

Balancing roles, communities and constraints

Prior to the nationwide reforms to local government in 1989 there were 23 boroughs and cities and 21 ad hoc bodies within the Auckland region. At the time of the amalgamation into 7 territorial authorities and the Auckland Regional Council, there were substantial concerns expressed about the change and the 'loss of local democracy and community identity' that would result. A few local boroughs bitterly fought the changes and for some in the community today, the pre-1989 period is reflected on as a far better time when 'you could easily identify and chat to your local councillors and personally know the Mayor'. So 20 years on, what are some of the impacts arising from the Local Government Commission's proposed changes from 262 elected members to 147 elected members.

A substantive change in focus and step-up in roles

If you compare the make-up of the proposed new structure of 1 Mayor, 20 Councillors and 126 Local Board Members to the current structure of 7 Mayors, plus 1 ARC Chairman, 109 councillors and 145 community board members, the most notable change apart from one Mayor, is the reduction in councillors from 109 down to 20. The role these 20 councillors will play as the governing body of the new Auckland Council will be substantially different from those that existing councillors undertake, noting that the responsibilities of existing councillors varies dramatically. Compare councillors on authorities with relatively small rating bases and populations (Papakura) and large land areas (Rodney and Franklin) to the most populous and business intensive (Auckland City) and the Auckland Regional Council with its particular focus on air and water quality, growth and development, regional parks, public transport, the coastal and marine environment, and natural and cultural heritage sites. The new 20 councillors will have governing responsibilities for the whole range of unitary authority (combining the functions of both a territorial and regional council) functions (apart from non-regulatory activities allocated to local boards) and oversight of its Council Controlled Organisations. While the councillors are to be elected from wards within which will be local boards, they will not be appointed to nor be a part of the local boards, as distinct from the current situation where councillors are appointed to community boards. This is a very important difference and relates to the two broad, systemic problems that the Royal Commission on Auckland Governance identified in current Auckland local government arrangements: (1) Regional governance is weak and fragmented and (2) Community engagement is poor¹ and the Royal Commission's view was there was a need to design a governance model that concentrates responsibility for regional decision making in a single entity.²

Separation of the councillors from the local boards signifies a fundamental shift in roles for both parties. Councillors as part of the governing body will be expected, along with the Mayor, to concentrate on the major strategic issues that face the region, articulate clear regional policies and priorities, allocate budgets and monitor implementation of plans i.e. address the 'weak and fragmented' regional governance problem. As part of the oath of office, councillors will be committing to serving the interests of the whole Auckland city-region, not the interests of their own local board or ward areas. To effectively undertake this broad regional governance responsibility, councillors will need to diligently ensure they do not become drawn into local decision-making areas. At the day-to-day level this will mean onward referral of enquiries to the local board chair or members, which no doubt will cause consternation where people expect their 'ward councillor' to deal with their local issue as has traditionally been the role, especially of territorial authority councillors. Furthermore there is likely to be substantive pressure applied by local boards for their

¹ Hon Peter Salmon (Chair), Dame Margaret Bazley, David Shand, Report of the Royal Commission on Auckland Governance, Executive Summary, Part 1, March 2009, para 17, p4.

² Ibid, para 21, p5.

'ward councillors' to advocate on behalf of their areas. But concentrating on the major infrastructure, growth, economic, social and environmental challenges for the region and providing substantive strategic engagement, vision and leadership will mean these 20 councillors need to disentangle themselves from constantly addressing day-to-day local community matters. For some, this approach will be seen as heretical - councillors that are 'remote' from the local community are 'surely an anathema to ensuring that the 'local' remains in local government'. Yet, if we accept the proposition that Auckland has been held back by a lack of clear purpose and collective action and needs to compete with other international cities for its success and that of New Zealand, then the overall governing body (20 councillors and the Mayor) will need to ensure they effectively perform a visionary, strategic leadership role that gets the big things done. Local community matters will be best addressed by the local boards whose roles will also be uniquely different from current council-community board structures.

Under the Commission's proposed structure the reduction in numbers of community board members (145) compared to local board members (126) is minimal (-19). This will in part help to address the second of the region's systemic problems i.e. poor community engagement. However disparity clearly exists between the number of citizens (population) per local board member (i.e. 1:168 Great Barrier; 1:8,800 Papakura; 1:20,275 Henderson) with some commentators calling for a structure where every citizen's vote has equal value³. However this ignores the wide disparity in voting power 'equivalence' that has existed in local government structures for generations. One only has to compare the number of votes an ARC or ACC councillor receives, yet when they sit on a regional committee these elected members have the same single vote as a councillor from Papakura, Franklin or Rodney who may have been elected with fewer votes than some local community board members. So while population per local board member is an important democratic criterion, other factors that the Commission has taken into account i.e. communities of interest (be they larger or smaller areas), ability to engage effectively with the Auckland Council are also significant. It is this latter area where it is important to consider the new and different role that local boards will have.

