



LOCAL GOVERNMENT COMMISSION  
*MANA KĀWANATANGA Ā ROHE*

**Determination on the proposal for the transfer  
of most of the Hauraki Gulf Islands  
to Thames-Coromandel District**

**August 2009**

## Index

1.	Introduction .....	3
2.	Background .....	3
3.	The proposal .....	4
4.	Procedural points .....	5
5.	Submissions .....	7
6.	Statutory criteria .....	8
7.	Promotion of good local government .....	10
8.	Recognition of distinct communities of interest .....	10
9.	Effective representation of communities of interest .....	13
10.	Effective local governance .....	14
11.	Effective planning .....	16
12.	Effective service delivery .....	17
13.	Financial capacity .....	19
14.	Management and organisational capacity .....	20
15.	Conclusion in relation to mandatory criteria under Act .....	21
16.	Commission's determination .....	22
	<i>Appendix 1: Reorganisation proposal .....</i>	<i>23</i>
	<i>Appendix 2: Main points from written submissions and meeting .....</i>	<i>27</i>

## **1. Introduction**

1. This document sets out the findings and decision of the Local Government Commission (the Commission) on an elector-initiated reorganisation proposal (the proposal) for the transfer of most of the Hauraki Gulf Islands in Auckland City to Thames-Coromandel District.
2. The statutory process for considering such proposals is set out in Schedule 3 of the Local Government Act 2002 (LGA). The decision is required by clause 39 of Schedule 3 of the LGA.

## **2. Background**

3. A petition seeking a boundary change between Auckland City and Thames-Coromandel District, to provide for the transfer of most of the Hauraki Gulf Islands from the City to the District, was lodged with Thames-Coromandel District Council on 26 September 2008. Copies of the petition were subsequently lodged with Auckland City Council, Auckland Regional Council and Environment Waikato as affected local authorities on 29 September 2008.
4. On 6 October 2008 the Commission received a copy of advice sent to the Chief Executive of Thames-Coromandel District Council that the petition had been signed by more than the required 10% of electors of the area subject to the proposed reorganisation (i.e. by 703 of the 6,692 electors of the Hauraki Gulf Islands Ward of Auckland City). The proposal was therefore a valid proposal under clause 1(1) of Schedule 3.
5. On 5 November 2008 the Commission received advice that the Thames-Coromandel District Council, after consulting with the other affected local authorities, had resolved to refer the proposal to the Commission for consideration. Similar advice was received from the Auckland City Council, Auckland Regional Council and Environment Waikato.
6. At its meeting on 9 December 2008 the Commission agreed, under clause 36 of Schedule 3 of the LGA, to appoint Nobilangelo Ceramalus as representative of electors in relation to the proposal.
7. The Commission publicly notified the proposal on 16 February 2009 and called for submissions by 20 April 2009. A total of 365 submissions were received by the closing date with a further 31 late submissions subsequently received.
8. Of the 365 submissions received on time:
  - 13 supported the proposal (at least to the extent they supported exclusion of the islands from Auckland City);
  - 347 opposed the proposal;
  - 2 did not state a position; and
  - 3 were disinterested.

9. The proposer (Nobilangelo Ceramalus) was provided a copy of the submissions and the opportunity to withdraw the proposal pursuant to clause 38 of Schedule 3 of the LGA. At its meeting on 12 May 2009 the Commission was advised that the proposer wanted the Commission to proceed with the proposal.
10. At the same meeting the Commission agreed, under clause 37(3), to grant to the proposer and the affected local authorities the opportunity to meet with and be heard by the Commission. That meeting was held on Waiheke Island on 16 July 2009.<sup>1</sup>
11. The Commission also invited certain organisations representing particular areas and interests to the meeting. These organisations were: Great Barrier Community Board, North Barrier Residents and Ratepayers Association, Waiheke Community Board, Waiheke Community Planning Group, Vision Waiheke, Rakino Ratepayers Association, Hauraki Māori Trust Board and Ngāti Whatua o Ōrākei Māori Trust Board.<sup>2</sup>
12. Following the meeting with the proposer and affected local authorities, and after any further inquiries that the Commission wished to make, the Commission was required under clause 39 of Schedule 3 to decide:
  - a. whether to prepare a draft reorganisation scheme based on the proposal or on some modification or variation of the proposal resulting from consideration of the submissions, consultations or inquiries; or
  - b. not to proceed with the proposal.

### **3. The proposal**

13. The proposal was for the transfer of the Hauraki Gulf Islands (except Rangitoto Island and Browns Island) from Auckland City to Thames-Coromandel District.<sup>3</sup> In summary the proposal:
  - a. recognised the similar character of the Hauraki Gulf Islands and the Thames-Coromandel District and their communities (i.e. both were 'village-rural and insular');
  - b. recognised that 75.5% of the land area of Auckland City was in the 'village-rural' environment of the islands (and that Auckland should not therefore be designated a city) but that decisions made for it were made by urban decision-makers;

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<sup>1</sup> Two of the affected local authorities, Thames-Coromandel District Council and Environment Waikato, advised that they did not wish to meet with the Commission.

<sup>2</sup> The representative of the Great Barrier Community Board also represented the North Barrier Residents and Ratepayers Association at the meeting and the Hauraki and Ngāti Whatua o Ōrākei Māori Trust Boards advised that they did not wish to meet with the Commission.

<sup>3</sup> A copy of the full proposal is attached as *Appendix 1*.

- c. recognised the advantage to New Zealand of having the bulk and main parts of the Hauraki Gulf Marine Park under one territorial authority and one regional council;
- d. aimed to provide good local government that:
  - enabled democratic local decision-making and action by, and on behalf of, local communities;
  - promoted the social, economic, environmental and cultural well-being of those communities in the present and for the future;
  - respected and represented traditional values of tangata whenua;
  - restored legal city status to Auckland;
- e. proposed detailed arrangements for:
  - local authority membership;
  - community boards;
  - elected member declarations;
  - decision-making procedures;
  - aspects of financial management;
  - aspects of service delivery;
  - funding arrangements;
  - implementation of decisions under the Hauraki Gulf District Plan or Resource Management Act 1991;
  - recognition of the Hauraki Gulf Marine Park;
  - transition following the proposed reorganisation.

#### **4. Procedural points**

14. The proposal stated that, as the Hauraki Gulf Islands were 'rural-village' in nature and they comprised 75.5% of the area of the present Auckland City, the district of the territorial authority known as Auckland City Council could not be accurately described as "predominantly urban" (as required by legislation). The proposer's submission in support of the proposal went on to claim it was Parliament's clear intention that any non-urban area of a district declared to be a city must be excluded from that city. A reorganisation scheme was therefore necessary to restore the correct legal status for Auckland City.
15. At the meeting on 16 July 2009 the proposer sought referral, by the Commission to the High Court under clause 1(2)(b) of Schedule 5 of the LGA and section 10 of the Commissions of Inquiry Act 1908, of points of law relating to designation of cities and particularly the requirement

relating to “predominantly urban”. He also requested that further consideration of the proposal be suspended at the conclusion of the meeting.

