Auckland Council CCO Review of Roles and Responsibilities

Purpose

The purpose of this report is to inform the Board of a policy paper which has been prepared by Auckland Council for its governing bodies.

Executive Summary

Auckland Council has been considering the roles and responsibilities of CCO's and how those CCO's should be governed/funded. The full report is included for your information (Attachment 1). We expect further consultation with the CCO's will be undertaken by Auckland Council once the report has been considered.

Subject to Board consideration, the Board endorses the proposed Roles and Responsibilities document and will adopt the guidelines subject to Auckland Council's final approval of the document.

Attachment

Attachment 1: Council Controlled Organisations, Review of Roles and Responsibilities

Report Name: Council Controlled Organisations, Review of Roles and Responsibilities

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Executive Summary

This report incorporates feedback from two workshops of this subcommittee to review the governance relationship between the council and its substantive council controlled organisations (CCOs)[1], and to clarify roles and responsibilities. Officers have also met with each board or board chair as part of this process.

The timing of this work coincides with the start of the long-term plan (LTP) process. It has been an opportunity to reflect on the first nine months of operation, and to identify what has worked well and areas for improvement. Specific issues that have been discussed at workshops and are addressed in this report are:

- How to ensure that the funding arrangement provides CCOs with the flexibility that they need to meet their objectives, without compromising the council's accountability for the use of ratepayer money and other public funding.
- How to define what type of decisions should be made by the Governing Body and by CCO boards.
- How to hold CCOs accountable, by using performance measures and targets that reflect the outcomes that the council intends them to achieve.
- How to make best use of interaction between councillors and board members.
- How to ensure the board members have the skills and attributes necessary to govern the board of a CCO.

The report notes that officers will develop a Shareholder's Expectation Guide[2] based on the material in this report and incorporating feedback from the subcommittee. Appendix A shows where this guide fits with the council's other accountability documents. Central government has adopted similar guides for the governance of its state owned enterprises and crown entities.

The report also highlights the council's legislative ability to require CCOs to act consistently with its plans and strategies, and recommends that the council considers this when it adopts plans and strategies.

It also recommends a review of the council's board appointment and remuneration policy, to ensure that the policy is targeting the necessary skills and attributes, and to increase diversity of board composition.

[1] The term CCOs includes Watercare, which becomes a CCO on 1 July 2012, unless otherwise stated.
[2] The Shareholders' Expectation Guide includes the operational processes, policies, roles and responsibilities that will endure year on year.

Recommendation/s

a) That the report be received.

b) That the subcommittee notes that officers will prepare a Shareholder Expectation Guide for council controlled organisations which will include:

   i) The principles of leadership, empowerment, accountability, transparency, public service ethos, and trust, as the basis for the governance relationship between the councillors and the boards of council controlled organisations.

   ii) The council's view of the key underlying purpose of each council controlled organisation.

   iii) Funding guidelines consistent with the funding principles in this report.

   iv) Guidelines on the allocation of decision-making responsibilities between the council and boards.

   v) Agreed policies such as the no surprises policy and guidelines for public meetings.

   vi) Operational matters.

c) That the subcommittee provides feedback on points i) to iv) above for incorporation into the Shareholder's Expectation Guide.

d) That the subcommittee notes the need as it adopts its plans and strategies, to identify the aspects of these plans that it requires council controlled organisations to act consistently with.

e) That the subcommittee requests officers to review the board appointment and remuneration policy to ensure that the policy is targeting the necessary skills and attributes for board members, and to increase diversity of board composition.

f) That the subcommittee notes that officers will prepare an annual programme of formal and informal interaction between the Governing Body and board members.

Background

The Auckland Council is operating under a new model with substantive CCOs delivering services and activities that are funded by more than 35% of the council's total rates. CCOs and Watercare also manage $25 billion of assets owned for the benefit of the public.

The council has established a strong governance relationship with its CCOs, with statements of intent now agreed for 2011/2012, and key policies in place, such as CCOs holding open board meetings. Nevertheless, the governance relationship is still evolving. Officers have lead two workshops with the subcommittee, and have met with the boards and/or board chairs of the CCOs to identify what has worked well, and areas for improvement. Although boards have had the opportunity to comment on the report findings, a second round of meetings to discuss the findings had not been completed at the time of printing. Any further feedback will be tabled at the subcommittee meeting.

These discussions included clarifying the role of the CCOs relative to the council. CCO boards cannot discharge their statutory, constitutional, and statement of intent obligations unless they are properly empowered to make decisions, meaning that the council must maintain an arm's length relationship with CCOs. However, five CCOs receive substantial ratepayer funding and the council has ultimate accountability for how that money is spent. It is also accountable for public assets under the stewardship of CCOs, including assets such as shares in Ports of Auckland and the Airport.

The SOI helps ensure that the equivalent accountability is transferred to CCO boards, but it is inevitable that a degree of tension will exist about who should control certain types of decisions. This tension can be minimised if each party has a clear understanding of their role.

