant time required to establish
Can borrow for significant capital investment when required	Current political environment in the State of NSW
Support of local elected members	

**Finance**

- Lack of support from a financial perspective
- Establishment costs
- Loss of financial veto by participating Councils
- Uncertainty regarding Library subsidy payment to a County Council
  - Currently this is before the Crown solicitor

**Service Delivery**

- All staff employed by County Council
- Service Delivery standard determined by County Council
- Flexibility of staff movement is maintained across the region
- Limited disruption for existing library services staff with entitlements, conditions and staff structure remaining very similar
- No service disruption

**Administrative Council Model**

This model entailed one of the four participating Councils within the RTRL administering the Regional Library Service on behalf of the other three Councils. Official delegation of library services would need to occur. This is the model detailed under Section 12 (1) of the Library Act and is achievable in a short timeframe if a service level agreement can be agreed to.

While this had the support of three General Managers and was the second choice for the elected members attending the meetings, no one Council indicated that they would be willing to undertake this role in the region.

**Governance**

Pros	Cons
Single service providing uniform service to the Region	Significant risk to one Council
Aligned with State objectives Easier/Quicker to implement	Requires long-term commitment
Staff part of one organisation	Significant goodwill required for Service Level Agreement establishment
Support of 3 Councils	No Council willing
Ongoing role of Library Committee as an advisory committee	Administrative Council elected members have final say in Library Service delivery
Achievable now	

**Finance**

- Potential efficiency gains and most support as a model

- May improve long-term viability of Administrative Council
- Limited additional costs to non Administrative Councils
- Financial security through long-term plans
- Subsidy would be paid

**Service Delivery**

- Significant Service Level Agreement would be required to assure support
  - Pricing model
  - Service delivery
  - Strategic Plan
  - Reporting mechanisms to participating Councils
- Continuation of existing staff structure, however Library Director accountability would rest with Administrative Council
- One Council operation rather than independent third party
  - Potentially improved integration of library facility and financial planning
- Equalisation of staff terms and conditions and flexibility of staff movement
- Advisory Library Committee role
- Reporting to State Library rests with the Administrative Council
- No service disruption

**Shared Services Model**

The Shared Services model is a co-operative model where participating Councils agree to share certain library service operations, with one Council administering these services. The most common Shared Services in this type of arrangement for Library Services are:

- Library Management System
- Collection acquisition
- Mobile Library

This model is detailed under Section 12 (2) of the Library Act. This had the strong support of two Councils as it poses significantly less risk to the Administrative Council and can potentially be put in place in the quickest timeframe.

In this model each Council is responsible for the library service delivery standard and for employing the library staff operating the libraries in their Local Government Area. The Administrative Council would co-ordinate the agreed cooperative functions and charge the costs of these functions to the other three Councils.

**Governance**

Pros	Cons
Administrative Council co-ordinates / provides Shared Services	Each Council operates own Library Service
Could operate in the interim	Limited co-operation maybe a backward step
Requires less agreement	Support of two Councils
Less risk /burden for Administrative Council	No role for the Library Committee
Quick to implement	

Pros	Cons
Elected members vote directly on the library service standards in their own municipality	

**Finances**

- Potential efficiency gains
- Equalisation of staff terms and conditions
- Fewer components in SLA
- Less onerous reporting requirements
- Subsidy paid to each Council

**Service Delivery**

- Service Delivery directly determined by individual Councils
- No role for Library Committee
- Significant change to current library service staffing structure
- No service disruption
- Reporting to State Library rests with individual Councils

## Appendix C: Draft Administrative Council Agreement

### ***Library Act 1939 Agreement***

**THIS AGREEMENT** is made on                    of                    20XX.

#### Between

1.     [Insert X council name];
2.     [Insert Y council name]; and
3.     [Insert Z council name – add more/remove if necessary].

#### Background

- A.     This is an Agreement made pursuant to s. 12(2) of the Act.
- B.     X Council undertakes to exercise, for and on behalf of [insert Y, Z etc. council names], within the area[s] of [insert Y, Z etc. council names], [insert overview of specified power or duty] of [insert Y, Z etc. council names] in relation to the provision, control and management of libraries, library services and information services.
- C.     This Agreement specifies the terms and conditions upon which such [power[s] and/or duty/duties] will be so exercised by X Council.
- D.     Each Participating Council has resolved to adopt the Act.

#### Operative provisions

#### Definitions and interpretation

**Guide Note:** Add to this clause (or remove) as necessary.

In this Agreement, unless the context otherwise requires:

“**Act**” means the *Library Act 1939*.

“**Agreement**” means this agreement which includes the attachments that are incorporated into this agreement by reference, as amended from time to time in accordance with the terms of this agreement.

“**Agreement Details**” means the details specified in Attachment A.

