

**Waiheke Island Community Planning Group Inc**  
Putting Community back into Planning

**Royal Commission on Auckland Governance [ the Commission ]**

**ISSUES AND OPTIONS ANALYSIS**

**Introduction:** This analysis is loosely based on the Commission's March 2008 'Call for Submissions' document [ the discussion document ] but in some areas is more specific and in addition it covers the Hauraki Gulf Islands issues specifically. It represents my personal views and thinking and should not be read as a WICPG position. It is aimed at helping people work through the Commission's discussion document.

**Commission's terms of reference:** In the discussion document the Commission describes its task as finding out from people if they are happy with the form of local government in Auckland and if not, what they want changed. This is a little misleading as it has a focus on form rather than capacity to govern effectively. Anyone wishing to make a submission should study the terms of reference in detail. They are provided as Appendix 1 in the discussion document or can be found on the Commission's web site.

Under them the Commission is appointed - ***' to receive representations on, inquire into, investigate and report on the local government arrangements ( including institutions, mechanisms and processes ) that are required in the Auckland region over the foreseeable future in order to maximise, in a cost effective manner,- (a) the current and future well being of the region and its communities; and (b) the region's contribution to wider national objectives and outcomes'***. In addition the recitals and 'matters to be taken into account', and the 'relevant matters' should be noted. In the latter regard, note that changes to legislation are specifically included. Finally note those matters excluded from the scope of the inquiry.

**What does Governance mean?** In a normal business sense **governance** is understood to be those activities undertaken for example by a Board of Directors, and covers decision making, policy making, and strategic thinking and direction setting. Confusion sometimes takes place with roles of **management** which involves implementing decisions, operating the organisation on a day to day basis and providing support [ eg research ] for Board functions. I was intrigued to note that the governance specific provisions in the LGA were not included in the discussion document, namely **Sections 39 to 48**. Coverage of them can be found in the first WICPG briefing paper. The nutshell is that local government decision-making must be effective [ measured against the Section 10 well-beings ] clear and transparent. Empowering communities to participate in decision making is a clear part of the brief. Most people in our community argue that ACC falls short in all of these regards. Submissions should focus on this point

accordingly. See for more in depth discussion, WICPG Briefing Paper 1 on Governance.

## **Part Two: Major Issues**

The discussion document contains a lengthy section [ which commences at page 3 ], mainly in question format, covering what the Commission proffers as the major issues. They exclude issues around existing funding arrangements, which are predicated by the findings of the 2007 [ Shand ] Commission of Inquiry into Local Government rates.

**Issue1: What kind of local government structure will help Auckland become a successful world class city?** The objective is defined, rather oddly in my view, with a strong business / capitalism bias. It talks in para 22 of a world class city being ***"one that is attractive to people and capital from overseas, that has a strong cultural and artistic identity, and where creativity is reflected in a strong research and innovation culture"***. To support this, it suggests, we need " a positive regulatory and business environment", "good infrastructure", & "to manage our environment carefully ".

It seems this type of thinking needs to be evaluated. For example many would say that the present Council has too much of a bias towards business, development and economic growth. From a larger perspective perhaps we should put a greater emphasis and priority on the Environment and quality economic outcomes for example good jobs, not just more jobs, more time, lower working hours for recreation, music and art, and creating a quality visitor destination at both ends. Smart businesses / jobs, with a research and technology focus, which can be located in local communities another obvious area of focus.

The starting point in terms of how local government should function is set out in the LGA and talks about democratic local decision making and action **by** [ and on behalf of ] local communities. This can be directly translated into **local community governance** the only rider being that it must be democratic. We are able, within the brief, to explore **new structures** to achieve these [ SS 10/11 ] objectives. The other point worth noting is that the responsibilities of **local government can go well beyond the provision of infrastructure and service delivery**. It can " encompass everything from pensioner housing to education to economic development - anything that concerns the social and economic health of communities". Councils have traditionally been dominated by a right wing political bias that took the view that their role was mainly about service delivery and keeping rates / debt as low as possible. This stance is very myopic and in recent years has seen C&R dominated councils sell council owned housing and half the airport shareholding.