Officers note a recently released report on Dunedin City Council and its governance of Dunedin City Holdings Limited and its subsidiaries, which illustrates the consequences of poor governance and a lack of clarity about roles. The report reveals a dysfunctional situation, which has allowed DCHL to meet the council's increased demands for dividends from borrowing rather than profits.

While none of the major issues identified in the report, such as poor recruitment policies and ambiguous statement of intent goals, are applicable to the Auckland Council and its CCOs, the report highlights the importance of sound governance principles and practices.

The Role of the Board

Under the LGA 2002, the role of a director of a CCO is to assist the organisation to meet its objectives and any other requirements in its SOI. The principal objectives of a CCO are also specified in the Act. These are to achieve the objectives of its shareholders as specified in the SOI, to be a good employer, and to exhibit a sense of social and environmental responsibility[3]. CCOs that are also council controlled trading organisations (CCTOs) must also conduct their affairs in accordance with sound business practices.

Directors of CCOs that are companies[4] must also act in accordance with their company's constitution and must meet their obligations under the Companies Act. These obligations include to act with honesty, good faith and in the best interests of the company, and to exercise care, diligence and skill. Directors manage risk and are personally liable for failure to meet their obligations.

The Role of the Governing Body

The role of the council as shareholder is to set expectations and monitor the performance of its CCOs under the LGA 2002. Performance is monitored against SOI measures and targets. The tension between the council and its CCOs is most likely to arise when the council attempts to go beyond this role in monitoring or decision-making.

However, the council has further obligations to ensure the wise use of public money and the protection of public assets managed and owned by CCOs. The council also has a role in ensuring that CCOs do not make decisions that could have significant implications for future council funding. These obligations can require a level of scrutiny beyond a relatively high-level statement of intent and retrospective performance monitoring.

Principles of a Good Governance Relationship

The following six principles are required for a strong governance relationship between the Governing Body of council and its CCOs.

1. **Leadership** – The council is responsible for setting strategic direction and communicating this via the letter of expectations and other mechanisms. While CCOs should show leadership in their areas of expertise this must be consistent with shareholder expectations.

2. **Empowerment** – CCO directors must be empowered to fulfil their statutory, constitutional and SOI responsibilities. If they are unnecessarily constrained, they cannot fulfil their obligations and are unable to 'add value'.

3. **Accountability** – Accountability must accompany empowerment. In addition to audit and annual report requirements, every three years elected members are held to account by the public for their use of ratepayer money and for their stewardship of council owned assets. This accountability needs to be 'transferred' to the CCOs.

4. **Transparency** – Accountability for public funds also requires a high level of transparency. This is particularly important for CCOs undertaking a mix of commercial and publicly funded

[3] Watercare has separate obligations under the Local Government (Auckland Council) Act 2009 but these principle objectives will also apply to Watercare from 1 July 2012 when it becomes a CCO.
[4] Watercare and all CCOs except Auckland Transport.

activities. Transparency requires visibility of funding to ensure that it has been used for intended public good outcomes

5. **Public service ethos** – CCO directors must ensure they behave in a manner that is consistent with a public service ethos, and require the same from their executives. This requires them to exercise judgement and caution in decision-making distinct from what may be required in a commercial environment**.**

6. **Trust** - Productive CCO relationships also require a culture of cooperation and trust. The 'no surprises' policy is a critical part of this, and ensures that CCOs and the council keep each other informed before matters are in the public arena.

Purpose of CCOs

Effective CCO governance requires that the shareholder and CCOs have a shared understanding of the purpose for each CCO. The CCOs were established by the government under the guidance of the ATA. The council has the ability to clarify the purpose of each CCO if it considers this necessary[5]. For Auckland Transport and Watercare, which have their objectives and/or purpose specified by statute, the council cannot specify a purpose that would conflict with this.

As part of the workshop process, councillors discussed their views of the purpose of the CCOs, with reference to different models of publicly owned entities. The report on Dunedin City Council's CCOs highlights the importance of clarity and understanding about the overall purpose of an organisation, why it exists, and what it is there to do. The report concludes that any governance effort is likely to be ineffective without an agreed position on these matters.

Publicly owned companies are normally established to fulfil one of the following purposes:

- Maximise returns – these entities generally operate in a competitive or a regulated environment, receiving their revenue from the sale of goods and services. Their objectives are fully commercial, to maximise financial returns over time for their shareholder. The rationale for public ownership is to gain leverage, to provide oversight of a monopoly, or to protect an interest/asset for the long-term benefit of the public.

  At a central government level in New Zealand, state owned enterprises (SOEs), such as Mighty River Power, New Zealand Post and Kiwirail, have the closest fit with this model. Their principal objective is to be a successful business, as efficient and profitable as possible. As part of this, they are required to be a good employer.

- Promote strategic policy – these entities are established to achieve strategic goals. They are likely to have a mix of commercial and public good objectives and may receive their revenue from a variety of sources. The rationale for public ownership is strategic, with entities expected to perform a catalyst role where there is some form of market failure.