“**Area**” in relation to a Participating Council means the geographic area administered by that Council under the *Local Government Act 1993*.

“**Broadband**” means a high speed internet connection of at least 512 kbps.

“**Commencement Date**” means the date specified as such in the Agreement Details.

“**Library Council**” means Library Council of New South Wales.

“**Participating Council**” means a party to this Agreement.

“**Region**” means the geographic area covered by the Participating Councils.

“**Service Level Agreement**” means the service level agreement at Attachment B, which forms part of this Agreement.

“**Term**” means the duration of this Agreement as specified in the Agreement Details or until the date on which this Agreement is terminated, whichever occurs first.

“**WCAG**” means the Web Content Accessibility Guidelines released by the World Wide Web Consortium.

“**[X Council]**” means the council described as such in the Agreement Details.

“**[Y Council]**” means the council described as such in the Agreement Details.

“**[Z Council]**” means the council described as such in the Agreement Details.

Except where the context otherwise requires:

**References to legislation.** A reference to a statute, regulation, ordinance or by-law (“Law”) will be deemed to extend to include a reference to all statutes, regulations, ordinances or by-laws amending, consolidating or replacing that Law from time to time.

**Reconstitution of a party.** A reference to a person which has ceased to exist or has been reconstituted, amalgamated or merged, or other functions of which have become exercisable by any other person or body in its place, shall be taken to refer to the person or body established or constituted in its place by which its said functions have become exercisable.

**Time Limits.** Where any time limit pursuant to this Agreement falls on a non-business day then that time limit shall be deemed to have expired on the next business day.

**Grammatical forms.** Where a word or phrase is given a defined meaning in this Agreement, any other part of speech or other grammatical form in respect of such word or phrase shall unless the context otherwise requires have a corresponding meaning.

**Rules of Construction.** No rule of construction operates to the detriment of a party only because that party was responsible for the preparation of this Agreement or any part of it.

**Headings.** The headings and index in this Agreement are for convenience only and do not affect the interpretation of this Agreement.

**References to groups.** A reference to a group of persons is a reference to all of them collectively and to any two or more of them collectively and to each of them individually.

**References to persons.** Persons will be taken to include any natural or legal person.

## **Term**

**Guide Note:** This clause is essential for the Agreement to be valid under s. 12 of the Act: s. 12(3).

This Agreement commences on the Commencement Date and will continue for the Term.

## **Specified power or duty**

**Guide Note:** This clause is essential for the Agreement to be valid under s. 12 of the Act (this Agreement is an agreement pursuant to s. 12(2) only). Please note, 3.1(a) and (b) are examples only.

Pursuant to s. 12(2) of the Act, X Council undertakes to exercise, for and on behalf of [insert Y, Z Councils], within the area or areas of [insert Y, Z Councils], the following [powers and/or duties] of [insert Y, Z Councils] in relation to the provision, control and management of libraries, library services and information services:

- (a) Computer catalogue system;
- (b) Membership records; and
- (c) Etc.

## **Responsibilities of [X Council]**

**Guide Note:** This clause deals with matters that are not specifically required by s. 12 of the Act, but are examples of what the parties might wish to include. They would form part of the "terms and conditions" mentioned in s. 12(2)(b) of the Act. If preferred, they could be included in a Service Level Agreement.

Insert appropriate terms and conditions in respect of whatever power or duty is being exercised by X for Y and Z – for example, in respect of a computer catalogue system, there might be some preferred library software that should be used or the terms and conditions might specify that the software has to be the latest version and the minimum hardware requirements etc. Examples that follow assume X providing a computer catalogue system to Y and Z where the latter will provide the hardware.

X Council is to exercise the [powers and/or duties] specified in cl. 0 in accordance with the Act.

In providing a computer catalogue system for Y and Z Councils, X Council will use the software package known as *Atrium* by Book Systems, Inc [this could be defined in cl. 1, if preferred].

X Council will ensure that *Atrium* is properly maintained and that:

all critical patches released by the vendor are applied to update the software within one week of release; and

all non-critical patches are applied within one month of release.

X Council will provide the residents of Y and Z Councils with external access to the catalogue via a public website which must comply with WCAG 2.0.

Etc.

### **Responsibilities of [Y and Z Councils]**

**Guide Note:** This clause deals with matters that are not specifically required by s. 12 of the Act, but are examples of what the parties might wish to include. They would form part of the "terms and conditions" mentioned in s. 12(2)(b) of the Act. If preferred, they could be included in a Service Level Agreement.

Appropriate terms and conditions in respect of whatever power or duty is being exercised by X for Y and Z should be inserted. Examples that follow assume X providing a computer catalogue system to Y and Z where the latter will provide the hardware.

