

REPORT OF THE CITY MANAGER

1. CHRISTCHURCH CITY COUNCIL SUBMISSION ON PROPOSED AMALGAMATION OF CHRISTCHURCH CITY AND BANKS PENINSULA DISTRICT

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Corporate Plan Output: Various	

The purpose of this report is to bring together the key issues in a way that enables the Council to form a view and finalise a submission on the Local Government Commission's amalgamation proposal.

Recognising that elected members already have a good understanding of many of the issues through involvement over a period of some two years and also that individuals will put different weight on various of the issues, the approach adopted here is to append and refer to a number of reports as resource documents. Attention is particularly drawn to the report from our local commission on communities of interest and electoral boundaries within Christchurch City, which has only just been received and also to the two reports on public consultation. One bringing together the feedback from public meetings and the reply coupon in City Scene, the other work undertaken by Opinions market research using a structured random sample across the city.

FORMAT OF THIS REPORT

This report is structured as follows:

- The position of the Local Government Commission
- The position of the Christchurch City Council
- The principle of Amalgamation
- Boundaries Within the City
- Details of the Amalgamation Proposal
- Proposed Way Forward

Attachments:

Map – Christchurch City Council and Banks Peninsula District Council Proposed Amalgamation

Appendix A – Local Government Commission Review of Banks Peninsula District, Findings and Decisions

Separately circulated:

Report of Christchurch City Local Commission – Community Areas and Wards
Opinions Market Research

Report of Public Meetings and City Scene responses

Available on request:

Report on Service Level Issues and Financial Implications Christchurch City Council/
Banks Peninsula District Council, August 1998

THE POSITION OF THE LOCAL GOVERNMENT COMMISSION

In response to a petition from Banks Peninsula residents the Local Government Commission has undertaken a review of Banks Peninsula District. In doing so it has applied the criteria set out in the Local Government Act. These require the Commission to satisfy itself that the proposal would “promote the good local government” of the districts concerned. This consideration is set out in Section 7-9 of the Local Government Commission’s report (Appendix A). The conclusion which the Local Government Commission reaches is that an amalgamation would better provide for the good local government of the Banks Peninsula area than would the retention of a separate district council. In reaching this conclusion the Local Government Commission notes the following points (among others):

There would be significant improvements in service levels in the Banks Peninsula District.

There would be efficiency gains achievable from an amalgamation that would in part finance these increased service levels.

A larger authority with greater and more broadly based resources will tend to have an advantage in providing the needed competencies in a context where legislation is requiring local government to operate in an increasingly sophisticated fashion.

There are strong functional links between the Lyttelton Harbour Basin and Christchurch.

Given the criteria in the Act, the Local Commission’s arguments seem sound and I would consider it is most unlikely that evidence or advocacy received in this round of submissions would alter their view that an amalgamation is appropriate for the “good local government” of Banks Peninsula.

It is the Local Government Commission that has the statutory responsibility for making this judgement.

THE POSITION OF THE CHRISTCHURCH CITY COUNCIL

The City Council’s position through this process has been somewhat invidious, analogous in some senses to the bride in an arranged marriage. A petition of Banks Peninsula residents initiated the Local Government Commission process and the decisions on a Final Reorganisation Scheme will rest with residents of the District and the City.

The review undertaken by the Local Government Commission has considered whether an amalgamation would provide for “good local government” of Banks Peninsula. It has not explicitly considered the best interests of Christchurch City.

Given the way in which the Local Government Commission interprets the phrase “good local government” I am of the opinion that had such a review been undertaken the Commission would have concluded that the amalgamation is in the best interest of Christchurch City.

I reach this opinion noting that the Local Government Commission does make the following statement:

“Whilst the benefits of service enhancements to Banks Peninsula residents have been commented upon, the Commission considers that there is at least one other area where the residents of the present City could derive an immediate benefit from implementation of the proposal. Banks Peninsula is an area of considerable recreational importance for Christchurch citizens and, if Banks Peninsula were to become a part of the City, Christchurch citizens would be able to have a more direct say in planning for, and the provision of, recreational facilities in the area.”
(Appendix A – para 11.2.)

The way in which “good local government” is interpreted would not have led the Commission to consider possible impact on rating levels, the issue of inequality of representation in population terms, nor would it have been a consideration as to whether the amalgamated City comprises a single community of interest.

While I have expressed the opinion that these are not matters that the Commission would have taken into account had it reviewed the issue of “good local government” for Christchurch as distinct to the Peninsula, they are none-the-less matters which it is legitimate for the City Council to consider in forming its view and are undoubtedly issues which will influence Christchurch residents in any subsequent amalgamation poll.

The next section looks at the principle of an amalgamation, including these issues.

THE PRINCIPLE OF AN AMALGAMATION

This section is broken down into sub-sections addressing the issues of:

- Services and Rates for a New Council
- Community of Interest
- Opinion of Christchurch People
- Nature of Local Government
- Impact on Existing Christchurch City Council

Services and Rates for a New Council

An extensive study has been undertaken jointly between Banks Peninsula and Christchurch Councils. One of the purposes of this study was to gain a picture of the extent to which service standards on the Peninsula would rise as the result of an amalgamation.

Since 1989 the Christchurch City Council has generally had a policy of providing the same level of services throughout its area. There are some minor differences within Christchurch with regard to the relatively small rural area in the city, but certainly within the built-up area, the approach is to provide a uniform standard of service. A single funding policy is also applied across the city so that services are not only provided to a common standard city-wide but are also paid for by a single system of user charges and property rates.

The position on Banks Peninsula is quite different. Service standards are generally lower than in Christchurch, they also differ significantly from one community to another and there are variations in the funding policy by which services are paid for.