16. We note that the requirements relating to designation of cities in clause 7 of Schedule 3 of the LGA apply to reorganisation schemes issued under subpart 4 of the Schedule. Schemes under subpart 4 cover proposals for the union, constitution and abolition of districts and regions. The proposal currently before the Commission is a boundary adjustment to be considered under subpart 3.
17. In any event, we believe “predominantly urban” is not the ‘either/or’ criteria the proposer claimed in distinguishing between cities and districts. A district that is not “predominantly urban” is not necessarily purely rural as the proposer suggested. In this regard we note the reference made at the meeting by the representatives of the Waiheke Community Planning Group to the Parliamentary Commissioner for the Environment’s 2000 report *Managing Change in Paradise: Sustainable Development in Peri-urban Areas*. This report says the term ‘peri-urban’ is used to describe areas that are “in some form of transition from strictly rural to urban”. It goes on “these areas often form the immediate urban:rural interface, and may eventually evolve into being fully urban. Peri urban areas are places where people are key components – they are lived in environments. The majority are on the fringe of established urban areas, but they may also be clusters of rural residential development within rural landscapes”. The report investigated six case studies of what it describes as peri-urban areas that have significant ecological, biodiversity, landform, natural character, landscape and/or cultural heritage values and where the significance of these values intensifies the pressures on these areas. One of these case studies was Waiheke Island.
18. We note further that there was a clear policy rationale behind the local government reforms which came into effect on 1 November 1989. This included the merging, where appropriate, of urban boroughs and rural counties into new districts. This is contrary to the proposer’s claim that it was the intention of Parliament to provide a clear separation between the form of local government for urban and rural areas. We believe the more circumstantial and pragmatic approach to applying the provisions of the Act are further demonstrated by the number of districts designated as cities that have large (in excess of 70 percent) rural areas.
19. We have considered the request to refer this issue to the High Court. This is a matter for the Commission’s discretion under clause 1(2)(b) of Schedule 5 of the LGA. We note that in relation to the designation of the current Auckland territorial authority as a city council, this occurred by Act of Parliament in 1989. We believe that Members of Parliament would have been well aware at that time of the nature of Auckland, and also other areas designated as cities, as a mix of urban and rural land when they passed this Act.

20. It is not the role of the Commission to seek to review or undo the actions of Parliament. We have therefore determined, for this reason and others identified above, not to refer the matter of the current designation of Auckland City to the High Court.
21. As a proposal for a boundary alteration, the Commission is required to consider the current proposal in terms of certain of the statutory criteria set out in Schedule 3 of the LGA. As noted, these criteria do not include clause 7 of Schedule 3. We note further that any party to this proposal has the right of appeal, on points of law, to the High Court.
22. A number of submitters raised the issue of whether the Commission should be considering this reorganisation proposal at this time in light of the concurrent Auckland governance reform proposals. We note that the only provision (clause 35 of Schedule 3 of the LGA) allowing the Commission to decline to proceed with a reorganisation proposal is where the same or a substantially similar proposal has been considered, declined or abandoned within the previous three years. This is not the case in respect of the current proposal.
23. We also believe that the legislation presently before Parliament relating to future Auckland local government boundaries and representational issues is a further reason not to refer the above matter to the High Court. This is because we consider such a step would be an inappropriate and wasteful use of public resources, not to mention potentially undermining of parliamentary process.
24. Having met the requirements of clause 37(3) of Schedule 3 of the LGA, relating to the opportunity for the proposer and affected local authorities to meet with the Commission, we are now in a position to determine, pursuant to clause 39 of Schedule 3, whether or not to proceed with the proposal.

## **5. Submissions**

25. A total of 365 written submissions on the proposal were received by the due date of 20 April 2009. Thirteen of these submissions, all opposed to the proposal, were in the form of petitions with a total of 1,086 people signing these petitions. A further 31 late submissions were also received.<sup>4</sup>
26. Of the 365 submissions received on time:
  - a. 132 were from Waiheke Island individuals or organisations (with 81 submitting a standard appendix to their submission);

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<sup>4</sup> Of the 31 late submissions (two of which were in the form of petitions signed by 80 and 11 individuals respectively), one supported and 30 opposed the proposal. Six were from Waiheke Island, 24 were from Great Barrier Island and one from Rakino Island.

- b. 190 were from Great Barrier Island individuals or organisations (with 179 in a standard format);
  - c. 17 were from Rakino Island individuals or organisations;
  - d. 7 were from Thames-Coromandel District individuals or organisations;
  - e. 8 were from local authorities; and
  - f. 11 were from other individuals or organisations.
27. Of the 13 submissions in favour or partly in favour of the proposal:
- a. 11 were from Waiheke Island individuals;
  - b. 1 was from a Great Barrier Island individual; and
  - c. 1 was from a Rakino Island individual.
28. The 347 submissions opposed to the proposal included those from the four affected local authorities (Auckland City Council, Thames-Coromandel District Council, Auckland Regional Council and Environment Waikato), the two most affected community boards (Waiheke and Great Barrier) and two Māori trust boards in the area (Hauraki and Ngāti Whatua o Ōrākei).
29. The main points raised in written submissions and at the meeting on 16 July 2009, for and against the proposal, are summarised in *Appendix 2*.

## 6. Statutory Criteria

30. Clause 3 of Schedule 3 of the LGA provides that:
- (1) *When considering a reorganisation proposal or scheme ... the Commission must satisfy itself that the proposal or scheme will –*
    - (a) *promote good local government of the districts or regions concerned; and*
    - (b) *ensure that each local authority provided for under the proposal will –*
      - (i) *have the resources necessary to enable it to carry out its responsibilities, duties, and powers; and*
      - (ii) *have a district or region that is appropriate for the efficient and effective performance of its role as specified in section 11; and*
      - (iii) *contain within its district or region a sufficiently distinct community of interest or sufficiently distinct communities of interest; and*
      - (iv) *be able to meet the requirements of section 76.*



- (2) *When considering the matters specified in subclause (1) in relation to any reorganisation proposal or scheme ... the Commission must have regard to –*
- (a) *the area of impact of the responsibilities, duties, and powers of the local authorities concerned; and*
  - (b) *the area of benefit of services provided; and*
  - (c) *the likely effects on a local authority of the exclusion of any area from its district or region; and*
  - (d) *any other matters that it considers appropriate.*

31. Clause 4 provides:

*In determining boundaries under any reorganisation proposal or scheme, ... the Commission must ensure that, –*

- (a) *if practicable, the boundaries of regions conform with catchment boundaries; and*
- (b) *if practicable, the boundaries of districts conform with the boundaries of regions; and*
- (c) *the boundaries of regions and the boundaries of districts conform with the boundaries of statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes.*

32. Clause 6 provides:

*A reorganisation proposal may not proceed if the implementation of that proposal would result in the constitution of –*

- (a) *a district with a population of less than 10,000 persons; or*
- (b) *a region having both a separately elected regional council and a population of less than 50,000 persons.*

33. The Commission has previously agreed that the main criterion – ensuring that the proposal will promote good local government – requires it to consider whether the proposal will result in *improved* local government arrangements in the area.<sup>5</sup> These arrangements will need to result in local authorities that can give *better* effect to the role and purpose of, and principles relating to, local authorities. These elements of good local government are set out in sections 10, 11 and 14 of the LGA.

34. We note the current population of the Hauraki Gulf Islands Ward of Auckland City is less than the required 10,000 persons to enable it to be constituted as a separate territorial authority. Therefore the Commission

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<sup>5</sup> The Commission considers that in the context of the legislation, the word “promote” should have the meaning of: to advance, enhance, or improve local government arrangements.

can only consider the promotion of good local government in relation to the proposal or some modification of the proposal.

## **7. Promotion of good local government**

35. In order to assess whether a reorganisation proposal will promote good local government in a particular area, the Commission has identified the following questions that need to be addressed:

- (a) would the proposed districts/regions better recognise distinct communities of interest?
- (b) would the proposal provide for more effective representation of communities of interest?
- (c) would the proposal provide for more effective governance of the districts/regions concerned including meeting decision-making requirements?
- (d) would the proposal facilitate more effective planning for meeting the immediate and long-term needs of the districts/regions concerned?
- (e) would the proposal facilitate more efficient and effective service delivery in the districts/regions concerned?
- (f) would the proposal provide for enhanced financial capacity in the districts/regions concerned?
- (g) would the proposal provide for enhanced local government management and organisational capacity in the districts/regions concerned?