Y and Z Councils will each provide computer terminal hardware in the libraries in their areas for the computer catalogue system.

The minimum specification of each terminal provided by Y and Z Councils under this Agreement must be: [insert minimum requirements].

Y and Z Councils will each provide broadband connections to connect the computer terminals in the libraries in their areas to the computer catalogue system operated by X Council.

Y and Z Councils must, within one month of this Agreement being executed, give access to X Council to their existing library catalogues.

Y and Z Councils each agree to continue using the Dewey Decimal Classification system in their libraries.

Etc.

### **Liability**

Any liability incurred by X Council in connection with the performance of its functions of exercising powers and/or duties under this Agreement, except where it has been negligent in the performance of its functions, is to be borne by each Participating Council in the same proportion as the population in its area bears in relation to the total population of the Region.

Etc.

## Assets

**Guide Note:** If needed, this clause deals with matters that are not specifically required by s. 12 of the Act, but are examples of what the parties might wish to include. They would form part of the "terms and conditions" mentioned in s. 12(2)(b) of the Act. If preferred, they could be included in a Service Level Agreement.

The intellectual property in each Participating Council's library catalogue remains with that Participating Council.

Etc.

## Finance

**Guide Note:** This clause deals with matters that are not specifically required by s. 12 of the Act, but are examples of what the parties might wish to include. They would form part of the "terms and conditions" mentioned in s. 12(2)(b) of the Act. If preferred, they could be included in a Service Level Agreement.

Y and Z Councils will each pay X Council \$XXXX.XX per annum to exercise the powers and/or duties referred to in cl. 3 of this Agreement [or whatever formula is appropriate for the powers and/or duties to be exercised, including a formula to allow for any increase over the term of the Agreement].

The first annual payment referred to in cl. 0 is due upon execution of this Agreement.

Interest on any amount payable under this Agreement which is not received within fourteen days of the due date must be paid at the rate specified from time to time by the Local Government Minister by notice published in the Gazette pursuant to s. 566 of the *Local Government Act 1993*, until the date it is received.

## Dispute resolution

**Guide Note:** To be valid, this Agreement must have a s. 12(5) dispute resolution clause (cl. **Error! Reference source not found.**). However, it is possible to have an alternative dispute resolution mechanism that takes effect where a party has not exercised its rights under s. 12(5) of the Act. An example is the alternative dispute resolution mechanism outlined below at cls 9.1 – 9.4. Other mechanisms may be adopted.

Where a Participating Council claims that a dispute has arisen, it may give written notice of the dispute to [each or the] other Participating Council.

The Participating Councils must seek to resolve the dispute within 14 days of receipt of a notice under cl. 9.1.

If the dispute is not resolved within this 14 day period, or within such further period as the Participating Councils agree in writing, then the dispute is to be referred to the Australian Commercial Dispute Centre ("ACDC") for mediation.

The mediation shall be conducted in accordance with the ACDC Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved.

Notwithstanding anything else in this clause, pursuant to s. 12(5) of the Act, any dispute arising under the agreement must, on the application to the Library Council



of a Participating Council, be settled by arbitration by an arbitrator appointed by the Library Council.

## **Termination**

**Guide Note:** This clause deals with matters that are not specifically required by s. 12 of the Act, but are **examples** of what the parties might wish to include. They would form part of the "adjustment" mentioned in s. 12(4) of the Act.

This Agreement may be terminated by agreement of at least [insert number] Participating Councils.

This Agreement may only be terminated in accordance with cl. 10.1 on 6 months notice in writing to the other Participating Councils.

[Insert terms of termination – will depend entirely on subject matter of Agreement]

## **Notices**

A notice under this Agreement must be:

in writing, directed to the representative of [each or the] other Participating Councils as specified in the Agreement Details; and

forwarded to the address, facsimile number or the email address of that representative as specified in the Agreement Details or the address last notified by the intended recipient to the sender.

A notice under this Agreement will be deemed to be served:

in the case of delivery in person - when delivered to the recipient's address for service and a signature received as evidence of delivery.

in the case of delivery by post - within three business days of posting.

in the case of delivery by facsimile – at the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient.

in the case of delivery by email, on receipt of confirmation by the recipient that the recipient has received the email.

Notwithstanding the preceding subclause, if delivery or receipt of a communication is on a day which is not a business day in the place to which the communication is sent or is later than 5pm (local time in that place) it will be deemed to have been duly given or made at 9am (local time at that place) on the next business day in that place.

## **Miscellaneous**

### **Writing**

All amendments to this Agreement and all consents, approvals, waivers and agreements made under or pursuant to this Agreement must be evidenced in writing.

### **Consents**

A Participating Council may give its consent or approval conditionally or unconditionally or may withhold its consent, in its absolute discretion, unless this Agreement specifically provides otherwise.