It is recognised that many Peninsula residents do not want urban standard services such as kerbs and channels and footpaths. However there are a number of areas in which it would seem likely that a new, amalgamated, City Council would consider that in the interests of equity services for Peninsula residents would need to be improved.

In round terms it was considered that the cost of inevitable service standard increases on the Peninsula would be approximately \$720,000 per annum in terms of operational expenditure plus \$1.15 million per annum of capital expenditure.

There would also be savings as a result of an amalgamation. There would be efficiencies in adding the administration of Banks Peninsula services on to the structures already established in Christchurch City, enabling overhead costs to be reduced. These efficiencies are estimated at approximately \$560,000 per annum.

Overall, therefore, the cost of amalgamation is about \$1.3 million per annum. In return for this the standard of services provided on the Peninsula (both for residents and also for visitors, including those from Christchurch) would be worth \$1.8 million per annum more.

The cost of services is only part of the picture when it comes to calculating rates. All councils are required to prepare a funding policy which determines how their various services are to be paid for including the balance between user charges and rates funding and the extent to which different rate payer groups such as residential, commercial and rural should be required to pay for the various services. There has been a tradition within Christchurch of paying for services uniformly across the city. Banks Peninsula has traditionally had a more complex pattern of paying for services on a more local basis, although it has recently moved to a more uniform basis of rating.

It would be up to a new Council to determine its policy for rates and user charges. Some believe that the most likely outcome would see rates for residential and commercial properties on Banks Peninsula little changed by amalgamation, but there might be a significant reduction in the rates paid by rural property owners on the Peninsula.

Assuming rates were reduced for rural properties on the Peninsula the overall impact on City ratepayers would be relatively small because the Peninsula has 3,000 rural properties for rating purposes while the city has 122,000 rateable properties altogether.

Taking account of the increase in service standards and some reduction in rates for rural properties on the Peninsula the increase in rates for a typical home in Christchurch would be about 2%. That is, \$15 per year for a house valued at \$145,000, which currently pays \$788 per annum in City Council rates.

Community of Interest

The current Christchurch City has an extremely strong community of interest. Although residents of neighbourhoods as far apart as Sockburn and Sumner or Burwood and Bishopdale may have little to do with each other in their immediate localities they all have a sense of identity of belonging to Christchurch, may well work together and use some of the same shopping and entertainment facilities.

There is a very real sense in which residents can feel part of a more local community such as Sumner or Sockburn and identify equally as strongly with Christchurch as a whole. One of the keys to this is that Christchurch City is a continuous built up area.

There are strong ties between Lyttelton and Christchurch. The former is Christchurch's port. The road and rail tunnels make for very good communication links. 65% of Lyttelton residents work in Christchurch and the township is every bit as reliant on Christchurch for shopping and entertainment facilities as a suburb such as Sumner or Sockburn. Most would agree that there is a strong community of interest although physical separation by the Port Hills does mean that Lyttelton also has a distinct and separate identity.

The other settlements of the Lyttelton Harbour Basin also look to Christchurch to a considerable extent. Again, the percentage of residents working in Christchurch is a useful indicator of interaction.

There is less functional interaction between the rest of Banks Peninsula and Christchurch, at least on a day to day basis. It is estimated, however, that a significant number of homes in Akaroa are holiday homes and a large majority of their owners are Christchurch residents.

One of Christchurch's characteristics as a city is that its boundary is drawn relatively tightly to the built-up area. On the one hand this provides the advantage that the City Council focus is unambiguously on urban issues; at the same time it means that many of the City's needs, particularly for recreation, cannot be met within the City's boundaries. As Christchurch residents well know Banks Peninsula has wonderful recreational resources in terms of its coastline, harbours and hill country. One of the reasons why expenditure on the Peninsula would rise following an amalgamation is that the quality of services provided for city residents would be raised in areas such as reserves, walking tracks and harbour access.

In short, the current Christchurch City administrative area is perhaps the best example in New Zealand of a local body administrative boundary being well related to a significant community of interest. Any extension to the City's boundary would inevitably bring in areas with a lesser community of interest. However, Banks Peninsula as a whole and the Lyttelton Harbour Basin in particular, has strong links with Christchurch in terms of function and history and provides opportunities for meeting some of the urban dwellers' recreational and other demands.

It is my personal opinion that looking at New Zealand as a whole the Local Government Reforms of 1989 gave too little weight to the significance of community of interest and local identity. Most Christchurch people and observers from elsewhere in New Zealand and internationally regard the current Christchurch City Council as having been a very

successful Council. One of the factors underlying the success in my view has been that the Council administers an area that is unambiguously identified as the geographic locality of “Christchurch”. This is markedly different from the Auckland and Wellington urban areas where administration is split between a number of separate local government units. The Council has been able to unambiguously make decisions for and to speak for Christchurch.

I believe that any resident of the current city if asked where they came from would answer “Christchurch”.

There are two aspects to this issue. First, the whole of the area that is Christchurch is within the City Council and it is not split as is the case in the Auckland and Wellington urban areas. Secondly, there are no areas included within the administrative City which are not part of the Christchurch community of interest.

This situation would alter with an amalgamation. I would suggest that people living in Akaroa and the hill country of the Peninsula and possibly also in Lyttelton would neither consider nor describe themselves as living in “Christchurch”. So, the amalgamation would result in the Council administering more than one geographic community of interest.

In my opinion this is the key issue in terms of the proposed amalgamation. More generally, I believe it is a key issue facing the future of New Zealand local government. In that wider context, it is important that we are able to structure local government in a way whereby one council can provide good government to two or more communities of interest. The key lies in effective use of community boards – we will return to this issue in the section lower down on “The Nature of Local Government”. It is essential, however, that while an amalgamation might combine adjacent communities, it should not divide a community of interest.