36. Issues relating to these questions are identified below.

## **8. Recognition of distinct communities of interest**

37. The Commission has identified the following three dimensions in recognising communities of interest:

- the extent to which residents have a sense of identity with and belonging to the community based on the physical, social and cultural features and characteristics of the area;
- the ability to meet the community's needs for services (both council and non-council services); and
- the ability to represent the interests and reconcile the conflicts of the community.

38. We note that the residents and property owners of the present Hauraki Gulf Islands Ward of Auckland City, both those for and against the proposal, clearly have a strong identity with and sense of belonging to at

least their own island in the ward. This arises from the 'village-rural' nature of the communities as described by the proposer.

39. A number of submitters acknowledged commonalities between the nature and characteristics of the islands and those of Thames-Coromandel District. However while acknowledging these commonalities, the vast majority of submitters identified factors which they believed tie the islands more closely to the Auckland mainland.
40. The Waiheke Community Board submitted: "although we are an island community, geographically separate and relatively isolated, it is our view that we are inextricably tied to Auckland. We have more contact with Auckland City than any other geographical area. A significant percentage of our population commutes to Auckland each day to work, with others travelling for a variety of reasons including shopping, visiting, education, sport, social occasions and medical appointments. Approximately 15% of the community travels to Auckland on any week day."
41. The Great Barrier Community Board also submitted on the close ties with Auckland including: "regular scheduled all year round vehicular, freight and passenger ferry services between Auckland and Great Barrier and two airlines providing daily scheduled air services between Auckland Airport and Great Barrier".
42. In relation to the ability to meet residents' needs for services, the vast majority of submitters identified the ability of the Auckland City Council to provide adequate levels of services to the islands. On the other hand many questioned the ability of Thames-Coromandel District Council to provide similar levels of service. The Thames-Coromandel District Council itself questioned its own capacity to do this.
43. Clearly there are a number of strong functional linkages, by way of both council and non-council services, between the islands and the Auckland mainland such as in transport<sup>6</sup>, employment<sup>7</sup>, shopping and cultural and recreation services and amenities. In addition the islands are part of the area of the Auckland District Health Board, the Auckland police district and the Department of Conservation's Auckland conservancy.
44. The Waiheke Community Board submitted that since amalgamation in 1989, the Waiheke community was "now very dependent on Auckland City Council for most of the infrastructure that we need as a community

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<sup>6</sup> Auckland Regional Council submitted that there were regular ferry services to both Waiheke Island (20 services a day by Fullers and 11 Sealink services) and to Great Barrier Island along with a regular (daily) 30 minute flight from Auckland airport to Great Barrier. On the other hand the one regular ferry service to Coromandel town was to have ceased operation in April 2009 and in any event further transport would be required to get to Thames.

<sup>7</sup> Auckland Regional Council cited Statistics New Zealand data identifying employment location of Waiheke Island residents as follows: Waiheke 56.48%, Auckland CBD & central suburbs 13.52%, remainder of Auckland region 10.90%, Waikato region 0.24%, New Zealand/not further defined 18.85%.

and particularly as a community that is highly dependent on the visitor industry for its economic well-being”.

45. On the other hand, the Thames-Coromandel District Council submitted that it “believes that, while there are similarities between Thames-Coromandel District and Hauraki Gulf Islands, there is no demonstrated community of interest due primarily to a lack of shared identity and transportation links”.
46. We note that the Royal Commission on Auckland Governance concluded that the ‘inner’ Hauraki Gulf Islands (centred on Waiheke Island) “are clearly part of, and should remain in, Auckland region”. In respect of the ‘outer’ Gulf Islands, while acknowledging other options such as this proposal, the Royal Commission concluded, on balance, for reasons of transport and social connections, general local acceptance of current arrangements, and “especially the need for financial support to the islands which can be funded only by a large group of ratepayers ... that all of the Hauraki Gulf islands should remain in the Auckland region”.<sup>8</sup>
47. Representation and reconciliation of Hauraki Gulf community interests is currently achieved through a variety of mechanisms. These include residents and ratepayers associations, community boards and specific ward representation all of which appear to be active on the islands. These arrangements may well continue if the proposal were to be implemented but we believe their continued, or improved, efficacy may be a challenge given transport factors and would depend on decisions relating to such matters as delegations from the local authority.
48. As noted by many submitters, the Hauraki Gulf Islands have a significant number of non-resident property owners. At the 2007 local authority elections, 282 persons were enrolled as non-resident ratepayer electors on Waiheke Island and 52 on Great Barrier Island being 4.8% and 7.8% respectively of total electors. These percentages are high compared to the national average of non-resident ratepayer electors to total electors for district and city councils of 0.64% and 0.14% respectively. To us this reflects a high level of identity with and engagement in Hauraki Gulf Islands community issues by non-resident property owners, the vast majority of whom are from the greater Auckland area.
49. At the national level, the Gulf Islands are linked to Auckland as part of the Auckland Central Electorate and have been so for many years.
50. Account also needs to be taken of the interests of local iwi in relation to the Gulf Islands, historical associations and other interests including the holding of mana whenua status.

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<sup>8</sup> *Auckland Governance Report Volume 1 March 2009 Report of the Royal Commission on Auckland Governance* p. 397

51. Ngāti Whatua o Ōrākei Māori Trust Board submitted that it represents the three southern hapū of the Ngati Whatua iwi whose rohe incorporates, in territorial authority terms, Auckland City, North Shore City, the bulk of Waitakere City and some shared parts of Manukau City.<sup>9</sup> The Board said it believed that “the overwhelming number of tribal connections are to lands within what is currently Auckland City, North Shore City and Rodney District. Therefore, quite apart from other considerations, we believe that the Gulf islands should not be governed by the Thames-Coromandel District Council and Environment Waikato-Hauraki”.

## **9. Effective representation of communities of interest**

52. A principle of the Local Electoral Act 2001 is the achievement of fair and effective representation for individuals and communities. Fair representation is defined in terms of approximate equality in representation of electors i.e. the ratio of population per member is within +/-10% of the average for the district as a whole. Effective representation is not defined in the Act but the Commission has identified the following factors to be considered:
- a. avoiding arrangements that may create barriers to participation, such as at elections, by not recognising residents’ familiarity and identity with an area;
  - b. not splitting recognised communities of interest;
  - c. not grouping together two or more communities of interest that share few commonalities of interest; and
  - d. accessibility, size and configuration of the area concerned.
53. In 2007 the Commission determined the representation arrangements for Auckland City including continuation of a Hauraki Gulf Islands Ward represented by one councillor. This did not comply with the +/-10% fair representation requirement set out in the Local Electoral Act but exceptions are allowed for in respect of island communities. The Commission also determined that the existing Great Barrier and Waiheke Community Boards should continue with five elected members each plus the ward councillor. There had been no appeals or objections on these matters.
54. The reorganisation proposal was for separate Waiheke and Great Barrier Wards to be constituted as part of an enlarged Thames-Coromandel District electing two and one councillor respectively. The establishment of Waiheke and Great Barrier Community Boards was also proposed with nine and eight members respectively.
55. The proposed ward arrangements were as follows:

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<sup>9</sup> It is acknowledged that other iwi and hapū, including those represented by the Hauraki Māori Trust Board, also have interests in these areas.