While the third bill may contain more detail around the role, powers and responsibilities of the local boards, the Local Government (Auckland Council) Act 2009 has already set out some substantially different functions and decision-making responsibilities for the local boards compared to functions typically performed by community boards in the region. These differences can be summarised as:

- serving a much wider purpose "better enabling the promotion of the social, economic, environmental, and cultural well-being of communities within the local board area, in the present and for the future".
- after each triennial election, adopting a local board plan reflecting the priorities and preferences of the communities within its area in respect of the level and nature of local activities to be provided by the Auckland Council over the next 3 years. This is to include standard levels of service, variations to these and indicative budgets. (Note regulatory decision-making is to be retained by the Auckland Council).
- Agreeing a local board agreement with the Auckland Council that as far as practicable is consistent with the local board plan adopted by the local board.
- The draft local board agreement and the decision-making responsibilities of each local board must be included in the Auckland Council's LTCCP and each annual plan and submissions on this material considered jointly by the governing body and the relevant local board.

³ David Thornton, "Proposed Structure World's Most Undemocratic" media release 24 November 2009, accessed from <http://www.scoop.co.nz/stories/AK0911/S00400.htm>.

- Monitoring the implementation of the local board agreement and providing independent comment on this as part of the Auckland Council's annual report, which the Council must publish.
- Propose bylaws for all or part of its local area.

While concerns exist that local boards may not be given meaningful powers, given the need for the new councillors to focus on broad, regional challenges (and subject to the extent of decision-making that is devolved to Council Controlled Organisations) local board members under the Commission's proposed structure should expect to be delegated significant local decision-making and will need to concentrate on local issues, articulate clear local priorities and policies, identify budgets and monitor implementation of its plan and agreement.

Local board members, like the new Auckland councillors, will need to recognise the change in focus required and step-up to effectively perform what are very new and very different roles.

Turning now to some of the specific matters that the Local Government Commission has determined.

Southern Boundary changes an interim solution only

The Royal Commission in its considerations determined that the southern boundary of the Auckland region should change in two ways, the first of these being that the area currently in the Waikato region north of the Waikato River, including Tuakau, Pokeno, and Mercer, be included in the Auckland region, the second involved transfer of land (Onewhero and Kaiaua) to the Waikato District. The Local Government Commission became acquainted with these issues and looked at three options, finally determining that the Act did not provide them with the discretion to adjust the Auckland region southern boundary to run along the Waikato River despite the conclusion of the Royal Commission that this would better serve communities of interest and arguments, put directly to the Commission, that it would provide more convenient access to local government services and ensure existing urban area and adjacent areas designated for future growth are located within one local authority district. It is clear that this decision is one that will need revisiting with the Commission already stating "the appropriateness of the boundary and the best means of delivering services will need to be reviewed in the short to medium term".

Ad hoc arrangements to overcome the difficulties of the boundary were helpfully suggested by Franklin District Council in its submission, and adopted by the Commission i.e. Waikato District Council and the Auckland Council should have an agreement which permits residents north of the river to access appropriate services through Auckland Council offices located in Pukekohe. An agreement will also need to occur in relation to the transfer of the Pukekohe wastewater treatment plant (located near Tuakau) where it is likely the asset will transfer to the new Watercare organisation, yet Waikato District residents will be serviced from this facility and a means of funding this service provision will need to be determined.

The Commission's decision also has a major impact on the representation arrangements for the Waikato District Council where a population of around 13,000 residents will be added to their existing population of around 44,000 an increase of about 30%. Of further importance is that the population in key transferred areas is expected to grow and this is likely to provide on-going challenges for Waikato District in changing its planning and operations to provide for this and integrating this with wider growth management and transport issues.

With the constraints placed on the Local Government Commission it appears the vexed issue of the southern boundary will be passed onto the Auckland Council, the Waikato District and Environment

Waikato to propose at some point in the future, changes to the legislation that would allow a more community of interest and growth management based boundary, rather than a water catchment boundary.

Regional Parks and moves to operate outside jurisdictional boundaries

Further changes to the southern boundary arising from the decision to align with water catchment boundaries relates to the transfer of the Mangatawhiri and Mangatangi catchments to the Waikato District. These include the Hunua Regional Park and the water supply dams owned by Watercare Services. The Commission has determined that it is appropriate for the water supply dams to be located outside of the Auckland Council area, no doubt influenced in part by the location and effective operation of the Waikato Water Treatment Plant within Environment Waikato's area, although located within Franklin District. It has also determined that vesting the regional parks with the Auckland Council, although located outside of its area is an appropriate solution enabling Auckland ratepayers to continue enjoying the benefits of the network of Hunua parks as well as funding the costs of their operations. This raises implications for other matters.

