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Parliamentary paper

# Auckland Council: Transition and emerging challenges





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# Auckland Council: Transition and emerging challenges

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## Auditor-General's overview

The amalgamation of Auckland's local authorities and regional council into a single Auckland Council (the Council) is one of the most significant public sector reforms of recent years. The scale of the change and transition to the new Council was huge. To bring together eight councils to create a new organisation with \$32 billion of assets and a \$3 billion annual budget, and bring together 8000 staff from councils and council-controlled organisations is unprecedented in New Zealand's public sector history.

The Council (as a group) is among the largest and most complex entities in New Zealand. It has complex and finely balanced governance arrangements. The Council carries out many important infrastructure and regulatory services that affect the daily lives of more than a third of New Zealanders. Its strategy and planning affects our future national economic and social prosperity. Therefore, the Council's governance and use of resources is of significant interest to me and my office.

Two years on from the Council's establishment, I wanted to reflect on the transition and the Council's emerging governance challenges. I hope that this report will be useful to those involved in the governance of the Council as an "outsider's" view of the issues and challenges they told us about. I also hope that it will be useful for others contemplating such change under the Local Government Act Amendment Bill that is presently before Parliament. However, Auckland is unique and not all its changes or experiences will be relevant for others.

### **The Auckland Plan is giving unified and integrated regional direction**

Through our work with the Council, I see that a lot is going well in the direction of the change sought from the Auckland local government reforms. Those we interviewed reflected on the unified and integrated direction that has been achieved for the Auckland region through the Auckland Plan. They told us that the enhanced Mayoral role and powers to enable regional leadership have provided vigour and an integrating focus to the large amount of planning that the Council has carried out during its first two years.

### **Principled leadership, being reliable, and working together to build trust**

We heard that everyone is committed to making the Auckland reforms and the Council work the best they can. Although challenging, the tight transition arrangements have created momentum for the new Council. Many people we spoke to reinforced the importance of a strong and principled leadership committed to working together and to building trust among the public, staff, and partners by being reliable.

The management of the transition was described by many as exceptional although there was plenty of potential for things to go wrong. The smoothness of the transition is a credit to the leadership and management of the Chief Executive, his executive leadership team, and the managers and staff of the Council.

The immediate transition to a unitary Council has passed, and the Council is moving into optimising the value that can be gained from the initial change process. However, the Council is still a work in progress and significant challenges remain.

### **Tensions inherent in governance but everyone is committed to making it work**

We heard many times that everyone is committed to making the two-tier governance system of the Council work as best they can. There are inherent tensions in the Council's governance arrangements that will need to be constructively managed, and ways to strengthen governing body and local board relationships need to be found.

The Council's governance relationships are evolving. At present, effort is being directed to providing greater guidance to council-controlled organisations about shareholder expectations. We are not confident that the Council will be able to build the more future-oriented and trust-based culture it seeks by using more formal processes and mechanisms.

### **Challenges for communicating, standardising policies and services, and developing systems**

Because of its size, the Council will wrestle to communicate internally effectively. It will also struggle to be responsive and agile for its communities and the users of its services. The Council still needs to do significant work to understand and standardise the differing policies, regulations, service expectations, and performance it has inherited from the former councils. The Council also needs to develop a platform of systems that address its business and service management needs.

### **Challenges for improving decision-making information and streamlining processes**

I am concerned about the huge amount of reading expected of members of governing body committees and local boards. To carry out decision-making openly and transparently, the governing body and local boards need to be supported by



relevant, timely, and useful information that takes account of local, regional, and functional governance needs and perspectives.

We also heard of the complexity in operating the Council's two-tier governance structure to carry out other requirements, such as public consultation and hearing submissions under the Local Government Act 2002 in the ways that other local authorities use. The Council and the Department of Internal Affairs should continue to liaise to consider whether legislative changes may be needed to provide for processes appropriate to Auckland's regional scale.

The Council, with support from the Independent Māori Statutory Board, needs to continue to find the most effective and efficient ways to obtain and consider the views of Māori in its decision-making. The Independent Māori Statutory Board is working with clarity of focus and vigour on what it wants to achieve and how it thinks it can best contribute to the Council.

### Acknowledgments

The Council has received support and goodwill from those who work for and with it, as well as from the public, through the momentum and the vision of the plan created for Auckland. It faces challenges to maintain that momentum, support, and goodwill. It now rests on the Council, through its services, results, and work with others, to achieve the aspirations of the plan and the intentions of the Auckland reforms.

To prepare this report, we talked to more than 50 people working for and with the Council. I express my gratitude to all those people who made their time available for us and to Kevin Brady, my predecessor, who I asked to carry out the interviews on behalf of the Office. I hope this report has done justice to the willingness of those who shared their observations with us. I wish them every success in their dedicated work to shape Auckland's future.



Lyn Provost  
Controller and Auditor-General

4 December 2012



# Part 1

## Background

- 1.1 In March 2009, the Royal Commission on Auckland Governance recommended that Auckland's eight city, regional, and district councils amalgamate into a single Auckland Council (the Council). On 1 November 2010, the new unitary Council took over from the Auckland Transition Agency (the ATA).
- 1.2 This report sets out our observations from interviews with more than 50 people who were involved in designing and implementing the Auckland local government reforms and are involved in the governance and management of the Council. It also draws on our own audit work with the Council.
- 1.3 The Auckland local government reforms are one of the most significant public reforms of the last 30 years. The reforms were carried out in just 18 months. We asked the people we spoke to what they thought could be learned from such a major transition.
- 1.4 Aspects of the Council's governance arrangements differ from those for the eight former Auckland councils (the former councils) and for other local authorities. We asked the people we spoke to what they thought was going well and what challenges and issues are emerging. Figure 1 shows how the Council's governance arrangements differ from those of the former councils.

**Figure 1**  
**Differences between the Auckland Council's governance relationships and those of the eight former councils**

Auckland Council governance arrangements	Former Auckland councils' governance arrangements
One governing body and 21 local boards.	One regional council, four city councils, three district councils, and 30 community boards.
One mayor, with enhanced powers, elected at large, 20 councillors, elected from 13 wards, and 149 local board members.	One chair elected by the regional council, seven mayors elected at large, within cities and districts.  Thirteen regional councillors (including the chair), 96 territorial authority councillors, and 145 community board members.
Seven substantive CCOs wholly owned or controlled by the Council that either carry out major service delivery functions or own or manage assets with a value of more than \$10 million.  Nine legacy CCOs.	Forty-one CCOs, including five council-controlled trading organisations.
An independent board promotes issues of significance for mana whenua groups and mataawaka of Tāmaki Makaurau, and ensures that the Council acts in keeping with statutory provisions referring to the Treaty of Waitangi.	Varying structures and practices used by each of the former councils to ensure that they acted in keeping with statutory provisions referring to the Treaty of Waitangi.

- 1.5 This report is necessarily selective. We did not systematically consider every aspect of the Council's transition, governance, or operations. Rather, we carried out interviews with people involved in the transition and governance of the Council to identify common themes about progress and issues. If the progress made and issues raised relate to matters of interest to the role and work of the Auditor-General, we have added comments.
- 1.6 We will use the information and views gathered when preparing this report to identify areas of focus for our statutory responsibility to review the service performance of the Council under section 104 of the Local Government (Auckland Council) Act 2009. We intend to discuss the nature of this work with the Council in the early months of 2013.
- 1.7 The report is set out in two main sections:
- Part 2 discusses observations from those we spoke to about the transition from the ATA to the Council and the first two years of the Council's operations; and
  - the rest of the report discusses what we heard from those we interviewed about the aspects of the Council's governance arrangements that differ from other local authorities, and about emerging issues and challenges. These aspects are:
    - the role and powers of the Mayor – Part 3;
    - the two-tier governance arrangements – Part 4;
    - the Independent Māori Statutory Board – Part 5; and
    - the Council's delivery of core services through council-controlled organisations (CCOs) – Part 6.

## Part 2

# The transition and the first two years of the Auckland Council

### The transition arrangements and the intentions of the Auckland reforms

- 2.1 The Auckland reforms have their origin in the Royal Commission on Auckland Governance, which reported to the Government in March 2009. The Royal Commission and the Government considered that local government reforms in Auckland had a nationwide context. Auckland is our largest city and home to more than a third of the country's population. The Royal Commission concluded that bold change was needed to make Auckland the most exciting, vibrant metropolitan centre in Australasia.<sup>1</sup>
- 2.2 In designing the most appropriate system of governance for Auckland, the Commission sought to produce a structure capable of meeting not just immediate needs but the needs of the region during the next 20 to 50 years. The Commission was guided by four principles, which it acknowledged are inherently in tension with each other. These four principles were:
- **common identity and purpose:** Auckland's governance arrangements should encompass the interests of the entire Auckland city-region and foster a common regional identity and purpose, which supports integrated planning and decision-making;
  - **effectiveness:** the governance structure should deliver maximum value within available resources, in terms of cost, quality of service delivery, local democracy, and community engagement;
  - **transparency and accountability:** roles must be clear, including where decision-making should be regional and where local; and
  - **responsiveness:** the structure should respect and accommodate diversity and be responsive to the needs and preferences of different groups and local communities.<sup>2</sup>
- 2.3 In 2009, the Government, with Hon. Rodney Hide as Minister of Local Government, intended the new governance structure to enable Auckland to reach its full potential as the engine room for the country's economic growth. The Government wanted Auckland to be a region that:
- attracted people and investment;
  - had first class infrastructure and lifestyle; and
  - would encourage our children and grandchildren to build their futures in New Zealand.<sup>3</sup>

1 *Report of the Royal Commission on Auckland Governance* (March 2009), Executive Summary, paragraphs 3-11.

2 *Report of the Royal Commission on Auckland Governance* (March 2009), Executive Summary, paragraphs 22-23.

3 *Making Auckland Greater*, April 2009, page 10.

- 2.4 Five separate Acts of Parliament provided for the changes to achieve the Auckland local government reform. These Acts were:
- the Local Government (Tamaki Makaurau Reorganisation) Act 2009, which provided for the establishment of the ATA to manage and oversee the transition from May 2009 until the establishment of the Council on 1 November 2010;
  - the Local Government (Auckland Council) Act 2009, which prescribed much of the governance structure of the Council, including the governing body and local boards, and provisions for the funding and powers of local boards; and
  - three Acts which addressed many transitional matters, including employment issues, accountability for CCOs, resolution of disputes between local boards and the governing body of the Council, and spatial planning:
    - Local Government (Tamaki Makaurau Reorganisation) Amendment Act 2010;
    - Local Government (Auckland Council) Amendment Act 2010; and
    - Local Government (Auckland Transitional Provisions) Act 2010.
- 2.5 Much of the work of the ATA was carried out while these Acts were being prepared and were progressing through Parliament. The ATA had just 18 months to carry out the amalgamation of Auckland’s eight former city, regional, and district councils into a single Auckland Council.
- 2.6 The ATA was aware that the initial phases of the new Council’s operation would be demanding. A major objective was to enable the new Council to focus on preparing the policies, strategies, and plans needed to achieve the reforms’ intentions and drive Auckland forward, rather than becoming caught in running day-to-day operations.
- 2.7 In a report on its activities, the ATA identified some of the important changes that the Council would need to ensure happened during the first two years of its operations.<sup>4</sup> These included:
- administrative changes to support the new governance body and local boards;
  - planning changes;
  - financial and rating changes; and
  - underlying administrative infrastructure.

4 Auckland Transition Agency (March 2011), *Auckland In Transition: Report of the Auckland Transition Agency*, Volume 1, pages 20-28.

### **Administrative changes to support the new governance body and local boards**

- 2.8 Local boards needed to adopt their first local board plan by 31 October 2011. The plan had to cover at least the three years from 1 July 2012 to 30 June 2015. The Council needed to adopt a local board funding policy by 1 July 2012.
- 2.9 CCOs needed to agree their statements of intent with the Council. The statements of intent needed to outline how the CCOs would give effect to the Council's objectives, including the spatial plan, long-term plan (LTP), and other strategic plans.

### **Planning changes**

- 2.10 The Council needed to prepare a spatial plan that outlined its long-term strategy for growth and development in Auckland. The spatial plan would inform the Council's priorities and objectives for the LTP.
- 2.11 The Council needed to prepare an annual plan by 30 June 2011 and an LTP by 30 June 2012.
- 2.12 The Council also needed to standardise the Resource Management Act plans of the former councils. This process will take a number of years because of the legislative requirements involved. The Government has recently decided to amend the Resource Management Act 1991 to provide a one-off process for the Council's first unitary plan. The Government's intention is to shorten the time it will take to make the plan operative while ensuring that Aucklanders still have comprehensive input into the plan.<sup>5</sup>

### **Financial and rating changes**

- 2.13 The Council needed to prepare financial policies and strategy to replace the interim financial policies of the ATA. The Council needed to do this by 30 June 2012 so the new policies and strategy could be included in the 2012-22 LTP. The Council also needed to prepare rating policies and mechanisms to apply from 1 July 2012, as part of its 2012-22 LTP.
- 2.14 The Council needed to assess development and financial contributions for the transitional period applying to the adoption of an LTP from 1 November 2010 to 30 June 2011, and review and implement its development and financial contributions and fees and charges regime by 1 July 2012.

5 Department of Internal Affairs, letter to the Office of the Auditor-General, 15 November 2012.

### Underlying administrative infrastructure

- 2.15 The Council needed to integrate and streamline its core systems, such as for finance and regulation, to improve effectiveness and efficiency. It also needed to decommission many legacy systems from the former councils. In its report on its activity, the ATA advised that the former councils' information technology systems alone covered many different operating systems and software, with more than 2500 individual software applications.<sup>6</sup> Subsequently, the Council has revised the ATA's initial estimate; identifying more than 5000 individual applications.
- 2.16 The Council needed to consolidate the asset management plans of the former councils. It needed to do this to inform the development of the LTP and to ensure appropriate maintenance and renewals of community assets. It also needed to develop new assets to cater for growth or improve service levels.