The Commission puts forward the view that some of the characteristics that local government must have to support the development of a successful and sustainable city / region are:

- **transparency** - in terms of decision making and delivery / funding.

- **accountability** - for achieving outcomes, use of funds and stewardship.
- **efficient resource use** - services to be timely, appropriate, at the right cost
- **responsiveness** - pro-active, forward looking, flexible.

**Question 1 asks whether you agree or disagree with this list as the matters local government arrangements should ideally provide.** While laudable criteria, I do not see included any imperative to empower or foster local community decision making.

**Question 2 then asks if there are other criteria that are important and that should be included?.** In answering this question you might like to think about what has and has not worked well. Has, for example, the LTCCP been an effective accountability mechanism?. Should community mandated priorities be added to the list? Should communities have more say over rating decisions?

**Question 3 asks what overall structure of local government is appropriate for the region and why?.** You really need to work through some of the later material and come back to this question. An answer is partly determined by the underlying philosophical and socio-economic thinking involved. Maori participation is another issue that needs to be considered as part of an answer.

**Issue 2: Regional decision making. What decisions should be made and implemented at a regional level?" By what body or bodies / processes?.**

The terms of reference invite the Commission to consider ownership, governance and institutional arrangements and funding responsibilities that will support and enhance the ability of the region to respond to economic, environmental, cultural and social challenges. Climate change is provided as an example.

This is a complex issue and comes down to what criteria should be used to decide which matters are best managed and decided regionally, versus locally. At first glance one would think that Transport is an issue that needs to be managed and driven [ no pun intended ] regionally. This is the case presently via ARTA [ part of the ARC ] but those involved with transport on island would suggest that our local needs get lost in this process.

The other dimension of transport that needs to be considered is funding, both in terms of obvious areas like roading and less obvious issues such as subsidies for ferry services / wharf taxes etc. In terms of rationalising existing arrangements, the ARC is promoting the idea of a single planning instrument [ One Plan ] for the region at the district or local level. This concept has a number of advantages but again the question arises do local communities get lost in this process? Another example to consider is waters management [ waste, storm, drinking ] aspects of which [ waste / aquifers ] are managed regionally at present. Would a regional structure across all waters aid integration and provide better and more financially efficient service delivery? There are some significant funding and environmental issues within this area

as ACC struggles to replace outdated infrastructure that still causes periodic sewerage outflow into the harbour. Waters quality, including fresh and sea water resources, become part of this issue.

The discussion document notes [ end para 33 ] that in some instances, there may be no clearly desirable line of demarcation, so that the debate is about the sharing of responsibilities rather than about allocating them to one body or another.

**So we come back to the key question, which is, what are the criteria that should be used to determine what decisions and activities should be undertaken at regional level?.**

Scale of operations is one obvious factor. Regional impact another. Efficiency of infrastructure provision and service delivery a third. Importance to the regional / national economy a fourth. Using these measures it seems clear that Transport / Roading, Waters management [ which includes sewerage reticulation ], Economic development and urban / rural issues [ especially the regional urban growth strategy ] sit best at a regional level. Management of regionally significant parks, and reserves [ including marine reserves ] and major cultural and sporting / recreational facilities also seem best located regionally. Other areas are less certain, particularly as to appropriate demarcations for environmental protection functions. To take one example, one would imagine that climate change issues are best managed at the regional level, but that raises problems in relation to local implementation, in District plan provisions to take but one example.

This takes us some way towards answering **Question 4** as to **what decisions should be made and undertaken [ implemented ] at regional level, and why?.**

A secondary consideration is the different characteristics of parts of the region as between urban areas and rural areas, and the significantly different issues each face. Does this create a problem in terms of effective governance i.e decision making, at the regional level? The current position with Franklin District divided between two Regional Authorities would appear to be simply stupid.