For many years Rodney District Council argued, unsuccessfully, that the Auckland Regional Council should fund maintenance on roads leading to regional parks within its district on the basis that visitors to these from outside Rodney were imposing roading costs on Rodney ratepayers. Will the Waikato District decide to explore such an arrangement with the Auckland Council or will it choose to ignore this on a quid pro quo basis given that some of its residents will also be sharing in the beneficial use of the Hunua regional park but will not be incurring rates for maintaining it.

Another potential future implication is the new concept introduced whereby it is deemed appropriate for one local government authority to own, raise rates for and manage assets, in particular parks, within another local authority area. Some years ago Environment Waikato (supported by Thames Coromandel District Council) approached the ARC to fund on-going development of land that would have represented its first ever investment in a regional park. Its main rationale was that the ARC should fund the development and maintenance of the park as it would be used by Aucklanders. The ARC, having many other sites within the region identified as priority potential acquisitions, declined the suggestion including within its rationale the precedent this would set for operational expansion beyond jurisdictional boundaries and raising of rates in one area to pay for facilities in another council area. While the Hunuas have been part of the Auckland region for many decades and this boundary alteration based on water catchments is the cause of this anomaly, it will be interesting to reflect back in future years on what unintended outcomes may result. Will Greater Wellington be asked to fund parks outside of its region?

Number of Local Boards and Members

This has been canvassed in Peter McKinlay's article, "Super sizing local boards" but it is worthwhile looking at specific examples of how the Commission has responded, in particular to Council submissions.

In the case of North Shore City, the Commission has proposed two wards and three Local Boards with 20 members (Hibiscus-Albany-East Coast Bays 9 members 1:13,378; Glenfield-Birkenhead 6 members 1:14,167; Takapuna-Devonport 5 members 1:11,920). The Council in its submission did not define exact boundaries but argued for the creation of three single member wards, six Local Boards for North Shore and one ward and local board for urban Rodney with 5-9 local board members per ward i.e. a minimum of 35 members. Clearly the Commission has not provided the number of local boards or members that North Shore felt would best serve its community.

Waitakere City is also likely to view the Commission's proposal as somewhat underdone in terms of representation. The Council had submitted for the creation of one multi-member ward (4 councillors) and five Local Boards (including one for the Avondale/Blockhouse Bay area) with a minimum of 6 members i.e. 30 members. The Commission has responded in part to Waitakere's submission by proposing one ward with 2 councillors for Waitakere but it has only proposed one local board of 9 members (elected from 4 subdivisions) for that area, plus a Whau ward with 1 councillor and a local board with 7 members i.e. a total of 16 members. Furthermore the Henderson (1: 20,275) and Massey (1:19,900) subdivisions have the highest ratio of population per board members of any of the boards. Looking at the subdivisions the Commission has proposed it would be difficult to create two Local Board areas by combination of subdivisions without creating large differences in populations per local board member or disturb communities of interest. A move to three Local Boards would create population relativity issues compared with the size of other local boards but the Council may consider that improved representation of communities of interest through more local boards and members would be worthwhile advocating for with the Commission.

Providing for communities of interest – a vexed matter

Addressing the issue of communities of interest, the proposal impacts significantly on the existing Maungakiekie Community Board area (and no doubt other areas I am not so familiar with) and illustrates some of the dilemmas the Commission will have faced in making its decisions.

The first involves transferring out of the area the residential land surrounding One Tree Hill Domain/Cornwall Park which had previously been part of One Tree Hill Borough and putting this into another ward (Mt Albert-Mt Roskill). The second also involves a transfer to the Mt Albert-Mt Roskill ward, this time it is the Royal Oak town centre and associated residential area. But while the One Tree Hill/Cornwall Park residential area has been placed in the Mt Albert local board (Epsom-Balmoral subdivision), the Royal Oak area has been placed in a different local board, Mt Roskill (Three Kings subdivision). Both the One Tree Hill and Royal Oak areas have strong historical links with the Onehunga area (transport routes from the Auckland CBD to the Onehunga port more than a century ago created a strong connection, along with churches and schools) but it is pertinent that an attempt to retain these within the Maungakiekie local board subdivision would exacerbate the already high population per member representation for the 2 Orakei-Maungakiekie ward councillors (1:80,700, +14%) which is beyond the +/- 10% requirement. While this may be difficult for the Commission to address, depending on the level of community concern that may arise, what may be more possible is addressing the third area of change for Maungakiekie.

