

12th February, 2010

Committee Secretariat
Auckland Governance Legislation
Parliament Buildings
WELLINGTON

Dear Sir / Madam

NZCID submission on the Local Government (Auckland Law Reform) Bill

The New Zealand Council for Infrastructure Development¹ appreciates the opportunity to make this written submission on the 'Local Government (Auckland Law Reform) Bill.

NZCID wishes to be heard in support of this submission.

Overview

1. NZCID strongly supports the Government's major decisions on Auckland's governance arrangements set out in the Bill, though we consider that there is considerable clarity, definition and detail needing to be developed.
2. The principal changes endorsed by NZCID "aim to create one Auckland, which has strong regional governance, integrated decision making, greater community engagement and improved value for money."²
3. We strongly endorse the overarching framework provided in the Bill for the Auckland Council to be able to operate effectively from its establishment on 1 November 2010, including:

¹ NZCID is a non profit organisation. Members comprise a diverse range of leading private and public organisations including infrastructure equity owners, financiers, constructors, service providers, public sector agencies, and major infrastructure users. Information on the Council, its members, policy and work can be found at www.nzcid.org.nz. In developing its policy position on infrastructure issues, NZCID consults extensively with its member organisations, undertakes workshops and seminars on policy and undertakes independent research. This submission represents the views of NZCID as a collective whole, and may not necessarily represent the views of individual member organisations, some of whom will be making their own individual submissions.

² Local Government (Auckland Law Reform) Bill, Explanatory Note, p.2

- A unitary Council comprising a governing body led by an executive Mayor and its local boards;
 - Provision for the development of a spatial plan for Auckland;
 - The establishment of Local Boards to lead and oversee the provision of local services and amenities in local communities and;
 - Arrangements relating to the governance of council-controlled organisations (CCOs), and in particular the management of transport and water supply and wastewater services.
4. If the overarching framework set out in the Bill is to provide the **enduring** solutions to the governance arrangement of the region as sought, we believe that important substantive detail and complexity in the Bill's clause-by-clause provisions will need to be clarified, streamlined and tidied.
5. These include:
- Ensuring that the regional spatial plan has statutory authority in terms of the Resource Management Act and becomes the guiding planning framework that the Council Controlled Organisations shall be required to give effect to
 - Providing for integration of the regional spatial plan with national plans such as the National Infrastructure Plan, Government Policy Statements, New Zealand Transport Strategy and other relevant national spatial planning policies and processes
 - Using Statements of Corporate Intent and a combined Executive Management Board as the primary vehicle to provide for consistency of purpose and clear authority, control and accountability between Auckland Council and the proposed CCOs
 - Requiring strong integration between central government and the Auckland Council, especially in the development and implementation of the Spatial Plan
 - Requiring plans of CCO's to give effect to the regional spatial plan
 - Strengthening the governance of the Auckland Transport Agency (ATA) to provide for improved alignment between central government agencies and the ATA

We look at each of these matters in turn in the balance of this submission.

Overarching Issues

Support for Single and Unified Auckland Council Structure

6. The NZCID submission to the Royal Commission on Auckland Governance set out in considerable detail a strong case supporting the 'One Auckland' structure providing for a single unitary authority to lead the Auckland region, replacing the

existing eight territorial authorities, a Community Council structure to provide community leadership and representation; and a number of Council Controlled Organisation's to provide for effective long term management of critical infrastructure assets.⁴

7. We are pleased that the high-level framework submitted by NZCID has broadly been adopted. However, we consider that the substantive details in the Local Government (Auckland Law Reform) Bill establishing the new local governance arrangements need clarification in a number of areas that are critical to the ultimate success of the reforms.

Providing for an enduring solution that enables delivery of an agreed vision for Auckland

8. An intended outcome of Auckland's reform process from its inception and strongly advocated for by NZCID has been to establish an **enduring** 'one Auckland' local government entity that will position Auckland as a leading, progressive, internationally competitive city. The new structure should reflect world-best practice for local government. It must strengthen both regional and community governance whilst delivering economies of scale and improved efficiency ('value for money,' as the Bill states as one of its aims) in the provision of 'city' services and infrastructure..⁵
9. The Bill's Explanatory note confirms this general statement of intent, and in various announcements Government has indicated that it wants to create a single, integrated Auckland governance structure that "will allow Auckland's civic leaders to: think regionally, plan strategically and act decisively."
10. Elaborating on this statement when announcing Government's high-level decisions for Auckland Governance arrangements, the Prime Minister indicated that Auckland had become too important to New Zealand Inc to be allowed to fail and that: "It's all about turning Auckland into an internationally competitive city."⁶
11. NZCID concurs fully with this view.
12. There is also an expectation that the executive Mayor will be elected with a vision for Auckland which will form the basis of a Council-approved programme "to chart and lead an agenda for the region". The Government's view which NZCID supports is that "with one council working for the benefit of the whole Auckland region, the mayor will be able to implement Auckland-wide initiatives and policies that ensure New Zealand's largest city thrives."⁷

⁴ See NZCID submission "One Auckland," to the Royal Commission on Auckland Governance, April 2008.

⁵ See "Achieving a High-Performance Auckland Council," Chapter 32 of Auckland Governance Report, Volume 1 March 2009, peps 695-705 and in particular section "Implementing a best-practice performance management system," p700.

⁶ Prime Minister John Key, announcing the Government's high-level decisions on Auckland Governance in "Making Auckland Greater", 6 April 2009, p4.

⁷ See "Making Auckland Greater," p16

13. That is, in general terms, all constituent organizations of the Council (Local Boards, Maori, Pacific and Social Panel) and the CCOs can be regarded as **enablers** of the Auckland Council spatial plan (LTCCP, Economic Strategy etc) and the vision, mission and policies articulated by the Mayor and the elected Councillors.
14. In respect of the total Council organization, Cabinet papers make clear Government's desire for the Auckland Transition Agency (ATA) in the first instance and then Auckland Council thereafter "to adapt and improve" on the integrated model being set up providing for control of CCOs by the Council.⁸
15. There is also an expectation that **aligned** oversight of the performance of all Auckland Council service activities be achieved. Processes for this oversight include review by the Auditor-General, "and mechanisms established by the Auckland Council for the monitoring of substantive CCOs and the review of its own efficiency and effectiveness."⁹
16. **In summary**, the Government's decisions on Auckland Governance indicate that all component organizations making up the unitary Auckland Council structure are to be controlled by and accountable to Council's governance body.
17. Taking all of these imperatives into account, and drawing on the initial draft CCO framework set out in the Cabinet Minute CAB (09/727), NZCID proposes the governance and administration structure depicted in Figure One on the following page.
18. The constituent organizations and their role and function making up the Auckland Council are described in Table One.