**Question 5** then asks **what sort of body should be responsible for regional decision making and as to whom it should be answerable.** A single body with a regional focus / raison d'etre seems sensible. Most would say that it should be answerable to residents and ratepayers. The real issue then becomes how would it be accountable. Has the LTCCP framework in the LGA done this job? Most would say unevenly at best. So how might it be made more effective? One suggestion is to have mandatory outcomes from the LTCCP in the Annual plan, tied to mandatory progress reporting and audit. Some Councils already do this voluntarily. Much of the machinery to do this is already in place in the LGA.

**Question 6 asks if the region should retain its current boundaries or should they be altered?** The only obvious issues here are whether the balance of Franklin should come into the Auckland region or whether all of Franklin should go to Waikato RC and/ or all of Rodney to Northland RC or some other variation. Arguments on this issue turn on the urban / rural issues debate.

**Question 7 asks if the head of the regional governance body should be directly elected**, as is the case with mayors at the TLA level. At present the chair of the ARC is selected by vote of all of the elected members. Most people would be likely to answer yes to this question but it would open the role to political domination.

**Question 8 asks whether the head of such a body should have executive power as to make decisions for the region independently of the council** " in order to exercise regional leadership". This would seem to be a step away from local democracy and a possible reaction to parochial politics at regional level. One possible solution is to change the basis for representation / election to regional wards founded on population blocks, or the national electorate boundaries.

Finally, **while not specifically mentioned in the discussion document**, some thought has to be given to how regionally significant assets should be held and managed. Most of us have followed the various airport share sagas with interest. Another significant regional asset, the port, is owned by **Auckland Regional Holdings**, which is a council [ ARC ] controlled organisation with an asset base of \$1.45 billion. In addition the **Auckland Energy Consumer Trust** owns 75.1% of the power line company Vector. The Trust has assets of 1.6 billion. Auckland councils are seeking a law change to wind up the Trust and grab these assets as part of the Royal Commission process. This raises the issue as to what parts of regional infrastructure should be owned and managed regionally. Roads are - except for state highways. Bulk water and waste-water [ includes sewerage ] are through **Watercare**. Presently rail infrastructure is managed and developed by **ONTRACK**. This also raises issues as to how infrastructure development should be funded, with initiatives like petrol tax and toll roads as an example.

**Issue 3: What decisions should be made and implemented at a local level? By what body or bodies, using what processes?**

There appears to be general acceptance of the desirability of local decision making, local choices for local needs. Under the present system this takes place at city and district council level and via community boards. Most communities find the city structure too remote and politically biased, linked to views that community boards are not given sufficient direct power and authority. Present collective discussions at community board level appear to favour breaking up larger city structures and returning to smaller district or borough councils to optimise local decision making.

The discussion document at page7 para 39 expresses the problem in these terms.

" Ensuring that an appropriate level of local democracy is maintained, whilst enabling regional co-ordination and focus, is a delicate balance to strike. It requires adequate mechanisms to address and provide for community issues, combined with a system that .... can achieve regional objectives. Consideration must be given to enabling citizens to have their say while providing elected representatives with the capacity to exercise leadership".

The balance issue is critical, however my personal view is that we should be looking for structures and mechanisms that foster leadership from the community level upwards. Recent examples from ACC show how elected 'leadership' is subject to political vagaries, with the generally praised work of the mayoral task force on sustainability being abandoned by a new Council, along with important climate change initiatives.

**Question 9 then asks as to what decisions and activities should be made and undertaken at local level, and why?** Again the sub-issue is what criteria should be used to answer it. Localised sensitive impact / relevance seems one obvious measure. Efficiency both in terms of timely provision and cost, another. Strong arguments exist, particular in a physically defined community like Waiheke, for localised service delivery, which has the added benefit of creating local jobs. The Waste Resources Trust as an example. The counter veiling argument is that scale provides efficiency hence contracts to large specialist corporations.

These areas need to be subjected to a comprehensive net community benefit analysis - which might produce some interesting results. The other benefit of 'nesting' projects inside and run by communities is that ownership facilitates partnering parallel objectives such as recycling, conservation [ energy / water ] or like environmental gain initiatives. Some would say that key areas such as planning / RMA decision making should be made at the local level and some precedents exist where this has been done. The danger in this model is that you may not get the balance between community well beings and eco / environmental protection right. On Waiheke the balance is likely to lean more towards the latter whereas in other communities besotted with the economic growth mantra, the balance may be tipped too far in favour of development.