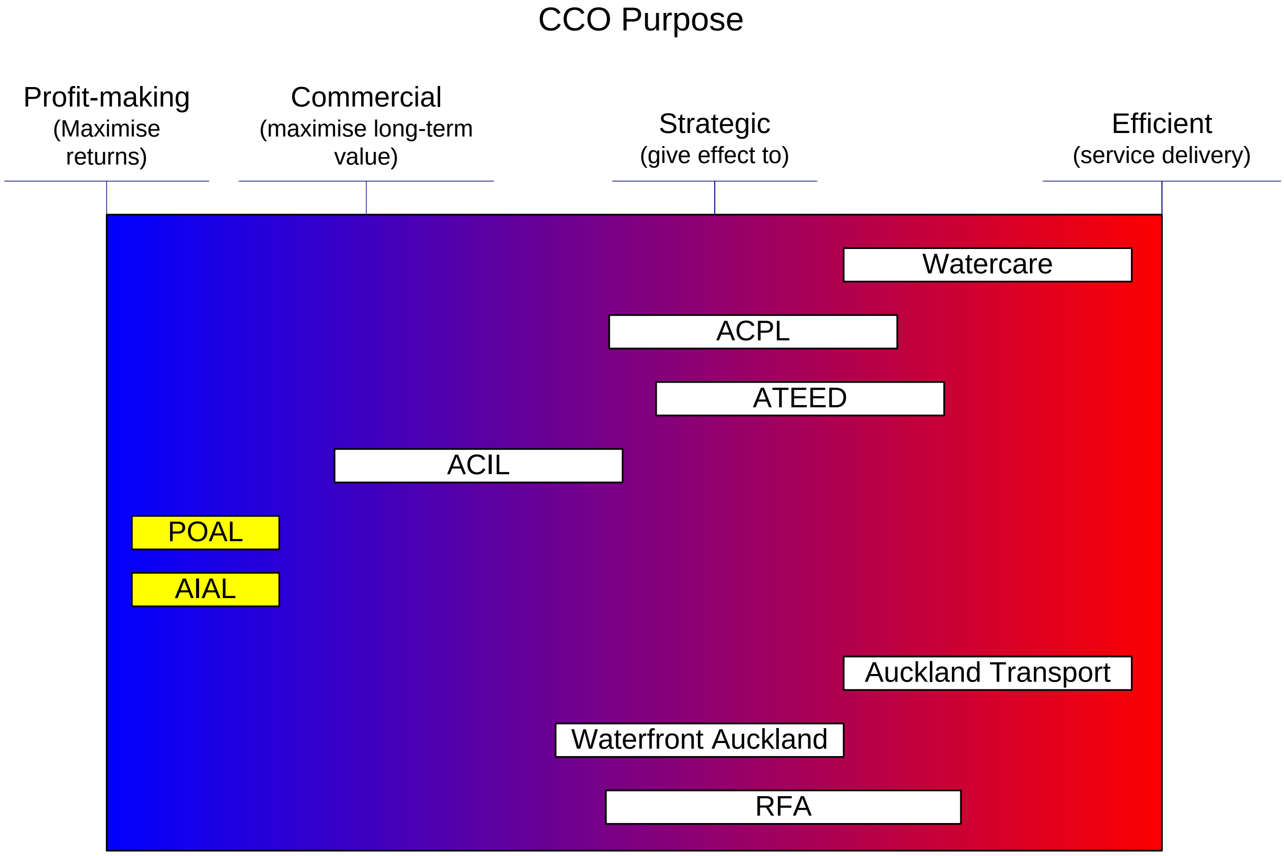
  Crown Entity companies, such as Crown Fibre Holdings and crown research institutes, are the best examples of this type of entity at a central government level.

- Efficient service delivery – these entities generally deliver services funded by taxes, special purpose levies or compulsory charges. They have a strong imperative to deliver services efficiently while meeting a range of public policy objectives. Most do not operate in a competitive environment, or face limited competition for aspects of their operations. The rationale for public ownership is that they deliver core services that would not be provided, or would be underprovided by the public sector. The commercial structure achieves focus, efficiency, and the application of commercial acumen to the delivery of public sector services.

[5] Any significant changes could require a review of the constitution of a CCO. The shareholder has the power to undertake such a review.

Crown Agents such as the Housing Corporation, New Zealand Transport Agency and New Zealand Trade and Enterprise, are the best comparison at a central government level. Crown agents deliver services on behalf of the crown, and receive more direction from government, than state owned enterprises.

The following diagram illustrates these models as a continuum, with fully profit- making entities at one end, and service delivery entities at the other. It also shows the approximate placing of each CCO (and Watercare). Note that the diagram is schematic and is intended to help clarify the way that the council views the purpose of each CCO. The positioning of an entity could also change over time.



Notes to diagram

1. POAL and AIAL are not CCOs and have been shown for illustrative purposes only.
2. Long-term value means both financial and wider economic/social benefit.