New district:	population: 35,930 11 councillors (from 5 wards) average population/member: 3,266.4
Great Barrier Ward:	population: 852 <sup>10</sup> 1 councillor population/member: 852 (-73.9%)
Waiheke Ward:	population: 7,764 <sup>11</sup> 2 councillors population/member: 3,882 (+18.8%)

56. Notwithstanding the exceptions to the +/-10% rule provided for in the Local Electoral Act, we believe it would be difficult to justify separate ward representation for Waiheke and Great Barrier Islands in terms of electoral fairness in relation to the remainder of the proposed district. Similarly, we believe the establishment of equal size community boards for both proposed wards would provide significantly disproportional levels of community board representation in comparison to that currently applying in Thames-Coromandel District.
57. In relation to effective representation, concerns were raised by a number of submitters about the ability of both local and regional councillors to provide this under the proposal, particularly in terms of accessibility, given the dispersed nature of the area and the travel distances involved. This was noted specifically in respect of the proposed one councillor for the combined Thames-Coromandel-Hauraki Gulf Constituency of Environment Waikato.

## 10. Effective local governance

58. The role of local authorities under the LGA includes to give effect to the purpose of local government. This purpose is to:
- enable democratic local decision-making and action by, and on behalf of, communities; and
  - promote the social, economic, environmental and cultural well-being of communities, in the present and for the future.
59. The Commission, in considering a reorganisation proposal, is required to satisfy itself that each local authority has a district or region that is appropriate for the efficient and effective performance of its role and that each local authority will be able to meet the requirements of section 76 of the Act. Section 76 sets out requirements relating to decision-making, consideration of community views, contributions to decision-making by

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<sup>10</sup> 2006 census

<sup>11</sup> 2006 census

Māori, and consultation. We note all four affected local authorities are opposed to the proposal.

60. The Thames-Coromandel District Council submitted that it had concerns about its capacity to meet statutory requirements relating to consultation and contributions by Māori to decision-making, if the proposal were to be implemented. As an example, it referred to the resources applied to facilitate contributions by Māori to decision-making within Thames-Coromandel District (Māori comprise 14.7% of the usually resident population). The Council noted that 12.5% of the usually resident population of the Hauraki Gulf Islands is Māori and that further significant levels of resources would be required to extend processes to the islands.
61. The Council also submitted that it “believes that a change of boundaries to include the Hauraki Gulf Islands would not improve the efficient and effective performance of the Council’s role as a local authority and is likely to be less efficient in the delivery of governance and services to the Hauraki Gulf Islands due to the lack of direct transportation links between the two areas.”
62. A number of Waiheke submitters, both for and against the proposal, did raise concerns about what they saw as a poor relationship between the community and the Auckland City Council. The proposed introduction of wheelie bins as part of the waste management service was given as an example of a need to address present Council governance and decision-making processes.
63. We also note that the Royal Commission on Auckland Governance commented on the number of submissions from Waiheke and that “almost all the submitters were dissatisfied with the current status of Waiheke Island in Auckland City. They perceived their ward councillor had insufficient power to influence the decision-making of the city council on matters affecting Waiheke”. Other recorded concerns about the relationship between Auckland City Council and Waiheke included: “out of touch with the needs and desires of Waiheke residents”, “relationship with Waiheke was adversarial”, and “the unique character of Waiheke was not recognised or understood”. The Royal Commission concluded that “the main problem seems to be that most decisions are made in downtown Auckland”.<sup>12</sup>
64. In respect of Great Barrier submissions, the Royal Commission recorded that “more than 10% of the island’s permanent residents sent submissions, with a general call to protect their community board and give it more autonomy” and “unlike most Waiheke submissions, many submitters from Great Barrier Island asked for representation to continue through the ward councillor and community board as part of a ‘greater Auckland’ City”.<sup>13</sup>

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<sup>12</sup> *Auckland Governance Summary of Submissions Volume 3 March 2009 Report of the Royal Commission on Auckland Governance* p. 247

<sup>13</sup> *Ibid* p. 250

65. We are concerned at the tenor of some of the submissions, both to us and to the Royal Commission, regarding the relationship between the Auckland City Council and the island community boards. We believe the relationship could be improved with, among other things, earlier and more open-ended communication from the Council in regard to particular issues or proposals, and by consideration of more significant delegations to the island community boards to allow them to exercise more decision-making in respect of local issues reflecting local preferences.

## **11. Effective planning**

66. The Commission, in addressing the proposal, is required to consider the area of impact of the responsibilities, duties and powers of the local authorities concerned and the likely effects on particular local authorities of the exclusion of any area from their district or region. In doing so, it also needs to consider the impact of the proposal on the concerns of tangata whenua.
67. All local authorities are required to produce long-term council community plans and to review these every three years. They are also required to produce annual plans in years two and three of this cycle as the basis for setting rates. The existing resources, both financial and non-financial, of the local authorities affected by the proposal need to be considered in relation to their ability to provide effective planning for their districts/regions given their differing nature and characteristics. Levels of resources and local authority capacity are addressed later.
68. In relation to the nature and characteristics of the Auckland Region, the Auckland Regional Council described in its submission the linkages between the Hauraki Gulf, Waitemata Harbour and the Auckland mainland. It believed the proposal would have a detrimental impact on the current integrated management approach adopted in the region. It referred to this impact in relation to the Council's responsibilities and functions relating to regional parks, harbourmaster services and navigation safety, growth and environmental management (including control of pollution and other impacts often sourced or arising from developments or activities on the mainland), transport planning and management. Maritime New Zealand also raised similar concerns about the impact of the proposal in relation to the effectiveness of oil spill planning and response functions.
69. The Auckland City Council submitted that the distinct character of the Hauraki Gulf Islands Ward "is recognised by its inclusion in the area defined by the Hauraki Gulf Island Marine Park Act 2000. The purpose of this Act is to integrate the management of the natural, historic and physical resources of the Hauraki Gulf, its islands and catchments".



70. The Waitakere City Council also submitted on the importance of integrated and sustainable management of the Auckland Region including the Hauraki Gulf. The Council considered that the proposal took too narrow a perspective and “does not address the role and relationships of Great Barrier Island and Waiheke Island to a range of organisations and issues that sit squarely within the Auckland Region”.
71. The Auckland Regional Council noted that the Hauraki Gulf and islands are of national and regional ecological significance including in relation to preservation of indigenous flora and fauna. The Council has developed a number of initiatives and programmes in this area such as in relation to pest management, biodiversity and cultural heritage sites. Some of these initiatives and programmes have been developed in association with interested bodies such as the Hauraki Gulf Forum and the Department of Conservation. The Council was concerned about the impact of the proposal on initiatives and programmes given the current integrated management approach and the relative remoteness of Environment Waikato. It was also concerned about the separation of Rangitoto and Browns Islands in the proposal given that Rangitoto and Motutapu Islands are joined by a causeway.
72. The Hauraki Māori Trust Board submitted on the need for a management framework for the Hauraki Gulf Islands that is “holistic, connected to the waters and whenua of Tikapa Moana and aligned to the traditional rohe of Hauraki”. It stated that the existing arrangements for local government in the Auckland and Waikato Regions do not respond to such tangata whenua concerns with several local authority boundaries intersecting and dividing the traditional rohe of Hauraki and its management. It went on to say that the proposal did not alter or address Hauraki concerns but maintained the status quo.
73. The Board said it was very aware that many of the adverse impacts affecting the Hauraki Gulf Islands came from pressures of a highly urbanised city on their doorstep. It stated it was not convinced that these pressures on the islands “will be better served by having Auckland generated impacts addressed through a primarily rural lens from Hamilton or Thames. On the contrary, the Board was concerned that the long-term sustainability issues facing the Hauraki Gulf Islands and Tikapa Moana could be exacerbated under the transfer proposal”.

## **12. Effective service delivery**

74. The Commission is required to consider the area of benefit of services provided by the particular local authorities and the likely effects on those local authorities of the exclusion of any area from their district or region.
75. The Auckland City Council submitted that infrastructure on the islands had significantly improved since the islands were amalgamated with the City in 1989. It also stated that “the purchase of land and the continual

upgrade by the Council of roading and public facilities showed the importance of the islands to Auckland City as a whole". The Council identified a list of specific improvements to services on the islands including management of open spaces, weed control, erosion management, road sealing, land purchases, parkland and walkway development, the Owhanake wastewater treatment plant, wharf development and maintenance, development and maintenance of airfields, and landfills.