**Question 10 asks what kind of local government entity would be best to make local decisions?.** Again something entirely new is an option. The real question here is what are the values, well beings and interests you want to see represented in and protected by local decision making structures?. Our local government entities are modelled almost exclusively on British examples and evolved out of road boards and a raft of special purpose local entities like drainage, water and soil conservation and rabbit boards, and Boroughs and Counties. We need to examine afresh whether models based philosophically, squarely in an anthropocentric world view will meet conservation, and environmental challenges going forward. Issues of effectively providing for

indigenous participation within or alongside these models remain to be addressed contemporaneously. For a fuller discussion on the history of local government in New Zealand see Palmer, Local Government Law in New Zealand page 1 and Rikys, Valuation for and Rating of Maori Land, 2001, chapter 2.

**Question 11** raises a parallel issue, which really turns on arguments about economies of scale. It **asks what size of body will be ' large enough to deliver services efficiently but small enough to be accessible and accountable?'** Again overseas evidence suggests a local government unit based on a population base of 30,000 people organisationally meets these criteria. That fails to address net social benefit and world view issues touched on above.

**Question 12 asks if you think your local council is making good decisions.** While I can imagine this will provoke an outpouring of pain and suffering the reality is to be effective a response must be backed up with specific examples, case studies to have any real impact.

**Question 13 asks about what might be the optimum number of councillors on a district or city council?** A sensible answer needs to be related to the size of the population being served at a pragmatic level and to work load issues. That in turn ties back to the degree to which decisions have been delegated to community based bodies like [ now ] community boards. In crude terms the more of the latter the less need for the former.

**Question 14 is specific to community boards and asks if they serve a useful function and how they might be improved.** It is generally accepted that community boards are currently our only vehicle for community level decision making and are useful as a result. Most people think they need more power, greater autonomy and more effective resourcing.

**Question 15 asks for views on whether current local body structures should be changed by reducing or increasing the number of such bodies.** Within this question sits the issue of the need for separate levels of government, regional versus district / local. Can one mega- Council do both, efficiently, effectively, transparently and responsively?. This type of thinking seems to run contrary to the idea of empowering communities from the grass / flax roots up. To answer the question one needs to ask what is being done well and what is not and how can that be made better. In this context advice from incumbents should be treated with a level of scepticism.

**Question 16 asks for views on existing boundary issues within the region.** We have touched on this earlier and an answer sits within a presumption of minimum change to the status quo. With that qualification and bearing in mind the last major re-organisation of the region in 1988 / 89 this could be seen as an opportunity to reflect on that outcome and its success or failure in relation to Waiheke Island. In regional terms, absorption of Papakura District Council and reorganisation of Franklin District Council's regional level boundaries seem logical.

**Issue 5: To what extent should individual local councils follow consistent practices? How do we ensure that decisions made at national, regional and local government levels are consistent with each other and lead in the same direction?.**

This is an interesting area as the LGA gives councils considerable discretion in relation to what they do and how they undertake what they do. Such differences theoretically reflect different local needs. Historically the problem has been that communities do not always get an effective say in these areas and different approaches lead to unnecessary confusion and costs. So the question remains as to how to align council practices across borders. In some areas best practice guidelines exist but are not mandatory. In other areas NZ Standard models [ eg By laws ] apply but again are not mandatory and in the example given you would probably want flexibility to adapt by laws to local circumstances. So there is no one quick pat solution.

The discussion document notes [ para 42 ] that councils can cooperate on specific matters, by consulting about their infrastructure spending, by sharing services, and by even holding common ownership in community controlled organisations or amalgamating some / all activities. Some examples of cooperation do exist, such as the Regional Growth Forum set up in 1996, and more recently a waste processing initiative involving ACC and MCC. In reality the relationship and cooperation between the ACC and ARC has traditionally been poor.