### What we heard – good progress has been made but Auckland Council is a work in progress

- 2.17 Two years on, many of the changes the ATA identified have been implemented and significant progress has been made on others. The kind of change sought by the Auckland reforms and the Council will take time, but there are high-level indications that this change is occurring.
- 2.18 In July 2012, Auckland moved up four places to be ranked as the ninth most liveable city in the world on Monocle Magazine's annual quality of life top 25 cities index. Monocle Magazine attributed the lift, among other things, to Auckland's new governance structure. In 2009, the Royal Commission on Auckland Governance noted that Auckland ranked fifth on the Mercer Worldwide Quality of Living Survey. In 2011, Auckland had moved to third place.
- 2.19 As discussed in paragraphs 2.7-2.16, the Council needed to make important changes during its first two years of operation. In the following paragraphs, we review the progress the Council has made during the last two years.

### Administrative changes to support the new governance bodies and boards

- 2.20 A significant administrative challenge arising from the governance changes has been getting financial and service information for each local board to support the boards in their governance and community engagement work.
- 2.21 The Council has encountered day-to-day difficulties with aspects of legislation. The Council raises these with the Department of Internal Affairs as they arise, to consider whether changes to legislation are needed. For example, the Council's

<sup>6</sup> Auckland Transition Agency (March 2011), *Auckland In Transition: Report of the Auckland Transition Agency*, Volume 1, page xv.



Chief Executive must seek delegations from each local board to enable him to carry out his duty to ensure the effective and efficient management of the Council.

- 2.22 There is significant public support for some integrated services. For example, Aucklanders can use their library cards at any of the region's libraries. However, many services do not yet have the integrated service and financial information that the governing body and local boards require to carry out their governance roles. For example:
- Local boards need integrated information for capital, operating, and project expenditure as well as to establish a basis for funding allocations for each board area. Some local boards expressed concern that funding formulas are based on the population of each local area. This is seen as disadvantaging local areas that are geographically dispersed.
  - The governing body needs integrated information for monitoring the Council's operating units against budget, capital project, and operating expenditure across the Council, as well as consolidated and parent and CCO financial monitoring.
  - The Independent Māori Statutory Board needs integrated information for assessing the expenditure directed to benefit Māori.
- 2.23 People we spoke to considered that, to support the new governance arrangements, the Council needs to continue to:
- standardise and unify the strategy and policy work programme;
  - clarify the expectations and the mandate/discretion of local board funding policy; and
  - prepare long-term local area plans that set out future asset investment needs.

### Planning changes

- 2.24 The ATA described the new planning system for Auckland as “the cornerstone of the Auckland reforms”. It foresaw that achieving one spatial plan, LTP, and unitary resource management plan would be challenging for the planning and policy activities and elected bodies of the Council. However, it also saw that there would be efficiencies for the region's citizens, businesses, and organisations in having one set of consistent rules and policies, rather than the eight sets of different plans and policies, numbering in the hundreds, that existed before the amalgamation.<sup>7</sup>
- 2.25 The ATA and the Council, through their transition effort, have provided a stable operating platform for the Council's strategic and regional planning work. Since

<sup>7</sup> Auckland Transition Agency (March 2011), *Auckland In Transition: Report of the Auckland Transition Agency*, Volume 1, page 21.

the amalgamation, the Council has prepared a unified Auckland Plan, which fulfils the statutory requirement to prepare a spatial plan for the region, and has adopted a consolidated LTP for 2012-22. In our view, these have been good achievements that were made within a tight time frame.

- 2.26 A significant component of the Auckland reforms was providing a stronger basis for regional leadership. Legislation has provided this by changing the roles and responsibility of the Mayor, and by requiring a spatial plan for the Auckland region.
- 2.27 The purpose of the spatial plan is to contribute to Auckland's social, economic, environmental, and cultural well-being through a comprehensive and effective long-term (20- to 30-year) strategy for Auckland's growth and development.
- 2.28 Under the Local Government Act (Auckland Council) Act 2009, the spatial plan sets a strategic direction for Auckland and its communities. It integrates social, economic, environmental, and cultural objectives to enable the Council and other parties to carry out coherent and co-ordinated decision-making. The spatial plan must:
- recognise and describe Auckland's role in New Zealand;
  - visually illustrate how Auckland may develop in the future, including how growth may be sequenced and how infrastructure may be provided;
  - provide an evidential base to support decision-making for Auckland, including evidence of trends, opportunities, and constraints within Auckland;
  - identify the existing and future location and mix of residential, business, rural production, and industrial activities within specific geographic areas of Auckland, and critical infrastructure, services, and investment within Auckland;
  - identify within Auckland nationally and regionally significant recreational areas and open-space areas, ecological areas that should be protected from development, environmental constraints on development, landscapes, areas of historic heritage value, and natural features; and
  - identify policies, priorities, land allocations, and programmes and investments to implement and resource the implementation of the strategic direction.
- 2.29 We were told that the legislative changes to regional leadership have been taken up with conviction, vision, and energy by those involved. Most people we spoke to told us about the success of the Auckland Plan and of the important role that the Mayor was playing in leading the plan. The Mayor's message in his foreword to the Auckland Plan reiterates the message that we heard from those we spoke to:
- Auckland's time has come. We have a widely-shared vision to be the world's most liveable city. And for the first time in our history, we have a single, comprehensive plan to deliver this vision for all of Auckland and all its people – the Auckland*

*Plan. It is a plan that will help us compete on the international stage, and one that will help every Aucklander achieve the best they can. Auckland is our place, and we are ready to grasp this opportunity for a prosperous future.*<sup>8</sup>

- 2.30 The Auckland Plan encapsulates the aspirations for the Auckland reforms. Hon. Rodney Hide, the Minister of Local Government, who oversaw the reform legislation, told us that his aim was to achieve a governance jurisdiction that could address the region's problems. The Royal Commission and the Minister considered that Auckland combined many of the ingredients for social and economic success. However, they also saw that change was needed on a number of fronts to realise the opportunity that the combination presented. The Royal Commission identified that messy and inefficient urban growth, infrastructure constraints, social disparity, and poor urban design all needed urgent attention.
- 2.31 It was seen as important that local and central government worked together to:
- deliver lower regulatory and delivery costs for businesses and individuals, improve infrastructure, and promote innovation to help make Auckland more productive; and
  - protect Auckland's natural environment and adopt measures to improve the built environment and public realm, making Auckland more attractive to residents and visitors, and better able to compete as an international city.
- 2.32 The Royal Commission identified two broad, systemic problems with Auckland's former local government arrangements – weak and fragmented regional governance and poor community engagement. It cited disputes between councils over urban growth and the development and sharing of important infrastructure, inconsistent standards and plans, and limited sharing of services between councils. The Commission considered that this resulted in delayed (and sometimes suboptimal) decisions for the region, poorer services at a higher cost than necessary, and prolonged formal and duplicative consultation instead of true connection with their communities.
- 2.33 The Commission concluded, and many people we spoke to agreed, that the former councils had lacked the collective sense of purpose, constitutional ability, and momentum to address issues effectively for the overall good of Auckland.
- 2.34 As we were writing this report, Parliament was debating the role of local authorities in the economic, social, environmental, and cultural well-being of their communities. Many people we spoke to observed that the expectation of local government to contribute to community well-being had been fundamental to the Auckland reforms.

8 See [www.theplan.theaucklandplan.govt.nz/](http://www.theplan.theaucklandplan.govt.nz/).

- 2.35 The scope of the Council's statutory responsibility in preparing a spatial plan for Auckland extends beyond the Council's direct operations and budgets. The Council must prepare and adopt a spatial plan for Auckland under the Local Government (Auckland Council) Act 2009. The purpose of the spatial plan is to contribute to Auckland's social, economic, environmental, and cultural well-being through a comprehensive and effective long-term (20- to 30-year) strategy for Auckland's growth and development.
- 2.36 The responsibility for the preparation and leadership of the spatial plan positions the Mayor and the Council as leaders of the Auckland region. It requires the Mayor and Council to articulate a vision for the Auckland region and seek co-operation with that vision from central government and other stakeholders, including the private sector and the community at large.
- 2.37 An example of how the Council is seeking co-operation in achieving the Plan's vision for Auckland is the Southern Initiative, which is an important initiative of the Auckland Plan. It focuses on the Council working with central government, businesses, and communities to achieve the best possible outcomes for people in areas of high social need. The Council is committing only \$1.8 million or \$180,000 each year of seeding money to the Initiative. However, through this spending, it is giving local insight and trying to support more integrated spending and effort in the area, including more than \$6 billion of central government spending.
- 2.38 The Auckland Plan covers, among other things, economic development, transport, and the Southern Initiative. Underpinning the Auckland Plan are the LTP, which was adopted earlier this year, and the unitary resource management plan, which is being prepared.
- 2.39 The actual funding and service intentions of the Council are set out in the Council's consolidated LTP. The LTP shows the services and financial capital and operating expenditure areas common to most of local government.
- 2.40 Critical challenges identified by the Auckland Plan are:
- population growth and demographic change;
  - housing availability and affordability;
  - climate change and energy security;
  - international economic competitiveness;
  - social and economic inequalities;
  - environmental quality; and
  - infrastructure planning, provision, and funding.
- 2.41 Transformational shifts sought are:
- *dramatically accelerate the prospects of Auckland's children and young people;*

- *strongly commit to environmental action and green growth;*
  - *move to outstanding public transport within one network;*
  - *radically improve the quality of urban living;*
  - *substantially raise the living standards for all Aucklanders and focus on those most in need; and*
  - *significantly lift Māori social and economic well-being.*<sup>9</sup>
- 2.42 We were told that the Auckland Plan is strongly supported within the Council and in other organisations the Council works with, as well by the public. The Department of Internal Affairs told us that the Government has responded to the Plan, noting its significance in aligning national and Auckland priorities.
- 2.43 We have observed the support for the Auckland Plan during our audits. This support is an early indication of the significant and promising differences that new governance arrangements could achieve. However, we were told that regional integration is creating “winners and losers” as it begins to affect communities and households – for example, the current rating changes and consolidation of contracts for services.
- 2.44 Despite the Council’s success in adopting its consolidated LTP, many people we spoke to expected that the LTP would be significantly reviewed for 2015-25 and that many assumptions and projects would be re-examined and questioned. Those we spoke to gave several reasons for this expectation:
- There was limited experience and knowledge about the likely ongoing cost of the new Council’s operations. The closing balances for the Council’s first year of operations were not available when the 2012-22 consolidated LTP was prepared. The Council has strong planning, forecasting, and financial management practices, and increasingly stable operations continue to improve forecasting.
  - There may be refinement of the expectations of growth rates in different areas that could affect the spending forecast for infrastructure development.
  - Many initiatives included in the 2012-22 consolidated LTP were inherited from the former councils. Local boards will reassess these initiatives as they settle into their governance role in the period leading up to preparation of the next LTP. Initiatives will either remain in the LTP because they continue to be relevant or will be replaced by higher priorities.
- 2.45 The Council is now focusing on the unitary resource management plan and on reviewing and harmonising bylaws. Based on the experience of other councils, a unitary resource management plan can be expected to take a minimum of several years to carry out. As noted in paragraph 2.12, the Government intends to amend the Resource Management Act 1991 to provide a once-only process for the Council’s first unitary plan.

9 See [www.theplan.theaucklandplan.govt.nz](http://www.theplan.theaucklandplan.govt.nz), section C.3.

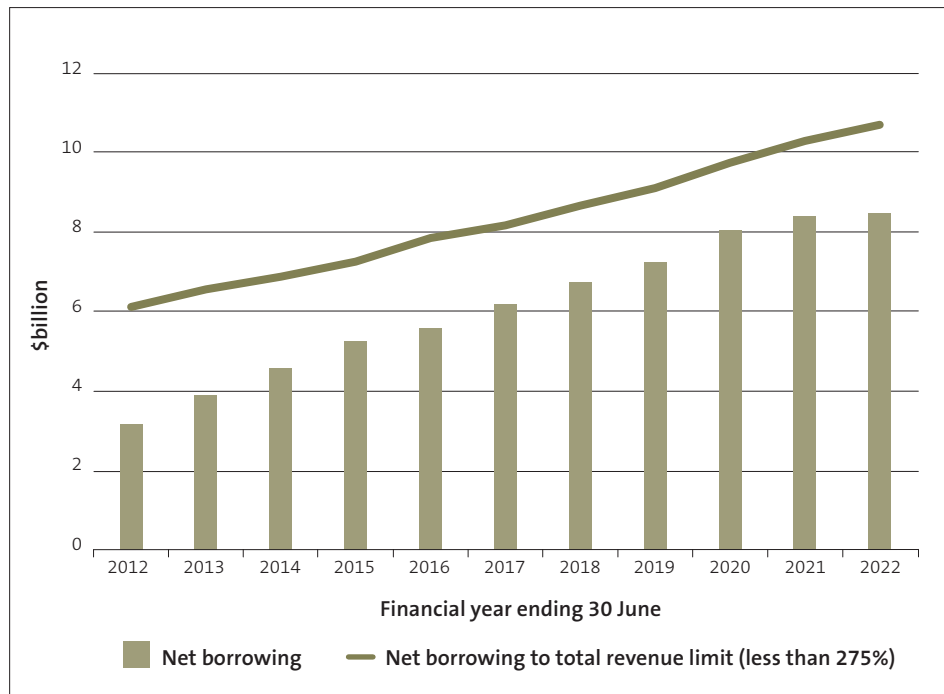
- 2.46 The ATA and the Council have worked to provide more customer-focused and consistent regional building and environmental services, including streamlining resource consent and building control services. Pre-lodgement services for building and resource consents have been rolled out region-wide, and more than 850 forms used by the former councils were reduced to 120 forms to be used consistently across the region. Under the Local Government (Tamaki Makaurau Reorganisation) Act 2009, the Council was given one year to get Building Consent Authority Accreditation. It was permitted to operate under temporary accreditation until that was achieved. The Council achieved this accreditation in October 2011.
- 2.47 Regulatory and other fees and charges were standardised by the ATA to the lowest level in the region (except for the former Franklin District Council) in anticipation of economies-of-scale benefits from amalgamating services. However, the service costs where relatively lower level direct fees were charged by the former councils were sometimes met to a greater extent through general rates, and the Council has since increased some of the lower standardised fees set by the ATA.