⁸ See CAB (09/727), paragraph 44

⁹ See CAB Min (09) 41/16, paragraph 23

Figure One: NZCID Proposed Governance and Administrative Structure

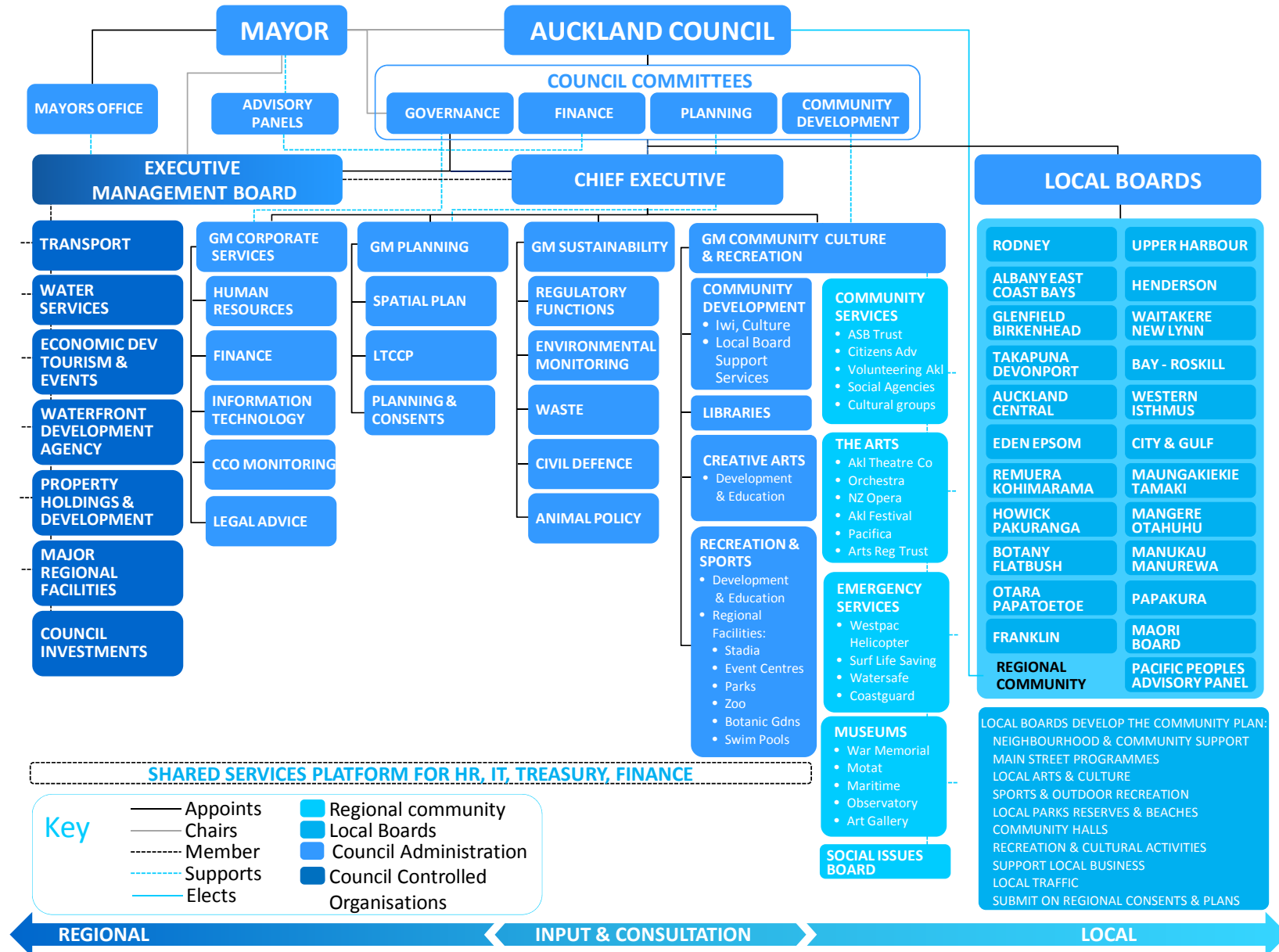


Table One:
Description Duties Functions and Responsibilities of the
Constituent Entities of the Auckland Council ¹⁰

Constituent Entity	Duty, Function and Responsibilities
Auckland Council – Governance Body	<ul style="list-style-type: none"> • Governance by executive Mayor and 21 Councilors through delegations to Committee(s) • Development of the Regional Spatial Strategy, Regional Policy Statement and LTCCP, • Approval of Strategies and Plans Developed by Council Controlled Organisations • Approval of the Annual Plan and Budget
Auckland Council – Executive Mayor	<ul style="list-style-type: none"> • The Mayor’s role is to: <ul style="list-style-type: none"> ○ articulate and promote a vision for Auckland; ○ provide leadership for the purpose of achieving objectives that will contribute to that vision; ○ lead the development of plans, policies, and budgets for consideration by the Council; and ○ ensure there is effective engagement between the Auckland Council and the people of Auckland. ○ Be the central point of contact with central government on Auckland issues • The Mayor will have the power to: <ul style="list-style-type: none"> ○ appoint the deputy mayor ○ establish committees of Council and appoint the chairperson of each committee ○ chair the Governance Committee ○ establish mechanisms for effective engagement between the Council and the people of Auckland ○ establish and maintain an appropriately staffed office of the mayor, within the budget set in the annual plan for that purpose. ○ chair the Executive Management Board
Mayor’s Office	<ul style="list-style-type: none"> • provide assistance to the Mayor in the effective of all functions required of the role as described above • direct and manage the Mayors long term communications message • oversee the coordination of all functions across the City on behalf of the Mayor to ensure consistency with the Mayors vision and Council policy • provide administrative support to the Mayor in dealing

¹⁰ The duties, functions and responsibilities set out in Table 1 are indicative only. NZCID recognizes that the Auckland Council and its constituent entities are also governed by the Local Government Act 2002 and other legislation (e.g. the Resource Management Act, Waste Minimisation Act, etc) which require specific duties, functions and responsibilities not included in this brief summary..

Constituent Entity	Duty, Function and Responsibilities
	<p>with correspondence; diary and event management provide secretarial and administrative support to the EMB</p> <ul style="list-style-type: none"> • manage performance review of CEO
Governance Committee	<ul style="list-style-type: none"> • appoints Advisory Board to provide professional advice on the appointment of the Chief Executive Officer, CCO Directors and Board Chairs • makes recommendation to Council on the appointment of the Chief Executive Officer • Receive & make decisions on Advisory Board recommendations (supported by Corporate Services administration & input from other Committees and Local Boards • Receive reports from CCOs • Make recommendations to Council on CCO signs off each CCO SOI • receive reports from CCOs • oversees monitoring of CCOs • reports to Council on CCO performance • oversees and approves remuneration of senior Council Staff
Finance Committee	<ul style="list-style-type: none"> • makes recommendations to Council to approve or decline the LTCCP • makes recommendations to Council to approve or decline the annual budget • oversees financial governance and audit of all Council functions • ensures compliance with all obligations of the Council in law
Planning Committee	<ul style="list-style-type: none"> • Oversees the development of the Regional Spatial Plan and recommends the RSP to the Council for approval • Oversees the development of the LTCCP to ensure consistency with the Regional Spatial Plan • Reviews and recommends approval by Council of strategic plans prepared by CCOs and the LTCCP for consistency with the Regional Spatial Plan • Reviews and recommends approval by Council of local community plans prepared by Local Boards for consistency with the Regional Spatial Plan • Responsible for the appointment of independent planning commissioners to hear RMA consent hearings • Oversees the regulatory functions of the Council deliver outcomes that are consistent with the Regional Spatial Plan and relevant Council policy

Constituent Entity	Duty, Function and Responsibilities
Community Development Committee	<ul style="list-style-type: none"> • Develops and recommends policy to the Auckland Council for the development of communities, culture and recreation across the City • Oversees the provision of community services • Maintains liaison with Local Boards to ensure community services are delivered to meet policy standards • Receive advice and input from Local Boards on the needs of their communities • Receives advice from the Maori Board and the Pacific Peoples Advisory panel on relevant matters as set out in the legislation • Receives advice from the Social Issues Board • Appoints and receives advice from other social, cultural and recreational advisory panels as needed
Executive Management Board	<ul style="list-style-type: none"> • Chaired by the Mayor and comprising the Chief Executive of the Auckland Council and the CEOs and Chairs of the seven CCOs • Responsible to ensure collaboration and alignment of the respective organisations to the overall strategic direction set by the Auckland Council • Ensure transparent communication between CCOs and the Auckland Council and its departments • Meet bi-monthly and as required
Advisory Panels	<ul style="list-style-type: none"> • Appointed by the Council to provide technical, business, social, environmental governance and other advice and support to the Mayor to the Council and its Committees, as required.
Auckland Council – CEO and Administrative Departments	<ul style="list-style-type: none"> • Provides administrative support to the Council and Committees across the functional areas comprising: • Corporate Services (including a shared services platform for HR, IT, Treasury and Finance) and reporting to Governance Committee on performance of CCOs • Planning • Sustainability and regulatory functions • Community Culture and Recreation • Support services to the Local Boards • Sits as a member of the Executive Management Board
Local Boards	<ul style="list-style-type: none"> • enable democratic decision making by, and on behalf of, communities within the local board area • enable the promotion of the social, economic, environmental, and cultural well-being of communities within the local board area • responsible for making all local decisions within the regional strategic framework

Constituent Entity	Duty, Function and Responsibilities
	<ul style="list-style-type: none"> • have input into the development of regional policies, strategies and plans and must give effect to these regional policies, strategies and plans within their local areas • have a key role in place-shaping and community development • undertake local long-term planning, including the development of a Long Term Community Plan and Annual Plan for their area • undertake the non-regulatory functions of the Auckland Council, except where decision-making on an Auckland-wide basis will better promote the well-being of the communities across Auckland. (The non-regulatory functions of the Council for which local boards are responsible will be identified in the Council's long-term and annual plans) this includes: <ul style="list-style-type: none"> - identifying and communicating the interests and preferences of the people in its local board area in relation to the content of the strategies, policies, plans, and bylaws of the Council - adopting a local board plan to reflect the priorities and preferences of its communities for local services and facilities - identifying and developing bylaws specifically for its local board area, and proposing them to the governing body - the agreement reached with the governing body for local services and facilities. - monitoring and reporting on the implementation of the local board agreement for its area - communicating with community organisations and special interest groups in its area - any responsibilities, duties or powers delegated to it by the governing body - considering and reporting on any matter of interest or concern to the local board - manage funding in accordance with legislative requirements and the policies set by the Auckland Council
CCO- Transport Auckland (RTA)	<ul style="list-style-type: none"> • deliver all local authority transport functions, including local roading and PT, to enable strategic direction set by AC • develop 30 year Transport Strategy to give effect to the regional spatial plan and supported by a ten year

Constituent Entity	Duty, Function and Responsibilities
	<p>prioritized capex and opex asset management and investment plan</p> <ul style="list-style-type: none"> • prepare the Regional Transport Programme & ensure it is consistent with the Government Policy Statement on Transport, the Regional Spatial Plan, the Regional Transport Strategy and the Long Term Council Community Plan • be statutorily required to collaborate with NZTA and KiwiRail to ensure views & plans of both are incorporated into RTA decision-making • engage/consult with LBs over local transport improvements • monitor and report to the Governance Committee on delivery of service outcomes in accordance with the agreed Sol
CO (CCO) - Watercare Services (WSL)	<ul style="list-style-type: none"> • deliver the three waters to meet all environmental and health standards and in accordance with the strategic direction set by the Auckland Council • develop 30 year Water Strategy to give effect to the regional spatial plan and supported by a ten year prioritized capex and opex asset management and investment plan • monitor and report to the Governance Committee on delivery of service outcomes in accordance with the agreed Sol
CCO -Waterfront Development Agency (WDA)	<ul style="list-style-type: none"> • operationally manage the Council owned land and the commercial lease of that land to give effect to the Regional Spatial Plan • develop 30 year Waterfront Development Strategy to give effect to the regional spatial plan and supported by a ten year prioritized capex and opex asset management and investment plan • monitor and report to the Governance Committee on delivery of service outcomes in accordance with the agreed Sol • monitor and report to the Planning Committee on delivery of service outcomes in accordance with the Regional Spatial Plan