At times decisions made nationally impact on local communities and there is regional and local involvement in the same area - eg roading. 'This necessitates effective collaboration between these three levels of government' - but again, in reality some councils are particularly poor at collaboration. Critical decision making, in regard to roading for example, is made at the local level with little effective community input. I understand for example that our local community board is advised on proposed roading projects and information on them can be secured from council's web site but we get no say in what gets done, how and when.

**Question 17 asks to what extent it is reasonable to have regulations and processes differing between local councils**, building consents and other planning issues are given as examples. Is it a problem and how is it best overcome?

There is a case for regulated consistency across some areas of activity simply because some councils are more responsive to local community needs than others. Some have developed cheap, fast track processes for resource consents for small projects, others have not. Some have involved community boards in notification decision making in the same area, others have not. The answer would appear to be to force standardisation via regulation.

**Question 18 asks how adequate is coordination between central government and Auckland councils? What improvements if any are needed?** Much of this activity occurs outside the consciousness of local



communities. In a nutshell we do not know what is done, or not done for that matter, well or otherwise. For example reading this document was the first time I became aware of the GUEDO. Equally there does not seem to be a lot of coordination between government policies and initiatives on areas such as climate change and sustainability as they apply regionally and locally. ACC scrapped important initiatives in these areas recently without comment from either regional or central government. This suggests a need for more rigour, information sharing back to communities and more transparency. Maybe some specific monitoring as well by someone like the Auditor General.

**Issue 5 Accountability: How do we ensure that whatever form of local government is adopted, it remains properly accountable to the people of Auckland?.**

**This is a lynch pin issue.** The discussion document notes [ para 47 ] that 'at the heart of good governance is balancing the ability of the people of Auckland to have their say, on one hand, with the need to allow elected representatives to exercise leadership and get on with the job'. Immediately above this paragraph it refers to a passage in the terms of reference which talks about 'facilitating appropriate participation by citizens **and other groups and stake holders in decision making processes**'.

The whole tenor of this discussion seems to be moving away from the core intent of the LGA to empower decision making by and on behalf of communities. It implies that because of the importance of the Region economically others should be involved in decision making. From this platform we have seen suggestions of nominated business appointments onto councils. It is also worth noting the creating CCOs or LATES is seen as a mechanism to 'bring outside expertise to their decision making'. Both have the potential to erode democratic legitimacy.

The primary mechanisms for accountability are seen as the ballot box and consultation mechanisms. The first is open to political capture and the second, from experience, is largely ritualised and ineffective. Collaboration is also mentioned but it seems clear, again from experience that ACC at least has a clear antipathy to such ideas. The real problem in relation to ACC specifically is how to reign in the officers and make them accountable to the communities they are supposed to serve and are paid by.

**Question 19 asks if there are functions of local government where public participation in decision making is less important? What are they? And in what areas is it more important?**

There are some arguments around separating out infrastructure development and socio - economic development. If that idea was pursued one would want to see alternative accountability/ reporting mechanisms built into the structures. Key areas for real accountability include rates /financial expenditure, water, planning / building controls and processes, local parks / reserves, and transport.

**Question 20 asks about concern over the time and cost of consultation.**

The real issue here is about the effectiveness of the processes and as to whether sufficient heed is taken of the results. Clear standards exist at law as to the requirements of effective consultation which are often paid lip service to. Then you need a mechanism to measure if proper account has been taken of the feedback provided.

**Question 21 asks if there are other forms of involvement on council decision making that could be used?.** The real question again is what decisions should / could be made totally at the community level for surely this is the ultimate form of accountability. As to other mechanisms, there may be a role for community guardians / watchdogs within some processes.

**Question 22 asks if local bodies should be comprised of elected members only?. Should there be provision for appointment of expert members?.** This is really a reflection of poor decision making politically and again seeking ways of getting rigour into processes so that they do not become rubber stamping of officer driven positions. A case can be made for expert involvement but such ideas automatically erode democracy. The real question becomes one about improving the quality of decision making.

**Question 23 asks if council controlled organisations are adequately accountable?.** Most people would answer this question in the negative, which raises the further question as to how they might be made so. Transparency of decision making is one issue [ maybe a watchdog again? ] but I suspect many would say do we need them at all?.

**Pita Rikys  
Chairman**