ACIL is an investment company, which manages the council's interests in certain commercial assets. ACIL was established to bring a strong commercial focus to the ownership and governance of the Auckland Council's major investments. While the major assets owned by ACIL operate in a competitive environment, ACIL itself does not. Furthermore, it has no ability to purchase or sell investments without council approval. The assets owned by ACIL are held for the long-term benefit of the region. Under its SOI, ACIL is required to have a public benefit perspective, considering the wider contribution of its assets to the current and future economic and social wellbeing of the region. For these reasons, it has some characteristics of a strategic entity.

Waterfront Auckland, ACPL, RFA and ATEED all operate within the 'strategic entity' part of the spectrum although they also have service delivery functions[6]. In each case, there is some room for debate about their exact positioning. For example, RFA has a role in development of facilities and

[6] In ACIL's case it provides a service to the council.

in service delivery, but the degree of focus on each has implications for where it is placed. Of these three CCOs, Waterfront Auckland operates closest to the commercial end of the spectrum.

Auckland Transport is a core service provider, with its activities funded from rates and central government funding. This also fits with its legislative purpose, which is to contribute to an efficient and effective land transport system to support Auckland's social, economic, environmental and cultural well-being.

Finally, Watercare has also been placed at the service delivery end of the spectrum. Although it has its own revenue source and its own statutory obligations, so do crown agents such as ACC. Watercare has been included for completeness, however; the funding discussion under the decision-making part of the report does not apply to Watercare given that it generates its own revenue.

Implications

There are no fixed rules about the governance of a commercial entity, versus a strategic or service delivery entity. At a central government level, all operate at arm's length, however government has a greater ability to direct the activities of crown agents than state owned enterprises or crown entity companies.

The principle of empowerment is particularly important for CCOs with a strategic or commercial purpose. Without empowerment, these CCOs will struggle to 'add value' for the council.

For entities closer to the service delivery end of the spectrum, the council may wish make greater use of its powers to require CCOs to act consistently with plans and strategies. It may also expect a higher degree of interaction between the CCO and council for planning purposes and under the 'no surprises' policy. The council may wish to link Auckland Transport's funding more closely to specific key projects than for other CCOs[7]. This is discussed further under funding.

Scope of activities

Some areas where there is duplication or lack of clarity about specific functions undertaken by CCOs have been identified. As noted, the Dunedin report highlights the importance of role clarity. The following table summarises these issues, which are currently being worked through by the CCOs and the appropriate officers.

CCO	**Issue**
RFA	The extent of RFA's involvement in development of facilities and sectors
ATEED	Both ATEED and the council have economic development functions and there is a need for clarity regarding the scope of each, and how they interface
Auckland Transport	Auckland Transport and the council both have strategy functions. In addition for the need for clarity about scope and interface, Auckland Transport has indicated a need for coordination of the transport implications of a range of different council strategies and plans
Waterfront Auckland	Future ownership and maintenance of public infrastructure currently owned and maintained by Waterfront Auckland, and whether Waterfront Auckland can use commercial returns to fund public infrastructure/non-commercial activities
Waterfront Auckland	Whether Waterfront Auckland has a role in delivering major events in the waterfront precinct

[7] This is not relevant to Watercare to the extent that it has its own revenue streams.

Decision Making

The principles, purpose of CCOs, funding guidelines, and decision-making guidelines proposed in this report, will be incorporated into a Shareholder's Expectation Guide for CCOs. Central government has similar guidelines. This guide will simplify the letters of expectations to CCOs and SOIs so that they focus on annual priorities, rather than matters of process.

This rest of this report outlines specific governance issues regarding funding, decision-making, performance measurement, councillor-board member interaction and board composition.

Funding

As a purchaser of services delivered by CCOs and guardian of public assets, the council holds CCOs accountable for the use of revenue provided directly by council, or generated from public assets owned by CCOs.

However, CCOs receive their revenue from a variety of sources including from:

- the Council – from rates revenue or statutory charges such as development contributions
- fees and charges from commercial activities, usually generated from publicly owned assets[8]
- charges administered by CCOs using statutory powers
- central government – from taxation or other sources
- dividends from equity investments

As a shareholder, the council holds CCOs accountable for the efficient and effective use of funding from all sources, and for the management of assets. Funding principles and guidelines reflect that the council has this ultimate accountability.

There are two high level funding principles:

1. The role of the council is to prioritise funding for competing needs and purposes across the region, and to hold CCOs accountable for the wise use of public funding.
2. Boards must be empowered with sufficient flexibility to determine the best allocation of funding to meet required levels of service.

There is an inherent tension between these two principles. This report seeks the optimal funding arrangement that will achieve both; however, the first principle must prevail where there is conflict. This optimal arrangement lies somewhere between a "bulk funding" arrangement where CCOs have the flexibility to allocate funding to meet agreed outcomes; and project-based funding[9] of a contractual nature.