### **Severability**

If any part of this Agreement is prohibited, void, voidable, illegal or unenforceable, then that part is severed from this Agreement but without affecting the continued operation of the remainder of the Agreement.

If any part of this Agreement is not in accordance with the provisions of the Act, then that part is severed from this Agreement but without affecting the continued operation of the remainder of the Agreement.

### **Inconsistency**

In the event of an inconsistency between the terms of this Agreement, for the purpose only of resolving the inconsistency, the following order of decreasing priority applies:

Operative provisions of this Agreement.

Agreement Details (Attachment A).

Service Level Agreement (Attachment C).

Other attachments (if any).

<b>Guide Note:</b> The above order of priority may need to be changed or amended for specific provisions.
---

### **Legal advice and costs**

Each Participating Council will bear its own costs incurred in relation to this Agreement.

This agreement is executed on \_\_\_\_\_ 20\_\_\_\_.

**Execution by the X Council:**

**Signed** for and on behalf of ..... )  
..... )  
(insert name of X Council as per Agreement Details) )  
)  
)  
by..... ) ..... )  
(insert name of person signing on the X Council's behalf) ) (signature of X Council's representative)  
)  
)  
in the presence of..... ) ..... )  
(insert name of witness) ) (signature of witness)

**Execution by Y and Z Council(s):**

**Signed** for and on behalf of ..... )  
..... )  
(insert name of Y Council as per Agreement Details) )  
)  
)  
by..... ) ..... )  
(insert name of person signing on Y Council's behalf) ) (signature of Y Council's representative)  
)  
)  
in the presence of..... ) ..... )  
(insert name of witness) ) (signature of witness)

**Signed** for and on behalf of ..... )  
..... )  
(insert name of Z Council as per Agreement Details) )  
)  
)  
by..... ) ..... )  
(insert name of person signing on Z Council's behalf) ) (signature of Z Council's representative)  
)  
)  
in the presence of..... ) ..... )  
(insert name of witness) ) (signature of witness)

## ATTACHMENT A AGREEMENT DETAILS

This attachment forms part of the Agreement between the Participating Councils.

---

**Item 1      X Council**

Name:            [insert name of X Council]

Address         [insert street address]

---

**Item 2      Y Council**

Name:            [insert name of Y Council]

Address         [insert street address]

---

**Item 3      Z Council**

Name:            [insert name of Z Council]

Address         [insert street address]

---

**Item 4      TERM**

Commencement         [insert Commencement Date]

Date:

Duration:                [insert period or end date]

**Guide Note:** Specify the duration of this Agreement by specifying either:  
- a number of months from the Commencement Date i.e. "[insert months] from the Commencement Date"; or  
- a period ending on a specified expiry date i.e. "Time period ending on [insert date]".

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2.	Term .....
3.	Specified power or duty.....
4.	Responsibilities of [X Council] .....
5.	Responsibilities of [Y and Z Councils] .....
6.	Liability.....
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	Writing .....
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	<b>Attachment A Agreement Details</b>
	<b>Attachment B Assets Register</b>
	<b>Attachment C Service Level Register</b>

## Appendix D: Draft Shared Services Agreement

### ***Library Act 1939 Agreement***

**THIS AGREEMENT** is made on                    of                    20XX.

Between

1.        [Insert administering council name]; and
2.        [Insert delegating council name]; and
3.        [Insert delegating council name – add more if necessary].

#### Background

- A.        This is an Agreement made pursuant to s. 12(1) of the Act.
- B.        The Administering Council agrees to undertake the function of providing, controlling and managing libraries, library services or information services within the area of [each or the] Delegating Council.
- C.        The Delegating Councils agree to delegate to the Administering Council the function of providing, controlling and managing libraries, library services or information services within the area of [each or the] Delegating Council.
- D.        This Agreement specifies the terms and conditions upon which the libraries, library services or information services will be provided, controlled and managed by the Administering Council.
- E.        The Participating Councils note the intention of the Administering Council to constitute a committee in respect of the Regional Library Service pursuant to s. 11 of the Act.
- F.        Each Participating Council has resolved to adopt the Act.

#### Operative provisions

#### Definitions and interpretation

<b>Guide Note:</b> Add to this clause as necessary. For example, if the concept of a "Decentralised Regional Library Service" is introduced into the Agreement, it should be defined here.
--

In this Agreement, unless the context otherwise requires:

“**Act**” means the *Library Act 1939*.

“**Administering Council**” means the council described as such in the Agreement Details.

“**Agreement**” means this agreement which includes the attachments that are incorporated into this agreement by reference, as amended from time to time in accordance with the terms of this agreement.

“**Agreement Details**” means the details specified in Attachment A.