Constituent Entity	Duty, Function and Responsibilities
CCO - Economic Development, Tourism & Events Agency	<ul style="list-style-type: none"> • -responsible for developing a strategic and coordinated approach to economic development, events and tourism in Auckland • promote Auckland as a place to invest and do business in • develop 30 year Economic Development Strategy in accordance with the direction set by the Auckland Council • facilitate large, multi-agency, cross-boundary/council regional economic development projects
CCO- Property Holdings & Development	<ul style="list-style-type: none"> • operationally responsible for the commercial property, development and tradable property assets owned by the Council • hold and manage property acquired for but not yet needed for activities such as transport, and other infrastructure • recommend divestment of investments that are inconsistent with good commercial practice or which do not serve the long term land use plans of the Council • manage the disposal of surplus property
CCO - Major Regional Facilities	<ul style="list-style-type: none"> • oversee and coordinate the activities and asset management planning major regional facilities including stadia, museums, and significant cultural, heritage and leisure facilities • develop 30 year a regional facilities strategy to be approved by the Planning Committee to give effect to the regional spatial plan and supported by a ten year prioritized capex and opex asset management and investment plan • facilitate the attraction of major events to Auckland to achieve optimum utilisation of existing and new assets
CCO - Council Investments	<ul style="list-style-type: none"> • manage council investments, CCOs (not incl the other listed CCOs) and CCTOs on behalf of Council • develop a long term investment strategy for approval by the Finance Committee • benchmark the performance of Council investments against relevant industry and market comparators • recommend divestment of investments that are inconsistent with good commercial practice or which do not serve the long term land use plans of the Council
Maori Board and Pacific Peoples Advisory Panel and other advisory boards	<ul style="list-style-type: none"> • NZCID has depicted the structure as proposed in the Bill and consistent with its submission on the number and boundaries for Local Boards • However, NZCID does not support the establishment of a Maori advisory Board. Instead we have always

Constituent Entity	Duty, Function and Responsibilities
	<p>recommended that two Maori Local Boards be established, consistent with the establishment of Local Boards across the Auckland Region, and that there be two Maori seats on the Council.</p> <ul style="list-style-type: none"> Establishment of other advisory boards such as the Pacific Peoples Advisory Panel, and the proposed Socials Issues Board and other advisory boards is provided for in the structure diagram to provide advice to the Mayor, Council and its Committees about key sector issues. It is envisaged that the terms of appointment and terms of reference for these groups will be specific and will need to be considered on a case by case basis.

The Purpose of the Bill should make it clear that all council organisations must be aligned with and accountable to the Auckland Council

19. The overall operational details of the governance framework and how Auckland Council could or should be structured in order to become an aligned 'unitary' organization are not provided for in legislation. Instead, in the first instance Council's overall operating structure will be developed by the ATA on the basis of which the Auckland Council "will be free to adapt and improve on the model at its discretion."¹¹
20. However, NZCID contends that is critical that the legislation include an explicit overarching statement of intent providing for the establishment of a unitary Council in which all component parts are aligned, and that nothing in the legislation is inconsistent with achieving this outcome.
21. It is therefore **recommended** that the Bill's purpose be amended to include an overarching statement to highlight that the efficient functioning of Auckland Council as a unitary organization will be under-pinned by a single, integrated structure in which all component parts are aligned and accountable to the elected Council.

Strengthened over-riding Statement of Intent (SOI) and shared principles

22. A number of Cabinet decisions and Government announcements indicate that the organizational culture to bind this structure together – to form one Auckland,

¹¹ For example, see CAB (09/727) paragraph 44 and CAB Min (09) 41/16 paragraph 19 and 23

one plan, one voice – should include some common statement of intent (SOI) outcomes for all seven CCOs and which reflect principles also applying to all other parts of the organization. For example:

23. In respect of the seven CCOs, Cabinet papers indicate that the CCOs will be held directly to account by the Auckland Council¹² through SOIs and a range of reporting processes. Further, SOI can include an expectation that each CCO will give effect to Auckland Council strategy, plans and priorities, including the spatial plan.¹³
24. The Cabinet also agreed that the legislation setting out the accountability and monitoring of CCOs should make provision for the SOI of each CCO “to include a narrative on how the CCO contributes to and/or aligns with the Council’s, and where appropriate the government’s, wider objectives and priorities for Auckland.”¹⁴
25. NZCID supports these provisions. However, the Bill is weak in translating these objectives and fails to adequately highlight the critical role of SOI in providing clear authority and control of Auckland Council over the CCOs.
26. Clauses 68 and 69 set out what information and other requirements should be included in a SOI to enable Auckland Council to set and monitor the performance of Watercare Services Limited (WSL).¹⁵ NZCID notes that the information WSL must deliver to Auckland Council in a draft SOI for Council’s approval is generally in accord with the contents of SOI requirements set out in Schedule 8 of the Local Government Act 2002 but makes no mention of the Act.
27. On the other hand, in respect of Auckland Transport, the Bill simply states that the SOI must comply with Schedule 8 of the Local Government Act 2002 and the SOI must not be inconsistent with this Act.¹⁶
28. NZCID supports the inclusion in the Bill of requirements for Watercare Services Ltd (WSL), Auckland Transport and other CCOs having a consistent and robust SOI framework.
29. We note the requirements concerning substantive CCOs in Part 8 Miscellaneous, clause 45 (particularly s75), at pages 54-55 of the Bill but recommend that these be strengthened by setting out accountability arrangements with Auckland Council covering:
 - The nature and scope of the CCOs activities;
 - The outcomes, objectives and outputs of the organisation; and,

¹² See CAB (09/727), paragraph 43

¹³ See CAB Min (09) 41/16, paragraphs 21-24

¹⁴ See CAB Min (09) 41/16, paragraph 21.2

¹⁵ Auckland Law Reform Bill, pages 76 & 77

¹⁶ Auckland Law Reform Bill, page 136

- The performance targets and other measures by which each CCO may be judged (by Auckland Council and the wider community) in relation to its outcomes, objectives and outputs.
30. We **strongly recommend** that the arrangements set out in the Bill need to be streamlined and strengthened to embrace broadly similar requirements and performance by all the CCOs and other constituent groups making up the Auckland Council structure.
 31. A point to note is that while the CCOs – and in particular WSL and Auckland Transport – are required to behave in a business-like way, they are not established as stand-alone businesses as such, but have wider objectives in terms of delivering improved services – quality, integration, efficiency and value for money. They are constituent parts of a single (unitary) Auckland Council structure, which government agrees – and NZCID endorses – could be recognized by each CCO SOI having a shared purpose narrative or set of principles of how this shared working partnership will be expected to operate.
 32. A shared SOI purpose narrative of what should be expected and encouraged throughout the organisation could also highlight the importance of functioning as a team to achieve Council's broader organisational goals. Such a high-level statement could set out an expectation that CCOs, policy makers and planners work collaboratively, including working appropriately and professionally with all parties to find workable and efficient solutions to issues.
 33. Accordingly, **NZCID recommends** the Bill include a provision for all CCOs to have a SOI that complies with Schedule 8 of the Local Government Act 2002, and that the SOI include a shared narrative setting out Council's overall objective and some guiding principles. An indicative set of guiding principles and corporate values against which Auckland Council's establishment, operating culture and service improvements can be benchmarked is set out in Attachment 1.
 34. NZCID considers that the shared narrative setting out guiding principles will need to be supported by performance indicators (KPIs) to measure each CCOs success to deliver the improved services and benefits to Aucklanders as sought by Government and respective SOI should spell out these requirements, in particular what performance is proposed to contribute to the achievement of:
 - Strengthened regional governance;
 - Integrated decision making;
 - Greater community engagement; and,
 - Improved efficiency and value for money.¹⁷

¹⁷ See Auckland Law Reform Bill, General Policy Statement, page 2.

Executive Management Board

35. The proposed Executive Management Board will have an important role to secure and maintain 'unity' within the overall Auckland Council structure in the performance of its services.
36. Chaired by the Mayor and comprising the Chief Executive of Auckland Council and the CEOs and Chairs of the seven CCOs, the Board will be responsible to ensure collaboration and alignment of the respective organisations in the implementation of the Auckland Spatial Plan set by the Auckland Council.
37. Critical to the successful performance of the Board will be its adoption of shared corporate values and culture, code of conduct and reporting processes to the various constituent organisations - via the Mayor to the Council and to the Local Boards representing the wider regional communities of interest.
38. The Executive Management Board will also be instrumental in ensuring full and transparent information flow between the CCOs and the Council administration headed by the Council Chief Executive.
39. As an extremely large organisation by New Zealand standards, there is a risk Auckland Council could start its life with each component entity possibly acting at cross purposes to the mayoral vision and/or council policies.
40. To avoid this happening, the development of Council's operating structure needs to proceed on a basis that the incoming mayor and councillors will have a guiding vision and principles which will need to be communicated clearly to constituent organisations, and who will be expected to deliver services aligned to the Council vision and strategic direction. The Executive Management Board will have a critical role to play to establish and maintain Auckland Council's sense of corporate unity and alignment to achieving a shared objective.
41. Accordingly NZCID recommends that the Bill be amended to require the Auckland Council to establish an Executive Management Board Chaired by the Mayor and comprising the Chief Executive of Auckland Council and the CEOs and Chairs of the seven CCOs. The Board will be responsible to ensure collaboration and alignment of the respective organisations in the implementation of the Auckland Spatial Plan set by the Auckland Council.
42. NZCID strongly believes that a critical success factor the Auckland Council and its constituent organisations, especially the CCOs, will be in getting the SOI process robustly and strongly established. This process needs to focus on securing the cascading, interdependent linkages between policy, governance, management and implementation – in that order.
43. If this SOI setting process is done properly, there should be little requirement for other subsidiary processes and dictates on CCOs performance.