### **Financial and rating changes**

- 2.48 Perhaps the most significant test of public trust that the Council has faced since the handover from the ATA has been adopting a unified rating system for the Auckland region. Rates are the largest source of income (more than 70%) for the Council. Other income sources include fees and charges, roading subsidies, and development contributions.
- 2.49 The Council has completely overhauled the rating systems used by the former councils to provide a stable and predictable basis for rating throughout the region. The main platform of the new rating system is a capital value-based general rate, with eight property type-based differentials ranging from 0.25 to 2.63 for each dollar of capital value, and a uniform annual general charge (\$350 for each separately used or inhabited part of a property). The Council has taken a taxation approach to rating rather than attempting to set rates to reflect the benefits received from services in each area.
- 2.50 The new system has meant significant shifts in the rates paid by households. These shifts are influenced by changes in the valuation of properties and by the extent to which the new system differs from that used by the former councils. The rates some ratepayers pay have reduced, while those of others have increased. Because of the former councils' very different rating systems, the new rating system is being introduced over three years to manage the adjustment for different properties and locations.

- 2.51 The Council has made an extensive effort to communicate the changes to the rating system. However, as the actual dollar amount of rates paid is different for each property, elected members and staff recognised that many ratepayers would not be aware of the effect for them personally until they received their rates assessment. No-one welcomes increased rates bills, and everyone we spoke to was aware of the high public expectations for the Council to be disciplined in the use of rates. Despite the changes to the rating system, the pattern of rates payments has been close to normal, which may indicate that the public has accepted that a unified Council requires a unified rating system.
- 2.52 Although the Auckland reforms were not primarily carried out to reduce costs, economies of scale and opportunities to leverage buying power were anticipated from a larger Council. The Council has reported \$81 million of efficiencies in the first year and is forecasting \$1.7 billion of efficiency savings (in most instances, maintaining or improving service levels) during the next 10 years.
- 2.53 Efficiency gains have been made through the bargaining power brought by the Council's scale in procurement. The Council has consolidated multiple contracts with the same supplier for similar services throughout the region, and rationalised the numbers of suppliers of similar services, to improve value for money. For example, park maintenance contracts in the region were recently merged from 78 to 12 contracts, resulting in savings compared to previous contract costs. However, some elected members spoke of the loss of work for locally based contractors and the resulting loss of wider community connections. We were also told that there have been service reductions in some areas.
- 2.54 The Council currently funds just under 65% of its depreciation expenses. It will build to fully funding its depreciation expense during the term of the LTP. Debt is drawn down only when costs are committed, and forecast capital expenditure is deferred until it is actually required. Although the Council's focus on managing operating costs will generate further savings, the Council's longer-term growth and development needs see the Council's group debt rise from \$4.03 billion at 30 June 2011 to the \$12.7 billion in 2021/22 forecast in its LTP. About half the projected debt relates to transport activities; a quarter to water, wastewater, and storm-water activities; and a quarter to other core Council activities.
- 2.55 This debt forecast is based on projected rates increases of 4.9% for each year of the LTP. A 3.6% increase was passed by the governing body for 2012/13, the first year of the LTP. Recently, in proposing the Council budget for 2013/14, the Mayor has indicated a rates increase of 2.9%. In the longer term, debt looks likely to increase and to become a more significant factor in the Council's financial management. Figure 2 shows the Council's net borrowing and the limit based on total revenue.

**Figure 2**  
Auckland Council's net borrowing



Source: Auckland Council (2012), *Auckland Council Long Term Plan 2012-2022*, chapter 2, page 43.

2.56 Debt is increasing during the long term as the Council invests in infrastructure but, as discussed in more depth in our report on matters arising from the 2012-22 LTPs, the forecast debt remains well within the policies' limits of the Council and appears prudent. The Council has sophisticated treasury management functions to manage its working capital requirements, borrowing requirements, financial investments, and treasury-related risks. Recent legislative changes permit the Council to borrow in foreign currency.<sup>10</sup> The Council also has good credit ratings, as shown in Figure 3.

**Figure 3**  
Auckland Council's credit ratings

	Affirmed date	Long term NZ\$	Long term foreign currency	Short term NZ\$
Standard & Poor's (Australia) Pty Limited	February 2012	AA/Outlook stable	AA/Outlook stable	A-1+
Moody's Investor Services Pty Limited	April 2012	Aa2/Outlook stable	Aa2/Outlook stable	

10 Section 107 of the Local Government (Auckland Council) Act 2009.



## Underlying administrative infrastructure

- 2.57 One of the biggest challenges for the new Council is supporting and embedding the culture it seeks. People spoke of creating a “can-do” organisation that lives out such principles as common purpose, transparency and accountability, and effectiveness and responsiveness.
- 2.58 A critical component of the smooth and seamless handover from the ATA to the Council was the Council’s ability to integrate and maintain financial operations. More than \$100 million has been invested in setting up the Council’s financial, procurement, and payroll systems and the associated monitoring and management.
- 2.59 By contrast, there has been less development and focus on the other information technology and systems. Some people we spoke to said that the ATA had not developed the information technology strategy enough before handover to the Council. Although the ATA had chosen and put in place a financial system (SAP), it had not dealt with other information technology platforms or systems. With hindsight, one person observed that specialist advice on IT mergers could have been helpful for the transitions of other core IT platforms. We agree with this observation and note that much IT transition work remains to be carried out. The Chief Executive has formed an advisory group of experienced IT experts from major New Zealand corporations.
- 2.60 People we spoke to saw the lack of development of other IT platforms and systems as creating barriers to the Council maintaining its forward momentum. It was also seen as contributing to high workloads for staff. The Council continues to anticipate financial savings from consolidating and rationalising services and delivery channels, as it has done with procurement to date. IT systems integration and investment were seen as essential to achieving these anticipated savings. However, for a large range of service delivery and corporate functions, the Council is still operating the legacy collection of information systems it inherited from the former councils.
- 2.61 In March 2012, staff reported to the Strategy and Finance Committee on proposals to improve the performance management systems for the Council’s 8000 employees (including CCO staff).<sup>11</sup> Staff told the Committee that the Council:
- manually recorded and tracked all activities related to employee performance management;
  - did not have common behavioural competencies and consistent objectives throughout the organisation; and
  - did not have tools to measure employee performance levels.

11. Agenda Item 10, Strategy and Finance Committee, Thursday 8 March 2012.

- 2.62 The report concluded that, unlike other organisations of a similar size, the Council was not yet using systems to support, assess, and improve the performance and capabilities of its staff.
- 2.63 As well as the lack of formalised systems for performance management, we were told that the expectations and needs of staff are changing. In particular, there is a growing need for staff who can navigate within the Council's complex governance structures and administrative bureaucracy.
- 2.64 We were told that the quality of management and monitoring information given to the Council's Senior Leadership Team has been poor, although it is improving. We also heard that information system and management issues are affecting those in governance roles. Elected members expressed concern that they did not know when or by whom the work to integrate the Council's systems was being carried out.
- 2.65 For example, many elected representatives we spoke to raised concerns about information management of community grant funding. We were told that this was supported by 51 different systems used by the former councils that had not yet been brought together. This had made decision-making about grants difficult, because an overview of what organisations had received could not easily be put together.
- 2.66 In our annual audit for the year ended 2012, we noted that there had been little improvement in the systems the Council has to collect, record, analyse, and report its performance. This was the first year for which the Council was required to report against local board agreements. It uses a number of systems to collect data. Many of these systems are legacy systems, and appropriate controls and quality assurance processes were not in place for managing the integrity of performance information.
- 2.67 We also recommended that the Council improve its reporting of large projects and related contracts that involve the Council and CCOs, and of large projects that are divided into subprojects across different business units within the Council. Improved reporting is needed to give the governing bodies of these projects, and the Council, better oversight of the projects, and to limit the risk of project issues and cost overruns.
- 2.68 As a public entity, the Council's focus should be on delivering services to its communities now and sustainably into the future. The Council acknowledges that it needs to improve its service delivery and management information. In the next financial year, the Council will report against its 2012-22 consolidated LTP. The Council needs to take ownership of its service and management performance expectations and ensure that it has systems in place to collect and report information throughout the year.

## Our observations on the transition

- 2.69 The following observations on the transition from the ATA to the Council and the first two years of the Council's operations are drawn from what we were told by those we interviewed, and from our own annual audit interactions with the Council.
- 2.70 **Unified and integrated direction has been achieved through the vision and plan for the Auckland region.** The Council and the Auckland region have benefited from integrated planning. We heard from everyone we spoke to about the unifying and focusing benefits of the Auckland Plan. The Plan has provided a coherent strategic regional direction, including a sense of purpose, a sense of regional identity, and recognition of Auckland's national significance. This direction has a lot of organisational, stakeholder, and public support.
- 2.71 This regional direction has enabled the Council to prioritise its activities throughout the region for the first time. The Council has carried out extensive planning work in preparing the Auckland Plan (incorporating the spatial plan) and in adopting the 2012-22 consolidated LTP and a unified rating system. It has been taking action on its planning, beginning major and much-needed initiatives in transport; in water, storm, and wastewater infrastructure; and in community services, such as for regional events and the Southern Initiative. Many people we spoke to told us that the proof of the success of the amalgamation lay in the planning achievements of the Council in the last two years.
- 2.72 **Being reliable builds public, staff, and partners' trust.** The first priority in the first days and weeks of the new Council was to be reliable in its day-to-day services. The Chief Executive and senior leaders were aware of the complexity of the amalgamation, and dealt with many funding and transitional issues. They would have been aware every day of things that could have gone wrong and thrown doubt on the wisdom of the amalgamation. They focused on continuing seamless day-to-day frontline and financial service delivery. The result was overall public acceptance of the changes, which surprised many. The handover from the ATA to the new Council went largely unnoticed, and few issues or complaints were received.
- 2.73 **Strong and principled leadership committed to working together is fundamental – and is hard work.** In particular, we noticed that everyone we spoke to is committed to making the Auckland reforms work the best they can. Many people we spoke to acknowledged the importance of the vast knowledge drawn from officers – some of whom had little prospect of reward, recognition, or future employment – before the handover to the new Council. Although these people may not have personally supported the amalgamation, and although their own

livelihoods were affected, many worked tirelessly to achieve the amalgamation and the results that have followed. We were told that, because there is so much planning and service integration work yet to be done, many of the governors and staff of the Council continue to have very heavy workloads.

- 2.74 Many people we spoke to told us about the strong leadership of the Mayor and senior officers of the Council and the CCOs, and of their commitment to the principle of working together for Auckland. There was also acceptance that there have been and will be mistakes, not because anyone has done anything wrong but because there are always things that are not known. We were told that the attitude and culture of commitment to making things work is more important than having perfect structures, legislation, or plans.
- 2.75 **Tight transition arrangements created momentum for the new Council.** Amalgamating the eight former councils into one Council was a big task, and we heard a range of views that some things could have been done differently or better. For example, some people we spoke to would have preferred the ATA to leave more of the senior appointments for the Council to make. Others would have liked the ATA to have spent more time defining and describing governance roles.
- 2.76 It was important that there was a transition agency. It was also important that its time was short, so its focus was on preparing for those to come. The ATA did not try to make every decision, but it did have the power to oversee significant decisions. Amalgamation by legislation meant that the ATA and the Council needed to focus on giving effect to the changes. Most people we spoke to felt that the amalgamation would not have happened if it had not been legislated. Those working with and in the Council have accepted that the future of local government in Auckland is an amalgamated council.
- 2.77 **Change is ongoing – Auckland Council is a work in progress.** The immediate transition to a unitary Council has passed. The stability of day-to-day services has been ensured, and the main strategy and planning documents have been prepared. The Council is starting to optimise the value that can be gained from the initial change process. Many people we spoke to considered that it will take two to three electoral periods to settle the changes, to consolidate and standardise service systems and processes, to unravel and resolve issues, and to learn how to better understand and manage inherent tensions.
- 2.78 The Chief Executive and the Executive Leadership are now leading a process of organisational transformation to improve the Council's capability to deliver the Auckland Plan and value for money. However, significant challenges remain. As one of the largest organisations in the country, the Council will wrestle with its

size to communicate effectively between its governance tiers, departments, and CCOs, and to be responsive and agile. Significant work remains to:

- understand the different policies and regulations currently in force;
- understand the levels of service and the performance of each area against these levels, and determine future service levels that are seen as fair and equitable; and
- develop systems to address the Council's internal and external service performance needs.

2.79 There are inherent tensions built into the Council's governance arrangements and with other players, including at a national level. The Council will need to constructively manage these tensions to maintain support for, and confidence in, the plan for Auckland.



## Part 3

# Regional leadership – the Mayor and committees

### The formal structure and the intentions of the Auckland reforms

- 3.1 The Mayor of Auckland has a unique statutory role that is unlike that of other Mayors. This statutory role is to:
- articulate and promote a vision for Auckland, and
  - provide leadership towards that vision, including by leading the development of the Council's plans, policies, and budget.
- 3.2 To achieve this role, the Mayor has the powers to:
- appoint the Deputy Mayor;
  - establish processes for engaging with the public;
  - establish the committees of the governing body and appoint the chairperson of each committee (before other members are appointed by the governing body); and
  - have a staffed Mayoral Office (in consultation with, and acting through, the Chief Executive within a budget of not less than 0.2% of the budgeted operating expenditure of the Council).<sup>12</sup>

### What we heard – greater mayoral powers need governing body support

- 3.3 We were told that the powers conferred on the Mayor by legislation are finely balanced to enable Mayoral leadership while retaining the need for the Mayor to win and maintain the support of the other members of the governing body. Despite the additional powers, the Mayor still has only one vote on the governing body and needs to work with the members of the governing body on issues of common interest.
- 3.4 Most people we spoke to told us of Mayor Len Brown's commitment to inclusiveness. We were also told of his efforts to recognise the many varied interests in the Auckland region, and to encourage governing body members to listen to each other and to the wider debate.
- 3.5 Many thought a more adversarial governing body could emerge, made up of caucuses of supporters and opponents of the Mayor, depending on a number of factors. These include the proximity to the election, whether governing body members build individual public profiles through their contribution to the Council, and whether the unity that has been built around the Auckland Plan endures.