“**Area**” in relation to a Participating Council means:

- (a) for a Delegating Council, the geographic area of the Delegating Council; and
- (b) for the Administering Council, the geographic area of the Administering Council which, for the avoidance of doubt, excludes the geographic area of a Delegating Council.

“**Commencement Date**” means the date specified as such in the Agreement Details.

“**Delegating Council**” means a council described as such in the Agreement Details.

“**Executive Officer**” has the meaning given in cl. **Error! Reference source not found.**

“**Library Council**” means Library Council of New South Wales.

“**Net assets**” means the assets acquired for or by the Regional Library Service after the commencement of this Agreement, not being assets referred to in cls **Error! Reference source not found.** or **Error! Reference source not found.**

“**Participating Council**” means a party to this Agreement.

“**Region**” means the geographic area covered by the Participating Councils.

“**Regional Library Manager**” means the Regional Library Manager referred to in cl. **Error! Reference source not found.**

“**Regional Library Service**” means the service formed after the Commencement Date and constituted by the libraries, library services or information services provided, controlled and managed by the Administering Council in the area of each Participating Council.

“**Service Level Agreement**” means the service level agreement at Attachment B, which forms part of this Agreement.

“**Term**” means the duration of this Agreement as specified in the Agreement Details or until the date on which this Agreement is terminated, whichever occurs first.



**References to legislation.** A reference to a statute, regulation, ordinance or by-law (“Law”) will be deemed to extend to include a reference to all statutes, regulations, ordinances or by-laws amending, consolidating or replacing that Law from time to time.

**Reconstitution of a party.** A reference to a person which has ceased to exist or has been reconstituted, amalgamated or merged, or other functions of which have become exercisable by any other person or body in its place, shall be taken to refer to the person or body established or constituted in its place by which its said functions have become exercisable.

**Time Limits.** Where any time limit pursuant to this Agreement falls on a non-business day then that time limit shall be deemed to have expired on the next business day.

**Grammatical forms.** Where a word or phrase is given a defined meaning in this Agreement, any other part of speech or other grammatical form in respect of such word or phrase shall unless the context otherwise requires have a corresponding meaning.

**Rules of Construction.** No rule of construction operates to the detriment of a party only because that party was responsible for the preparation of this Agreement or any part of it.

**Headings.** The headings and index in this Agreement are for convenience only and do not affect the interpretation of this Agreement.

**References to groups.** A reference to a group of persons is a reference to all of them collectively and to any two or more of them collectively and to each of them individually.

**References to persons.** Persons will be taken to include any natural or legal person.

## **Term**

**Guide Note:** This clause is essential for the Agreement to be valid under s. 12 of the Act: s. 12(3).

This Agreement commences on the Commencement Date and will continue for the Term.

## **Delegation**

**Guide Note:** This clause is essential for the Agreement to be valid under s. 12 of the Act (this Agreement is an agreement pursuant to s. 12(1) only). This example clause contemplates a delegation of all functions in relation to the provision, control and management of libraries, library services and information services, for the purposes of s. 12(1)(c). It need not do so. Any limitations to the delegation should be included in this clause.

Pursuant to s. 12(1) of the Act, [each or the] Delegating Council hereby delegates to the Administering Council the function of providing, controlling and managing [specify one or more libraries, library services or information services] within its area.

## Responsibilities of the Administering Council

**Guide Note:** This clause deals with matters that are not specifically required by s. 12 of the Act, but are examples of what the parties might wish to include. They would form part of the "terms and conditions" mentioned in s. 12(1)(c) of the Act. If preferred, they could be included in the Service Level Agreement.

These responsibilities can be further delegated, *mutatis mutandis*, to a s. 11 committee, if the Administering Council desires it (subject to the limitations of s. 11(1), for example, cl. 0 could not be so delegated). However, that delegation cannot be a part of this Agreement.

The Administering Council is to provide, control and manage the Regional Library Service in accordance with the Act.

The Administering Council is to provide full administrative services to the Regional Library Service including:

keeping and auditing all records and accounts, in accordance with all relevant legislation and by-laws;

managing funds and reserves to maximise income for and on behalf of the Regional Library Service;

signing all contracts and agreements relating to the Regional Library Service; and

setting the employment conditions of all the staff employed on behalf of the Regional Library Service.

The Administering Council is to develop, implement, maintain and monitor the implementation of a management plan for the Regional Library Service.

The Administering Council is to prepare policy statements on relevant aspects of the Regional Library Service and [annually] review all policies in order to improve the provision of library services for residents of the Region.

The Administering Council is to use its best endeavours to obtain the full benefit of grants and maximum subsidies made available by the Commonwealth, the State and other respective instrumentalities and agencies for the Regional Library Service.