44. In particular, assuming a robust and consistent SOI development process embracing shared values and principles across all CCOs, some tidying up of the Bill is required in respect of the accountability requirements on substantive CCOs set out in section 75, page 54. The section permits the Council to impose additional accountability requirements on substantive CCOs. **NZCID recommends this clause be removed, as it is provided for by agreement between the parties through the SOI and reporting process.**

45. Likewise, Section 75, page 55 requires CCOs to prepare a 10 year plan, although Auckland Transport may not be required to do so given its role to prepare the RLTP.

46. Aspects NZCID **recommend** be tidied in this section include to:

- Give similar status to Auckland Transport in respect of planning as other CCOs have. As drafted, the Bill could lead to inconsistencies between Auckland Transport and the Auckland Council strategic direction.
- The section also needs a link to the requirement for infrastructure CCOs including Auckland Transport to develop a long-term 30 year strategies supported by 10 year prioritised asset management and investment plans each of which to be in alignment with the spatial plan.

Further recommendations to address inconsistencies in the provisions between Auckland Transport and other CCOs are set out below.

Order in Council authorising Auckland Transition Agency to constitute CCOs

47. NZCID notes that the Bill doesn't mention details for setting up five of the seven proposed CCOs. They include the Waterfront Development Agency; the Economic Development, Tourism and Events Agency; Property Holdings; Regional Facilities; and, Investments. Instead there is a Clause 35G which allows the Auckland Transition Agency to set up these (and other) CCOs and address other gaps in the Bill by an Order in Council. Details about the five CCOs and how they inter-relate (along with Auckland Transport and WSL) are set out in Cabinet papers.¹⁸

48. NZCID understands the ATA are planning to release a document that will set out their thinking on the CCO objectives, structure, operating arrangements and other relevant detail, and which may form the basis for the proposed Order in Council and/or might be inserted into the Bill during the Select Committee hearings if timing allows. NZCID will submit further on these matters once the discussion document is available.

¹⁸ See Draft CCO Framework in Cab (09/727), Appendix Two, page 15.

49. Meanwhile NZCID agrees with the stipulations in the Bill that the Order in Council specify each CCOs objective, structure and other relevant operational detail.
50. **To reinforce the points made earlier on the need to emphasise the role of the CCOs to give effect to Council policy and objectives to achieve improved integration, efficiency and value for money overall, we recommend that a further sub-clause be added to 35G(2) to require that among the details concerning the structure and operation of a CCO that an Order in Council must specify also includes a shared SOI purpose narrative and quarterly performance reporting to Council more or less as proposed in the Cabinet paper on Outstanding Policy Issues.¹⁹**

Part 6: Spatial planning for Auckland

51. Section 66 (p.49) sets out the purpose and functions of the spatial plan that Auckland Council “must prepare and adopt.” The purpose of the spatial plan is to provide an “effective and broad long-term (20-30 year) strategy for growth and development in Auckland.”
52. The Royal Commission on Auckland Governance sets out a strong case for the development of such a plan.²⁰ Section 24.5 recommended:
- ...The production of a spatial plan for the region with a 30–50-year time frame (to be updated every five years and fundamentally reviewed every 15 years). Ultimately, this plan should analyse population, households, employment, major social infrastructure, open space networks, city-shaping infrastructure of roads, rapid transit, transport services, active transport networks including pedestrians and cyclists, water, wastewater, and stormwater networks, and major energy lines. It should identify the green and ecological network of the region, and areas that should be protected from all development and their natural values enhanced. It should identify growth areas for the region to accommodate urban population, and household and economic development, specifying timing, priority, methods, and agencies involved. The plan would address sustainability, outstanding urban design, a more efficient energy future, climate-resilient development, and the creation of cohesive communities.
53. NZCID strongly supports the provisions making it mandatory that Auckland Council must prepare and adopt a spatial plan as described above. We believe that a single Auckland Spatial Plan can play a key role in achieving the core aims of the Bill to create one Auckland, which has strong, integrated governance and decision-making, greater community engagement and improved value for money.

¹⁹ CAB Min (09) 41/16, paragraph 21.2.

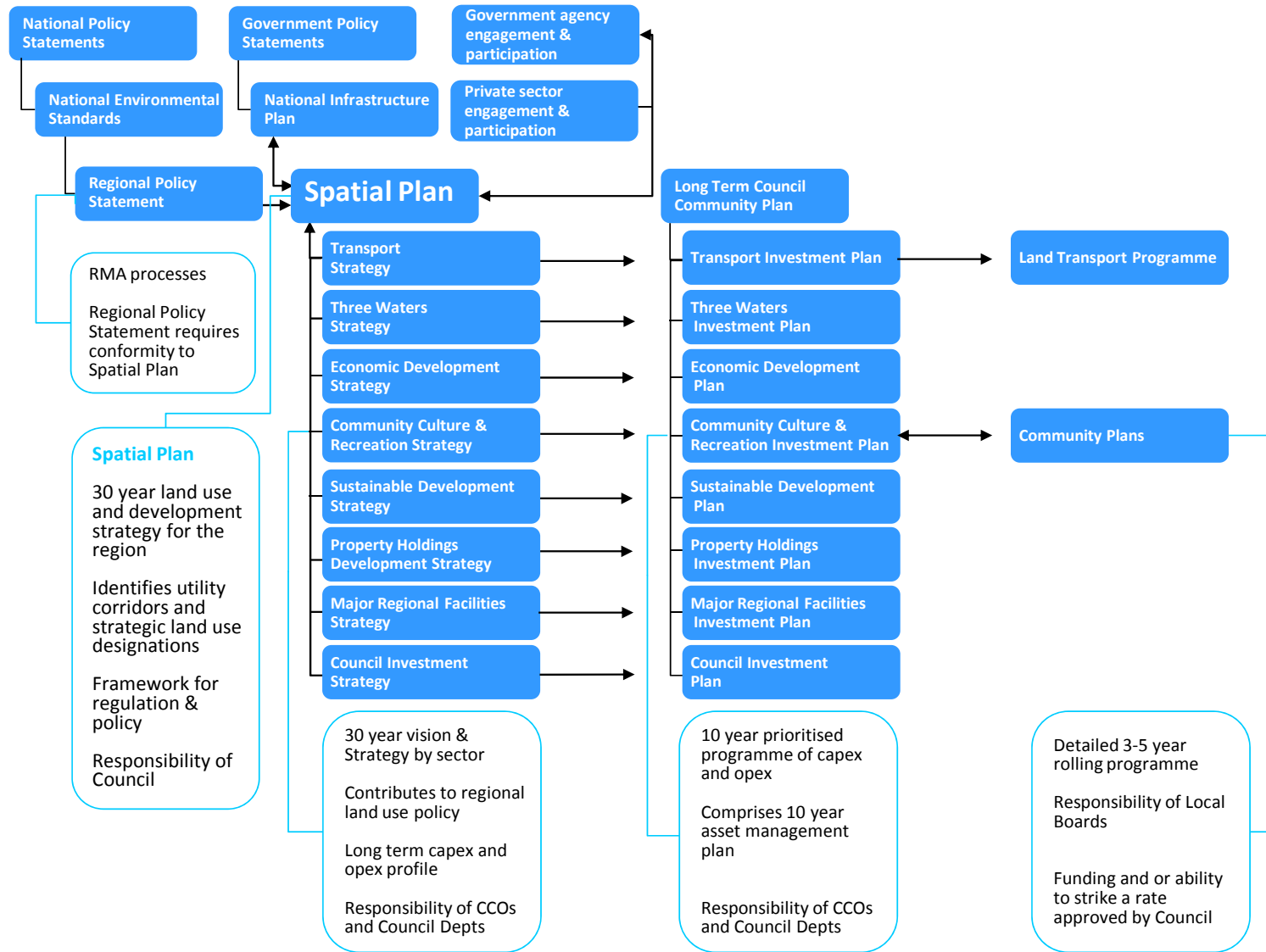
²⁰ Royal Commission on Auckland Governance Report Volume 1 Chapter 24

54. However, we submit that there are a number of important shortcomings in the details of the Bill's provision on spatial planning that require to be addressed to give increased certainty that the overarching 'one Auckland' aim will ultimately be achieved.

Need for an integrated planning framework

55. NZCID proposes an integrated regional planning framework as illustrated in Figure 2 below.
56. At the pinnacle of all regional planning will be a 30 year Spatial Plan. This will be the key responsibility of the Auckland Council.