I would suggest that an amalgamated Council would need to consciously recognise the fact that there are different communities of interest to an extent not characteristic of the current City and make a commitment to do this by appropriate community board structures and delegations.

(I would note that while it is important for one council to be able to administer two or more communities of interest, I think it is far harder for two councils to provide effective governance to a single community of interest which would be the challenge facing us if there were a proposal for the existing Christchurch area to be split.)

Opinion of Christchurch People

We received 3,716 responses to the City Scene response form. Overall, 60% of respondents opposed an amalgamation and 34% were in favour. A different pattern was found in the Opinions Market Research that is based on a structured random sample: 33% favoured amalgamation, 25% were against and 41% had no view. The response from City Scene would suggest that in a poll undertaken by postal voting there might be a tendency for a relatively strongly held minority view to prevail. The Opinions Market Research and the low attendance at public meetings (12 meetings attended by a total of 110 people) point to large numbers of Christchurch people being disinterested in the issue.

The City Scene questionnaire picked out three issues in particular. Close to two-thirds of respondents agreed with the following statement:

1. *“Christchurch is an urban area facing urban issues and delivering city-type services adding a large rural area would not benefit Christchurch.”*

and

2. *“It may be only a small amount, but my rates should not go up to provide for services in Lyttelton, Akaroa or the Banks Peninsula hill country.”*

It is noteworthy that the issue of providing better representation for rural areas was one in which the feelings of respondents were less clear with as many believing that greater representation for the rural area was fair as believed that it was unfair.

In the Opinions Market Research respondents were almost equally balanced on both the question relating to a small rates increase to fund additional services on the Peninsula and also whether or not Banks Peninsula is really a part of Christchurch. On representation, 70% felt it was fair to give the rural area better representation on an amalgamated Council.

The Opinions Market Research found that just less than one-third of the sample of respondents stated that they visited Banks Peninsula at least once a month and a further 39% visited the Peninsula once every three to six months. Only 2% stated that they never visited the Peninsula.

Nature of Local Government

It has become increasingly apparent in recent years that there are two significantly different views as to the nature and role of local government. These can be thought of as the “narrow” view and the “broad” view.

The narrow view positions local government as responsible for a relatively narrow range of services which cannot be effectively delivered by the market. Services such as roads, water, parks together with the administration of regulations with regard to matters such as building and health. Seen from this “narrow” perspective the focus of local government is on the delivery of services to customers, doing so as efficiently as possible.

The “broad” view recognises the importance of service delivery but places greater emphasis on local government as the means by which members of a community work together to achieve shared aspirations for themselves and for their children. This view tends to talk of community and citizens and to have a concern not simply for service delivery but for the overall wellbeing of the community and the sustainability of its environment.

Increasingly the term community government is used to reflect this approach which has recently been summarised by Professors Michael Clarke and John Stewart of the School of Public Policy, University of Birmingham as embodying the following principles:

1. The concern of the local authority extends beyond the services provided to the overall welfare of the area.
2. The local authority's role in community governance is only justified if it is close to and empowers the communities within and the citizens that constitute them.
3. The local authority must recognise the contribution of other organisation – public, private and voluntary and see its task as enabling (not controlling) that contribution.
4. Local authorities should ensure that the whole range of resources in a community is used to the full for the good of its area.
5. To make the best use of those resources, the local authority will need to rigorously review how needs are best met and be prepared to act in many different ways.
6. In showing leadership the local authority must seek to reconcile, balance and, in the final resort, to judge the diversity of views and interests.

In practice there is a range of views spanning between the “narrow” and the “broad” views of local government, but it would be fair to say that the Christchurch City Council has consistently during the last nine years tended towards the “broad” view, in practice espousing the principles set out by Clarke and Stewart. If such a vision of local government is to be achieved, then the Council must have good processes and networks to enable it liaise closely with neighbourhoods and interest groups throughout its area. This is why, with or without an amalgamation, community boards will continue to be very important to the style of local government in Christchurch.

Traditionally we tend to think of a council as a single entity. The model of local government which has been evolving in our city is becoming genuinely more complex than that as community boards are becoming increasingly empowered. (In my opinion, taking a view over the 10 years since amalgamation, while there will always be some controversies, community boards have become significantly more empowered both in practice and in terms of the formal delegations which they have been given.)

Councillors will be aware of the paper prepared, entitled *Taking the Canterbury Communities into the New Millennium*, as input into the Forum on the Future of Local Government which we are hosting on 2-3 June. To simplify, one of its main arguments is that the challenges facing our communities are becoming increasingly complex. If they are to be satisfactorily addressed then the capacity of government to do so must be increased and at the same time we must ensure that local issues really are addressed locally and complex issues at a wider scale will achieve this. In this context, many of the issues facing the City Council at the present time such as its strategies to promote social wellbeing and economic development and employment growth need to be tackled at a scale which goes beyond the current Christchurch.

This vision of the future of local government would effectively lead to us putting just as much emphasis on the establishment of strong community boards within a new Council area as on the establishment of a new Council itself. That is, the proposal is not simply for a new Council, it is for a new Council and eight (or however many) community boards. The larger area and population of the new Council will increase capacity to address the complex issues of public policy; the strong community boards will continue to strengthen capacity to resolve local issues.

Impact on Existing Christchurch City Council

As stated in the previous section and as noted by the Local Government Commission (quoted above) a larger city area will increase the capacity of the City Council to find solutions to problems. Equally, it will increase the complexity of decision-making in which context the comments of Mayor Sukhi Turner of Dunedin are interesting.