The Administering Council is to cooperate with libraries and library systems in the wider library network on such terms and conditions as may be agreed between them.

The Administering Council is to submit to each Delegating Council in respect of the previous financial year:

an annual report which includes a copy of the audited statement of accounts for the Regional Library Service;

details of the activities of the Regional Library Service including, and not limited to, statistics of purchases for the library collection;

the number of borrowers and of items borrowed;

the number of library visits;

the number and type of value-added services; and

an assessment of the quality of service provided to each Participating Council  
by the Regional Library Service.

<p><b>Guide Note:</b> Clause 0 will depend on the nature of the Regional Library Service that is contemplated. For example, an Agreement could provide for employment of personnel to be by the Delegating Council, or by the Regional Library Service itself. If cl. 6.3 addresses staff, cl. 4.8 will need to be made subject to cl. 6.3.</p>
---

The Administering Council is to engage staff for the Regional Library Service in accordance with Australian Library and Information Association standards, as amended from time to time, and the *Library Regulation 2005*.

Staff engaged at branch libraries are:

subject to the disciplinary control of the [insert appropriate council as desired, eg. Participating Council, Administering Council etc.]; and

accountable to the Regional Library Manager for:

- (i) library procedures;
- (ii) the standard of customer service; and
- (iii) such promotion of the service as is necessary to implement the library policies of the Administering Council;

within the branch library.

### **Library Committee pursuant to s. 11 of the Act**

Nothing in this Agreement prevents the Administering Council from delegating any of its functions, including any conferred or imposed under this Agreement, in relation to the provision, control and management of libraries, library services and information services, to a committee constituted by it in accordance with s. 11 of the Act.

the number of borrowers and of items borrowed;

the number of library visits;

the number and type of value-added services; and

an assessment of the quality of service provided to each Participating Council by the Regional Library Service.

**Guide Note:** Clause 0 will depend on the nature of the Regional Library Service that is contemplated. For example, an Agreement could provide for employment of personnel to be by the Delegating Council, or by the Regional Library Service itself. If cl. 6.3 addresses staff, cl. 4.8 will need to be made subject to cl. 6.3.

---

The Administering Council is to engage staff for the Regional Library Service in accordance with Australian Library and Information Association standards, as amended from time to time, and the *Library Regulation 2005*.

Staff engaged at branch libraries are:

subject to the disciplinary control of the [insert appropriate council as desired, eg. Participating Council, Administering Council etc.]; and

accountable to the Regional Library Manager for:

- (i) library procedures;
- (ii) the standard of customer service; and
- (iii) such promotion of the service as is necessary to implement the library policies of the Administering Council;

within the branch library.

### **Library Committee pursuant to s. 11 of the Act**

Nothing in this Agreement prevents the Administering Council from delegating any of its functions, including any conferred or imposed under this Agreement, in relation to the provision, control and management of libraries, library services and information services, to a committee constituted by it in accordance with s. 11 of the Act.

the Participating Council receiving an invoice from the [Regional Library Service or Administering Council] for the provision of such service or resource.

## **Liability**

**Guide Note:** The maximum duration specified in cl. 7.3 may need to be amended to ensure it does not extend beyond the Term.

Any liability incurred by the Administering Council in connection with the performance of its functions as Administering Council under this Agreement, except where the Administering Council has been negligent in the performance of its functions, is to be borne by each Participating Council in the same proportion as its financial contribution to the Regional Library Service bears to the sum of all the Participating Councils' financial contributions to the Regional Library Service over the duration of this Agreement.

The duration of this Agreement, for the purposes of cl. 7.1, is the period between the Commencement Date and the date the liability is incurred, to a maximum five year period.

## **Assets**

**Guide Note:** This clause deals with matters that are not specifically required by s. 12 of the Act, but are examples of what the parties might wish to include. They would form part of the "terms and conditions" mentioned in s. 12(1)(c) of the Act. If preferred, they could be included in the Service Level Agreement.

All library materials, equipment and other assets held by the Participating Councils prior to the execution of this Agreement and specified in Attachment B are for the use of the Regional Library Service.

The Administering Council is to maintain a register of the assets provided for the use of the Regional Library Service which must indicate which Participating Council owns each asset.

A Participating Council must, unless otherwise agreed to by the other Participating Councils, give a minimum of twelve months notice in writing of its intention to withdraw an asset from use by the Regional Library Service.

## **Management and Administration**

**Guide Note:** This clause deals with matters that are not specifically required by s. 12 of the Act, but are examples of what the parties might wish to include. They would form part of the "terms and conditions" mentioned in s. 12(1)(c) of the Act. If preferred, they could be included in the Service Level Agreement.

The Executive Officer of the Regional Library Service:

is to be the General Manager of the Administering Council; or

is to be appointed by the General Manager of the Administering Council.