In workshops with boards, many boards commented that directors are legally liable for their decisions and that director liability and reputational risk means that boards are highly accountable for their decisions. However, while these factors are strong incentives for prudent financial management, this is not the same as ensuring an optimal allocation of funding to address regional priorities and needs. The Governing Body assesses regional priorities and needs and allocates funding accordingly. In doing so, it also takes into account community expectations and willingness to pay, where those needs are to be met by revenue from rates.

The proposal is that CCOs funding is specified at the 'sub-activity' level with flexibility for CCOs to reallocate their budgets between projects within the sub-activity within certain parameters or

[8] In most cases publicly owned assets have been paid for by ratepayers and/or via development contributions
[9] However this may vary depending on the nature of projects provided by different CCOs as explained further in the discussion of principles

second-order principles[10], and provided that LTP and SOI levels of service can be met. The sub-activity level, which is made up of groups of outputs, achieves the appropriate balance between flexibility for CCO boards and transparency of funding for the council. Suggested principles[11] are:

- Any reprioritisation must be transparent and reported to the council through quarterly reporting

  A theme from the councillor workshops was that reprioritisation at the project level must be transparent so that councillors are aware of changes and any implications. This should be included in the CCOs quarterly reports although it may not be required four times a year. In addition, it is important for CCOs, particularly Auckland Transport, to report to local boards on any changes that will affect local board areas.

- Reprioritisation may be undertaken between projects that have been approved as part of an asset management plan and/or the LTP

  Reprioritisation of budgets may involve changes in the timing of projects but should not involve new projects outside of the asset management plan, unless approved by the council (see next bullet point).

- New projects over a certain threshold still to be determined, require council approval following consideration of an investment proposal and detailed business case

  The requirements regarding an investment proposal will depend on the size and scale of the project, and projects under the threshold will not require this. Investment proposals over $10 million will be subject to council peer review. This principle applies regardless of revenue source - projects to be funded by external revenue will still require an investment proposal to assess the level of risk including the risk that future ratepayer funding may be required.

- Reprioritisation of funding must take place within existing overall funding envelopes

  CCOs need to consider future funding implications as well as the impact on the current year's budget, and may not reprioritise if this will adversely affect their future funding requirements.

- Revenue collected for a particular end purpose must be 'ring-fenced' for that purpose

  Development contributions, for example, are levied on developers to pay for the costs of growth, and must be used for the growth component of capital projects. Development contributions collected and not used for growth-related purposes must be refunded to developers by law. Similar principles apply to targeted rates. These legal obligations apply to the council rather than to CCOs and so there must be sufficient transparency of expenditure to ensure that the council can account for the use of ring-fenced funding.

- Funding earmarked for a specific project or purpose must be used accordingly

  The council may specify levels of service for the delivery of specific high priority projects. In these cases, any council provided funding associated with these projects must be used for the intended purpose in order for service level targets to be met. For example, Auckland Transport will have specific performance targets associated with the delivery of the EMUs. This is consistent with the council's view that many of its CCOs are in the business of efficient delivery of core services.

  Any funding received by CCOs to fund depreciation of assets, must be accounted for against asset renewals, to ensure that assets are being renewed at the rate expected by the council.

[10] This is already happening where there is an agreed strategy such as the Major Events Strategy (ATEED).
[11] As noted earlier in the report this section does not apply to Watercare. Officers also note that Watercare is prohibited from paying a dividend to the council.

- Full transparency is required regarding cross subsidisation between commercial and public good outcomes.

  Public funding is intended to pay for public good outcomes and must not be used to subsidise commercial operations. 'Market neutrality' requires that public funding is not used to compete unfairly with private operators.

  Conversely, the use of commercial revenue to fund public good aspects of their business requires council approval. There are three reasons for this. Firstly, if commercial revenue is used to provide higher levels of service for publicly owned assets, this can create public expectations, which the council may not be able to meet longer term. Secondly, if the commercial revenue is not actual profit, this may create future funding shortfalls for commercial activities exposing ratepayers to future expense[12]. Thirdly, the view of council is that it is the role of council to determine the best use of CCO generated profit (see last principle). The council acknowledges that there are some established funding models where commercial returns are being successfully used to deliver public good outcomes, such as at Wynyard Quarter. Such practices may continue where endorsed by the council.

- CCOs should have regard to decisions requiring shareholder approval when reprioritising expenditure (for example, decisions with a history of generating high public interest)

- CCOs must be able to demonstrate efficiency and value for money in their service delivery

  A risk associated with funding CCOs at the 'sub-activity' level rather than on a project basis, is that it is difficult for the council to assess whether it is getting value for money from its CCOs. The funding arrangements proposed in this paper, will need to be supported by efficiency targets in SOIs. Where relevant, benchmarking will also be undertaken in order to inform targets, although this will take some time to fully develop[13].

- All surpluses over a threshold still to be determined, including surpluses from commercial activities must be referred to the council for allocation or re-allocation

  CCOs must engage with the council regarding the use of surpluses. Surpluses generated from commercial activities associated with publicly owned assets, should be available to the council to determine their best use in the context of regional expenditure priorities. This may include reinvestment of part or all of the surplus into the CCO if the CCO establishes a compelling investment proposal.