76. We note that the proposer in his submission questioned the appropriateness of levels of service provided by the Auckland City Council in a number of areas. He claimed "significant over-design" in services such as roading, footpaths and service lanes, and also in relation to the facilities at the ferry terminal. It appears to us that this is an example of the need for improved communication and early involvement of the local community in council decision-making.
77. The Auckland City Council also noted, in relation to service delivery, the importance of consistent boundary alignment with other regional organisations such as the Department of Conservation, Auckland District Health Board, Police and the Auckland Civil Defence and Emergency Management Group. We agree with this submission.
78. The Thames-Coromandel District Council submitted that its district "is an area of small dispersed communities resulting in the duplication of services and infrastructure, hampered by the geography of the peninsula and the need to cater for a peak population of approximately 137,000 as against a permanent population of 26,000. Council is grappling, through its 2009-2019 ten year plan process, with the need to contain or reduce services and capital expenditure to remain financially sustainable in the current financial environment."
79. The Council went on to note that the Hauraki Gulf Islands operated in a similar environment and with similar needs but that "unfortunately, the nature of small, scattered communities denies much of the opportunity for economies of scale with respect to services and infrastructure, which might otherwise accrue through the combining of two districts. The physical distance, accessibility and isolation of island communities and the lack of a common transportation system between the Hauraki Gulf Islands and the Thames-Coromandel District exacerbates this situation".
80. Environment Waikato submitted that because of the linkages between the Hauraki Gulf and the Auckland Region it considered "all the regional functions/integrated environmental management activities undertaken by local government are and can be more efficiently, effectively and economically delivered/managed from Auckland than Hamilton and Thames". As an example of the negative effects of the proposal, if it were to be implemented, it identified the split of Rangitoto and Browns Islands from the other islands as having to require three agencies (Auckland Regional Council, Environment Waikato and the Department

of Conservation) to be involved in any pest management decisions as Rangitoto and Motutapu Islands are linked by a causeway.

### **13. Financial capacity**

81. The Commission is required to satisfy itself that each local authority provided for in a reorganisation proposal will have the resources necessary to enable it to carry out its responsibilities, duties and powers.
82. The Auckland City Council submitted that there had been significant investment in the islands from Auckland City since amalgamation and that this investment “has at all times, exceeded the rate revenue generated from the islands”. It said that to maintain present levels of service should the proposal go ahead, would require either the Thames-Coromandel District Council and Environment Waikato to make up the shortfall or island rates to be significantly increased.
83. This was supported by the Great Barrier Community Board which submitted that “Council’s expenditure and costs on Great Barrier far exceed any rates and other revenue levied on the island. Thames-Coromandel have only a very small ratepayer pool from which to fund and support Great Barrier. Most of the island is controlled by the Department of Conservation. They contribute no rates income at all. The cost of long overdue capital works projects each financial year far exceeds the island’s income. The prime beneficiaries of our infrastructure funding are the large numbers of visitors (mainly from the Auckland Region) who holiday on the island each year and the considerable number of non-resident property owners/ratepayers who primarily reside in the Auckland Region”.
84. On the other hand the Thames-Coromandel District Council submitted that it was already under significant financial pressure as a result of such factors as:
  - the geography of the District including a number of off-shore islands;
  - the nature of settlement with over 50 very diverse communities;
  - the older than average population;
  - the significant number of ‘part-time’ residents;
  - the influx of people over the Christmas/New Year period (on average five times the District’s normal population, and up to 26 times in particular areas) placing significant additional pressure on services such as water supply;
  - growth and development pressures on the natural environment;
  - the impact of new infrastructure requirements on rating levels.

85. The Thames-Coromandel District Council stated that it “believes that, at present based on the draft 2009-2019 ten year plan, Council is unlikely to have the resources necessary to carry out responsibilities, duties, and powers required to effect a boundary change to include the Hauraki Gulf Islands; and would need to conduct a full due diligence process to determine what resources would be required, and are available, if the reorganisation proposal were to proceed.”
86. In addition to its remoteness from the Hauraki Gulf, a number of submitters also questioned whether Environment Waikato had the resources (financial and people) to carry out the responsibilities and functions presently undertaken by Auckland Regional Council as reflected by the populations they serve. Environment Waikato presently serves a population of 402,220 in comparison to 1,414,700 served by the Auckland Regional Council while Thames-Coromandel District Council serves a population of 26,800 in comparison to 438,100 served by Auckland City Council.

#### **14. Management and organisational capacity**

87. The requirement for local authorities provided for in a reorganisation proposal to have the necessary resources to carry out their responsibilities, duties and powers, covers both financial and non-financial resources. Existing local authority management and organisational capacity has to a certain extent, either directly or indirectly, been addressed above under the headings of ‘effective planning’, ‘effective service delivery’ and ‘financial capacity’.
88. As already noted and expressed by a number of submitters, it appears that Auckland Region collectively has considerable expertise and has more capacity for managing growth and is also better placed to do this than the more rurally focused Thames-Coromandel District Council and Environment Waikato. This expertise and capacity does not reside exclusively within the Councils but exists also as a result of the partnerships and collaborations entered into by these Councils. As also noted, a number of these partnerships and collaborations may be threatened if the proposal were to proceed.
89. Both the Thames-Coromandel District Council and Environment Waikato acknowledged the expertise and capacity of the Auckland City and Regional Councils in many of the areas identified in this report. They also raised capacity issues should they be required to assume new responsibilities as a result of the proposal being adopted.

## **15. Conclusion in relation to mandatory criteria under Act**

90. As noted in section 6 of this report, the Commission must be satisfied, under clause 3(1) of Schedule 3 of the LGA, that a reorganisation proposal will promote good local government of the districts/regions concerned and in this context we take 'promote' to mean 'enhance' or 'improve'. We have identified a series of questions to assist us to address this requirement and these questions and our responses to them have been set out in this report.
91. In summary we have found the proposal:
- (a) fails to recognise actual communities of interest and we believe that the current local government structural arrangements best recognise the community of interest between the Hauraki Gulf Islands and Auckland City and Region;
  - (b) would be unlikely to meet statutory requirements for effective representation of communities of interest in the Hauraki Gulf Islands or fair representation for electors;
  - (c) would not provide districts and regions that are appropriate for the affected local authorities to efficiently and effectively perform their roles including provision of effective local governance for the Hauraki Gulf Islands;
  - (d) fails to recognise in many cases the actual area of impact for the provision of effective and integrated planning for the Hauraki Gulf, Waitemata Harbour and the Auckland mainland;
  - (e) fails to recognise in many cases the actual area of impact for the provision of efficient service delivery and would be likely to result in reduced levels of service to the Hauraki Gulf Islands;
  - (f) fails to recognise the need for the affected local authorities, particularly the Thames-Coromandel District Council and Environment Waikato, to have sufficient financial capacity to enable them to carry out their responsibilities, duties and powers while these resources are currently available in the Auckland City and Regional Councils; and
  - (g) fails to recognise the need for the affected local authorities, particularly the Thames-Coromandel District Council and Environment Waikato, to have sufficient management and organisational capacities to enable them to carry out their responsibilities, duties and powers while these resources are currently available in the Auckland City and Regional Councils.

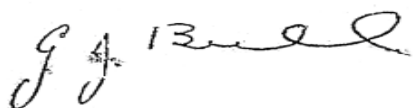
## 16. Commission's determination

92. Having assessed the proposal and all submissions made on it, against the criteria contained in clauses 3 and 4 of Schedule 3 of the Local Government Act 2002, the Commission has decided under clause 39 of Schedule 3 not to proceed with the proposal. It finds that a draft reorganisation scheme based on the proposal, or on modifications to the proposal, would not promote good local government of Auckland City, Auckland Region, Thames-Coromandel District or Waikato Region.