The Executive Officer is responsible to the Administering Council for the financial operation and administration of the Regional Library Service.

A Regional Library Manager is to be appointed by the Administering Council and:

is to be a qualified librarian as recognised by the *Australian Library and Information Association*;

is to be responsible to the Executive Officer for the administration of the services provided by the Regional Library Service; and

is to supervise and control staff employed by the Participating Councils on behalf of the Regional Library Service.

The duties of the Regional Library Manager include:

to develop, maintain and implement a management plan;

to provide advice to the Administering Council on all matters relevant to the policy, planning and development of the Regional Library Service;

to implement or assist in the implementation of decisions made by the Administering Council upon matters delegated to it under this Agreement;

to manage the resources of the Regional Library Service in a cost-effective manner;

to select and purchase library books and materials [within an agreed collection management plan];

to advise Participating Councils on the operation and staffing of branch libraries in their areas;

to represent the Regional Library Service at all times in a professional and competent manner;

to control and supervise staff;

to develop and implement a training plan for all staff and volunteers engaged in the Regional Library Service;

to provide reports to the [Administering Council or Participating Councils or ....] as required on the management of the Regional Library Service and implementation of the management plan; and

such other duties as determined by the Executive Officer in consultation with the Administering Council from time to time.

A written plan for the management and development of each branch library shall be jointly prepared by each Participating Council, the Regional Library Manager and the branch librarian which will include objectives for:

collection development;

service development and delivery;

staff training and development;

staff evaluation criteria and performance measures; and

building maintenance and improvement.

## **Finance**

**Guide Note:** This clause deals with matters that are not specifically required by s. 12 of the Act, but are examples of what the parties might wish to include. They would form part of the "terms and conditions" mentioned in s. 12(1)(c) of the Act. If preferred, they could be included in the Service Level Agreement.

The Administering Council will by [insert date] each year provide each Delegating Council with a copy of the Regional Library Service's proposed annual budget for the following financial year.

The proposed annual budget will include:

- (a) the amount of funds currently held by or for the Regional Library Service;
- (b) the amount of each Participating Council's proposed financial contribution to or for the Regional Library Service for the financial year commencing 1 July;
- (c) the estimated amount of funds to be received from government subsidies and grants by or for the Regional Library Service in the financial year commencing 1 July; and
- (d) the amount of funds to be received from any other source by or for the Regional Library Service in the financial year commencing 1 July.

The annual budget is adopted when signed notices to that effect are served by at least [insert number] Participating Councils on the other Participating Councils.

The Administering Council is to use its best endeavours to ensure that an annual budget is adopted by [insert date] in each year.

In the event that the annual budget is not adopted by the date specified in cl. 0, contributions from Participating Councils will remain unchanged from the previous year until the annual budget is resolved.

the amount to be contributed to or for the Regional Library Service by each Participating Council during each financial year is to be the amount specified in the Regional Library Service's adopted annual budget as the contribution of that Participating Council;

the Administering Council will consult with the other Participating Councils about a formula to be used to determine the budget contribution for each Participating Council; and

each Participating Council's financial contribution to the Regional Library Service shall be paid in quarterly instalments on the first days of July, October, January and April of each year.

Interest on any amount payable under this Agreement which is not received by the Executive Officer within fourteen days of the due date must be paid at the rate specified from time to time by the Local Government Minister by notice published in the Gazette pursuant to s. 566 of the *Local Government Act 1993*, until the date it is received by the Executive Officer.

## **Dispute resolution**

**Guide Note:** To be valid, this Agreement must have a s. 12(5) dispute resolution clause (cl. 0). However, it is possible to have an alternative dispute resolution mechanism that takes effect where a party has not exercised its rights under s. 12(5) of the Act. An example is the alternative dispute resolution mechanism outlined below at cls 11.1 – 11.4. Other mechanisms may be adopted.

Where a Participating Council claims that a dispute has arisen, it may give written notice of the dispute to [each or the] other Participating Council.

The Participating Councils must seek to resolve the dispute within 14 days of receipt of a notice under cl. 11.1.

If the dispute is not resolved within this 14 day period, or within such further period as the Participating Councils agree in writing, then the dispute is to be referred to the Australian Commercial Dispute Centre ("ACDC") for mediation.

The mediation shall be conducted in accordance with the ACDC Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved.

Notwithstanding anything else in this clause, pursuant to s. 12(5) of the Act, any dispute arising under the agreement must, on the application to the Library Council of a Participating Council, be settled by arbitration by an arbitrator appointed by the Library Council.



## Termination

**Guide Note:** This clause deal with matters that are not specifically required by s. 12 of the Act, but are examples of what the parties might wish to include. They would form part of the "adjustment" mentioned in s. 12(4) of the Act. In addition, where a new council wishes to join the Regional Library Service, this clause could be used to terminate this Agreement before immediately commencing a new agreement that included the additional party.