<sup>12</sup> Section 9 of the Local Government (Auckland Council) Act 2009.

- 3.6 Mayor Len Brown was supported by more than 237,000 Auckland voters. We were told that, as a rule of thumb, standing for a Parliamentary electorate seat of 40,000 voters requires around \$0.25 million and 200 people willing to donate time to campaign work. Because of the cost of running and winning an Auckland mayoralty election, some people we spoke to saw the emergence of formal and organised political machinery as inevitable. It was speculated that, with governing body member electorates averaging 75,000 people, in the future, this machinery would identify and support Mayoral candidates alongside more clearly identifiable coalitions of governing body candidates.

### **Establishing the committees of the governing body**

- 3.7 The Mayor has designed the governing body committee structure to spread leadership responsibilities between governing body members. Nearly all governing body members chair a committee or forum.
- 3.8 There are four committees of the whole – the Auckland Plan, Strategy and Finance, Accountability and Performance, and Regional Development and Operations Committees. There are also:
- nine standing committees and sub-committees:
    - Auckland Domain Rail Corridor Designation Committee;
    - Audit and Risk Committee;
    - CCO Strategy Review Sub-committee;
    - CEO Review Sub-committee;
    - Civil Defence and Emergency Management Committee;
    - Hearings Committee;
    - Regulatory and Bylaws Committee;
    - Tenders and Procurement Sub-committee; and
    - Transport Committee;
  - seven forums:
    - Community Safety Forum;
    - Culture, Arts and Events Forum;
    - Economic Forum;
    - Environment and Sustainability Forum;
    - Parks, Recreation and Heritage Forum;
    - Planning and Urban Design Forum; and
    - Social and Community Development Forum;



- a joint committee – the Hauraki Gulf Forum;
- six local board joint committees and sub-committees:
  - Southern Joint Funding Committee;
  - Central Joint Funding Committee;
  - Devonport-Takapuna, Kaipatiki, Upper Harbour and East Coast Bays Subdivision Local Board Funding subcommittee;
  - Isthmus Local Board Joint Funding Committee; and
  - Manukau Harbour Forum; and
- six advisory panels:
  - business advisory panel;
  - disability strategic advisory group;
  - ethnic peoples advisory panel;
  - pacific peoples advisory panel;
  - rural advisory panel; and
  - youth advisory panel.<sup>13</sup>

3.9 Through the structure of the governing body committees and by sharing chairing roles, the Mayor is working to build broad-based participation and support.

### The Mayoral Office

3.10 The Mayoral Office has 18 staff. Half of these staff are in administrative roles and half are in strategic roles. One person supports the Deputy Mayor. Staff of the Mayoral Office are employed by the Council (including being bound by the Council's code of conduct and employment policies). They report to the Mayoral Office Chief of Staff and are on contracts aligned with the term of the Mayor.

3.11 This employment arrangement will not be familiar to many working in local government. The closest parallel is Ministerial Advisors, who are employed by Ministerial Services but report to Ministers and have tenures limited to the term of the Government. It is not clear how normal expectations of political neutrality apply to Mayoral Office staff. There was concern that this needs to be carefully managed – in particular, around events such as elections. Otherwise, conflict and distrust may affect the perceived integrity of the Council, its officers, and its staff.

3.12 We were told that the Mayoral Office has been useful and effective. It supports the Mayor to focus on leadership and promoting the Auckland Plan's vision. Staff of the Mayoral Office are seen as positive and constructive, making situations work that could be difficult if carried out with the wrong behaviour. Mayoral staff members are well aware that "throwing their weight around" would be

<sup>13</sup> A heritage advisory panel is also being formed.

unconstructive. They make the effort to communicate that they want to work collegially.

- 3.13 The main interactions between the Mayoral Office and the Council are through the Chief of Staff, the Chief Executive, the strategy staff of the Mayoral Office, and senior officers of the Council responsible for planning and finance.
- 3.14 Everyone we spoke to was aware of the importance of the staff of the Council and governors of CCOs being responsible to the governing body, through the Mayor as its lead agent. The changed role “powers up” the Mayor, by giving the Mayor a source of advice and support alongside that provided by the Council’s Chief Executive.

### **Public communication**

- 3.15 The Mayoral Office, the Council, and CCOs have overlapping interests in public communication. A recent example is the introduction of the new rating system, which involved senior officers of the Council, the Mayor, and elected members each having responsibility for communicating aspects of the changes.
- 3.16 The Mayoral Office supports the Mayor in carrying out his significant public communication role. Typically, each week the Mayor has seven to eight events that require prepared written speeches and more than 20 less-formal speaking engagements that also need to be prepared for. Three staff members within the Mayoral Office work full-time on communications activities, from preparing speeches to providing information for social networking sites.
- 3.17 The governing body has a “no surprises” expectation of staff. The Council and CCOs keep the Mayoral Office informed of communications programmes and of significant issues of public interest.

### **Our observations – the “executive” Mayoral role is helping to lead and communicate the Auckland region’s plan**

- 3.18 Mayoral leadership of the Auckland vision and governance, and the Council’s procedural and resourcing tools, have provided significant vigour and an integrating focus to the large amount of planning the Council had to carry out during its first two years.
- 3.19 The committee structure of the governing body provides a basis for inclusiveness and shared responsibility for decision-making. However, it increases the time that individual governing body members and Council staff spend preparing for and in meetings. It also increases the remuneration costs for governing body members

(because Chairpersons are remunerated at a level greater than members without these roles).

- 3.20 We also saw evidence that functional subcommittees have confused governance lines (such as those of the Transport Committee with the Accountability and Performance Committee and the Auckland Transport CCO board). This is causing tension for the individuals involved in attempting to follow what they perceive to be the appropriate lines of accountability.
- 3.21 Managing the overlapping responsibilities for public communication between the Mayoral Office, the Council, and CCOs is being built through time, experience, and goodwill.
- 3.22 We expect the Council to carefully consider how expectations of political neutrality by staff of public organisations apply to the staff of the Mayoral Office – in particular, around events such as elections.



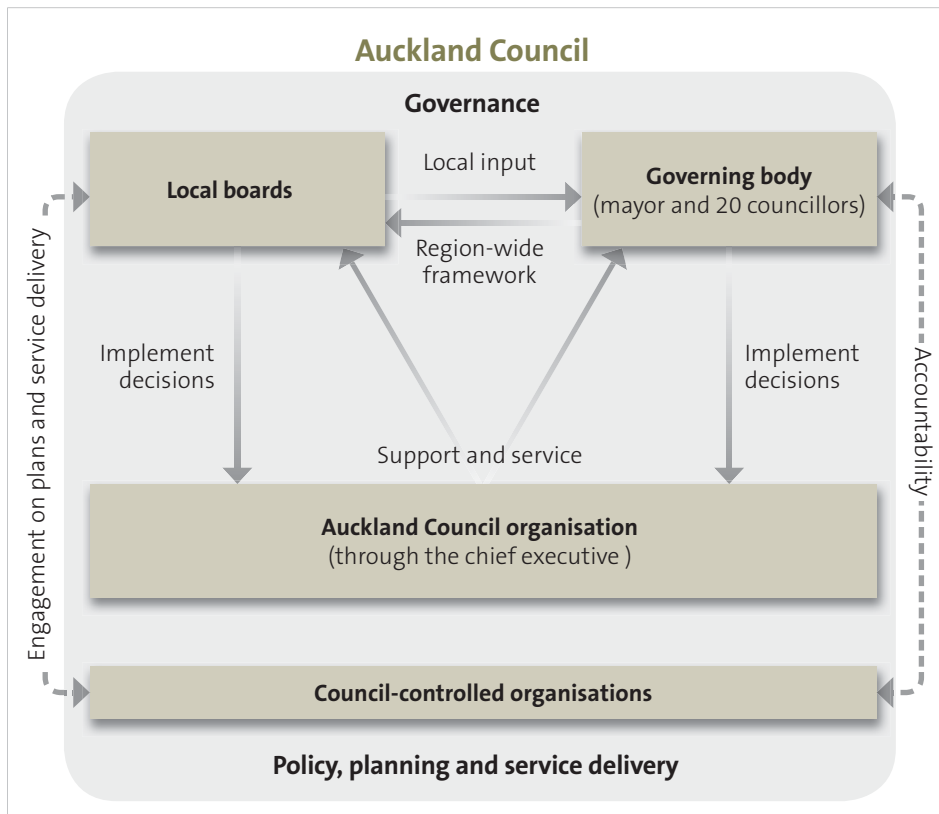
## Part 4

# Two-tier governance – balancing local, regional, and functional perspectives

### The formal structure and the intentions of the Auckland reforms

- 4.1 At its heart, local government is about place. A significant challenge for the Auckland reforms was creating a governance structure that could tackle regional issues and that could also connect with, and respond to, local communities; strengthening sense of place and local democracy.
- 4.2 The Local Government (Auckland Council) Act 2009 (the Act) established a two-tier governance structure, comprising the governing body and 21 local boards. Thirteen wards elect 20 councillors to the governing body. Broadly, the design is for the governing body to deal with decision-making at a strategic and regional level. The 21 local boards deal with:
  - community-based engagement;
  - shaping and monitoring local services; and
  - bringing local perspectives to region-wide policies and plans.
- 4.3 The Local Government Commission is responsible for determining the number and boundaries of local boards within the considerations set out by the Act. Figure 4 sets out the governance structure of the Council.

**Figure 4**  
Auckland Council's governance structure



Source: Auckland Council.

- 4.4 The original hope of Hon. Rodney Hide, the Minister overseeing the reform legislation, was that the local board areas would reflect natural communities of interest that were recognised by residents as their communities or townships. In this way, local boards could work as “eyes and ears”, helping initiate responses to issues and interests at a grassroots level.
- 4.5 However, the Minister concluded that 20 to 30 was the maximum number of local boards that could realistically be managed. This conclusion was reached after considering the size boards would need to be to attract capable people to stand for election, carry out local decision-making, and engage effectively with the Council. The cost of administering a larger number of boards was also a consideration.
- 4.6 Local boards were intended to enable the governing body to focus more effectively on regional issues. Decision-making responsibilities are shared between the two

tiers. Both tiers are responsible and democratically accountable for the Council's decision-making.

- 4.7 Under section 15 of the Act, the governing body is responsible and democratically accountable for decision-making about:
- regulatory responsibilities, duties, or powers conferred by legislation;
  - allocation of decision-making responsibility for non-regulatory activities of the Council to either the governing body or the local boards and decision-making in respect of those non-regulatory activities it allocates to itself ;
  - the agreement reached with each local board (as set out in each local board agreement) in respect of local activities for the local board areas;
  - establishment and maintenance of capacity to provide, or ensure the provision of, services and facilities;
  - governance of CCOs;
  - transport objectives and funding; and
  - prudent financial management.
- 4.8 Section 16 of the Act sets out the classes of decisions that local boards must make and are democratically accountable for, as:
- non-regulatory services allocated to it by the governing body;
  - the agreement reached with the governing body (as set out in the local board agreement) in respect of local activities for its local board area;
  - identifying and communicating their community's needs, interests, and preferences on strategies, plans, policies, and bylaws; and
  - identifying and developing bylaws for its local board area, and proposing them to the governing body.
- 4.9 Section 17 of the Act requires the governing body to allocate decision-making about non-regulatory activity to boards unless decision-making on an Auckland-wide basis will better promote the well-being of the communities across Auckland because:
- the decision will affect more than one board area;
  - the decision must align or integrate with other decisions that are the responsibility of the governing body; and
  - the benefits of a consistent or co-ordinated approach will outweigh those of diverse community needs and preferences.

- 4.10 These principles and responsibilities are given effect through procedural requirements for three-year local board plans and annual agreements, and by including local board information in the Council’s LTP and annual plan.
- 4.11 Under section 20 of the Act, a local board plan is to:
- reflect the priorities and preferences of the communities for local activities to be provided by the Council during the next three years;
  - identify the interests and preferences of the people within the area to enable the local board to communicate those interests and preferences;
  - provide a basis for developing an annual local board agreement;
  - inform the development of the LTP, particularly for the activities allocated to local boards for decision-making responsibility; and
  - provide an opportunity for public participation in decision-making on local activities to be provided by the Council, and a basis for accountability of the local board to its communities.
- 4.12 Under section 21, each local board plan is the basis for a local board agreement between the Council and the local board, which sets out how the Council will reflect the priorities and preferences in the local board’s plan in respect of:
- the local activities to be provided in the local board area;
  - the responsibilities, duties, or powers delegated to the local board by the governing body; and
  - the implementation or enforcement of bylaws made by the Council as a result of local board proposals.
- 4.13 In its report, the ATA described the relationships needed to make the statutory arrangements function:
- The new legislative arrangements for Auckland’s local government confer on all elected members a defined role to regularly engage with their respective community of interest in order to understand their views and priorities. The elected councillors of the governing body will need to establish effective working relationships with communities across the region and with organisations that are important to the Auckland region as a whole, including central government and other national organisations and stakeholder groups. The elected local board members will need to establish close working relationships with their local community and other organisations that are important in the local area.*
- Effective collaboration between local boards, the governing body, and the CCOs will be essential. Local boards will provide local input into region-wide strategies, policies, and plans that are the responsibility of the governing body, and to which the CCOs are required to give effect.*



*Local boards may also work together to discuss and address common issues, or issues affecting more than one local board area. Indeed, the Auckland Council Act stipulates that a local board should collaborate and cooperate with one or more other local boards in situations where the interest of communities within each local board area will be better served by doing so.*

### What we heard – two-tier governance or co-governance

- 4.14 Many people we spoke to described the Council's two-tier governance structure as "co-governance". The Local Government (Auckland Council) Act 2009 does not use the term co-governance. We understood those using the term to mean that each governance tier has its own decision-making sphere that is distinct but complementary. We also understood them to mean that neither tier was subordinate to the other. However, we observed that these co-governance expectations have been frustrated to some extent. We heard very different views about the discretion that the governing body and local boards currently have and about the roles they may have in the future.
- 4.15 Most people we spoke to suggested that the governance structure is not yet fully working, and will take two or three election cycles to embed. We were told that:
- the governing body had not yet taken on its strategic and regional governance role but was still operating as an "old-style" council; and
  - local boards had not yet embraced their part in collective responsibility for the Council's decision-making, and tended to act in a more limited community advocacy role.
- 4.16 Some people we spoke to said that it would have helped for roles to have been more defined at the start of the process. We were told generally that confusion about governance roles has been and remains common among elected members, Council staff, and CCO governors and staff. Some were of the view that the governing body needed a clearer mandate for setting budgets rather than negotiating them; reflecting their accountability for the Council, its budget, and strategy.
- 4.17 Many people elected to the governing body and local boards served on the former councils and community boards. Their continued service has brought a wealth of expertise and experience that was universally recognised and appreciated. It has also thrown these people into new governance arrangements, to which they are adapting their previous experience and knowledge. Many people we spoke to felt that it may not yet be clear to the individuals who stood for Auckland's new elected offices which governance tier they might best contribute to.