Sukhi Turner, Mayor of Dunedin, met informally with City Councillors and senior staff on a recent visit to Christchurch. She made the following comments about the experience of Dunedin City Council whose current land area is a little over twice that proposed for Christchurch/Banks Peninsula.

Since amalgamation in 1989 the Council has learnt to live with there being two cultures amongst its Councillors. This has been especially the case as there have been four Councillors representing rural areas with the rest being “urban” Councillors. The rural areas generally saw a cut in their rates following amalgamation and during the last nine year their service standards have generally improved as a result of being part of Dunedin City. None-the-less the rural areas consistently show a greater reluctance to service improvements and associated rate rises than has been the case within the urban area. Having said this there has never been an overt rural-urban split within Council and the wider diversity of views around the Council table as a result of the two cultures in some ways has become a strength for the Council.

In summary Mrs Turner’s view was that the large rural area undoubtedly led to a heavier workload for the Council but had done much for promoting urban-rural synergies and a diversity of view around the Council table.

It is inevitable that particularly in the early years after an amalgamation in Christchurch there will be a disproportionate focus on “rural issues” at the City Council table. That is, disproportionate relative to the rural population. In my view the key to preventing this becoming a significant negative for governance in Christchurch will be the effective use of community boards as outlined above.

BOUNDARIES WITHIN THE CITY

As part of its draft reorganisation scheme the Local Government Commission asked the City Council to undertake a review of boundaries within the existing Christchurch City and make recommendations to the Commission. The report of our local commission (Malcolm Douglass, Jan MacLauchlan and Alan McRobie) is separately circulated. The report, together with its attachments, is in its own right a significant document, particularly for the City Council, but also in terms of advancing understanding of the issues of community of interest and electoral systems more generally in New Zealand.

The local commissioners have expeditiously prepared their lengthy and comprehensive report against a very tight timetable. Elected members have a matter of a day or two to consider it. The report recommends a set of principles and on the basis of these, proposes a radically different structure of wards and communities from the current ones.

Given these factors, I would advise the following Process:

1. That the local commission present their report to Council and Community Board elected members at a series of meetings within the next 10 days.
2. A week period then be allowed for individual elected members to respond by way of written comments to the local commissioners.
3. That the local commissioners consider these comments and represent their report (with or without amendment) for consideration at Council's ordinary meeting on 24 June. This report to include a commentary comparing their proposal with the current arrangements and the pluses and minuses of any 'second best' variation to their proposal.
4. That Council adopt, on 24 June, a draft scheme for community and ward boundaries and undertake a programme of full public consultation on this over a period of approximately 6 weeks. (At this time also it would be appropriate, in the context of the amalgamation scheme, for the Local Government Commission to arrange for comments on the report from the Banks Peninsula District Council and Banks Peninsula residents in terms of their attitude *in the event of an amalgamation*.) Following consultation that a scheme be finalised at Council's ordinary meeting on 26 August and forwarded to the Local Government Commission for inclusion in any Final Reorganisation Scheme.

DETAILS OF THE AMALGAMATION PROPOSAL

The draft reorganisation scheme itself is a relatively short document. This section lists its significant elements and recommends those on which Council may wish to make a submission.

Representation from Akaroa/Wairewa

Section 4(2) of the draft scheme states, "*The area of the Lyttelton-Mt Herbert ward of Banks Peninsula District.....shall be included in the Ward of the united District containing the northern entrance to the Lyttelton Road Tunnel*". In the work undertaken by our local commissioners allowance has been made for this and the Harbour basin can be incorporated into their proposed scheme for City wards within the arithmetic and other principles which they have established.

It is important that the Lyttelton Harbour Basin be treated as a whole and in the view of our local commissioners its strongest single link is via the Harbour Tunnel to the Ferrymead area of the city. I would recommend that the City Council note its support for this element of the draft scheme.

Section 5(1) of the draft scheme states, "*There shall be a Banks Peninsula Ward comprising the areas of the Akaroa Ward.....and the Wairewa Ward of the Banks Peninsula District*", (2) "*The electors of the Banks Peninsula Ward shall elect one member to the Council*".

The Akaroa/Wairewa area to be known as Banks Peninsula has a population of 2,600. With the recommended electoral structure from our local commissioners, the average ratio in the rest of an amalgamated city would be 14,273. The City Council has previously indicated to the Local Government Commission significant concerns regarding such disparity in electoral ratios. In considering this the Commission has stated in its explanatory notes with the scheme:

“13.6 The Commission considered whether the sole criterion for fixing the membership of the new City Council should be population.....While there would no doubt be advocates for this approach, the Commission is of an opinion that such a course would not be desirable. Nor would such a provision be in accordance with the intent of the 1991 amendment to the Act which removed the requirement for population equality between wards and included a requirement for the constitution of wards where they would be necessary to ensure the effective representation of communities of interest within a district. The Commission has noted, in a number of its determination of appeals since 1992, that where a community of interest differs significantly from other communities of interest within a district, and requires a separate ward to achieve effective representation, it matters not if the population of that ward is considerably below the average population per member in the other wards. This state of affairs exists in a number of districts and in Auckland, Manukau, Waitakere and Dunedin cities, so there is no question of a special arrangement for Banks Peninsula setting a precedent. It would merely bring the new Christchurch City, with its different social and political situation, into line with the accepted situation in other districts.”

Both the feedback from City Scene coupons and the Opinions Market Research indicate that this is an issue on which feelings are not running high in Christchurch. With reference to the Local Government Act and the precedents in cities elsewhere in New Zealand the Local Government Commission’s view is in my opinion valid. (This is not to say that the Local Government Act may not be defective in allowing such weight to be given to factors other than population.)