The maximum duration specified in cl. 12.3 may need to be amended to ensure it does not extend beyond the Term.

This Agreement may be terminated by agreement of at least [insert number] Participating Councils.

If this Agreement is terminated:

each Participating Council will be entitled to a portion of the Regional Library Service's assets; and

each Participating Council will be liable for a portion of the liabilities and contingent liabilities of the Regional Library Service;

in the same proportion as its financial contribution to the Regional Library Service bears to the total of all the financial contributions by each Participating Council to the Regional Library Service over the duration of this Agreement to a maximum five year period.

The duration of this Agreement, for the purposes of cl. 12.2, is the period between the Commencement Date and the date the Agreement is terminated, to a maximum five year period.

## Notices

A notice under this Agreement must be:

in writing, directed to the representative of [each or the] other Participating Councils as specified in the Agreement Details; and

forwarded to the address, facsimile number or the email address of that representative as specified in the Agreement Details or the address last notified by the intended recipient to the sender.

A notice under this Agreement will be deemed to be served:

in the case of delivery in person - when delivered to the recipient's address for service and a signature received as evidence of delivery.

in the case of delivery by post - within three business days of posting.

in the case of delivery by facsimile – at the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient.

in the case of delivery by email, on receipt of confirmation by the recipient that the recipient has received the email.

Notwithstanding the preceding subclause, if delivery or receipt of a communication is on a day which is not a business day in the place to which the communication is sent or is later than 5pm (local time in that place) it will be deemed to have been duly given or made at 9am (local time at that place) on the next business day in that place.

## **Miscellaneous**

### **Writing**

All amendments to this Agreement and all consents, approvals, waivers and agreements made under or pursuant to this Agreement must be evidenced in writing.

### **Consents**

A Participating Council may give its consent or approval conditionally or unconditionally or may withhold its consent, in its absolute discretion, unless this Agreement specifically provides otherwise.

### **Severability**

If any part of this Agreement is prohibited, void, voidable, illegal or unenforceable, then that part is severed from this Agreement but without affecting the continued operation of the remainder of the Agreement.

If any part of this Agreement is not in accordance with the provisions of the Act, then that part is severed from this Agreement but without affecting the continued operation of the remainder of the Agreement.

### **Inconsistency**

In the event of an inconsistency between the terms of this Agreement, for the purpose only of resolving the inconsistency, the following order of decreasing priority applies:

Operative provisions of this Agreement.

Agreement Details (Attachment A).

Service Level Agreement (Attachment C).

Other attachments (if any).

**Guide Note:** The above order of priority may need to be changed or amended for specific provisions.

### **Legal advice and costs**

This agreement is executed on \_\_\_\_\_ 20\_\_\_\_.

**Execution by the Administering Council:**

**Signed** for and on behalf of ..... )

..... )

(insert name of Administering Council as per Agreement Details) )

)

)

by..... )

(insert name of person signing on the Administering Council's )

behalf) )

)

)

in the presence of..... )

(insert name of witness) )

.....  
(signature of Administering Council's representative)

.....  
(signature of witness)

**Execution by the Delegating Council(s):**

**Signed** for and on behalf of ..... )  
..... )  
(insert name of a Delegating Council as per Agreement Details) )  
)  
)  
by..... ) ..... )  
(insert name of person signing on the Delegating Council's behalf) ) (signature of Delegating Council's representative)  
)  
)  
in the presence of..... ) ..... )  
(insert name of witness) ) (signature of witness)

**Signed** for and on behalf of ..... )  
..... )  
(insert name of a Delegating Council as per Agreement Details) )  
)  
)  
by..... ) ..... )  
(insert name of person signing on the Delegating Council's behalf) ) (signature of Delegating Council's representative)  
)  
)  
in the presence of..... ) ..... )  
(insert name of witness) ) (signature of witness)

## ATTACHMENT A AGREEMENT DETAILS

This attachment forms part of the Agreement between the Participating Councils.

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**Item 1      Administering Council**

Name:            [insert name of administering council]

Address         [insert street address]

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**Item 2      Delegating Council**

Name:            [insert name of delegating council]

Address         [insert street address]

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**Item 3      Delegating Council**

Name:            [insert name of delegating council]

Address         [insert street address]

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**Item 4      TERM**

Commencement         [insert Commencement Date]

Date:

Duration:                 [insert period or end date]

**Guide Note:** Specify the duration of this Agreement by specifying either:  
- a number of months from the Commencement Date i.e. "[insert months] from the Commencement Date"; or  
- a period ending on a specified expiry date i.e. "Time period ending on [insert date]".

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