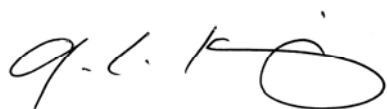
## THE LOCAL GOVERNMENT COMMISSION



Sue Piper (Chair)



Gwen Bull (Commissioner)



Grant Kirby (Commissioner)

13 August 2009

### Appendix 1.1: Reorganisation Proposal

## RE-ORGANISATION PROPOSAL

*For transferring the Hauraki Gulf Islands Ward (except Rangitoto Island and Browns Island) to the Thames-Coromandel District*

As the originating proposer, and the representative elector under Clause 36 Schedule 3 of the Local Government Act 2002, with the support of more than 10% of the 6692 registered affected electors in the Hauraki Gulf Islands Ward under Auckland City Council, being co-signatories on a petition/application made under Clause 1 Schedule 3, I, Nobilangelo Ceramalus, of 2-4 O'Brien Road, Rocky Bay, Waiheke Island, propose that:

#### Preamble:

Recognising the closely similar character of the Hauraki Gulf Islands and the Thames-Coromandel District, and the closely similar characters of their communities, and;

Recognising that the character of the islands is village-rural and insular, and therefore that the urban-isthmus environment and political direction of Auckland City Council make it impossible for it to sympathise with the aspirations and true well-being of the island communities, and;

Recognising that 75.5% of the land area of Auckland City Council's district is in the village-rural environment of the islands, but that the decisions for it are made by urban decision-makers, and;

Recognising therefore that the present local government is inimical to the best interests of the islands, and;

Recognising that because 75.5% of the land area in Auckland City Council's jurisdiction is on the islands its district is not predominantly urban and therefore that Auckland has since 1989 had no right in law to be called a city and Auckland City Council has had no right in law to be called a city council, and;

Recognising that because the islands are predominantly non-urban, and that Parliament's purpose in clause 7 Schedule 3 of the Local Government Act 2002 and the corresponding section in the 1974 Act was to keep separate and distinct the administrations of predominantly urban and predominantly non-urban communities, and therefore for the islands to have been put under the administration of a city council in the amalgamation of 1989 was not in accordance with that purpose, and;

Recognising the advantage to New Zealand of having the bulk and main parts of the Hauraki Gulf Marine Park under one local authority and one regional authority:

#### Purpose:

This reorganisation is to ensure that the Hauraki Gulf Islands have good local government, to the best standard available; sympathetic local government that enables democratic local decision-making and action by, and on behalf of, their communities, and that promotes the social, economic, environmental and cultural well-being of their communities, in the present and for the future, in a way that is fundamentally sympathetic to their traditional character and independent spirit, and must therefore be separate from a city; and so that the traditional values of the Tangata Whenua are respected and represented; and to restore legal city status to Auckland and its council; and to reverse and cancel the amalgamation of the islands with the city in 1989:

#### Proposals:

1. The Hauraki Gulf Islands now under the administrations of Auckland City Council and Auckland Regional Council (but excluding Rangitoto Island, an Auckland icon, and Browns Island, which was a gift to Auckland City, hereinafter 'the islands') shall by a boundary-change be transferred to Thames-Coromandel District Council (hereinafter 'the Council') and Environment Waikato Regional Council (hereinafter 'the Regional Council').
2. (a) The Council now has 9 members for 22,215 electors, this boundary-change would make that 28,907 electors by adding 6692 (23.15%), and reckoning proportionally on the new total makes 11.71 members; therefore there shall be 12 members by adding 2 from a Waiheke Ward made up of Waiheke Island and its smaller neighbours (hereinafter 'Waiheke') and 1 from a Great Barrier Ward made up of Great Barrier Island and its smaller neighbours (hereinafter 'Great Barrier');  
(b) The present peninsular councillor on the Regional Council shall represent both wards also;  
(c) There shall be a by-election for the 2 new district councillors, and to fill any vacancies caused by resignations in 3(b), using the method of voting then in use by the Council;  
(d) The present Hauraki Gulf Islands councillor on Auckland City Council, who lives on Waiheke Island, shall become a Waiheke councillor on the Council, subject to 3(b).
3. (a) There shall be two community boards for the islands, one for Waiheke and one for Great Barrier, (hereinafter 'the community boards' or 'boards'; and hereinafter 'community board' or 'board' means either of those boards) each with 5 members elected from the general local electoral roll, plus one representative of the Tangata Whenua elected from a subdivision of each ward that shall consist of all those on the relevant local Maori roll, plus the councillor/s for each ward who shall be appointed to its board, plus the mayor of the district who shall be appointed to each board, making a board of 9 members for Waiheke and 8 members for Great Barrier;  
(b) (i) To ensure good local government, within seven days of the Order in Council that establishes this reorganisation (hereinafter 'the Order in Council') all existing members of the community boards, both elected and appointed, must in

- writing commit themselves unreservedly to this reorganisation, witnessed and counter-signed by the mayor and chief executive officer of the Council, and any who refuse to must immediately resign;
- (ii) The wording of the declaration in 3(b)(i) shall be: 'I [name], a [community board member/councillor] of the [Waiheke/Great Barrier Ward] solemnly declare that I will while I hold this elected office unreservedly support the local-body reorganisation that by an Order in Council in [month] 2009 transferred via a boundary-change the islands in the Hauraki Gulf Islands Ward of Auckland City Council, except Rangitoto Island and Browns Island, into the jurisdiction of [name of council], and from the jurisdiction of Auckland Regional Council into the jurisdiction of Environment Waikato Regional Council';
- (c) All who stand in the by-election and in the local-body election in 2010 must in writing within seven days of their nomination commit themselves unreservedly to the reorganisation in the same words as in 3(b)(ii), witnessed and counter-signed by the mayor and chief executive officer of the Council, and any who refuse to must withdraw their candidacy, and clear reference to that commitment must be clearly included in all their campaign advertising;
- (d) The wording of the statutory declaration made under Clause 14 of Schedule 7 of the Local Government Act 2002 by those who sit on the community boards shall be as it was before this reorganisation except that the phrase '[island] community' shall be changed to '[island] ward';
- (e) Within fourteen days of the official results of the by-election an extraordinary meeting of each community board shall be held at which the present chairs and deputy chairs shall resign, then each board shall elect a new chair and deputy chair from among the 5 elected community board members;
- (f) (i) Decision-making in the community boards will be in accordance with Council Standing Orders, save when matters being decided are of significance to Tangata Whenua, when decision-making shall be by consensus;  
(ii) Decision-making of the Council on islands matters that are of significance to Tangata Whenua shall be by consensus, and shall use advisory committees representing affected Maori;
- (g) The regional councillor shall attend all ordinary meetings of the community boards to report and be consulted and advise from a regional perspective, and to keep closely aware of ward issues that affect and are affected by regional decisions;
- (h) The mayor may vote at community board meetings by any method of proxy.
4. (a) All decision-making for the islands shall be according to law, in particular the Local Government Act 2002, and in most particular it shall be founded on, informed by, and referred to ss10 and 14 of that Act (the purpose and the principles);  
(b) Breaches of the Act in governance or management may be submitted to the process laid down in s238;  
(c) The document *Essentially Waiheke* (but with wording revised as necessary due to this change in administration, statistical updates, errors, changes in statute, and non-conformity with statute), in particular its five core principles, shall be referred to and inform all decisions made for Waiheke, in particular annual plans, district plans, regional plans, and individual planning applications;  
(d) Documents to match *Essentially Waiheke* shall be written for each island, after comprehensive and open consultation, in particular with permanent residents whose majority wishes shall be preferred, and it shall be referred to and inform all decisions made for each island, in particular annual plans, district plans, regional plans and individual planning applications.
5. There shall be a financial firewall for capital expenditure and loan-repayments, so that the peninsula's undertakings under those headings do not add to any island rates, and no island undertakings add to the peninsula's, and no island ward's add to any other island ward's.
6. (a) The islands shall share proportionately their actual and reasonable share of the administrative overhead in Thames, but that shall not exceed their proportion of the registered electorate, initially 23.15%, then adjusted at each triennial election;  
(b) The existing service centres on Waiheke and Great Barrier shall be the Council's primary contact for the islanders, supported as necessary from Thames, in the main using information and telecommunications technology.
7. (a) (i) The community boards shall have a high level of autonomy; local decisions shall as far as possible be made locally in accordance with the principle of subsidiarity; they shall be treated as independent bodies as laid down in ss51-52 of the Local Government Act 2002; they shall have delegated authority under section 34(2) of the Resource Management Act 1991; and they shall have primary responsibility for their wards' annual plans and budgets, which shall be deeply rooted in comprehensive and open consultation in particular with permanent residents whose majority wishes shall be preferred;  
(ii) And in the case of the smaller islands (those outside Waiheke Island and Great Barrier Island) their residents and ratepayers shall have the primary say in decisions made about their island and must be represented and included and reasonably deferred to in the decision-making process whenever their island's affairs are discussed by a community board or the Council;  
(b) It shall be recognised that the (main) islands consist of villages, neighbourhoods, and rural areas, whose voices must be heard, and to that end the creation of village, neighbourhood and rural forums shall be actively encouraged so as to form a true grassroots democracy, which shall be consulted, listened to and referred to by community boards and planners;  
(c) Best use shall be made of modern telecommunications technology, in particular the Internet, by the Council and community boards to communicate with the community, engage with it, and involve it in decision-making;  
(d) Brookfield's opinion on s52 of the Local Government Act 2002 and the independence of community boards shall be considered the correct one and used accordingly;