  In determining funds that are 'surplus' the council will consider the operating result including the accounting surplus, the underlying cash surplus, and surpluses generated from particular activities.

If the subcommittee supports the proposed approach to funding outlined in this report, officers will prepare more detailed funding guidelines consistent with these funding principles, including more guidance on how a surplus is defined. The guidelines will specify financial thresholds for council approval of new projects and use of surpluses, recognising the need to minimise transaction costs for CCOs. The guidelines will also recognise the need to honour contractual arrangements.

Note that most of these principles do not apply to ACIL which distributes a dividend each year, however if ACIL was to consider a new project the principle regarding council approval of an investment proposal would apply.

Decision making guidelines

[12] These are not theoretical issues as officers are aware of examples of these practices, which have occurred in other parts of New Zealand.

[13] Officers note that at least one board acknowledged the importance of being able to demonstrate efficiency if the council adopted funding arrangements resembling 'bulk funding' rather than project based funding.

Clear allocation of responsibility for decision-making was one of the motivations for reviewing roles and responsibilities. While most CCO boards indicated that they did not believe that prescriptive decision-making guidelines were necessary, some high-level guidance is appropriate as accordance with the following table.

Type of Decision	**Shareholder or CCO board?**
Setting strategic direction for Auckland	***Shareholder*** decisions - CCO provides advice and input
Determining the CCOs contribution to council's strategic outcomes	
Major transactions by a CCO requiring shareholder approval	
Level of funding provided to each CCO	
New projects by a CCO	***Board*** initiates but requires ***shareholder*** approval after consideration of investment proposal if over the threshold (still to be defined) (see funding section)[14]
Re-allocation of funding	***Board*** decision within funding guidelines (see funding section). ***Shareholder*** decision outside of these guidelines. [15]
Business decisions (e.g. appointments to subsidiaries, pricing decisions)	***Board***[16] decision but must act consistently with specified plans and strategies of the council, and must keep council informed under a 'no surprises policy'. See below for discussion on pricing decisions.
Organisational and implementation strategy (giving effect to council strategy)	***Board*** decision subject to funding provided by council. AMPs must fulfil council requirements and may be subject to independent review.
Approving asset management plans and service profiles	
Risk management strategy	***Board/management*** decision but level of risk regarding ratepayer funding is set by the council
Operational decisions including detailed business plans for capital projects, and implementation of funded programmes.	***Board/management*** decision – keep council and local boards informed under 'no surprises policy'

Decisions in the top part of the table are clearly shareholder decisions, although CCO input or advice may be appropriate. Decisions in the bottom part of the table are clearly CCO board decisions although as always, the no surprises policy applies.

Responsibility for decisions in the middle shaded area can be more contentious. The funding section of this paper deals with the first two of these – i.e. who makes decisions about undertaking

[14] Does not apply to Watercare
[15] Does not apply to Watercare.
[16] Except where there are legislative restrictions. For example, RFA recommends appointments to the Auckland Musuem, MOTAT, and the Regional Amenities Funding Board.

new projects, and under what circumstances should CCOs be able to reprioritise their use of funding.

The third area of decision-making is business decisions of CCOs, as these can affect council policy, or have political implications for the council. There was a strong feeling at both the councillor workshops and meetings with boards that good communication, and a culture of trust, should minimise issues arising with these types of decisions. In the past nine months, there have been a number of examples of where this has worked well. For example, ACIL has kept the council fully informed of its process with respect to the appointment of new directors to Ports of Auckland Limited (POAL). It is noted that some entities, particularly Auckland Transport and Watercare have statutory obligations, which require them to make certain decisions.

Under the Local Government (Auckland Council Act) 2009, the Council has the ability to require its CCOs to act consistently with the relevant aspects of a plan or strategy. This also applies to Watercare, although it cannot override Watercare's statutory obligations. As the council adopts various plans and strategies including the Auckland Plan, it should consider the implications of each plan or strategy for CCOs. If these are clearly specified it should reduce the likelihood that CCOs will make decisions that conflict with council policy.

One type of decision with the potential to cause debate is CCO non-commercial pricing decisions. For example, entry prices to many regional facilities are publicly subsidised. The level of funding provided to CCOs such as RFA who provide these facilities, reflects the council's expectation about prices. Pricing changes for services involving public subsidy must be negotiated with the council as part of the annual funding negotiations. RFA has indicated that it would like the council to agree to pricing policies for RFA as part of the LTP, and RFA will set its prices consistent with these policies.

Finally, CCO SOIs contain a set of criteria to guide boards as to the types of decisions that may require shareholder approval. The criteria are based on the council's Significance Policy. The intent was to ensure that decisions that would be considered 'significant' by the council, potentially requiring public consultation, cannot be made by a CCO with a lesser degree of rigour. However, these criteria more properly define decisions requiring shareholder engagement, not necessarily shareholder approval. These criteria could be included in the Shareholder Expectation Guide to signal decisions requiring shareholder engagement, and removed from 2012/2013 SOIs.

