REVIEW OF AUCKLAND COUNCIL CCOS

TERMS OF REFERENCE

BACKGROUND

The Auckland Council has seven substantive council controlled organizations (CCOs) which were established as part of the 2010 reorganisation of Auckland's local government. In addition it has nine smaller legacy CCOs that were transferred from the legacy councils. This review is focused on the substantive CCOs.

The substantive CCOs were established by the government and Auckland Transition Agency to deliver a range of activities previously delivered by the legacy councils and their associated organisations. After three years of operation within this structure the CCO review is an opportunity to evaluate the current model and determine whether there is a need to change the scope of activities and functions within any CCO, the structures that the CCOs operate within or any of the accountability mechanisms. Unlike three years ago, the council now has the Auckland Plan, a much clearer picture of its strategic priorities and can use this review to address the alignment of Council service delivery with the strategic priorities.

The seven substantive CCOs are:

Auckland Transport was established under the Local Government (Auckland Council) Act 2009 as a statutory entity. (Note -this restricts the level of change that council can effect to the structure of AT unless there is a change to the legislation.) The legislative purpose of AT is "to contribute to an efficient, effective and safe Auckland land transport system in the public interest." The governance structure of AT is also established by the legislation as between 6 and 8 directors appointed by Auckland Council of which up to two can be members of the governing body and , in addition 1 director appointed by NZTA.

Auckland Council Property Ltd was established by Order in Council in 2010 to manage the council property assets, facilitate private sector collaboration in property projects, bring a commercial perspective to the council's planning initiatives and manage council's rights and interests in relevant properties, projects and business activities. The Board of ACPL may have up to 7 directors.

Auckland Council Investments Ltd was established by Order in Council in 2010 to bring a strong commercial focus to the ownership and governance of council's major investment assets. The Board of ACIL is made up of 5 directors. The investment assets that ACIL owns and manages are the shares in Ports of Auckland Limited (100%), Auckland international Airport Limited (22.4%, held by two subsidiary companies) and Auckland Film Studios Limited (100%). ACIL also manages an investment portfolio of diversified financial assets which is owned by Council.

Auckland Waterfront Development Agency was established by Order in Council in 2010 to (consistent with Auckland Council's vision for the waterfront) lead a strategic approach to developing the Auckland waterfront, develop property that it controls and act in a commercial way

in its development projects including investing in projects that achieve high quality urban transformation outcomes. The Board of AWDA may have up to 7 directors.

Auckland Tourism Events and Economic Development was established by Order in Council in 2010 to lift Auckland's economic wellbeing, support and enhance Auckland's contribution to the NZ economy and assist Auckland to compete internationally as a desirable place to visit, live, work, invest and do business.

Regional Facilities Auckland was established by Order in Council in 2010. RFA is a trust but is governed by a corporate trustee RFA Ltd which has a Board with up to 9 directors. RFA's objectives are to support Auckland as a vibrant city that attracts world class events and promotes the wellbeing of the communities of Auckland by engaging those communities and visitors in arts, culture, heritage, leisure, sport and entertainment venues. It is also tasked with continuing to develop, from a regional perspective, world class arts, culture, heritage, leisure, sport and entertainment venues as well as working with central government and Auckland Council to integrate and review legislation related to associated regional entities.

Watercare Services Ltd was an existing entity and under the Local Government (Auckland Council) Act 2009 was given the responsibility of becoming the vertically integrated provider of wholesale and retail water and wastewater services. It has obligations to manage its operations efficiently with a view to keeping the costs of water and wastewater supply at minimum levels while maintaining the long-term integrity of the assets. Watercare is also prevented from paying a dividend or distributing any surplus to the council as owner. The company became a CCO on 1 July 2012 and is prevented from being disestablished as a CCO until 30 June 2015. The Watercare constitution allows for up to 8 directors.

OBJECTIVES

The objectives of the review of CCOs are:

1. To ensure the governance structures and accountability mechanisms:
    a) Facilitate appropriate alignment of the CCO operations with the Auckland Plan and other council strategies and policies, including the Māori Responsiveness Framework
    b) Provide an effective and efficient model of service delivery for Auckland Council and Aucklanders
    c) Provide a sufficient level of political oversight and public accountability

2. In addition the review will seek to:
    a) Provide clarity of role and responsibilities e.g. development of strategies, prioritisation of work programmes
    b) Eliminate duplication and gaps between the Auckland Council group organisations
    c) Identify any opportunities for better integration of activities and functions to enable optimal service delivery and a positive interface between the Auckland Council group organisations and Aucklanders.

SCOPE

The scope of the review will be to assess the areas of activity of the seven substantive CCOs and those areas of the council operations that overlap with the CCO activities/functions in order to address the following issues:

- The rationale for delivery of an activity/function by either council or a CCO (or another mechanism)
- Whether any CCO activity/function would be better delivered by Council or by a different CCO or amalgamated CCOs
- The appropriate place for strategy development, including capital priority setting, for each externally delivered activity (noting that different levels of strategy could be developed by council and a CCO)
- The appropriate mechanisms to ensure CCOs contribution to the development and delivery of broader council strategy and policy, including Local Board Agreements and Plans , its statutory obligations to Māori and reference to the Māori Plan for Tāmaki Makaurau.
- The appropriate mechanisms for accountability of the CCOs and whether the current mechanisms are sufficient and effectively applied
- The degree of specification vs flexibility in delivery and budgeting
- Opportunities for further cost efficiencies through the extension of shared services
- Opportunities for alignment with operational policy e.g. procurement, remuneration policy
- Appropriate governance structure/s for the CCOs (and consequently consideration of the Auckland Council committee structure)
- Appropriate non-structural mechanisms for addressing integration issues between different CCOs and CCOs and council (Governing Body and Local Boards) and the IMSB
- Duplication and gaps in activity delivery
- Extent of any CCO responsibility for funding and revenue generation