The Local Government Commission’s scheme has moved away from the proposal advanced by the petitioners which would have given the current Banks Peninsula District area two exclusive councillors on a new City Council.

In my opinion, there is little point in the City Council proposing a further change to this provision. Any elected members who consider that it breaches fundamental democratic principles may perhaps realistically prefer to oppose the proposed amalgamation.

Banks Peninsula Community Board: Size

The draft scheme proposes in Section 6 (1) the establishment of a Banks Peninsula community coterminous with the Banks Peninsula Ward. This community board would comprise four directly elected members, together with the councillor returned from the Banks Peninsula Ward.

This proposal would give a community board comprising of five members. Currently the area has a Community Board numbering six (four elected, plus two appointed Councillors). It is elected from separate Akaroa and Wairewa Wards. Given the City

Council's likely intent to extend considerable delegated decision-making powers to this (and other) community boards, I recommend that some consideration be given to the most appropriate size for this board. In my opinion, notwithstanding the small population of the proposed Banks Peninsula community, a more appropriate forum for representation of interests and consistently effective decision-making would comprise six or seven rather than five elected members. Further, the electoral scheme recommended for the current Christchurch City area typically contains three wards within a community area. In this context it would not be inappropriate for the current Akaroa and Wairewa Wards to remain separate for purposes of election to the Banks Peninsula Community Board, and for the number of directly elected members to be increased to 5.

At the present time this matter is no more one for recommendation by the current Christchurch City Council than the pattern of electoral boundaries within Christchurch would be for the Banks Peninsula District Council. Accordingly, I recommend that the Local Government Commission be asked to seek further submissions from the current Community Board and the current District Council on the possibility of increasing the size of the Community Board and dividing it into two electoral wards.

Lyttelton Community Board: Is it needed?

Section 7 of the draft scheme provides for a Lyttelton-Mt Herbert Community Board be elected. This would comprise four members directly elected to the Board plus two city councillors elected from the ward within which the Lyttelton Harbour Basin is included. (See note in previous section.) Currently Lyttelton-Mt Herbert has a Board of six plus two, total eight.

The Lyttelton Harbour area with its population of some 5,000 people is included in a ward of close to 60,000 which comprises the south-east suburbs of the current City south of the River Avon and east of England Street – Brougham Street – Rapaki Track. The effect of the draft reorganisation scheme would be that while there may be no city councillors elected who are resident in the Lyttelton Harbour Basin area, none-the-less two city councillors from the wider "Ferryroad" ward would serve on that community board. Presumably one or both of these city councillors would also serve on the Ferryroad community board. There are at least two alternative arrangements that are worthy of consideration.

First, the election of six community board members, rather than four, together with the appointment of one or two city councillors (with discretion left with the Council). If the reorganisation scheme were worded to recommend "at least one" city councillor, this would provide some flexibility following an election to reflect the place of residence and preferences of those actually elected.

Secondly, a more radical approach is to question the need for a separate Lyttelton Community Board. In explaining its rationale for including the Lyttelton Harbour Basin in a City ward for purposes of election to Council, the Commission writes as follows:

"13.7 There is ample evidence that the residents of the Lyttelton Harbour Basin and of the rest of the Peninsula have distinct communities of interest (note, i.e. distinct from each other Mike R). The Commission itself in 1988 contemplated the inclusion of the Lyttelton Basin in a ward of Christchurch City and Akaroa

*and Wairewa in a completely different district. While there has been a degree of growing together within the district since 1989, all of the evidence presented to the Commission has tended to show that the community of interest of the residents of the Lyttelton Harbour Basin are still distinctly different to the communities of interest of residents of Akaroa and Wairewa. **Lyttelton is becoming very much a suburb of Christchurch, and therefore has much in common with other suburbs, such as Heathcote, Halswell and Sumner.***

13.8 The extent to which residents of the Lyttelton Harbour Basin share commonalities with the residents of the present City means, in the Commission's opinion, that they will continue to be effectively represented as part of one of the urban wards. The communities of interest of the rest of the residents of the district do not fit so easily with the communities in the City, and therefore the Commission considers that the establishment of a separate Banks Peninsula ward represented by one councillor for Akaroa and Wairewa would be appropriate."

Elsewhere the Commission states:

"9.10 The Lyttelton Harbour Basin is increasingly becoming a suburb of Christchurch. This fact was noted by the Commission itself in its draft reorganisation scheme for the Canterbury region in 1988. At that time almost 50% of the Lyttelton-Mt Herbert workforce were employed in Christchurch, while a significant proportion of the Lyttelton Harbour Basin workforce comprised Christchurch residents. Statistics from the 1996 census noted that this interdependence had continued to grow to the extent that almost 65% of the Lyttelton and area workforce were employed in Christchurch. Possibly even more notable is that 46% of those employed in Lyttelton-Mt Herbert area were Christchurch residents. In fact, in Lyttelton itself, Christchurch resident workers outnumbered Lyttelton resident workers by 615 to 432."

I would recommend, therefore, that the perhaps more radical, but also more rational approach, would be to recognise the extent of functional inter-relationship between Lyttelton and Christchurch City in this reorganisation scheme and also to regard the Port Hills as a unifying rather than a dividing element by establishing a single community board for Ferrymead and Lyttelton. Subject to further review, such a board could be divided into four electoral wards, three as shown in the report by our local commissioners, plus a Lyttelton ward, also returning two board members. This would give a community board of eight directly elected, plus potential for three appointed councillors. In my view, this arrangement would have the following advantages:

1. It would provide for better representation of Lyttelton Harbour interests at the Council table as three directly elected councillors would be involved in the detail of issues affecting the Basin at the community board level.
2. It would avoid the possibility of one or two councillors having the additional workload of being involved in two separate community boards.
3. It would be administratively cheaper. Both in terms of there being one less board to service and also in reducing from eight to seven the number of community boards reporting to the City Council.