Figure 2: Integrated Spatial Planning Framework



57. The Spatial Plan will provide a clear framework for the future collaborative action between the Auckland Council and its organisations and the private and voluntary sectors of society to achieve the overall vision for the region. It will guide regional land use and investment decisions, lead the direction of delivery agency programmes and set the context for the development of community council plans.
58. The spatial plan would identify regional utility corridors and key urban development nodes as well as clearly defining boundaries for urban development and protection of natural features. It would therefore need to be supported by a fully funded regional infrastructure investment plan. The plan would need to be given legal effect through the Auckland Regional Policy Statement ARPS which would require designated utility corridors for the development of regionally important transport, energy, water, telecommunications and social infrastructure projects.
59. Because of its significance to the overall direction of the region, the Spatial Plan will need to be developed in a transparent and consultative manner involving Government, community and key stakeholders from all sectors of society.
60. Central government engagement to agree both regional priorities and alignment of funding with government priorities will be an essential component.
61. Formal performance monitoring will need to be an ongoing feature of the Plan.
62. The Regional Spatial Plan will be supported by 30 year plans developed by each of the main CCOs of Council. These will set the thirty year vision and strategy by sector to ensure compliance with the Regional Spatial Plan. They will be required to comply with the regional land use policy and will set out the long term capital and operating expenditure profile of each respective division of Council.
63. The Prioritized Investment Programmes will be developed by the Council divisions within the context of their respective 30 year strategies. These will set out the 10 year prioritized programme of capital and operating expenditure and will form the relevant sub-components of the Long Term Council Community Plan. In effect they will set out the medium term investment programme that will give effect to the strategy.
64. The three to five year Local Board area plans will determine the communities priorities for allocation of funding within the context of the regional strategic planning framework. It will encompass such things as: main street programmes, streetscapes, support for community arts, culture and events, neighbourhood and community support, playgrounds, local parks & reserves, recreation centres, development of sport and recreation.

Spatial Plan requires Statutory Authority

65. We note that there is no provision to give the Auckland Spatial Plan statutory status in terms of the RMA, and is unclear in terms of timeliness, consultation, representation and requirements for CCOs to enable or 'give effect to' the Spatial Plan and its delivery under other Council plans and strategies.
66. The Auckland Regional Growth Strategy represented a first generation of spatial planning in New Zealand following the passing of the Resource Management Act in 1991. While the concept was sound the strategy lacked the necessary statutory authority needed to enforce its implementation.
67. A more formal approach has been adopted by Environment Canterbury. The Greater Christchurch Urban Development Strategy has been developed by the Council under the Local Government Act in partnership with Christchurch City Council and Waimakariri and Selwyn District Councils and the NZ Transport Agency. It is now being given statutory backing through the Regional Policy Statement process under the Resource Management Act.
68. Similar processes have also been used in Western Australia. There had been problems with land use planning around industrial facilities where encroachment of residential development led to residents' complaints about noise, air pollution and amenity. It also constrained the ability for industry to expand, as well as constraining current operations. To address these problems, a strategic assessment of new industrial estates near major industry centres of Geraldton, Karattha and Port Headland were undertaken. The process identified suitable areas for industrial development and the supporting infrastructure corridors. It also estimated, for likely industries, the likely air and noise emissions and wastewater treatment requirements. The separation requirements between the industrial estate and sensitive land uses, such as residential development, were also provided for. The industrial estate and buffer zones were defined in statutory zoning or purchases by government to prevent encroachment by incompatible uses.
69. As the Bill is currently drafted, implementation of the spatial plan will become entangled by the lack of coordinated direction that has hindered the Auckland Regional Growth Strategy through requirement to comply to a variable hierarchy of planning frameworks; the LGA 2002, Land Transport Management Act 2003 as well as the RMA. NZCID agrees with the Cabinet Committee minute suggesting the spatial plan be considered in relation to the resource management reform process to further simplify, streamline and make planning instruments and mechanisms more effective.²²
70. The outcome NZCID believes is required from reform of the current multiple planning frameworks is a statutory spatial plan that can be implemented efficiently and effectively in reasonable time frames and cost.

²² See AGR Min (09) 10/1 approved by CAB Min (09) 34/8

71. NZCID strongly recommend that a sub-clause be added to 66(3)(c) to reinforce that in setting out Auckland's role in New Zealand the spatial plan will incorporate Government policies and strategies for Auckland's growth and development set out in relevant documents such as the National Policy Statement, National Infrastructure Plan and Transport GPS, and will be expected to give effect to nationally important transport, energy, water, telecommunications and social infrastructure policies, programmes and projects.
72. NZCID strongly supports the provision (Clause 66(3)(a)) for the spatial plan to span 30 years, and believes there is some urgency around development of such a plan. We recommend that the clause be strengthened to require an inaugural draft spatial plan to be completed by the second half of 2011 and be available for consultation and submission with a view to adoption before the 2013 Local Government Elections. As currently drafted there is no firm timeline in the Bill for when Auckland Council must have prepared and adopted a spatial plan.
73. NZCID notes that the basis of a spatial plan is scattered among a number of government, regional and local council documents. With a new council adopting a 'can do' attitude and operating culture, NZCID believes that international precedents indicate a credible draft spatial plan for consultation could be drafted in a matter of months.
74. In another omission, the Bill makes no mention of the plan's implementation.
75. NZCID strongly believes that the Bill needs to give some clear guidance on expectations that the spatial plan will be implemented.
76. We recommend the Bill be strengthened to require Auckland Council and its CCO subsidiaries to give effect to the spatial plan (and Council to closely monitor the CCOs performance in its delivery role) through the appropriate strategies and programmes approved by the Council.
77. NZCID strongly supports the provisions in the Bill for the preparation and amendment of the spatial plan to involve community and private sector participation. We note the provision that the inaugural plan align and give direction to existing implementation, regulatory and funding plans. As well as bringing together the various LTCCPs, asset plans, annual plans, the Auckland Growth Strategy and other council-developed documents, NZCID request that the Bill be clarified to embrace spatial planning documents prepared by a number of community and business groups across Auckland. Doing this would go some way to address the traditional concerns over Auckland's fragmented and silo-based planning history.
78. NZCID suggests that the Select Committee give consideration to satisfy itself that the process adopted to deliver the functions of the spatial plan as set out in Clause 66(3) will be efficient and robust in meeting the needs of Local Boards.

79. We note that the ATA is preparing a discussion document on the powers, functions and responsibilities of Local Board, and will make further comment when this publication is available.

80. Preparation of planning document

81. NZCID notes the provisions for preparing planning documents that consolidate the information contained in the 2009/10 LTCCPs and 2010/11 annual plans, and the requirement for the information to be reorganised to reflect (non-regulatory) activities to be allocated to Local Board, transfer of assets and reorganisation of CCOs.
82. We strongly endorse the Schedule 2, 3 (3) provisions at page 107 requiring asset management and funding plans, supported by intended levels of service provision, including performance targets. This is good.
83. In respect of CCO plan provisions (Schedule 2, Section 6, page 110), NZCID recommend the section be strengthened to also identify the assumptions on which the financial statements are based; for example:
- Assumptions concerning the useful life of significant assets; and,
 - Assumptions concerning sources of funds for the future replacement of significant assets.

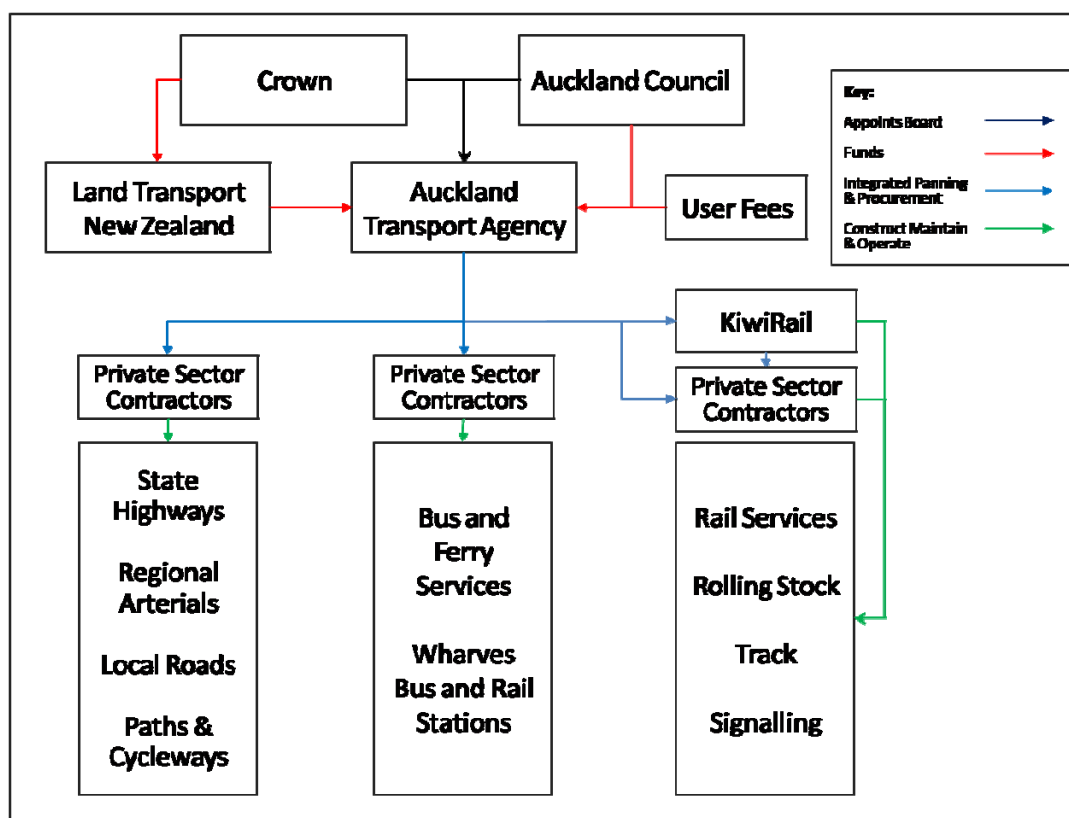
Fixing Transport – the core driver for improving Auckland’s governance