Matters that will be out of scope include:

- The structure of Auckland Transport which is governed by legislation (however there are other issues that will be reviewed and may result in a request for legislative change e.g. the current responsibility for the development of transport strategy, plans and bylaws)
- The broader range of council activity that does not overlap with the activities of the CCOs

    Note: the Local Government Act 2002 Amendment Bill (No 3) introduces the requirement for councils to review the cost-effectiveness of current delivery arrangements and funding mechanisms of all activities every three years. If this requirement is passed into legislation a full review of activity delivery will be required at some stage.

METHODOLOGY

The approach to the review is in five broad steps:

1. **Current state**
   a) Current state assessment - Identify issues and opportunities that the review needs to address

   b) Current state analysis - Review and definition of the key activity/functional areas of each of the existing CCOs

   Identification of the key areas of overlap between each CCO, other CCOs and Council as well as gaps

2. **Confirm appropriate delivery mechanisms for the range of activities/functions within the scope of the review**

   Develop criteria to determine those activities/functions to be delivered by a CCO, council or another mechanism

   Review the key activity areas and functions of the current CCOs and the overlapping council activities/functions against those criteria

   Specifically consider strategy versus delivery activities and opportunities for further shared services

3. **Determine the most effective grouping of activities/functions into CCO structures**

   Develop options for CCO structures which:

   - Provide the best strategic alignment of activities (with a particular emphasis the on the key focus areas for the council over the short to medium term e.g. housing, transport)
   - Address issues of overlaps and gaps to the greatest extent
   - Provide efficient delivery of services under appropriate governance structures
   - Consider legislative (including statutory obligations to Māori) and other implementation issues

   Note: At this stage it may become apparent that the initial analysis in step 2 should be revisited for practical reasons when activities are grouped together.

4. **Define accountability, integration and collaboration mechanisms**

   Review and modify existing accountability documents and processes as necessary

   Determine whether additional mechanisms are required e.g. funding agreements

   Assess communication and collaboration across the Auckland Council group organisations

Determine any opportunities for more effective approaches to customer relationship management and public engagement

Note: the Local Government Act 2002 Amendment Bill (No 3) introduces the requirement to "ensure that there is a contract or other binding agreement" where services are delivered by a different entity. If passed into legislation this requirement would require far more definition than is currently the case for the CCOs.

5. **Develop an implementation programme**

The intent of this step is to develop a programme to roll out any agreed changes to the activities, responsibilities and structures of the CCOs and Council. The amount of work in this step will be determined by the extent of any agreed change. At this stage indicators of success of any proposed change will be identified.

PROCESS/ TIMELINE

A review of this nature inevitably creates uncertainty for staff in the CCOs and council. It also creates a distraction from the day to day business of delivering projects and services to Aucklanders. In order to minimise these impacts it is intended that the process be completed as quickly as possible but balancing this with the need to ensure that all of the key stakeholders have the opportunity for input.

The proposed general process and timeline is as follows:

PHASE ONE

December 2013

- Circulate the draft Terms of Reference to elected members (councilors and local board members), CCOs and IMSB

January/February 2014

- Prepare current state assessment from council's perspective and circulate to Councillors, Local Boards and IMSB for feedback
- Prepare current state assessment from CCO's perspective
- Governing Body workshop (including CCO Governance and Monitoring Committee IMSB members)on ToR and current state assessment (mid Feb)

February 2014 Governing Body

- Decisions on Terms of Reference
- Consideration of current state assessment report and feedback from LBs and IMSB

PHASE TWO*

NB: The exact timeframes for each of the steps in Phase two and three will be determined as the process moves forward. However, the intention is to align the review timeframe with the Long Term Plan process and therefore for the review to be complete and any outcomes ready for implementation by 30 June 2015.

- Develop criteria for assessment of delivery models
- Analysis of CCO and related activities and functions against criteria and current state assessments to provide an initial report on appropriate delivery mechanisms for each activity/function and proposed CCO structures

- Governing Body workshop (including CCO Governance and Monitoring Committee IMSB members) on initial report on delivery mechanisms and CCO structures

- Circulate initial report on delivery mechanisms and CCO structures to CCOs, Councillors, Local Boards and IMSB for feedback
- Commence work on options for non-structural mechanisms for accountability and integration

- Governing Body decision on delivery mechanisms and CCO structures (Note: May be subject to public consultation – see below)

PHASE THREE

- Public engagement on delivery mechanisms and CCO structures - if required
- Discussion with CCOs on non-structural mechanisms for accountability and integration
- Engagement with Councillors, Local Boards and IMSB on proposals
- Commence work on implementation plan

- Governing Body report and decisions on non-structural mechanisms for accountability and integration
- Discussions with CCOs on implementation plan

- Governing Body Report and decisions on implementation plan

Note: The requirement for public engagement will depend on the extent of change that is ultimately agreed by the governing body. The extent and approach to public engagement can be determined at that point.

RESOURCES

The CCO review process will be completed with, primarily, internal resources. There may be some small pieces of work that will need to be contracted out but this is intended to be minimal and will resourced from existing budgets.