The major disadvantage of this alternative might be the reaction of residents of the Lyttelton area if they believed it would give them inferior access to decision-making. One means of addressing this concern, which may well arise, would be for the scheme to recommend (it could not require) that a Ferrymead-Lyttelton community board would hold at least three regular plus one annual plan meeting per annum in Lyttelton. (In stating this, however, it should be recognised that the analysis shows that Lyttelton residents are extremely mobile in travelling into Christchurch and they are at least as accessible to meetings held in Linwood as are residents of Sumner or Scarborough.)

Should Community Board Functions be Specified by the Commission?

In Section 9 “Functions of Community Boards” the draft scheme states, “*The Community Board for any community constituted or continued in existence by this scheme shall have such functions, powers and duties as are delegated to it from time to time by the Council.*” While this general statement is included in the draft scheme, in the associated papers, the Local Government Commission has stated as follows:

*“The City Council has delegated a considerable degree of responsibility to its community boards. The Commission expects that the new two boards would also be given a degree of autonomy appropriate to their location and in accordance with the level of service delivery which the residents of the community expect from them. However, the Commission will not make provision for specific delegation in the **draft reorganisation scheme**. That will leave an opportunity for the two affected Councils, the two Community Boards, and affected people and organisations to consider and explore in submissions on the draft scheme any possible desirable delegations.”*

In my opinion it is not appropriate for the Local Government Commission to prescribe delegations in a reorganisation scheme. While this was generally its practice in 1989, the circumstances of this amalgamation proposal are different and I believe that the newly elected Council should have complete discretion with regard to this matter. This principle should also, in my view, apply to issues of funding policy / rates. In these matters a democratically elected Council should not be constrained by requirements determined by an appointed Local Government Commission.

If Council accepts this view, then I recommend that a reference be included in our submission stating that the Commission is correct in its statement with regard to the history of delegations in Christchurch City and that the current Council is minded to extend delegations which are at least as comprehensive to community boards in a newly amalgamated City. However, this matter should be for Council decision and not prescribed in a Final Reorganisation Scheme.

Service Centres

Section 16.1 provides for retention of service centres at Little River and Akaroa and for the establishment of a service centre in Lyttelton until at least 1 November 2004. The joint working party that agreed service delivery arrangements also made this assumption. It seems reasonable.

Transitional Committee

A Final Reorganisation Scheme would require the establishment of a transitional committee. The draft scheme (Section 12) proposes that this consist of:

- “(a) Two members appointed by the Banks Peninsula District Council.*
- (b) Four members appointed by the Christchurch City Council*
- (c) The Chief Executives of the Banks Peninsula District Council and the Christchurch City Council, who shall be non-voting members of the transitional committee.*
- (d) The Chief Executive designate when appointed.... Who shall be a non-voting member of the transitional committee.”*

The draft scheme also provides for there to be no casting vote in the case of equality of votes (para 13).

The transitional committee will have six voting members. While the scheme is for an amalgamation of two separate local bodies, it would not be inappropriate for the transitional committee arrangements to recognise the differing sizes of those two Councils. It is also my view that as a matter of administrative practice an arrangement of six voting members with no provision for a casting vote is poor practice.

I would recommend that Council's submission include a proposal for a transitional committee of six members with its chairperson and three additional members being appointees of the Christchurch City Council and two members appointees of the Banks Peninsula District Council. The chairperson exercising a casting vote when necessary.

In section 15 of the draft scheme the functions of the transitional committee are set out as follows:

- “(a) Appoint a person to be the Chief Executive of the United District;*
- (b) Make recommendations on the administrative structure of the Council for the United District;*
- (c) Make recommendations on funding and rating policies for the United District; and*
- (d) Make recommendations on such other matters as are required to ensure that the Council is able to function effectively from the day in which it comes into existence.”*

It is a sizeable task to prepare a funding policy for a City as complex as the current Christchurch. Elected members will recall a process spanning some two years, which was completed a little over 12 months ago. The Local Government Amendment Act 1996 (No 3) required this process and it is one of the central ways in which the Council must account to its community for the governance of its area. Given this, it would seem to be a task that must be undertaken by the full Council following its election in October 2001.

I would recommend that the City Council make submissions that this provision of the draft scheme be varied so that recommendation of a funding policy is not a function of the transitional committee, but rather: the funding and rating policies of the uniting councils remain in place until a newly elected council establishes a single funding

policy for the new City. It is anticipated that such a funding policy would be partially implemented for the financial year starting 1 July 2002 and fully implemented for the year 1 July 2003. It would be appropriate for the Transitional Committee to recommend general principles for such a policy, but no more.

Some Technical Aspects

The Legal Services Manager has suggested that the following relatively technical, but significant, details be included in the City Council's submission.

Definition of the Boundary

Section 2 of the draft scheme proposes that the districts of Banks Peninsula and Christchurch City be united into one district to be known as Christchurch City. At the 1989 reorganisation, the Orders in Council provided that the new districts were to be in accordance with Survey Office plans which were prepared showing the boundary of the new district. I believe that a similar system should apply here so that there is certainty as to the legal boundaries of the new district.