## Uncertainty about governance forum roles and decision-making authority

- 4.18 We were told of several examples of uncertainty about governance roles and decision-making authority.
- 4.19 Funding for two events was allocated to a local board's area. In the past, these events had been held in three local board areas on an annual rotating basis. The local board sought clarification and understood that it had discretion to determine how the funding assigned to its local area was spent. It decided to reassign the money to other uses. A governing body member, using the basis that the funding was a regional matter as it affected more than one local board, then successfully moved an amendment at a Council committee meeting to return the money to the events it was originally planned for. It does not appear to have been clear in this instance:
- whether expenditure mapped to local areas was the decision-making responsibility of the governing body or local boards;
  - under what circumstances a local board has the discretion to reassign expenditure allocated to the local area; or
  - whether any process other than local board decision is needed to reassign funds mapped to local areas.
- 4.20 We were told that work is still in progress on budget mapping to local areas.
- 4.21 To support a diverse range of local activities and events, local authorities often provide grant funding to local not-for-profit community clubs and organisations. Each of the former councils had its own funding arrangements for grants. However, these arrangements could not be translated to the local board areas. Instead, an overall allowance of grant funding for each board to distribute was needed.
- 4.22 Many community groups have come to expect funding from the Council and may have been receiving support from more than one of the former councils. Getting an overall picture of the funding for community groups throughout the region in the past and minimising the effect of the changes for these groups, while moving to a basis for allocating a fair amount of funds for each local board to distribute, has been extremely challenging.
- 4.23 Regional integration has limited the amount of local input into decision-making about local road amenities. Before the amalgamation, community boards had the authority from the former councils to determine 'place-shaping' matters, such as traffic calming measures, the location of street furniture, and where to designate bus stops and parking. After amalgamation, Auckland Transport has a primary

duty for an integrated regional network and responsibility for all activities within the roading corridor. Auckland Transport is achieving significant improvements in the wider economic efficiency of the transport system by focusing on the smooth movement of vehicles across the network.

- 4.24 Auckland Transport has chosen to retain decision-making over local road amenities on the basis that it needs to manage the regional efficiency of transport movement. It has declined to delegate decision-making powers to local boards and, in some instances, to carry out some small amenity changes suggested by local boards where, in its view, those changes would affect other parts of the transport network. These include suggested locations of bus stops, curb protrusions, and parking zones that would slow the movement of transport through the system or would congest traffic in other areas that are less safe for this to occur, such as past schools. This has resulted in some local boards feeling that they have less influence in ‘place-shaping’ than the former community boards.

### **Bringing the local boards into decision-making and accountability for the financial consequences**

- 4.25 Despite these issues, we were told of the value that local boards provide through their work in community representation and engagement. We were also told that it is difficult to make local input real and effective without compromising the needs of regional integration.
- 4.26 There was a growing recognition of how the Council could use local boards’ knowledge of, and ability to articulate, the needs and interests of their communities to adapt services toward these needs. We heard that local boards’ care of these aspects allowed the governing body to focus on the Auckland Plan and its associated projects and initiatives.
- 4.27 As the CCO with the most significant and ongoing relationship with local boards, Auckland Transport dedicates resources and staff time to liaising with local boards. Although it is unwilling to delegate final decision-making responsibility for local road amenities to local boards, Auckland Transport places a high value on local boards’ knowledge about how roads and the associated amenities are operating for their communities.
- 4.28 Local boards are best able to articulate the needs and interests of communities where their areas reflect natural communities. Some local board members told us that, in their view, their local area boundaries had been set more for population numbers than to mark out a geographic community of interest with a distinct identity. In some instances, this was seen as resulting in a loss of accessible locally based representation.

- 4.29 The Council's overall rating approach mainly uses general rates that are not tied to the cost of the services in any specific area. Council staff suggested that needs particular to local board areas could be funded through targeted rates. This is a tool available under legislation to fund services and amenities that have benefit patterns that are not consistent with a general rating approach.
- 4.30 We were told that local boards had, to date, not viewed this suggestion as appropriate for two reasons:
- For the first 18 months of the Council's operation after the amalgamation, service levels remained notionally at the levels that were provided by, or committed to, by the former councils. Only since 1 July 2012 have changes begun to specify and standardise levels of service.
  - There is not the same level of availability of amenities in all local board areas. We were told that this is because the former councils made different decisions about investing in amenities. However, we were also told of instances where a local board wanted more park or swimming amenities within their boundaries when there were already such amenities a street or two away within the next board area. Addressing questions about local amenities is a long-term investment strategy that will require local boards to be not too literal about boundaries.

### **Governing body members' electorate responsibility**

- 4.31 Twenty members are elected by 13 wards to the governing body of the Council. The members are elected to make decisions on behalf of their electorate in the interests of the region. We observed that this role is similar to that of members of Parliament. However, general electorate members of Parliament (who are elected to represent geographic areas) also have constituency duties that form a significant part of their normal working weeks. Many told us that much of the work traditionally performed by local authority councillors is now being carried out by local board members, although this does vary between individuals and areas. Governing body members told us that they continue to have constituent contact on a range of matters, as well as on regional and strategy matters.
- 4.32 Many told us is that the constituency role for governing body members has become less clear. The place of governing body members in articulating and presenting regional directions is also less clear given the increased role of the Mayor in articulating the regional vision and strategy.
- 4.33 Many people we spoke to questioned whether governing body members are now more remote from their electorate than they would have been under the former councils. Questions were raised about:
- whether their role and work is visible to their local electorate;

- what opportunities they have to build electoral profiles and support for their regional role; and
- whether, in acting in the interests of the region, they are also expected to act in the interests of their ward.

4.34 Many people we spoke to identified a risk that governing body members have limited incentives to shift their mode of operation to a regional mindset because they may be criticised by local board members for failing to invest in their ward.

#### **Issues with day-to-day expectations and communication**

4.35 We were told of issues with day-to-day expectations and communication.

4.36 Local board members told us that they would not generally ask for, or expect to get, assistance from governing body members to address public concerns. In practice, local board members get assistance and advice from their own office staff. However, based on their overview of Council operations, plans, and policies, governing body members considered that they could be a source of advice for navigating the Council's decision-making and administrative structures.

4.37 Local board members were concerned that governing body members did not take as many opportunities as they could to hear and understand local aspirations and issues. For example, we were told that there is not full attendance when local boards present their plans to governing body meetings, and that local board annual agreements are considered by the Strategy and Finance Committee and reported to the governing body. We were also told that access to senior elected members, such as the Mayor, can be difficult to arrange.

4.38 We heard from local board members that expectations of whether governing body members would attend local board meetings was “case by case” and depended on what worked for the people involved. Generally, many governing body members attend local board meetings. Curiously, governing body members tended to assume that they would not be welcome and local board members tended to assume that governing body members would not be interested in attending.

#### **Local board and governing body planning and consultation**

4.39 We were told that the two-tier governance structure complicates planning and budgeting processes in ways that have not been experienced by local authorities before the Council was set up. For example, as part of the governing body's consideration of policy, local boards are required to be consulted on every policy, meaning more process and engagement on policy development within the Council.

- 4.40 More time for, and more phases of, governance discussion is needed when preparing the draft LTP and annual plan for public consultation. For example:
- local board plans for each local board area need to be reconciled with the LTP and funding policy set by the governing body and reflected in local board agreements;
  - local boards need to be involved in formulating options and proposals for particular decisions on which public feedback is sought (rather than their input being limited to consultation at later phases);
  - iterations of local board and governing body consideration and decision-making are required for the preparation of the draft and adoption of the final LTP or annual plan; and
  - decisions need to be made about the format, extent of detail, and communication of the information that is made available to the public.
- 4.41 We were also told that efforts to meet statutory requirements have led to confused and duplicative consultation with the public. We were also told of concerns that the public do not know to whom to submit or why matters on which they have already submitted to the local boards are being reconsidered by the governing body.
- 4.42 Public consultation is carried out using the special consultative procedure under the Local Government Act 2002, annually on each local board plan and on the Council's LTP (every three years) or its annual plan in the intervening years. There is significant public interest in the Council and its intentions. The Council received more than 10,000 submissions on its draft 2012-22 LTP. Of these, nearly 50% raised dog registration issues, nearly 25% raised transport issues, and more than 15% raised general rates and rating policy issues. More than 1676 submitters requested that their submissions be heard.

### **Governance workloads are heavy and stretching resources**

- 4.43 With no fixed job description, the time commitment involved in being an elected member to the Council varies both between individuals and according to the subcommittee structures and membership of committees. We were told that the Council's governing body members have heavy workloads. Even though all are working fulltime in their governance roles, the amount of information members need to read and understand is extensive. Although staff try to help by summarising information, governing body members are sometimes anxious that they have not had access to the full information associated with significant or complex decisions.

- 4.44 Members of the governing body have large constituencies, comparable to those of general electorate members of Parliament. However, they are provided with very limited administrative support and have no staff support for important activities, such as research or analysis for their Council committee work or for dealing with constituency concerns.
- 4.45 Because local boards are consulted about all policies, strategies, and plans, local board members are also required to read and understand a huge volume and range of papers. For members of local boards and the governing body, there are workshops that provide background information on issues, as well as formal meetings. Most local board chairpersons and some governing body members are also working fulltime. We were shown some local board agendas and saw large papers not specific to each local board that were sometimes badly (and, in one instance, illegibly) reproduced.
- 4.46 Local board members considered that the Council’s staffing numbers started below the baseline in many areas, including resourcing for local boards and local area servicing. Local boards saw the Council as still being in “catch-up mode”. As a result, local board activity was seen as under-resourced in several ways. We were told that:
- a lack of secretarial support meant that meeting papers were sometimes late and items were omitted or forgotten; and
  - there were limited resources for local board communications in Council information. Each local board has a page in the monthly Council publication and advertorials in community papers. While there is a dedicated communications team that provides support to local boards, some local board members told us they received no support with media communications.
- 4.47 All agreed that local boards need to be properly resourced for their role. However, the developing understanding of that role means that the resourcing required has not been clear. Adjustments have been made to local boards’ resourcing as their needs have become clearer. For example, staff numbers in the 10 teams that provide local board support have been increasing, along with resourcing for community engagement.
- 4.48 With 21 boards to be serviced, a lot of practical effort is involved. Staff support for local boards has to be senior and appropriately experienced, so even getting appropriate advisory staff to attend 21 local board meetings cannot always be carried out within a calendar month. CCOs are facing similar challenges in their work liaising with local boards.

### The Council's future intentions

- 4.49 Council staff and governors are taking steps to provide a more stable base of expectations and to streamline decision-making processes. Mechanisms such as joint workshops, joint working parties, and inclusion of local board chairpersons or representatives are being used. Their aim is to reduce tensions arising from misaligned expectations and to identify areas of clearer and greater discretion for both governance tiers.
- 4.50 For example, to carry out its 2012 planning and budgeting, the Finance and Strategy Committee held workshops with local boards to share the development of plans and budgets, and to reduce any sense of local boards presenting plans for the governing body to agree or approve. Ironically, we were told by some local board chairpersons that they appreciated the opportunity to present the local plan for their area to the governing body.
- 4.51 The Mayor, the Deputy Mayor, the Chairman of the Finance and Strategy Committee and the chairpersons of local boards are trying to have regular meetings to improve communication.
- 4.52 The Council is considering whether codes of conduct, and protocols about behavioural and practice expectations, would be helpful.
- 4.53 The Council and Auckland Transport have been looking for ways to provide local discretion. One example is a \$10 million transport fund that has been established for local boards to propose and prioritise roading amenity improvements that are not already identified in Auckland Transport plans. However, doubt was expressed about what this initiative could achieve because the funding is not additional. It involves reprioritising other work, and Auckland Transport will continue to approve and manage proposed projects.
- 4.54 CCOs are working through local boards to engage with, and get input from, community groups. It was seen as more efficient for CCOs to put effort into their relationships with local boards than to try to duplicate a local board's connection with, and insight into, the wider community.
- 4.55 Guided by the Auckland Plan and local aspirations, area plans are being developed to provide a long-term vision for each local board area.
- 4.56 The Council is building new ways of carrying out consultation appropriate to its regional scale that should result in large volumes of feedback and submissions. It is looking to use group and facilitated feedback techniques for consultation – for example, by running hearings on regional issues while organising workshops for CCOs and local boards.