Performance Measurement

The accountability principle requires CCOs to have meaningful performance measures in their SOIs. If the council provides funding for sub-activities, which are groupings of outputs then some performance measures also need to be higher level, and include outcome measures. CCOs tend to have less control over such outcomes then they do over output measures such as the number of people satisfied with events. Different views about this were expressed by board members about willingness to be held accountable for outcomes. One board said that they were relatively comfortable about adopting outcome measures, even if they did not have full control over their achievement. Another commented that they were comfortable with having such measures but not for the purposes of governance.

There is room for improvement in the quality of measures in many of the current SOIs. Several CCO boards noted that there were too many measures in their SOIs. Getting agreement from CCOs for more meaningful 'outcome-based' measures can be facilitated by working with CCOs on identifying their impact on council outcomes. Intervention logic, which seeks to isolate the contribution that an entity can make to an outcome (and remove the influence of other factors), is relatively well developed at central government level. Good intervention logic that isolates a CCO's contribution to an outcome, and measures their performance in terms of that impact, may assist CCOs to become comfortable with these types of measures. The council will also need to accept reasonable explanations for why performance targets may not be met on occasions due to factors beyond the control of the CCO[17], particularly when there is evidence that CCOs have explored alternative methods of meeting targets as circumstances change.

Officers are currently planning a series of workshops with CCOs to improve their understanding of intervention logic and their impact on Auckland Plan outcomes prior to producing their next statements of intent.

While developing meaningful outcome measures is a priority there will need to be a balance between output and outcome measures in SOIs, particularly when outcomes are longer-term or hard to measure. Output measures are lead measures and can provide an early warning of trends or likely outcomes supporting corrective action if required. CCOs must also meet the relevant LTP performance targets.

<u>CCO board and council interaction</u>

A theme from the councillor workshop and from some boards was the need for more interaction and engagement between CCO board members and councillors. Key benefits include:

- CCO boards members are able to contribute their skills and expertise to the development of the council's strategic vision
- A culture of cooperation and trust is fostered
- Councillors have more opportunity to communicate sensitive issues, so that board members can understand or recognise these
- Councillors can be briefed at an early stage about upcoming issues and decisions.

There was general agreement from all parties that there is already sufficient formal interaction regarding performance reporting, and that what is required is informal engagement and/or future-oriented interaction. Specific ideas included:

- An annual 'symposium' focused on a particular theme
- The CCO strategy review subcommittee invited to attend a board meeting of each CCO once or twice a year
- Formation of a CCO board member/councillor planning group or 'think tank' that could provide input to the development of council strategy[18]
- Social occasions.

This report recommends that officers develop an annual programme, based on these ideas.

<u>Board Composition</u>

One of the best ways of ensuring that CCO boards are responsive and well aligned with council strategy is to appoint members with the right mix of skills and attributes. Board members of publicly owned companies are required to have attributes such as a public service ethos and a degree of political acumen that may not be necessary in a commercial environment.

The report recommends a review of the council's board appointment and remuneration policy to ensure that the policy is targeting the necessary personal attributes. In addition, the review should consider how to increase the diversity of members on boards, by ensuring that the policy does not act as a barrier for the representation of young people, women, Maori and different ethnic groups. Board diversity is increasingly recognised as important also for private sector companies, provided

[17] This is because even well developed intervention logic may not completely eliminate external factors.
[18] ACIL's view was that being part of a 'think tank' was not part of their current role, and would need to be established under a separate process. This may also reflect ACIL's core purpose, which is to govern the investments that Council asks it to govern, rather than play an active role in strategic transformation. ACIL also pointed out that such a group would need to ensure that it did not duplicate the work of the council's advisory boards.

that the right mix of skills and attributes is retained. There is evidence that more diverse boards bring a wider perspective to decision making.

The policy review will also include the development of a ‘pool’ of potential directors to fill future vacancies on boards. The process of identifying suitable candidates for this pool is underway.

The review of Dunedin Council CCOs highlighted the importance of diversity of composition within boards, concluding that diversity is important to get the right balance between collegiality and robust debate. The report also recommended that elected members should not hold director positions on CCOs or on subsidiaries of CCOs. Auckland Council legislation prohibits elected members from holding director positions on substantive CCOs with the exception of Auckland Transport. The council has chosen to exercise its right to appoint two directors to Auckland Transport.

Significance of Decision

This report does not contain any recommendations that would trigger the council’s significance policy.

Consultation

Officers have engaged with the CCO boards or board chairs on the issues raised in this report.

Local Board Views

This report is about the governance relationship between the Governing Body and CCO boards.

Financial and Resourcing Implications

There are no financial or resourcing implications arising from this report.

Legal and Legislative Implications

There are no legal or legislative implications arising from this report.

Implementation Issues

No implementation issues have been identified.