84. Persistent and deep-seated Auckland transport problems were a major trigger of the Royal Commission and what is done to address transport governance and delivery will be a major test of the success of Auckland’s governance reforms. Getting transport right is critical to Auckland’s future success as an internationally competitive and attractive city to live and work. This means taking into account the way transport underpins many different activities in the region aimed at delivering economic growth and development, efficient mobility and access, social and community cohesion and sound urban development.
85. One of the key reasons NZCID has advocated governance reform in Auckland is to deliver a structure that will improve investment confidence and provide clear responsibility and accountability for funding and implementation of a long term transport infrastructure plan. We consider this outcome is best served by the appointment of a Transport CCO board whose members are selected on the basis of expertise in transport infrastructure governance and delivery and not subject to the vagaries of three yearly election cycles.
86. We do not support transport being managed by an internal department of Council reporting to elected political representatives - either the full Council or a transport

sub-committee. Past experience in Auckland, including the ongoing debate about investments in roads versus rail, has clearly demonstrated that such structures result in politicisation of decision making and lead to short term planning and funding horizons borne of three year election cycles.

87. We also consider that, given the importance of state highway and railway networks, which are key components of the Auckland transport system, it is essential there be formal relationships between the three key transport agencies, namely: the Auckland Transport Agency, the NZ Transport Agency and KiwiRail.
88. For these reasons NZCID broadly endorses the recommendations of the Royal Commission on Auckland Governance. This included a CCO structure and joint management agreements between the Auckland Transport Agency, the NZ Transport Agency and KiwiRail. However a much better arrangement would be for a fully integrated board. This would include an NZTA and Auckland Council joint venture as illustrated below.

Figure 3: NZCID Proposed Governance Structure for Auckland Transport



89. The structure would comprise the following corporate governance and responsibilities:

- Controlling partners are the Crown and the Auckland Council

- The Auckland Transport Agency would be responsible under an agreed statement of corporate intent to deliver an integrated, multimodal transport service which meets the mobility needs of the region and the nation as a whole both now and into the future, in accordance with the objectives of the NZ Transport Strategy, the requirements of the relevant Government Policy Statement and consistent with the Regional Spatial Plan
- It would be statutorily responsible to ensure maintenance of national state highway and rail network standards which would continue to be set at the national level by the relevant crown agencies
- It would assume responsibility as a road controlling authority for the operation and management of the state highway and regional arterial road network and its integration with the local road network and integration with alternative transport modes
- The Board would be appointed jointly by the Crown, and the Auckland Council (representation could reflect the relative funding contributions made by each of the joint venture parties)
- Board appointees would be selected on the basis of their expertise in governance of an integrated transport entity
- Given that the Government intends that KiwiRail be operated as a business, we envisage that the Auckland Transport Agency would procure rail services from KiwiRail and / or other private operators (such as the existing arrangement with Veolia).

Alignment of Transport Responsibility and Accountability

90. Good governance arrangements require alignment of responsibility and accountability. Under the structure currently proposed by the Government responsibility for major components of the transport system (state highways and rail services) will rest with the New Zealand Transport Agency and with KiwiRail. On the other hand, accountability for delivery of an effective transport network for Auckland will lie with the Auckland Council through delegated authority to the Transport Agency. Experience has shown that such division of responsibility and accountability results in dysfunction as separate agencies operate to differing plans and budgets and report to independent Boards with disparate accountabilities. This both increases transaction costs and inhibits timely decision making.
91. Under the structure proposed above, responsibility and accountability for transport outcomes are aligned within one agency. This recognises the fundamental principle that the transport network in a major metropolitan area like Auckland is a cohesive system. Its overall success is dependent on each of its component parts and its effective integration with land use. Failure of any one

sector (rail, local roads, arterials and or state highway development and land use development) can and does have a network wide effect

92. The benefits of the above structure for Auckland transport are:
- Clear lines of responsibility and accountability and improved transparency for users
 - Reduced transaction costs and streamlined decision making
 - Responsibility to reconcile conflicting priorities resides within the single organisational structure
 - Improved opportunity to achieve modal integration between rail, state highway, regional arterial and passenger transport corridors
 - Removal of inter agency conflict
 - Improved allocation of limited funds
 - Amalgamation of the employee skill base and intellectual property between agencies
 - A cohesive agency with which the private sector and other public agencies can engage
93. Transport is **the key issue** for Auckland. An effective transport network is central to lifting productivity and driving economic growth and improved social outcomes. It is essential that the governance structure is appropriately empowered to implement a long term infrastructure investment and service enhancement programme. This requires clear lines of responsibility and accountability, capacity to determine optimum investment in alternative modes, specialist expertise in service procurement and contract management and de-politicisation of the decision making process.
94. For each of these key reasons, NZCID considers that this is best achieved by an integrated transport agency with an independent board appointed jointly by the Crown and by the Auckland Council.
95. This is Option 5 (Joint Venture Entity) of five options considered by Cabinet in coming to a decision to support allocating local roads (i.e. suburban roads and arterials but not State Highways) and public transport functions to an RTA, with Auckland Council providing funding (Option 2).
96. NZCID accepts the option government has decided on (Option 2) as a significant improvement on current arrangements, reducing the number of governance entities involved from eleven to three, but consider this option is inferior to NZCID's preferred Option 5.
97. We note the Minister of Transport's comments that a reform to a single transport entity at this time would represent too large a jump at this time. Given this, we suggest that establishing a single, integrated Auckland Transport agency covering all functions and services should be retained as a long-term objective. Accepting Government has chosen to establish Auckland Transport as a CCO of

Auckland Council, NZCID nonetheless considers that certain changes to the Bill are required to further improve the delivery of transport in Auckland, as follows:

Section 39: Objective of Auckland Transport needs strengthening

98. NZCID notes that Cabinet has established Auckland Transport as primarily a delivery agency for Auckland Council. Within the framework of the spatial plan and regional infrastructure investment plan that Auckland Council will develop and implement, it will be Auckland Council's role to determine the strategic direction for the local authority transport network in Auckland which Council is required to determine in close consultation with Auckland Transport, NZTA and KiwiRail.²⁴ It will be Auckland Transport's responsibility to develop a programme to deliver or give effect to Auckland's Council's transport strategy.
99. Acknowledging and supporting the aim of the Bill and Cabinet's transport decisions to achieve effective integrated linkages across all spatial planning elements (urban and economic development, environmental quality, transport etc) and efficient close working arrangements by Council with all CCOs and other agencies, NZCID **recommends** the objective of Auckland Transport should be strengthened to support the need for effective integration between the activities of Auckland Transport and Auckland Council's spatial planning, strategic and policy objectives.
100. Accordingly, it is recommended that the objective of Auckland Transport (Section 39, page 37) be amended to reinforce its role *'to undertake its functions in a way that contributes to an affordable, integrated, safe, responsive and efficient land transport system and which gives effect to the strategic objectives of the Auckland Council as set out in the Spatial Plan and supporting Auckland Regional Land Transport Strategy (RLTS) and other relevant documents.'*
101. As noted above *other relevant documents* Auckland Transport should be required to give effect to, through the Spatial Plan and RLTS, includes those established by central Government, including the GPS on transport funding and associated NZTA LTP, and National Infrastructure Investment Plan.

Section 44: Operating principles need strengthening

- 102.** The Bill sets out a cluster of generalised operating principles which NZCID believes run counter to the aim of the governance reform to remove duplication, fragmentation and inefficiencies. For example **Section 44(b) requires Auckland Transport to establish and maintain processes for Maori contribution to decision-making. This clause is problematic in that it further confuses relationships between the Auckland Council, the Maori Issues Board and the CCO.**

²⁴ See CAB Min (09) 30/10, section 7

103. NZCID strongly recommends removal of this particular clause, given there will be a statutory Maori Advisory Board to advise Auckland Council. It would be more efficient and better 'value for money' for Auckland Transport to make use of the Auckland Council provisions in this area rather than creating its own Maori sub-structure organisational structure.
104. NZCID also suggests that the detailed formulation of operating principles should not be prescribed in the Bill but should be developed by Auckland Transport to reflect processes and activities established in the SOI agreed between Auckland Council and Auckland Transport.
105. NZCID notes that Section 44 Operating Principles has been taken largely from the Local Government (Auckland) Amendment Act 2004. Further consideration might be given as to whether these principles are in fact appropriate. Instead NZCID recommends that Section 44 be redrafted to provide operating principles setting out an explicit requirement on Auckland Transport to coordinate its activities between the Council, Auckland Transport, NZTA and KiwiRail.
106. The Cabinet Paper proposing the Auckland Transport reinforced the principles of integration and consolidating transport roles and responsibilities. References include:
- "To ensure good co-ordination between transport providers, any Auckland Council committee considering the Auckland Regional Land Transport Strategy and the RTA (Auckland Transport) Board will include a NZ Transport Agency representative in an advisory capacity. **The Auckland Council will also have a statutory obligation to work closely with the RTA Board, the NZ Transport Agency, particularly with respect to State highways, and the New Zealand Railways Corporation with respect to rail,**" (paragraph 8, page 2); and,
- "The RTA Board (Auckland Transport) will have a similar statutory obligation."
- The same Paper refers to the transport functions of the Auckland Council to have: "A duty to work closely with the RTA, the NZ Transport Agency and the New Zealand Railways Corporation to ensure the views of those agencies are properly incorporated in transport decision making by the Auckland Council;" (paragraph 39.4, page 8).
107. However, these operating requirements are not adequately reflected in the Bill as currently drafted. NZCID concurs that operating principles of the Bill should make explicit the expectation for transport agencies in Auckland to work closely together and co-operatively at all levels.
108. Whether Auckland Transport should have an NZTA representative on the Auckland Transport board, and if so, in what capacity is discussed below.