## Our observations – empowering two-tier governance

- 4.57 The Council needs decision-making processes to ensure that the governing body and local boards can make decisions that:
- are informed by good information;
  - are prudent and have regard to the long-term interests of the Council and the well-being of the Auckland region;
  - include input from those affected by, and interested in, decisions;
  - are transparent, allowing scrutiny of the issues being considered, the information and considerations relevant to those decisions, and the decisions being made; and
  - are effective and efficient, in that the information and processes used for decision-making should be in proportion to the significance of the decision.
- 4.58 The Council’s decision-making needs to take account of local needs and interests, of regional development, and of co-ordinated functional governance. These tensions cannot be resolved simply by design. Inevitably, they are negotiated and renegotiated in day-to-day service delivery activity and decision-making. The service priorities and financial position and operations of the Council need to be broadly understood and supported by the two governance tiers.
- 4.59 We observed that everyone is committed to making the governance relationships work as best they can. However, some of current confusion and negotiation about roles is resulting in individual elected members’ behaviour being misconstrued or misunderstood. Given the workloads of elected members, understanding is needed of the practical constraints that people are working within. Ways need to be found to strengthen governing body and local board working relationships.
- 4.60 We were concerned about the “wall” of reading material that governing body and local board members are expected to master. Governing body members probably get more to read than is humanly possible in the time they have available. Council staff are giving thought to how elected members can be enabled to consider the issues before them, including providing better, shorter reports to elected members. Approaches similar to those used by the Cabinet Committees of central government are being developed. We consider these approaches to be sensible, if not essential. The structure of local board agendas could be improved to:
- give a greater sense of why papers are included in agendas;
  - tailor content so that it focuses on issues and content relevant to each board; and
  - be clearer about the input or decision required from the board.

- 4.61 We suggest that the Council consider how best to support governing body members' activities, such as research and analysis for their decision-making and constituency responsibilities.
- 4.62 It does not seem possible for the Council to conduct public consultation and "hear" submissions in the way that many local authorities have done under the Local Government Act 2002. For the Council to build the new techniques of community input that Auckland City's scale requires, a review of the consultation provisions of the Local Government Act might be needed. The Council should liaise with the Department of Internal Affairs to ensure that legislation does not preclude practical responses that the Council could use to effectively manage public consultation in Auckland.

## Part 5

# Māori participation and representation, and giving effect to the Treaty of Waitangi

### The formal structure and the intentions of the Auckland reforms

- 5.1 In the 2006 Census, more than 130,000 of Auckland's population of 1.3 million people identified as Māori. Mana whenua (people with tribal links within Auckland) make up 14.5% of Auckland's total Māori population. Nineteen mana whenua traditional tribal areas overlay the Council's region. Mataawaka (Māori with tribal links outside Auckland) make up 63.4 % of Auckland's total Māori population and 22% do not identify with any iwi.<sup>14</sup>
- 5.2 Local authorities have obligations to consider the needs and interests of Māori within their district in their planning, decision-making, and service delivery as part of their obligation to the residents and ratepayers of their districts. Local authorities also have Treaty of Waitangi obligations under several pieces of legislation (primarily, the Local Government Act 2002 and the Resource Management Act 1991) and through the process of Treaty of Waitangi settlements. There is also an expectation that Māori have fair and appropriate opportunities for electoral representation in local authorities.
- 5.3 After much debate about how the Council could be structured to enable appropriate representation for Māori on the Council's governing body, the Independent Māori Statutory Board (IMSB) was established through the enactment of the Local Government (Auckland Council) Amendment Act 2010. The IMSB is without precedent in central or local government.
- 5.4 Established by the Local Government (Auckland Council) Amendment Act 2010 as a Public Finance Act 1989 Schedule 4 entity, the IMSB is independent of, but funded by, the Council. The IMSB's purpose is to help the Council to take the views of Māori into account in its decision-making, so as to be responsive and effective for Māori.
- 5.5 It has a statutory role to provide leadership and direction to the Council to make decisions, perform functions, and exercise powers by:
- promoting the cultural, economic, environmental, and social issues that are significant to Māori in Auckland; and
  - ensuring that the Council complies with statutory provisions that refer to the Treaty of Waitangi.
- 5.6 The IMSB must:
- develop and maintain a prioritised list of issues that are significant to Māori;
  - give advice to the Council about issues that affect Māori in Auckland; and

<sup>14</sup> See [www.imsb.maori.nz/](http://www.imsb.maori.nz/).

- work with the Council to create suitable documents and processes to help the Council meet its statutory obligations to Māori in Auckland.

5.7 The board members of the IMSB were appointed by an iwi selection body. The Minister of Māori Affairs invited each mana whenua group in Auckland to select a person to be its mandated representative to the iwi selection body. The selection body then prepared and carried out the processes for appointing the members of the IMSB. The board membership comprises seven mana whenua group representatives and two mataawaka representatives.

#### **What we heard – getting runs on the board with a unique model**

5.8 During the two years since the IMSB was established and its board members appointed, it has:

- appointed its secretariat and secured representation to most Council committees;
- commissioned and reported the results of a Treaty of Waitangi audit (carried out on its behalf by PricewaterhouseCoopers (PwC)), which have been accepted by the Council as a baseline for improvement; and
- created a view of Māori well-being and its first list of issues of significance for Māori. The IMSB also assessed the Council's LTP against that list, identifying suggested actions, measures, and targets.

5.9 In 2011/12, the IMSB received direct funding of \$984,200 from the Council. In our discussions with the IMSB, we were told that some would prefer its resourcing to come from general taxation rather than the Council's rating sources. We were told that this would reduce resentment from those who perceive the IMSB as a cost to the Council and Auckland ratepayers.

5.10 The Council also provides support services such as finance and IT, and meets the IMSB's accommodation costs. The Council also part-funded and provided staff support to the IMSB's Treaty of Waitangi audit and programme to identify a list of issues of significance to Māori.

#### **The Treaty of Waitangi audit**

5.11 The Treaty of Waitangi audit involved preparing a legal framework setting out statutory Treaty provisions and obligations to Māori relevant to the Council. This was completed by Atkins Holm Majurey Law (AHM Law). PwC then developed and carried out the audit of expected good practice against those statutory provisions and obligations. The audit included input from Māori and interviews with Council staff (including local board and CCO staff).

- 5.12 The audit found that the core building blocks of the Council's processes to ensure that it complies with the Treaty of Waitangi are significantly weak and are almost certain to compromise Māori legislative rights. It recommended that these areas be addressed as a matter of urgency. They included the Council's:
- knowledge of its statutory obligations to Māori and of statutory provisions relating to the Treaty of Waitangi;
  - policies to set established principles, rules, and guidelines; and
  - consultation and engagement with Māori.
- 5.13 The audit also identified serious weaknesses likely to compromise Māori legislative rights in other areas such as processes, systems and data, decision-making, training and awareness, communication, and monitoring.
- 5.14 The IMSB and the Council have worked through the audit's recommendations. The Council's Chief Executive's response is included in the report. In this response, the Chief Executive says that the audit provides a basis for the IMSB to assist the Council to ensure that it acts in accordance with statutory provisions referring to the Treaty of Waitangi, and for the Council to understand its compliance and to develop a work programme. The IMSB expects to work with the Council to:
- take a transformational approach to addressing the audit's findings throughout the organisation, with the leadership of the Council's Chief Executive and Executive Leadership Team;
  - set priorities for policies and processes that relate to the Council's statutory obligations to Māori, and set time frames for the development and implementation of these policies by May 2013;
  - agree on the scope, time frame, actions, and resources to implement the agreed actions to address significant and high-risk ratings (this will form the work programme between the IMSB and the Council); and
  - regularly monitor and account for progress against the actions and recommendations at governance and management levels.

#### **List of issues of significance for Māori**

- 5.15 The first list of issues of significance for Māori created by the IMSB is grouped under Treaty of Waitangi principles and is wide ranging, covering issues in central and local government. It includes issues with engagement/consultation/inclusion, access to justice, kaitiakitanga, waahi tapu protection, Māori representation, CCOs, resource consents, infrastructure process/development, regional planning and development, community development, customary rights, health, urban

Māori, papakainga housing authorities, marae development, infrastructure, rates, affordable housing, education, economic development, tourism, and Treaty settlements.

- 5.16 There are five common elements to the action plans accompanying the issues of significance:
- All Council policies, reviews, and committee reports contain a Māori impact statement.
  - The IMSB will monitor the Council's ongoing connectivity with central government, including the IMSB and agencies developing engagement and protocols to ensure a holistic approach to the planning, development, and delivery of outcomes across all issues.
  - The IMSB will liaise with the Council's Māori Strategy and Relationships team to help prepare policies that ensure the best outcomes for Māori. The Māori Strategy and Relationships team helps the Council to meet its representation and Treaty of Waitangi obligations. The team is responsible for all Māori-specific policy, planning, research and evaluation, stakeholder engagement, relationship management, bicultural development and training, and Māori protocol and process information and activities.
  - The IMSB will advocate to the Council to create and promote policies that are accessible and that clearly explain concepts. Timely and accurate answers which make sense to the end-user must be provided.
  - The IMSB will advocate to the Council to provide appropriate and reasonable resourcing to ensure Māori engagement in all the Council's activities.
- 5.17 At the time of writing our report, the Council and the IMSB were discussing the IMSB's list of significant issues and priorities to agree the actions, measures, and targets that could be carried out within the Council's LTP during the next three years.
- 5.18 The IMSB is challenging the Council to improve its decision-making to be responsive and effective for Māori. The IMSB is also thinking ahead to future work. For example, it has indicated that it will look to assess the efficiencies for Māori gained through regional contracting.
- 5.19 As with the other major areas of change within the Auckland reforms, the people we spoke to described the relationship between the IMSB and the Council as generally working, with everyone trying their best.

## Representation on Council committees

- 5.20 Under section 85 of the Local Government (Auckland Council) Act 2009, the IMSB must appoint a maximum of two persons to sit as members on each of the Council's committees that deal with the management and stewardship of natural and physical resources. At first, the IMSB secured representation on 11 standing committees. The IMSB's legal advice suggests that its entitlement to appoint representatives is more extensive than many probably anticipated. It now has nominated members on 16 Council committees and forums. Nominated members also sit on a range of hearings panels and working parties.
- 5.21 Committees and forums on which the IMSB's nominated members serve include:
- Hearings Committee;
  - Accountability and Performance Committee;
  - Auckland Plan Committee;
  - Regional Development and Operations Committee;
  - Parks, Recreation and Heritage Forum;
  - Environmental and Sustainability Forum;
  - Social and Community Development Forum;
  - Economic Forum;
  - Regulatory and Bylaws Committee;
  - Strategy and Finance Committee;
  - Transport Committee;
  - CCO Strategy Review Sub-committee;
  - Planning and Urban Design Forum;
  - Culture, Arts and Events Forum;
  - Community Safety Forum; and
  - Civil Defence and Emergency Management Committee.
- 5.22 At this stage, and at the request of the Council, the IMSB has nominated only IMSB members to serve on Council committees. The Council's request was motivated by its desire to establish constructive understandings and working relationships between the Council and the IMSB from the outset of their operations. However, the IMSB is not restricted to selecting solely from among board members.
- 5.23 The effect of IMSB nominated members was generally acknowledged. We were told that the IMSB's nominated members are gaining increasing acceptance from

their fellow Committee members. The IMSB noted that its nominees are able to be particularly influential as unaligned voters on committees that have well-established split voting patterns.

- 5.24 In contrast to its extensive involvement in the committees of the governing body, there has been no significant liaison between the IMSB and the local boards.
- 5.25 The IMSB raised the concern that many Māori hold the view that they have lost the relationship they had with the former councils and are now confused about who to see for advice and action. An understanding between the IMSB and local boards similar to that between the IMSB and the governing body may help local boards to provide community input on issues of interest to Māori.

### **Working with Council staff and CCOs to support decision-making**

- 5.26 The IMSB told us of weaknesses in how the Council identifies, and seeks input on, issues of interest to Māori. In response to these weaknesses, the IMSB has advised that the Council and CCOs need to improve staff understanding of the procedural steps that should be carried out when preparing advice to support decision-making by the governing body.
- 5.27 For example, staff preparing advice to the governing body could address common questions such as:
- how Māori have been consulted;
  - how aligned the advice is with the Treaty of Waitangi;
  - whether advice has been sought from the Māori Strategy and Relationships team; and
  - how the feedback from consultation, and the advice of the Māori Strategy and Relationships team, has been used in the advice.
- 5.28 The IMSB is hoping to provide the Māori Strategy and Relationships team with support, so the team can help the Council to improve the common weaknesses. The IMSB would like to see the Māori Strategy and Relationships team better integrated into the Council to enable it to achieve this.
- 5.29 Council and CCO staff told us of a genuine desire to work with the IMSB. However, some people we spoke to said that it was hard to get traction on what and how to improve. Some Council staff expressed confusion about how the role of IMSB was intended to be carried out day-to-day. Council staff also said that the IMSB could more constructively contribute by giving more specific advice about what can or should be done.
- 5.30 The IMSB was clear that this expectation was a misunderstanding of its role and purpose. Unlike local boards, the IMSB has not been established as a



representative or facilitator of consultation with Māori in Auckland. Rather, the IMSB's purpose is to help the Council to take the views of Māori into account in its decision-making so as to be responsive and effective for Māori. The IMSB describes its role as monitoring and auditing.

- 5.31 The IMSB sees itself as a vanguard model that could be usefully transported to other local authorities.

### **Our observations – working with goodwill and building good practice**

- 5.32 Since it was established, the IMSB has been through a significant transition and created a substantial body of work. The board and its secretariat, as a new form of statutory representation, are working with clarity of focus on what they want to achieve and how they think they can best contribute to the Council.
- 5.33 In our experience of working with public entities, improvements such as those sought by the IMSB are the most difficult to successfully embed and maintain. Such improvements rely on people getting past compliance and checklists into real understanding. The desire that Council staff express for understanding how to interact with Māori shows commitment to responding to the well-being needs and interests of Māori and to the Treaty of Waitangi obligations.
- 5.34 None of this is simple – local authorities are not party to the Treaty of Waitangi and the legislative Treaty obligations on councils exist to address the Crown's obligations. Many of these obligations are decision-making and procedural requirements, such as for consultation to ensure that heritage and taonga are recognised and maintained. Inevitably, there will be debate about how to effectively engage with communities, and bring the result of engagement to decision-making, so that these obligations can be discharged.
- 5.35 It is the Council's responsibility to engage with Māori as part of the public of Auckland, including in ways adapted to the needs of the many varied communities of interest comprising Auckland. This responsibility is one shared by all local authorities to their communities.
- 5.36 The IMSB brings significant insight into, and connection with, Māori communities through its work with the Council. As well as its current monitoring and advisory activities, it could develop advisory support, provide tools and guidance, recognise where the Council has done well, and identify good practice examples.
- 5.37 It is important that all involved maintain their best intentions and apply goodwill when interpreting the actions of others. Good practice needs to be adopted to achieve the appropriate consideration of the needs and interests of Māori in decision-making in effective and efficient ways.