Such a plan should clearly show the seaward boundary of the new Council's district as being the 12-mile limit. Mr Mitchell comments further:

“There is an involved background to this matter which I will briefly summarise:

1. In the 1989 Survey Office plans attached to the Orders-in-Council setting up the new Council, the seaward boundary for Christchurch City was shown as the mean high water springs on the beach. The clear implication today is that that type of boundary would mean that most of the beach and virtually all of the Pier would not be within the City Council's legal district, and therefore not subject to the statutory regimes, such as building control, dogs and bylaws otherwise administered by the City Council.
2. In 1989 the Parliament amended the Local Government Act so as to state in section 37P (which it still does today) that the seaward boundary of a territorial authority “...shall be the outer limit of the territorial sea of New Zealand”. That outer limit is defined in another statute to be the 12-mile limit.
3. I subsequently gave advice to the City Council that given the conflict between the Local Government Commission's plans showing the mean high water springs, and section 37P, that section 37P, because it was a statutory provision, should prevail and that the City Council should operate on the basis that its seaward boundary was the 12-mile limit.
4. The subject of seaward boundaries became an issue in the Auckland area and the Department of Internal Affairs subsequently obtained a Crown Law Office opinion which disagreed with the advice which I had given to the Council, and stated that the boundaries were in fact those shown by the Commission as being the mean high water springs. I subsequently learnt that my advice was the same as that given to Auckland councils by Simpson Grierson.

5. In 1997 the Department of Internal Affairs arranged for the publication of a notice under the Local Government Act entitled “The Local Government and Boundary Alteration Notice 1997” which stated that the boundary of Christchurch City was altered by making the line today at mean low water springs.
6. In the same year the Local Government Commission sought comments from territorial authorities as to the appropriate seaward boundary and this Council responded by indicating that it believed that for this Council it should be the 12-mile limit.

Today the legal position as evidenced by the 1997 notice is that the City Council’s seaward boundary is the mean low water springs mark. This does not obviously address issues of control beyond that mark and clearly the Pier is the best example of that. It is for this reason that I have advised Council units, upon enquiry from time to time, that the Council does not have the power to make bylaws in respect of the Pier.

For completeness I would note that this discussion regarding seaward boundary is separate from boundary issues under the Resource Management Act. That Act is self-contained in terms of boundary issues and clearly states that for the purposes of that Act the boundary is to be the mean high water springs mark, and seaward of that shall be the coastal marine area under the jurisdiction of the Canterbury Regional Council.

The issue that I am raising is the administration of all other statutes by the Christchurch City Council in relation to beach issues and the Pier.

Given the proposed amalgamation, I believe it is now opportune for the matter to be put beyond doubt by the local government commission in clearly stating in the Final Reorganisation Scheme and on survey office plans attached to that scheme, if my recommendation in my memorandum of 12 April 1999 is taken up, that the seaward boundary of the new amalgamated council be the 12-mile limit.”

Application of Schedule 3B of the Act

The draft scheme provides that Parts II and III of Schedule 3B of the Local Government Act 1974 apply in respect of the scheme.

Those two parts contain standard form provisions dealing with matters such as ownership of property, bylaws and valuation rolls which must apply upon amalgamation.

The provisions of Part II apply in respect of a reorganisation scheme unless amended or declared not to apply in a particular case. Mr Mitchell advises:

“There is one issue in respect of these standard clauses and that is in paragraph 21 of Part II. Paragraph 21 provides:

- “21. *Where--*
(a) *Two or more districts are united; or*

*(b) Any district is abolished and included in any other district or districts or part of any district is excluded therefrom and included in any other district or districts,--
section 63 of the Town and Country Planning Act 1977 shall apply, as if, in the case of a region, the references in the said section 63 to a district were references to a region and the references in that section to a council were references to a regional council."*

The reference to section 63 of the Town and Country Planning Act 1977 is now outdated as that statute has in fact been repealed.

In my view that reference to the former Town and Country Planning Act is inappropriate and at the present time the Draft Reorganisation Scheme makes no reference to resource management issues or the City Plan.

I note that Part I of Schedule 3B contains a number of provisions which, if considered necessary or desirable in the consequence of a reorganisation scheme, can be included by the Commission in an Order in Council.

Paragraph 5 of Part I provides:

"Provisions dealing with the administration of any existing, proposed or operative district plan under the Resource Management Act 1991 or providing for the preparation of a new district plan in accordance with section 81(3) of that Act."

Section 81(3) is not relevant in the present situation.

In my view the Commission must, in the Final Reorganisation Scheme, make provisions dealing with the transitional district plans currently operated by both Christchurch City and Banks Peninsula District, and also dealing with the proposed city plan, the city plan for Christchurch City and the proposed district plan for Banks Peninsula. If that is not the case there is a serious view as to the legal status of those planning documents.

Such separate provision was contained in the 1989 Orders in Council and adapting those provisions to the current situation, I suggest the following clauses for inclusion by the Local Government Commission in the Final Reorganisation Scheme dealing with this topic:

- '(1) The transitional district plans and the proposed district plans under the Resource Management Act 1991 of the former councils shall be deemed to be the operative district plans, or as the case may be, the proposed district plans, of Christchurch City.*
- (2) Where any former council had, prior to its dissolution, begun the preparation of any review of its district plan or any change or variation thereof, then, subject to any resolution of the Christchurch City Council to the contrary, all such preparation shall be deemed to have been done by, or on behalf of, the Christchurch City Council and may be adopted and acted upon by it.*

- (3) *Where before the coming into force of this clause any application had been made to any of the former councils by any person pursuant to any provision of the Resource Management Act 1991, and:*
- (a) *No hearing by that former council or any committee thereof had begun of such application or any submission thereto, the application shall be deemed to have been made to the Christchurch City Council and shall be dealt with by it accordingly; or*
 - (b) *Such application had been heard or otherwise disposed of by that former council and either of the time for any appeal against such decision had not expired or notice of appeal had been given, any such appeal shall be deemed to be against the Christchurch City Council; or*
 - (c) *Such application had been either partly or fully heard or considered by the former council but no decision thereon had been given, the application shall be heard or considered again by the Christchurch City Council or, as the case may require, a committee or delegate thereof.*
- (4) *Paragraph 21 of Part II of Schedule 3B of the Local Government Act 1974 shall not apply to this Final Reorganisation Scheme.’ ”*

PROPOSED WAY FORWARD

The Local Government Commission has requested a submission from the City Council be presented to it at a meeting on 1 June 1999.