109. In considering any redrafting of the transport provisions in the Bill, NZCID urges the Select Committee to note basic Auckland statistics indicating that:
- Total transport expenditure in Auckland (2008) was \$1,592 million, made up by
 - Approximately \$678 million of Auckland rates revenue (or 41% of the total), or 54% of all rates revenue and 30% of total local authority revenue when user-charges, investments.
 - NZTA provided \$348 million or 22% of the total in subsidies (through revenue from excise duties); and,
 - The Crown also funded \$566 million of work (or 36% of the total), including \$489 million in State Highways expenditure and \$77 million in metro-rail.²⁵
110. Further, NZTA statistics indicate that of around 990,000 daily trips made on Auckland's State Highway network, 92% originate and end within Auckland; i.e. the Auckland SH network performs as a 'local' road network.
111. These statistics reinforce the key role and responsibility of central Government (Crown and NZTA especially) in funding Auckland Transport operations, and therefore the role it can be expected to have in Auckland's transport planning and decision-making.
112. Equally, rates revenue will account for a significant proportion of Auckland Transport operations, and therefore reinforces the responsibility of Auckland Council to be actively involved in decision-making and monitoring the Auckland Transport's operating performance.
113. NZCID notes the Bill makes amendments to the Land Transport Management Act 2003 requiring Auckland Transport, NZTA and KiwiRail, the Police and other organisations with transport responsibilities to act cooperatively. NZCID suggests this requirement should be highlighted in the substantive sections of the Bill.
114. Accordingly, NZCID recommends the operating principles (Section 44, page 40) be amended to reinforce Auckland Transport's responsibility "*in meeting its objective, and undertaking its functions, to work closely and collaboratively with NZTA and New Zealand Railways Corporation.*"
115. How Auckland Transport Board representation might be improved to more fairly reflect the funding responsibilities and roles of Auckland Council and central government respectively is discussed below.

²⁵ See Cabinet paper on transport authority decisions (CAB Min (09) 30/10, Funding Sources, paragraphs 18-20, page 4.

Section 45: Governing body of Auckland Transport needs clarifying

116. Earlier in this submission NZCID set out its view that Auckland Transport should be a joint venture and that Board appointments should be the joint prerogative of the Government and the Auckland Council as illustrated in Figure 3.
117. This remains NZCID's position. Notwithstanding this, we make the following comments in respect of the appointment of the Auckland Transport governing body as proposed in the Bill.
118. NZCID notes that the Section 45 provisions covering the appointment of Auckland Transport's board of directors differs in a number of respects from the CCO provisions of the Local Government (LGA) 2002 process for the appointment of directors.
119. As suggested above in respect of recommending that Schedule 8 of the LGA be adopted for setting the broad requirements the SOI of all Auckland Council's CCOs should conform to, **NZCID recommends that consideration be given to amending Section 45 to incorporate the principles of s57 of the LGA 2002 into the LGALR Bill.**
120. Under the provisions of the LGA 2002 it is the council, as owner of a CCO, who is responsible for determining the appointment of directors, and it is normal practice for the chairperson and deputy chairperson to be appointed by the Council. **The length of tenure for the directors of a CCO is not prescribed in the LGA and the appointment of elected members to the Boards of CCOs is usually a matter for councils to decide.**
121. NZCID is unaware of any particular or compelling reason to deviate from this approach in the case of Auckland Transport. In fact, the Bill deviates from the CCO provisions of the LGA 2002 in the process for the appointment of directors in at least four areas:
- Non-elected Board members are to be appointed for a four year term;
 - The number of elected Board members is to be limited to a maximum of two elected members of the Auckland Council;
 - The Board will comprise of six-to-eight members; and,
 - The Chair and deputy are to be elected by the Board.
122. **NZCID has always considered that CCO Board appointments including chairs should be the prerogative of the Council/Mayor, and sees no reason for the Bill departing from this practice. Accepting that the initial appointments will be by Government on advice of the ATA, NZCID recommends that consultation be undertaken with current Mayors (via the Mayoral Forum) prior to these appointments being made.**

123. NZCID acknowledges that Auckland Transport's dependence on the Auckland Council and central Government (NZTA) for a substantial proportion of its funding suggests that it is appropriate for both organisations to be represented on the Board.
124. However, NZCID sees greater benefit by amending the Bill to give Auckland Council a high degree of flexibility and discretion long-term around governance, consistent with the provisions in the LGA 2002.
125. In respect of the stipulation that the Board elects its chair from within its own membership, NZCID suggests that this requirement creates a risk of a flawed relationship between the Council and Auckland Transport, whereas allowing the Auckland Council, through the Governance Committee, to appoint the Chair will ensure that the primary governance relationship is entrusted to a person of the Council's choosing. As noted above, given the substantial level of Auckland Council funding required by Auckland Transport the Council-Board (and central government) relationship(s) will be critical.
126. Accordingly, NZCID recommends that the provision for a non-voting director nominated by NZTA be removed and similarly the provision for up to two Auckland Councillors to be appointed to the Board also be removed.
127. Firstly, Auckland Transport's objective and operating principles require a strong, effective working relationship be established by Auckland Transport and NZTA at all levels, and around which issues, concerns and 'advice' between the two organisations will be able to be worked through.
128. Secondly, to be consistent with other CCOs (and the CCO provisions of the LGA 2002), it is important that board members be appointed and be subject to the same accountability practices set by Auckland Council through the SOI process.
129. On the other hand, if it is decided to retain provision for elected Auckland Council and NZTA appointees, NZCID recommends that the NZTA have full voting rights. Again, the reason is that given the substantial level of central government (NZTA) funding Auckland Transport will require full accountability and endorsement by NZTA would seem an important consideration in the Board's decision-making.
130. Overall, NZCID submits that provisions in the Bill establishing clear accountability and over-sight by Auckland Council over Auckland Transport's performance through the requirement to report four-monthly to the Council Committee and from setting a robust SOI requiring Auckland Transport to give effect to Council's transport strategy will be sufficient control over the CCOs activities and more effective than through statutory prescription and control through the appointment of specified Board members.
131. However, there needs to be further clarification of Auckland Transport's role and responsibility to prepare the RLTP to give effect to the RLTS, to ensure the transport programme contributes to achieving the Auckland Council's and

Government high level outcomes set out in the Auckland Spatial Plan as proposed in section of the submission above.

Asset ownership and related provisions

132. As currently drafted the Bill creates inconsistent ownership arrangements of transport assets:

- Auckland Council owns transport assets transferred from existing councils – Section 42(4);
- Auckland Transport manages and controls the transport system, including taking responsibility for asset management obligations - Section 41(b);
- Auckland Transport owns the transport assets transferred from ARTA and ARTNL – Section 50 (1) (a) and Section 52 (1) (a) respectively.

133. NZCID recommends amendment of the clauses setting out ownership and control arrangements to provide for the consistent ownership transfer of all transport assets (apart from land) to Auckland Transport and to ensure Auckland Transport has effective control of all transport assets.

134. With Auckland Transport taking responsibility for asset management obligations it is important to ensure that responsibility for funding depreciation is also given to Auckland Transport.

135. Clarification is also required in respect of ensuring Auckland Transport can divest transport assets and what the process will be in respect of reporting to Auckland Council as the CCOs owner.

136. NZCID also questions the need for Section 41(e) requiring Auckland Transport to “undertake any other functions that the Council may lawfully direct it to exercise or delegate to it.” NZCID is unaware of any compelling reason for the clause. As written it provides an explicit ‘open licence’ for Auckland Council control of Auckland Transport activities. NZCID recommends the clause be removed, and notes that there is an adequate basis already provided in the Bill for a business-like relationship between Council and Auckland Transport through the SOI provisions.

137. However, if the clause is retained it should be amended to refer specifically to ‘undertake any other transport-related functions....’

138. Likewise, NZCID recommends removal of Section 46 placing a restriction on Auckland Transport borrowing without the written agreement of Auckland Council.

139. NZCID submits that such restrictions are unnecessary as Sections 40 and 44(c) provide for full delegation subject to good fiscal management and there is a robust SOI process under Schedule 8 of the LGA 2002 to set such parameters.