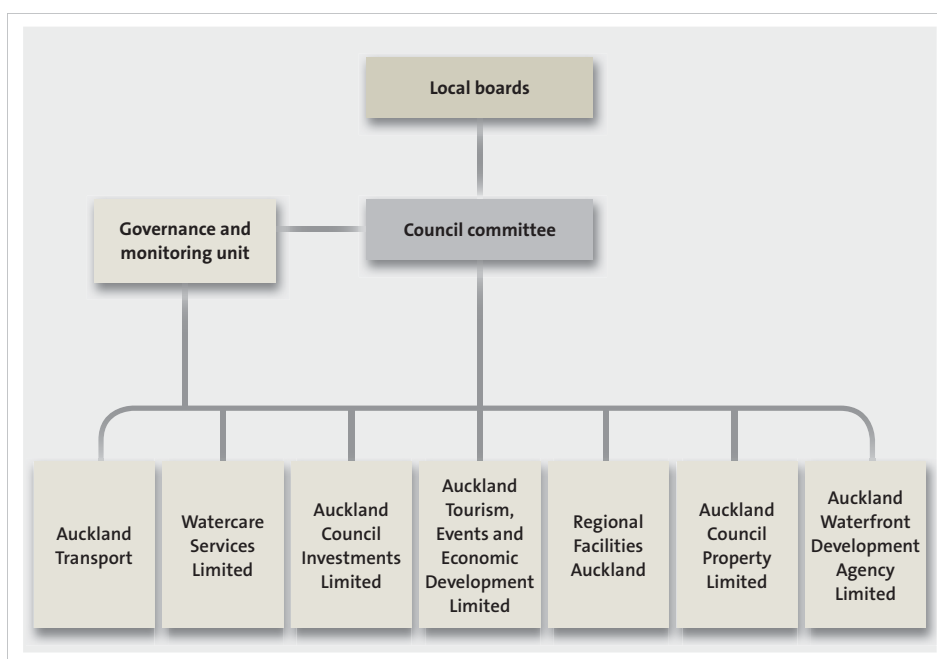
## Part 6

# Delivering core services through substantive council-controlled organisations

### The formal structure and the intentions of the Auckland reforms

- 6.1 A CCO is an organisation in which a council controls 50% or more of the votes or has the right to appoint 50% (or more) of directors or trustees.
- 6.2 A substantive CCO is unique to Auckland and is established under the Local Government (Tamaki Makaurau) Reorganisation Act 2009 or the Local Government (Auckland Council) Act 2009. A substantive CCO is a CCO that is responsible for delivering a significant service or activity on behalf of the Council, or that owns or manages assets with a value of more than \$10 million.
- 6.3 The Auckland Council is operating under a new model where substantive CCOs deliver services and activities that are funded by more than 35% of the Council's total rates. These CCOs also manage \$25 billion of assets owned for the benefit of the public, which makes up 70% of the Council's consolidated total assets. The Council's CCOs provide many of the services that usually form the core activities of local authorities in New Zealand. These services include roading and public transport, water and waste water, and economic development activities.
- 6.4 The Council has seven substantive CCOs:
- Auckland Council Investments Limited;
  - Auckland Council Property Limited;
  - Auckland Tourism, Events and Economic Development Limited;
  - Auckland Transport;
  - Auckland Waterfront Development Agency Limited;
  - Regional Facilities Auckland; and
  - Watercare Services Limited.
- 6.5 Figure 5 shows the structure of the Council's substantive CCOs.

**Figure 5**  
Structure of Auckland Council's substantive council-controlled organisations



Source: Adapted from *Auckland Transition Agency* (March 2011), *Auckland In Transition: report of the Auckland Transition Agency*, page 117, Figure 4-1.

- 6.6 The Council also has several CCOs that existed under the former councils and continue to operate. We do not discuss these CCOs in this Part, which focuses on the Council's substantive CCOs.
- 6.7 Although each substantive CCO has its own specific objectives, the Local Government Act 2002 identifies the principal objective of all CCOs. In summary, this principal objective is to:
- achieve the objectives of its shareholders, both commercial and non-commercial, as specified in the statement of intent (SOI);
  - be a good employer;
  - show a sense of social and environmental responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate or encourage those interests when able to do so; and
  - if the CCO is a trading operation, to conduct its affairs in keeping with sound business practice.

- 6.8 The general governance framework is set out in legislation. The essential elements of the framework are:
- The Council owns the CCOs. It appoints directors to govern each CCO.
  - CCO directors are accountable to the Council for the governance of the CCO. They must consult the Council on their draft SOI and report half-yearly to the Council on their operations.
- 6.9 Substantive CCOs must also:
- "give effect to" the relevant aspects of the Council's LTP, and "act consistently" with any other plan of the Council "to the extent specified in writing by the governing body of Council"; and
  - consult the Council on draft asset management and funding plans.
- 6.10 The benefits of delivering activities through CCOs are commonly identified as:
- improved commercial focus – that is, operating a company with a professional board of directors with the objective of achieving greater operating efficiency;
  - introducing, through board appointments, commercial disciplines and specialist expertise to add value to CCOs and help them to better achieve their objectives and the Council's long-term strategies; and
  - focusing on achieving a constrained set of business objectives, bringing a unifying focus to the organisation along with efficiencies through a corresponding drive to align resources with the required outcomes.<sup>15</sup>
- 6.11 The ATA identified the primary public concern about the use of CCOs as a possible loss of public transparency.<sup>16</sup> However, CCOs are subject to the access-to-information provisions of the Local Government (Official Information and Meetings) Act 1968. In addition, two of all Auckland's CCO meetings each year must be open to members of the public (including allowing time for members of the public to address the meeting) when consideration is being given to the CCO's:
- draft SOI; and
  - performance during the previous financial year.
- 6.12 The Royal Commission proposed rationalising the former councils' more than 40 CCOs. In doing so, the Royal Commission said that:
- For the Auckland Council to plan and deliver the infrastructure and services to meet its requirements, it will need access to the best commercial and engineering*

<sup>15</sup> Auckland Transition Agency (March 2011), *Auckland In Transition: Report of the Auckland Transition Agency*, Volume 2, page 10.

<sup>16</sup> Auckland Transition Agency (March 2011), *Auckland In Transition: Report of the Auckland Transition Agency*, Volume 2, page 9.

*expertise and resources. CCO structures and boards of directors can bring these required skills and expertise.*<sup>17</sup>

- 6.13 The ATA saw CCOs as a way of ensuring efficient management of operations, allowing the Council to focus on developing policies, strategies, and plans to drive Auckland forward.<sup>18</sup>

### **What we heard – CCOs are achieving the focus sought, but tension is inherent and the Council’s formal expectations are increasing**

- 6.14 Most people we spoke to saw the resulting CCO structure as a good model. It was useful for each CCO to have its own areas of focus and a board that brings relevant expertise to that focus. CCOs have allowed many core services to continue seamlessly, or even have their efficiency and effectiveness enhanced, during the transition to the new Council.
- 6.15 Concentrating all transport activity in one organisation has made it easier to give perspective and context for transport work and to align transport activities. Having fewer Council decision-making bodies to negotiate with, for matters such as funding shares, has also helped decision-making to proceed more easily. This concentration has enabled work on significant new transport projects to begin – for example, the Auckland Manukau Eastern Transport Initiative.
- 6.16 Having a single Auckland Transport organisation has also enabled a joint traffic operations centre to be set up with the New Zealand Transport Agency (NZTA). We were told that Auckland Transport and NZTA sharing their resources to operate traffic systems throughout the Auckland region is saving tens of millions of dollars. These savings come from the wider economic benefit of traffic moving more efficiently and smoothly on the existing roads.
- 6.17 There have also been achievements for other CCOs:
- Watercare recently reported that it had achieved regional cost efficiencies against those forecast of \$104 million, and reduced the forecast retail price of drinking water by 15%. Wastewater price increases have also been held to levels lower than that forecast by the former councils.
  - Auckland Council Property Limited had been able to complete the consolidation of the former councils’ commercial and non-core property holdings.

<sup>17</sup> *Report of the Royal Commission on Auckland Governance* (March 2009), Volume 1, pages 474-475.

<sup>18</sup> Auckland Transition Agency (March 2011), *Auckland In Transition: Report of the Auckland Transition Agency*, Volume 1, page 119.

- 6.18 Some people we spoke to questioned whether the current number and purposes of the CCOs are right. The Council has identified several areas where there is duplication of, or lack of clarity about, specific functions.
- 6.19 For example, three CCOs and the Council have intersecting interests in services and activities at Auckland's waterfront. This has led to work to clarify the CCOs' and the Council's respective roles, raising questions about the future ownership and maintenance of public infrastructure on the waterfront, Waterfront Auckland's role in delivering major events in the waterfront precinct, and whether commercial returns can be used to fund public infrastructure and non-commercial activities.
- 6.20 Other examples include:
- the extent of Regional Facilities Auckland's involvement in developing facilities and sectors;
  - both Auckland Tourism, Events and Economic Development Ltd and the Council having economic development functions; and
  - both Auckland Transport and the Council having strategy functions, with Auckland Transport needing the transport implications of the Council's strategies and plans to be co-ordinated.
- 6.21 Many people perceived that Council elected members and senior officers are held accountable for decisions of CCOs, and expressed concern about Council's ability to maintain alignment in CCO service delivery with its plans and strategies. The Council intends to carry out a full review of CCOs after the next local body elections. In our discussions with people from the Council, many told us that they expected there would be changes to CCO arrangements after this review.

### **Governance arrangements set up by the Auckland Council**

- 6.22 The governing body of the Council has set up the following institutional arrangements:
- The Accountability and Performance Committee is responsible for monitoring the performance of CCOs, and approving policies relevant to CCO accountability.
  - The CCO Strategy Review Sub-committee, chaired by the Mayor, is a sub-committee of the Accountability and Performance Committee. It is responsible for appointing CCO directors and negotiating CCOs' SOIs, which the CCOs report against.
  - There are bimonthly meetings between the Mayor and the Chairperson and Chief Executive of each CCO.

- 6.23 The CCO Governance and Monitoring Department, a dedicated team within the Council's Finance Team, provides advice and monitoring on matters such as strategy, governance, and board appointments. This team has established strong governance relationships with its CCOs. The CCOs' SOIs for 2012-15 have recently been completed, and a range of policies are in place. The Finance Team carries out other financial planning, monitoring, and reporting, and Council functional technical experts provide advice as required.
- 6.24 The Council has put extensive effort into formal structured arrangements for CCO governance. Clearly stated and communicated performance and accountability expectations are intended to help ensure that CCO boards understand what the Council expects of CCOs. A degree of tension about who should control certain types of decisions is seen as inevitable. However, Council staff seek to minimise this tension by getting both parties to have clear understandings and expectations of each other.
- 6.25 The expectations of the Council are set out in the CCO accountability policy, the Mayor's annual letter of expectations, and the *Guide for Council-Controlled Organisations*.
- 6.26 The CCO accountability policy outlines the Council's expectations of its substantive CCOs. The policy, which is required by legislation, identifies CCOs as partners in the delivery of the Council's objectives and priorities, with a key role to play in the Council's vision for Auckland. The Council expects each CCO to align its activities with those of the Council and to act consistently with its vision and with the objectives set for it by legislation.
- 6.27 The Mayor's annual letter of expectations is intended to guide the CCOs' strategic direction and help them prepare their SOIs. The letter of expectations sets out the parts of the draft Auckland Plan that each CCO is expected to contribute to, priorities in the draft LTP that each CCO is required to give effect to, and local community priorities and preferences identified in local board plans that each CCO is to consider addressing when preparing its SOI. Officers of CCOs we spoke to were comfortable that they understood and could make progress with the Council's expectations for delivery initiatives toward the Auckland Plan and LTP.
- 6.28 The *Guide for Council-Controlled Organisations* outlines the Council's expectations of the boards of CCOs. It is designed to help boards to operate efficiently in their roles and to clarify their responsibilities. The guide outlines the minimum requirements expected by the Council for CCOs, with the SOI incorporating additional obligations. The guide is intended to complement the letters of expectation sent by the Mayor at the start of the annual business planning round. The guide sets out the Council's expectations for roles and responsibilities, expectations and key relationships, financial governance, and board governance.