- (e) Section 14(1)(e) of the Local Government Act 2002 shall be invoked to retain the present arrangement between island libraries and libraries in Auckland for access to books;
  - (f) Provided that sections 14(f)&(g) of the Local Government Act 2002 are openly complied with, contracts for major activities, such as roadworks, refuse-collection and recycling, shall on the islands be awarded to local enterprises, especially non-profit community trusts, as recommended to the Council by the relevant community board after community consultation;
  - (g) If the Royal Commission on Auckland Governance recommends a structure and system of governance that would give the islands a greater level of autonomy than the Council has proposed or agreed to or implemented it will after consultation with the islands propose and implement one that gives them at least the same level.
8. (a) There shall be no increase in the total rates-take from each island in the first financial year after the Order in Council, and annual rises thereafter shall not be more than the change in the CPI unless for some reason the majority of the permanent local community wants a greater increase, such as to fund a special community project, which shall be via a rate struck on improved value;
- (b) To prevent the development of a lopsided demography that would destroy each island's special character, that part of their rates struck on improved value shall employ a rising graduated scale on multiples of the average improved value;
- (c) To encourage long-term ownership there shall be a rates discount calculated on years of occupation;
- (d) There shall be rates relief at 23 cents in the dollar in the year of the donation for donations to registered community groups in the district, subject to approval by the relevant community board;
- (e) There shall be a significant targeted rate that shall employ a rising graduated scale on improved value for properties where the postal address is outside the Council's district;
- (f) To discourage speculation there shall be a high special rate on capital value imposed on the vendor when a property is sold within 2 years of purchase and when the vendor cannot prove that he or she occupied it for that period;
- (g) There shall be a targeted differential rate struck on capital value where there are two or more separately inhabited parts of the rating unit (Schedule 3.7 of the LG(R)A 2002) and where the improved value exceeds the average for that island;
- (h) There shall be a targeted differential rate struck on capital value where any habitable part of the rating unit exceeds a gross floor area of 200 square metres or 15% of the land area whichever is the lesser (Schedule 3.11 of the LG(R)A 2002) and where the improved value exceeds the average for that island;
- (i) Serious consideration shall be given to removing capital value from the rates and using only improved value;
- (j) When a person or persons work/s from his/her/their residence in a way that can reasonably be deemed not to harm the purpose of the relevant zoning or degrade the character of the area, that property shall be rated at the residential rate usual for it, not at a commercial rate, in part or in whole;
- (k) (i) Where the owner of land that contains archaeological or environmental features of value to the community, who takes steps to protect them, or where a prohibition in statute or bylaw prevents use or part-use of the property, the Council will recognise those conditions by offering inducements, subject to the effect on the environment, or rates discounts;
- (ii) If the land in 8(k)(i) is unused or uninhabited the rate shall be as for 'Offshore Islands Uninhabited' in the Council's rating schedule.
9. Where any of the sub-sections in section 8 prove impossible under the Local Government (Rating) Act 2002, central government shall be lobbied for amendments to make them possible so that the Council can better fulfil the social well-being requirement in s10 of the Local Government Act 2002.
10. (a) Any Proposed Hauraki Gulf District Plan or Plan Change shall—
- (i) Be subjected to the high level of prior consultation required by the Local Government Act 2002, with preference given to the wishes of permanent residents;
  - (ii) Specifically take into account the Hauraki Gulf Marine Park Act 2000;
  - (iii) Each community board shall openly and transparently scrutinise every resource-consent application made for its ward under every sub-section of section 7 of the Resource Management Act 1991 (RMA) to make sure that particular regard is being given to those that are relevant, and if it is in doubt or cannot agree the application in question shall be subjected to the judgement of the community, in particular under ss7(c) and 7(f), to ensure that each application complies and that the quality and character of the built environment are not degraded;
  - (iv) Always take the word amenity in section 7(c) of the Resource Management Act 1991 as meaning pleasantness and no planning decision may give it any other meaning;
  - (v) Manage the islands on catchment-based principles as they relate to natural and physical resources.
- (b) The time-limits in Section 115 of the Resource Management Act 1991 shall be strictly adhered to in all planning applications unless the community board for that ward uses or approves s92 to extend one by a specified period that can be reasonably justified under sections 5 to 8 of the Resource Management Act 1991 or sections 10 and 14 of the Local Government Act 2002 or both.
- (c) Any proposed development whose total cost or total projected cost is valued at more than 25% of the total rates-take in that ward in the previous year may not take place or in any way begin unless approved by at least 60% of those who vote in a ward referendum and;
- (i) To be valid the referendum must have a turnout of over 50% of registered voters and;