Transport and Local Boards

140. NZCID believes considerable clarification and strengthening of the Bill is required in respect of setting a clearly defined role and function for Local Boards in respect of transport.
141. NZCID notes that Cabinet has agreed that the local boards transport functions, powers and duties include being a statutory consultee in the development of the RLTS and RLTP, advising Auckland Council and Auckland Transport on what should be included in the RLTP and providing funding for transport projects approved in the RLTP (and LTCCP) from local board budget allocations.²⁶ However, these decisions are NOT reflected in the Bill. Further, the overall functions, powers and duties of local boards are among matters still to be determined at the time of drafting this submission.
142. As noted above, NZCID strongly recommends a governance arrangement requiring Auckland Council and Local Boards to work collaboratively with Auckland Transport on 'local' transport activities. The framework for this relationship should be set by providing an inclusive operating arrangement allowing for Local Boards to contribute to the development of the RLTP and requiring Auckland Transport to consult with Local Boards affected by Auckland Transport programmes and services.
143. NZCID reserves a position to submit further on the matter of the Auckland Transport – Local Board relationship when an expected position paper on Local Board functions, powers and duties under preparation by ATA is published.

Other specific issues clause by clause

144. There are a number of other issues in the Bill that need to be clarified and addressed. These include:

Section 19B (page 17) – Establishment of Auckland Waterfront Development Agency

145. NZCID notes that ATA must establish a Waterfront Development Agency with responsibility for development of the Auckland waterfront. Section 35G makes provision for ATA to do this by an Order in Council that specifies the Agency's objectives, structure and functions.

²⁶ See CAB Min (09) 30/10, paragraph 11.

146. As noted above, NZCID anticipates the ATA will publish details of the Agency in due time and reserves a position to submit further on this matter.
147. NZCID believe the Agency needs to be established with an SOI to work collaboratively with Auckland and other CCOs with relevant roles and contributions to provide, especially transport, property, water, investments, economic development. NZCID suggests the Agency is needed basically to get improved focus and co-ordination on key projects affecting the development of the waterfront area, and therefore could envisage having a short life to complete its mainly strategic tasks. NZCID suggests the Bill's provide a sunset clause for the Agency to complete its designated tasks. .
148. The concept of an Agency is supported by NZCID in principle, but its success will depend on the details of its purpose and specific functions, and the conduct of relationships with stakeholders and other agencies. Maybe the membership of the Agency Board should include representatives from other CCOs, central government and Ports of Auckland Limited (POAL).
149. We also recommend that the commercial activities and area of POAL be excluded from the Agency's functions.

Part 5 – Watercare Services Limited (WSL) and related

150. NZCID strongly supports the establishment of a CCO to run Auckland's water supply and wastewater services as broadly provided for in the Bill. However, there are a number of details NZCID submits need attention, including:
151. Section 29F (page 21) requires that the ARC ensure that Watercare appoints enforcement officers before the ARC is dissolved.
152. NZCID notes and appreciates that the performance of CCOs including WSL will be monitored regularly by way of a special Auckland Council Committee dedicated to the task. However, **we recommend that longer term regulatory enforcement be independent of WSL and instead be administered by the Council, and that the Bill be amended to provide for this.**
153. NZCID notes Section 49 (1)(b) page 42 prevents water organisations from paying any dividend but a clause (2) allows a taxable bonus issue.
154. NZCID strongly recommends the Select Committee adopts a cautionary approach in examining these clauses in order to understand the full legal and practical implications of these provisions in terms of how they satisfy the aim of the Bill to achieve improved efficiency and value for money.
155. NZCID is particularly keen to ensure that water services are efficient and price competitive, and that WSL's business plan and SOI provides for a pricing

structure that is competitive but at the same time enables retention of sufficient funding for long-term of maintenance, upgrade and capital improvements. The Bill should encourage this outcome, and Clause 49 may need clarification in this regard.

156. Section 73 (2) page 89 allows Council to determine how to provide water and wastewater from 1 July 2015. This implies that WSL could be limited to just a 5-year life. NZCID suggests that **while this provision will serve to encourage WSL to adopt a strong business-like performance discipline on its pricing and services and help to provide for their continued existence, it will also create unnecessary uncertainty about the long term future of WSL as an independent CCO. Consequently NZCID recommends that this clause be deleted.**
157. NZCID notes the requirement of Section 74 (page 89) for WSL to administer and enforce its own trades waste bylaw. We suggest an addition to the clause requiring some oversight by Auckland Council's overall administration of bylaws to ensure no conflict and/or duplication with other bylaws and to reinforce the inclusive role of WSL as a service Agency of the Council.

Maori Issues Board

158. NZCID notes that a substantial section of the Bill (pages 51-54 and a Schedule) is devoted to the establishment of the Maori Issues Board and which must be resourced and funded by the Council and provides for up to two representatives on all Council committees considering the "management and stewardship of natural and physical resources".
159. NZCID is concerned that the establishment of this Board is reinforced by a significant process and potentially costly overhead much of which could have been avoided by the provision for two Maori seats on the Auckland Council as was originally advocated by NZCID (and others).
160. We request the Select Committee have a close look at this section of the Bill in terms of the Bills aims and especially to achieve improved value for money and integrated decision making. **We recommend that a better value for money proposition and ultimately more inclusive in terms of Maori representation is to delete this part of the Bill and propose that it be replaced with a provision that the Council shall include two Councillors elected from Maori wards broadly in line with current Maori electorates.**

Appendix 1: Guiding principles – shared SOI narrative

161. As mentioned in the NZCID Submission, the Cabinet paper on Outstanding Policy Issues²⁷ mentions how all CCO SOIs might be strengthened by including a narrative on how each CCO contributes to and/or aligns with Council's, and where appropriate Government's, wider objectives and priorities for Auckland.
162. Such a narrative might include the following guiding principles²⁸:
- In enabling the establishment and advancement of a single, unified Auckland local government entity, Auckland Council's governance body and service delivery agencies (CCOs) together with the 19 member local boards will be guided by the following desired outcomes.
 - To manage, and give united leadership to, Auckland's growth in all forums local, national and international;
 - To provide leadership based on values of fairness for all, equity and sustainability;
 - To work to ensure the continued ability of all Aucklanders to improve their standard of living and quality of life;
 - To act positively to protect and enhance Auckland's stake in New Zealand's growth and development;
 - To ensure a fair and equitable return on the Region of Auckland's contribution to New Zealand's economic growth and development;
 - To give Aucklanders an effective and united voice in Political decision making which affects Auckland.
163. A suite of guiding operational principles also seems appropriate to address a range of considerations, such as:
- The shared tension that could arise from the separation within Auckland's new unitary structure between policy development and strategic planning – which resides within the Council - from delivery and implementation roles – which reside in arm's-length CCOs.
 - How CCOs, executive Mayor and Councilors, elected Local Board members and other constituent entities – and central government agencies - will be

²⁷ CAB Min (09) 41/16, paragraph 21.2

²⁸ See also 'Guiding principles for reform', NZCID submission to the Royal commission on Auckland Governance, April 2008, page 28.

expected to 'work together' in order to achieve Auckland Council's vision, strategies and aims.²⁹

- What accountabilities, working arrangements and code of conduct will exist between Council's Chief Executive (CEO and management team) and the CEOs (and staff) of the CCOs; and between Mayor's Office, Councilors and CEO of CCOs.

164. The following examples from Melbourne and British Columbia provide useful examples of how these potential issues might be addressed.

City of Melbourne corporate values

165. In 2004, City of Melbourne staff helped develop four fundamental and unifying values with the desire to make a positive difference in the activities and services Council provides. These values are: integrity, respect, excellence and courage. In 2008, the value of 'accountability' was introduced to complement the four existing values:

Integrity

We take responsibility for our actions in an honest and transparent way

Courage

We dare to create new and better ways of doing business

Accountability

We take personal responsibility for decisions and actions to achieve agreed outcomes.

Respect

We consider and understand the perspective and contribution of others

Excellence

We continuously improve our performance to achieve outstanding outcomes for Melbourne.

Section 2 of the British Columbia Community Charter legislation, Chapter 26, provides as follows:

'2 (1) The citizens of British Columbia are best served when, in their relationship, municipalities and the Provincial government acknowledge and respect the jurisdiction of each, work towards harmonization of Provincial and municipal

²⁹ For example, as well as Auckland Council having elected Ward councillors and Local Board members, there are some 40 Auckland members of Parliament who are expected to address local issues on behalf of constituents. Some consideration to setting guiding principles on how the 'balance of power' relationship will be expected to operate between the various representation groups might be worth consideration at an early point.

enactments, policies and programs, and foster cooperative approaches to matters of mutual interest.

2 (2) The relationship between municipalities and the Provincial government is based on the following principles:

- a) the Provincial government respects municipal authority and municipalities respect Provincial authority;
- b) the Provincial government must not assign responsibilities to municipalities unless there is provision for resources required to fulfill the responsibilities;
- c) consultation is needed on matters of mutual interest, including consultation by the Provincial government on
 - i. proposed changes to local government legislation,
 - ii. proposed changes to revenue transfers to municipalities, and
 - iii. proposed changes to Provincial programs that will have a significant impact in relation to matters that are within municipal authority;
- d) the Provincial government respects the varying needs and conditions of different municipalities in different areas of British Columbia;
- e) consideration of municipal interests is needed when the Provincial government participates in interprovincial, national or international discussions on matters that affect municipalities;
- f) the authority of municipalities is balanced by the responsibility of the Provincial government to consider the interests of the citizens of British Columbia generally;
- g) the Provincial government and municipalities should attempt to resolve conflicts between them by consultation, negotiation, facilitation and other forms of dispute resolution.'

166. Most world cities have in recent years adopted core values (such as service, integrity, quality, diversity, shared purpose, and stewardship or resources) to communicate how the City will conduct its business and achieve its mission in becoming the best City it can be.

167. NZCID believes Auckland must do so at an early stage of its establishment.