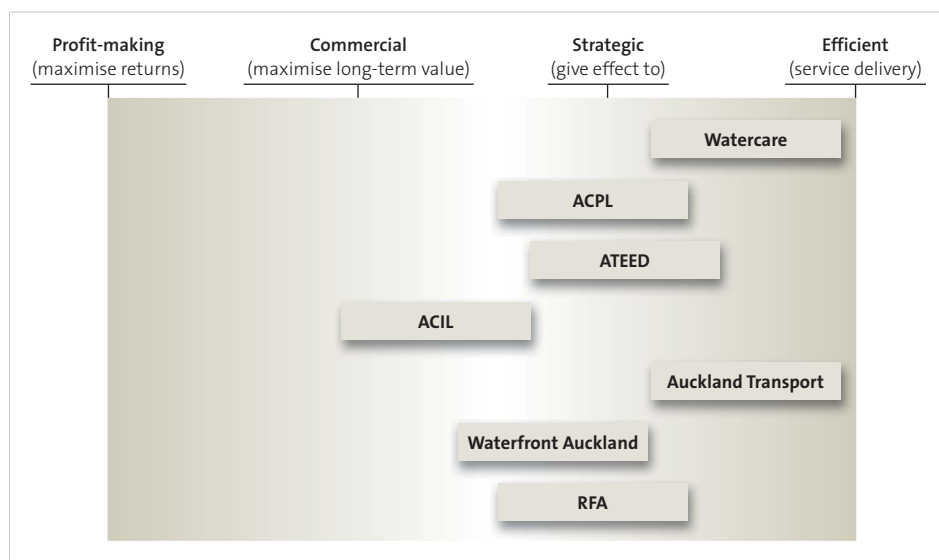
- 6.29 Council governors and staff we spoke to considered that their appointed CCO board members generally understood Auckland's CCOs to have been based on a very commercial, arm's-length model, similar to State-owned enterprise boards. However, their view was that a State-owned enterprise model was not appropriate for Auckland's CCOs, and acknowledged that board members' expectations had probably been disappointed in this regard.
- 6.30 In their view, Crown entities were a more relevant central government parallel to Council's substantive CCOs. They noted that legislation has made Auckland's CCOs responsible for public good and community services to a much greater extent than anywhere else in New Zealand local government. CCOs deliver services and activities that are funded by rates, and manage assets owned by the Council for the benefit of the public. The Council also provides financial backing for much of the CCOs' capital expenditure.
- 6.31 The *Shareholder Expectation Guide for Council Controlled Organisations* says the Council expects to hold CCOs:
- ... accountable for the efficient and effective use of funding from all sources, and for the management of assets identifying 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.<sup>19</sup>*
- 6.32 The *Shareholder Expectation Guide* acknowledges the inherent tension between the two principles. It concludes that, where there is conflict, the first principle must prevail.
- 6.33 Some staff said they were not sure why the Royal Commission chose the CCO model for the Council. The Council has sought to understand the roles and responsibilities of CCO boards. It has also sought to clarify what kind of relationship with the Council would be most appropriate for each CCO, using central government's governance of subsidiary entities as a model. The *Shareholder Expectation Guide* uses a purpose-based continuum to assess how much empowerment a CCO may need to deliver services for the Council efficiently.
- 6.34 Figure 6 sets out this continuum. On this continuum, the Guide suggests that CCOs with strategic or commercial purposes will struggle to "add value" for the Council without empowerment. On the other end of the continuum, the Council may need to use its powers to require CCOs with service delivery purposes to act consistently with the Council's plans and strategies. For service delivery purposes,

<sup>19</sup> See *Shareholder Expectation Guide for Council Controlled Organisations*, page 17, on [www.aucklandcouncil.govt.nz](http://www.aucklandcouncil.govt.nz).

Councils may also expect greater interaction for planning and under the “no surprises” policy.

- 6.35 We heard that the Council’s expectations of CCOs were understood and that there was satisfaction with the amount of empowerment available to the more commercially oriented CCOs. However, there was significant comment made about relationship difficulties and tensions for Auckland Transport and Watercare Services, which are the two CCOs identified as closest to service delivery.

**Figure 6**  
Purpose of Auckland Council’s substantive council-controlled organisations



Source: Adapted from Auckland Council (2012), *Shareholder Expectation Guide for Council Controlled Organisations*, page 7.

- 6.36 Auckland Transport and Watercare Services are the CCOs that provide services that are traditionally core services delivered by local authorities. For Auckland Transport, central government is also an important stakeholder in its activities, with about 35% of Auckland Transport’s \$755 million revenue coming from the NZTA and 43% from the Council. Watercare Services receives no funding from the Council. From 1 July 2012, Watercare Services began charging for its water and waste services through water meters.
- 6.37 Legislation suggests that a closer relationship between Auckland Transport and the Council is required than for the other substantive CCOs. For example, Auckland Transport is also the only CCO where an elected member of the governing body is permitted to be appointed as a director.

## Discharging the Council's governance role, and securing CCO alignment and integration

- 6.38 Although tension was clearly growing, all CCOs remained committed to constructive progress in their governance relationships with the Council. Some people we spoke to mentioned that the waterfront and traffic control events on the Rugby World Cup opening night were a defining moment when the Council recognised that CCO structures could not prevent the Council from being held politically responsible. They attribute these events with a perceived change to a more controlling and formal approach in the Council's relationships with CCOs.
- 6.39 The *Shareholder Expectation Guide* was pointed to as an example of this more controlling approach. The guide ranges from high-level expectations that define the CCOs' relationship with the Council and the behaviour required of a public entity (such as the "no surprises" policy, transparency, and fiscal prudence) to setting out detailed expectations about more operational matters.
- 6.40 Some people we spoke to said that some of these detailed expectations are overly specific and not consistent with a strategic governance relationship. Examples include:
- All CCOs are required to use the Council's "pohutukawa logo" in all their communication, marketing, and advertising.
  - The Council requires budgeting and financial reporting at a "sub-activity" level. The *Shareholder Expectation Guide* describes this as groups of outputs, but some people we spoke to described it as project-by-project. As well as output budgeting, CCOs are expected to get the governing body's agreement to move funds between outputs. CCOs are also expected to return any surpluses or unspent funding at year-end to the Council. From the Council's perspective, these processes enable overall management of the Council's financial operations. However, some CCO officers we spoke to considered that these processes did not fit the regional and long-term planning needs of long-lived assets – for example, transport and water service assets.
  - Decisions about new projects, re-allocation of funding, and business decisions (for example, appointment to subsidiaries and pricing decisions) all need to be made with the Council's approval or within the Council's guidance, and plans and strategies.
  - Communication and liaison protocols set unnecessarily onerous demands. These included activities such as daily meetings between the Council and CCO communications staff, requirements for CCOs to advise the Council of submissions they intend making in response to calls from external agencies, and informing the Council of any activities requiring engagement with central government.

- 6.41 For none of these expectations are the Council and CCOs in disagreement about the principles of good governance relationships. Rather, the issue for people from CCOs that we spoke to was about the extent to which a CCO should be empowered to determine how best to respond. Records of discussions between the governing body and CCO board members conclude that there is enough formal performance monitoring between the Council and CCOs. More interaction was sought between CCO board members and councillors to foster a culture of co-operation and trust that is oriented towards the future, and that enables CCO governors and staff to understand the effect of CCOs' business decisions for the Council.
- 6.42 For their part, Council staff told us that monitoring performance measures and targets is easy – after the fact. Their greater difficulty was with integrating and aligning planning and future initiatives. CCO boards were sometimes viewed as a barrier to the Council's strategy and planning, by not refining their leadership of the CCO for the new arrangements and changing circumstances.
- 6.43 The Council appeared to be taking other steps to secure this alignment and integration, in addition to the *Shareholder Expectations Guide*. In particular, we were told that the Council is currently amending CCO constitutions so that the Chief Executive of the Council can be appointed as a member to any board. This would be a reserve power to help with aligning mission and strategy if necessary.

### Planning and budget processes

- 6.44 Aligning the preparation of the Council's LTP with each CCO's SOI so that they are complete and consistent with each other is complex. These matters are works in progress, with both the Council and the CCOs identifying aspects they would like to improve in future.
- 6.45 The process for the governing body to provide comment on CCO's SOIs took more than six months. Feedback was provided as three separate sets – from local boards, from the IMSB, and from Council staff. Several CCOs considered that their SOI had become too operationally and delivery focused as a result, with too many expectations and measures. They would have preferred their SOI to clearly focus on setting the basis for assessing the CCO's success from the standpoint of the Council's accountability policy and its expectations as a shareholder.
- 6.46 We also heard that Council staff had found it difficult to get information from CCOs in the templates or time frames required for preparation of the LTP. There have not been similar issues for those CCOs that receive financial services from the Council. The CCOs that were perceived to be unhelpful in providing information said they were surprised and dismayed when Council

staff raised these issues. The issues were attributed to miscommunication and misunderstanding of the overall financial model the Council was constructing, leading to information being supplied in a different way to that sought.

### Governing body relationships

- 6.47 Many of the issues that were raised with us in our discussions about CCO governance were about articulating and formalising expectations and the flow of information for planning and reporting purposes.
- 6.48 As well as the Council's formal arrangements for interacting with CCOs, the Mayor, the Chairperson of the Accountability and Performance Committee, and the Chief Executive meet quarterly with the Chairpersons of CCOs. There is frequent information interaction between CCO senior officers and the Mayoral Office depending on the public effect of the CCO's services and which issues are of public interest.
- 6.49 We were told that the CCOs are very responsive to the needs of the Mayor and governing body. However, they are seen as less responsive to Council staff. For example, we were told that CCOs could be slow to provide information on the grounds that it needs to be discussed by the CCO board first. Council staff were concerned that, as a result, governing body and local board members were frequently surprised by late information about matters such as project and budget changes.
- 6.50 Similar to views on how the governing body and local boards take local and regional perspectives into account in decision-making, some people we spoke to described tensions between CCOs and local boards in attempting to reconcile project and timing priorities within financial constraints.
- 6.51 The Council has asked CCOs to make a greater commitment of effort and resource to local boards – for example, by dedicating staff to attend meetings. In practice, the extent of involvement that local boards seek from each CCO varies according to the issues of the day, the interests of each local board, and the activities of the CCO.
- 6.52 Tensions are arising for individual boards and on specific issues, given the different areas of focus for local boards and CCOs. As it is for the Council, servicing 21 local boards is a logistical and resource challenge for CCOs. Despite this tension, local boards and CCOs understand that significant decisions about service needs and expectations need to be informed by community views and technical advice.

## Our observations – strong and appropriate governance arrangements are important

6.53 In a letter to the Chief Executives of the Council and Watercare Services in August 2011, the Auditor-General noted that it is important that the Council has strong and appropriate governance arrangements for its CCOs. She noted, in particular, that the substantive CCOs are central to the well-being of Auckland and that the Council is politically responsible for their activities. She advised that she expected a framework for governance and accountability that:

- *reflects the importance of CCOs to Auckland and to the Council;*
- *enables governing body members to pursue their political interest in CCOs' business openly and transparently;*
- *offers opportunity for genuine engagement between the Council and the CCOs, at appropriate intervals and at the appropriate level of seniority, on the Council's strategy and priorities and on the CCOs' business performance and risks;*
- *enables adequate consideration of CCOs' draft SOI and draft asset management and funding plans;*
- *complies with the relevant legislation; and*
- *does not impose a "compliance burden".*<sup>20</sup>

6.54 The letter identified two main risks for the Council from its current effort to develop more formal governance reporting and monitoring frameworks:

- that a CCO's independence from the Council is threatened or circumscribed in some way, in particular, if there were general ratepayer dissatisfaction with a CCO's performance on any matter that gave rise to heightened political concern; and
- the creation of a "compliance burden".

### Compliance

6.55 A compliance burden could arise where processes for CCO staff to consult, liaise, and report to Council staff duplicate or render ineffectual the oversight and governance role of the CCO board.

6.56 The Council and CCO governance relationships are evolving. However, we noted a tendency by people we spoke with to focus on formal processes and mechanisms for consultation and monitoring between the Council and CCO staff. We were surprised at how infrequently the extent, nature, and quality of engagement with CCO board members was discussed.

<sup>20</sup> Controller and Auditor-General (August 2011), *Planning to meet the forecast demand for drinking water in Auckland*.

- 6.57 We are not confident that the Council will be able to move to a more future-oriented and trust-based culture through the use of more formal processes and mechanisms. Ultimately, the mechanism for accountability of a CCO to its owner is through the board. If a CCO is not meeting the Council's expectations, the Council should remove the board, replacing it with members who the Council has more confidence in to act on its expectations.

### **Council**

- 6.58 We consider that the Council could improve the feedback from the governing body on the CCOs' SOIs. In our view, the feedback should prioritise the input on the CCO's SOI from other parts of the Council to give CCO boards clear expectations about the Council's preferences and priorities.
- 6.59 A Council Chief Executive who is also appointed as a CCO board member is likely to face conflicts between their duty to act in the best interest of the Council and to act in the best interests of the CCO as a director.

### **CCO boards**

- 6.60 All CCOs – in particular, those that have a critical part to play in the public's trust in the Council and the achievement of the Council's consolidated LTP and the Auckland Plan – need to understand and demonstrate their commitment to playing their part.
- 6.61 A board must endeavour to give the Council confidence that it understands the Council's expectations.





# Appendix

## Timetable of the main elements of the Auckland governance reforms

The main elements of the Auckland governance reforms were:

May 2009	<i>Report of the Royal Commission on Auckland Governance</i>
May 2009	Enactment of the Local Government (Tamaki Makaurau Reorganisation) Act 2009
May 2009	Appointment of the members of the Auckland Transition Agency
September 2009	Enactment of the Local Government (Auckland Council) Act 2009
November 2009	Appointment of an electoral officer
June 2010	Enactment of the Local Government (Tamaki Makaurau Reorganisation) Amendment Act 2010
June 2010	Enactment of the Local Government (Auckland Council) Amendment Act 2010
June 2010	Enactment of the Local Government (Auckland Transitional Provisions) Act 2010
October 2010	Local authority elections
1 November 2010	Auckland Council established
By 30 June 2012	Development of a spatial plan and a unified long-term plan, and adoption of a unified rating system



# Publications by the Auditor-General

Other publications issued by the Auditor-General recently have been:

- Matters arising from the 2012-22 local authority long-term plans
- Education sector: Results of the 2011 audits
- Roles, responsibilities, and funding of public entities after the Canterbury earthquakes
- Effectiveness of arrangements to check the standard of services provided by rest homes: Follow-up audit
- Inquiry into aspects of ACC's Board-level governance
- Education for Māori: Context for our proposed audit work until 2017
- How the Far North District Council has administered rates and charges due from Mayor Wayne Brown's company, Waahi Paraone Limited
- Reviewing financial management in central government
- Realising benefits from six public sector technology projects
- Annual Plan 2012/13
- District health boards: Quality annual reports
- Fraud awareness, prevention, and detection in the public sector
- Institutional arrangements for training, registering, and appraising teachers
- New Zealand Qualifications Authority: Assuring the consistency and quality of internal assessment for NCEA
- Statement of Intent 2012–2015
- Public entities' progress in implementing the Auditor-General's recommendations 2012
- Inquiry into how Christchurch City Council managed conflicts of interest when it made decisions about insurance cover

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