- (ii) All costs incurred by the referendum shall be met by the developer and;
  - (iii) For the purposes of the referendum the value of the development shall be taken as the average of the values determined by three independent valuers chosen by the Council or community board.
- (d) All resource-consent applications must—
- (i) First be presented by the applicants in person to a full open meeting of the relevant community board, and;
  - (ii) The presentation must include realistic computer mockups of the proposal superimposed on photographs taken from eight points of the compass or from all practical and relevant vantage-points that may be requested by the community board, and;
  - (iii) No application shall proceed to detailed examination and report by designated planner/s unless it has first been approved in principle by the board, which shall consult widely with the community if it is in doubt, and it shall second person/s with specific expertise when it considers that that is needed for it to make an informed decision, and;
  - (iv) The final decision on whether to approve or decline the application shall be made by the community board on behalf of the community, based on the planner/s report, and;
  - (v) All decisions in 10(d)(iii) and 10(d)(iv) must be made in accordance with 10(a)(iii).
11. A practical alliance shall be negotiated with the Department of Conservation to operate jointly in the best interests of the inhabitants of the Hauraki Gulf Marine Park, and to share in any benefits that may accrue from carbon-trading.
12. (a) The Regional Council may consider becoming Environment Waikato-Hauraki to reflect its much more important role in the Hauraki Gulf Marine Park, a national treasure.
- (b) If the Local Government Commission wants the Council renamed for this reorganisation, the preferred name shall be Peninsula and Islands District Council, which shall have a logo with the same green and blue graphics as for the Council but with the new wording in the centre, as on the appended mockup below.
13. (a) The Auckland City Council shall be prohibited from selling or transferring any asset on the islands until the Commission has ruled, and then only if the ruling goes its way, and it shall be prohibited from any retaliatory act of any sort for this application, and any breach of this subsection shall immediately be reported to the Royal Commission on Auckland Governance and the Local Government Commission as evidence of governance unfitness;
- (b) When the Order in Council takes effect—
- (i) All assets owned in the islands by Auckland City Council shall be transferred to the Council and;
  - (ii) All assets owned in the islands by Auckland Regional Council shall be transferred to Environment Waikato and;
  - (iii) Any shares in Auckland International Airport and in any other entity that were formerly owned by the Waiheke County Council shall be transferred to the Council but any earnings from them shall be used only on Waiheke, or at the discretion of the Waiheke Community Board elsewhere on the islands and;
  - (iv) Any shares transferred in 13(b)(iii) shall be transferred as the number of shares or the equivalent percentage, whichever is higher. To avoid misinterpretation and eliminate doubt, that means, for example, that in the case of the shares held by Waiheke Borough Council in Auckland International Airport in 1989, which numbered 241,500 of the 210,000,000 issued by that company at that time, representing 0.115% of the total, what is transferred back shall be 241,500 shares or 0.115% of the present issue, whichever has the higher value and;
  - (v) All financial assets belonging to the islands shall also be transferred, including but not exclusively, the credit balances of bank accounts of all types, the Hauraki Gulf Islands Development Accounts, targeted rates not yet spent on the islands as purposed, the credit balances of rates raised on the islands but not yet spent, and the credit bank balance that the Waiheke County Council had when the books were reconciled at the time of amalgamation in 1989.
- (c) Any liabilities, actual or potential, such as leaky-building claims, or any other claims that may arise at any time after the Order in Council, that were caused by Auckland City Council's actions or errors of omission or commission during the period of its authority shall be met in full by Auckland City Council and no liability of any sort shall be due to the Council.
- (d) Any liabilities or claims that may arise at any time after the Order in Council that were caused by Auckland Regional Council's actions or errors of omission or commission during the period of its authority shall be met in full by Auckland Regional Council and no liability of any sort shall be due to the Regional Council.
- (e) Any confidential agreements, formal or informal, concerning the islands that there may be between any persons or corporate entity shall remain in force only at the option of the affected islands ward or wards.

### **Main points from written submissions and meeting**

The main points raised in written submissions and at the meeting on 16 July 2009 in support of the proposal were:

- similarities in the geography and topography of the Hauraki Gulf Islands and Coromandel Peninsula resulting in similar issues to be addressed e.g. development/protection issues, the natural environment, tourism pressures, over-fishing, stormwater, provision for on-site wastewater disposal and roof water collection, roading and transport issues;
- similarities in the nature of local communities e.g. small coastal and dispersed villages, large rural areas, numbers of artisans and craftspeople, number of older citizens with community spirit/values, little industry, reliance on tourism, summer influxes of visitors, the amount of commuting;
- concerns about the level of services provided and the approach of the Auckland City Council in delivering services including the level of consultation (examples included the proposed introduction of a wheelie bin waste/recycling service and refurbishment of the northern service lane in Oneroa village), also the level of rates;<sup>14</sup>
- a belief that the proposal would provide better local government for the island communities in line with the requirements of the Local Government Act 2002 including provision for a greater voice on a smaller council than under present arrangements (an example was the lack of meaningful delegations from Auckland City Council) and helping the achievement of community well-being;
- a perceived need for a new distinct governance strategy to reflect international recognition of the Gulf as a world heritage site, including a new form of government recognised through UNESCO and by legislation, as part of a regional body based on the present Gulf Forum.<sup>15</sup>

The main points raised in written submissions and at the meeting on 16 July 2009 in opposition to the proposal were:

- proposal would not promote 'good local government' of the districts concerned (i.e. not result in improved structures or have the necessary resources), a better solution would be to provide more power/independence to the islands through more devolved governance arrangements;

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<sup>14</sup> Some concerns about the relationship with Auckland City Council were also expressed by a number of submitters opposed to the proposal.

<sup>15</sup> The need for a new governance structure for the Hauraki Gulf Islands was also supported by some opponents of the proposal in the context of the wider Auckland governance reforms currently under consideration.

- many provisions in the proposal were outside the current legislative framework (Local Government Act, Local Electoral Act, Local Government (Rating) Act, Resource Management Act);
- no information on the benefits of the proposal or that it would be workable/have appropriate districts for the councils to carry out their role, a due diligence study would be necessary to determine the costs and benefits of the proposal, it would result in few synergies or economies of scale;
- the community of interest of island residents was with Auckland in terms of:
  - residency, work and play statistics, physical proximity, transport links, peri-urban nature of Waiheke Island, different interests from those in rurality-based and focused councils, part of the Auckland Central Electorate, Auckland District Health Board, Auckland police district, Auckland conservancy of Department of Conservation, Auckland Civil Defence and Emergency Management Group, tribal connections to land in Auckland, Rodney and North Shore Cities;
  - no shared identity/interests with Thames-Coromandel District, it was a toll call to Thames, half the properties in Thames-Coromandel owned by non-permanent residents, the District had an older population with lower than national average incomes;
- concerns over representation issues including likely access difficulties (for the over 65 islands), the provision for the proposed ward councillor did not comply with legislation, arrangements for the two proposed community boards not consistent with Thames-Coromandel District Council community board representation arrangements, also doubt whether one regional councillor could provide effective representation;
- concerns about the adequacy of resources to maintain existing levels of service and also the impact on the councils concerned and on their present approaches to certain issues relating to:
  - physical distance/accessibility/isolation issues for Thames-Coromandel District Council;
  - meeting of statutory decision-making requirements (e.g. consultation and Māori contributions), financial and governance policies;
  - planning for and delivery of services currently provided by Auckland City Council (e.g. infrastructure, parks/reserves, facilities, district plan, tourism, community grants), Council had a good understanding of the islands and its investment exceeded revenue from the islands;
  - inadequate Thames-Coromandel District Council capacity;

- the impact on regional services and functions in relation to the Hauraki Gulf/Waitemata Harbour (e.g. transport planning, harbourmaster/navigational safety, environmental management, biosecurity, biodiversity, management of development, oil spill planning and response), ecological and geographical links, the current agreed sustainability framework and integrated management approaches including relationships to the mainland, the Hauraki Gulf Forum, the Gulf as part of the international gateway to Auckland;
- Rangitoto and Motutapu Islands linked by a causeway but jurisdictional responsibilities would be split by the proposal;
- the impact in relation to non-council provided services (e.g. health services);
- the proposal had little or no local support (the petition was mainly signed by Waiheke people/was the personal agenda of the proposer), proposal discriminated against non-resident property owners;<sup>16</sup>
- questions as to why the proposal was being considered/resources were being employed when the Royal Commission on Auckland Governance recommended that boundaries for Auckland include the Gulf Islands and this was subsequently endorsed by the Government;
- if the proposal were to proceed, a further proposal would be initiated to remove some or all of the islands from Thames-Coromandel District.

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<sup>16</sup> Analysis of petition signatories showed 24 signatures of the total 703 (3.4%) were from Great Barrier Island electors with the remainder, with two exceptions, being from Waiheke Island electors.