Part of the old Ellerslie Borough Council area has been retained within Maungakiekie subdivision (western side of the motorway), however the town centre, community facilities, the racecourse and the surrounding residential community have been transferred out and into another local board area (Remuera subdivision). As part of the 1989 reforms substantial information was gathered to show the strong community of interest that united Ellerslie with Onehunga and One Tree Hill and since the amalgamation there has been significant advocacy and work undertaken by the Maungakiekie Community Board on behalf of the people in this 'transferred out' area. It would be possible to transfer this Ellerslie area out of the Remuera subdivision and into Maungakiekie with the latter having an additional local board member (going from 2 to 3) that would provide some better balance in representation compared to the Tamaki subdivision where 4 members are proposed.

The joining of Maungakiekie and Tamaki into one ward also presents community of interest issues. Many years ago Auckland City Council undertook detailed profiling work on the different communities within the Council's area. In the case of Tamaki (composed of Glen Innes, Mt Wellington, Otahuhu, Panmure, Pt England, Tamaki and Westfield) the profile revealed it had substantially different characteristics on a range of socio-economic, age and other demographic

factors compared to the Maungakiekie community (composed of Ellerslie, Onehunga, One Tree Hill, Penrose, Royal Oak and Te Papa). One of the main conclusions was that Tamaki was more akin in its population make-up to parts of Manukau City than it was to any other part of Auckland City. Given this distinctive characteristic, combining Tamaki with its larger population and consequently greater number of local board members with a much reduced Maungakiekie may result in a substantial imbalance in investment patterns as the local board members from the Tamaki subdivision vote to allocate a greater proportion of funding to their area, reinforcing their focus on the doing things for the local community that elects them.

Special circumstances – CBD governance

The proposed Maungawhau-Hauraki Gulf Ward with its 1 councillor (1:88,000) also raises some interesting matters. The first was resolved by the Act requiring the creation of Great Barrier Island and Waiheke Island local boards and further by the Commission's acceptance of the rationale presented by Auckland City Council that the strong tourism, commuting, educational and economic links both islands have with the CBD suggests it is appropriate that they are included in the same ward as the CBD.

The second matter relates to the proposed 5 member local board for Maungawhau. With a population of 78,860 (1:15,572) it has the third highest ratio of population per board member of any board yet it is in an area where population densities are expected to grow substantially that could lead to further disparity in representation compared to other parts of the new Auckland Council. Increasing the number of board members by 1 or 2 would go some way toward addressing this imbalance.

The third matter arises from the nature of the CBD itself and the likely demands that arise from it. The Royal Commission described its significance. "The centre is the hub of New Zealand's leading firms, the focus of Auckland's education and science sectors, and of its professional, financial, business, entertainment, and creative activities. Many of the region's key institutions, such as libraries, universities, galleries, courts, theatres, hospitals, and large businesses are concentrated in this area. Increasingly, it is also being recognised as a desirable place in which to live. It is Auckland's "shop window" to the world, and a focus for visitors to the region."⁴

Representation for the area has for many years been a source of debate. Whenever representation arrangements were considered by Auckland City Council, there was often a strong call for the Hobson ward (which the CBD is currently located within) to be allocated an additional councillor to deal with and advocate on behalf of the many issues that arise in the CBD. In its submission to the Commission Auckland City raised the issue of how governance of the CBD should be handled to enable participation by non-residential stakeholders (i.e. in the main businesses but also major institutions) citing the existing CBD Advisory Board as one such mechanism. This recognises the point that the Royal Commission made⁵ that governance (how decisions are made with a focus on the wider collaboration between government and interested parties in the public, private and non-profit sectors) is different from government (the structures within which decisions are made) and needs consideration as part of the reforms.

Auckland City Council also noted in its submission to the Commission that many of the decisions made in respect of the governance of the CBD are of regional significance and therefore likely to remain with the Auckland Council. This could be interpreted as releasing the local board from any obligation to serve the CBD, but it will not do so. Under the Auckland Council Act, the local board is required to communicate with 'special interest groups' within its area and it 'may consider and

⁴ Salmon et al, Executive Summary, para 50, p11.

⁵ Salmon et al, Volume One, Part One, Introduction, p45.

report on any matter of interest or concern to the local board, whether or not the matter is referred to it by the governing body'. The local board will be part of the governance of the CBD and will be expected to advocate on matters. This then further suggests that increasing the number of local board members would be a sensible variation to the Commission's proposal.

The Local Government Commission was set a challenging task by the government. A wide spectrum of structures could have been proposed, from many more local boards (closer to 30, with many more board members) to its proposal of 12 wards and 19 local boards. Overall given the parameters it had to operate within, the Commission has delivered what many will regard as a well-considered and understandable structure for the future of local government. However, as this issue's companion article suggests, there is room for different views on how well it enhances local democracy. Further detailed feedback from the community will no doubt assist the Commission to refine and improve its final position.

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