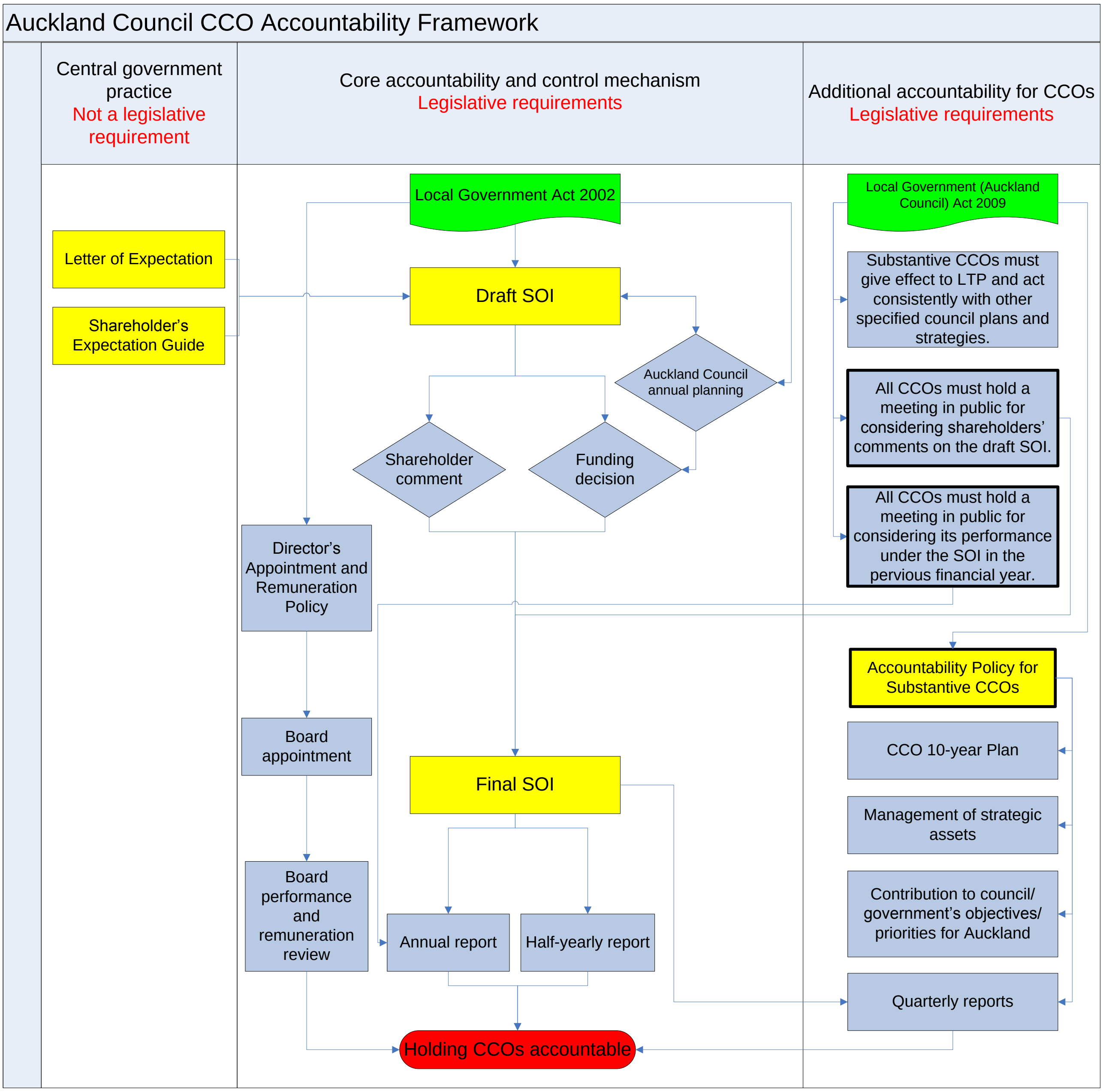
Appendix

Appendix A: Auckland Council CCO Accountability Framework

Signatories

Authors	Catherine Syme, Principal Advisor, CCO Governance and Monitoring
Authorisers	Jaine Lovell-Gadd, Manager, CCO Governance and Monitoring Andrew McKenzie, Chief Finance Officer

APPENDIX A


Auckland Council CCO Accountability Framework
Central government practice
Not a legislative requirement
Core accountability and control mechanism
Legislative requirements
Additional accountability for CCOs
Legislative requirements
Local Government Act 2002
Local Government (Auckland Council) Act 2009
Letter of Expectation
Shareholder's Expectation Guide
Draft SOI
Substantive CCOs must give effect to LTP and act consistently with other specified council plans and strategies.
Auckland Council annual planning
All CCOs must hold a meeting in public for considering shareholders' comments on the draft SOI.
Shareholder comment
Funding decision
All CCOs must hold a meeting in public for considering its performance under the SOI in the pervious financial year.
Director's Appointment and Remuneration Policy
Accountability Policy for Substantive CCOs
CCO 10-year Plan
Board appointment
Final SOI
Management of strategic assets
Board performance and remuneration review
Contribution to council/ government's objectives/ priorities for Auckland
Annual report
Half-yearly report
Quarterly reports
Holding CCOs accountable