Recommendation 1:

I would recommend that the following submission be presented to the Commission:

1. The Christchurch City Council supports the principle of an amalgamation of Christchurch and Banks Peninsula Districts. In doing so, the City Council is mindful of the Commission’s view that such an amalgamation would provide for “good local government” for the Peninsula area and that a decision on an amalgamation will rest with the citizens of Banks Peninsula and Christchurch. Further, while recognising that the short-term benefits for the existing City area resulting from an amalgamation are far from clear, the Council believes that an amalgamation is consistent with the City Council’s own Mission Statement and its vision of a future style of local government which is consistent with the following principles of community governance:
 1. The concern of the local authority extends beyond the services provided to the overall welfare of the area.
 2. The local authority’s role in community governance is only justified if it is close to and empowers the communities within and the citizens that constitute them.
 3. The local authority must recognise the contribution of other organisation – public, private and voluntary and see its task as enabling (not controlling) that contribution.

4. Local authorities should ensure that the whole range of resources in a community is used to the full for the good of its area.
 5. To make the best use of those resources, the local authority will need to rigorously review how needs are best met and be prepared to act in many different ways.
 6. In showing leadership the local authority must seek to reconcile, balance and, in the final resort, to judge the diversity of views and interests.
2. The Local Government Commission gave to the City Council the task of recommending boundaries for communities and Council election within the administrative area of the current City. The Christchurch City Council agrees with the intent of the Commission's statement (13.4)

"The Commission is of the opinion that natural justice would require that it undertake such a review (under section 101ZRA) before making major change."

The City Council has received a lengthy and comprehensive report from its local commissioners which recommends major change to boundaries.

Given that any review under section 101ZRA would provide the community with the opportunity to comment on the proposal before it was finalised, we therefore request that the Commission not promulgate a Final Reorganisation Scheme until the City Council has further considered and consulted with its residents on the proposed new electoral boundaries.

The City Council notes that this approach is not only consistent with principles of natural justice, and the Council's own policies for extensive consultation with its community, but is also compatible with the timeframe in this instance whereby there is yet some two and one-third years before the date of elections for a proposed amalgamated council. The Council intends to resolve this matter on 26 August.

- 3(a) We request that the Final Reorganisation Scheme provide for a single community board, incorporating Lyttelton with the community which includes the Ferrymead area. The argument to support this is set out on page 12 of the attached report of the City Manager to the Council.
- 3(b) If the Final Reorganisation Scheme provides for a separate Lyttelton Community Board, we request that the Commission considers further and consults with the present District Council, Community Board and petitioners as to the size of that Board and whether 5 or 6 directly elected members would be superior to 4. The reason for this request flows from the argument in the report of the City Manager, that Boards will be delegated extensive authority in such a future City Council and a larger board would be a more appropriate form for consistently effective decision-making.
4. We request that the Commission considers further and consults with the present District Council, Community Board and petitioners as to the size of the proposed Banks Peninsula Community Board and the proposal for it to be elected from a

single constituency rather than separate Akaroa and Wairewa Wards. The reason for this request is the same as set out in 3(b) above.

5. In para 15.1 of its findings the Commission requests views as to delegations which may be incorporated in the Final Reorganisation Scheme. The Commission is correct in its statement that the history in Christchurch is of such delegations being extensive. Further, the current Council would intend to extend delegations that are at least as comprehensive to Boards in a newly amalgamated City. However, the City Council requests that delegations not be prescribed in a Final Reorganisation Scheme, as they should be a matter for Council resolution.
6. We request that the Final Reorganisation Scheme provide (paras 12 and 13) as follows:

“12. The Transitional Committee shall consist of:

- (a) Two members appointed by the Banks Peninsula District Council.*
- (b) A chairperson and three members appointed by the Christchurch City Council*
- (c) The Chief Executives of the Banks Peninsula District Council and the Christchurch City Council, who shall be non-voting members of the Transitional Committee.*
- (d) The Chief Executive designate, when appointed in accordance with clause 14(a), shall be a non-voting member of the Transitional Committee.*

13. Casting vote - The chairperson of the Transitional Committee shall exercise a casting vote in the case of equality of votes.”

The City Council makes this request because it considers that it is poor administrative practice to have no provision for a casting vote on a committee with equal numbers. It is also appropriate to recognise (as the Scheme does in para 3) that the ratio of population (Christchurch : Banks Peninsula) is 41:1, the ratio of Council employees is 38:1 and that the Draft Scheme provides for 97.5% of the costs of the Transitional Committee to be borne by the Christchurch City Council.

7. We request that the Final Reorganisation Scheme provide for the functions of the Transitional Committee to include at 15(c):

“Make recommendations on general principles of funding and rating policies for the United District.”

The Commission may wish to note in the Final Reorganisation Scheme that the funding and rating policies of the uniting councils remain in place until a newly elected council establishes a single funding policy for the new City. It is anticipated that such a funding policy would be partially implemented for the financial year starting 1 July 2002 and fully implemented for the year 1 July 2003.

8. We request that para 2 of the Final Reorganisation Scheme provide for the Orders in Council to specify that the new City be in accordance with Survey Office plans to be prepared showing the boundary of the new City. That such plans show the seaward boundary of the new Council's district as being the 12-mile limit. The reason for this request is set out on page 16 of the Report of the City Manager.
9. We request that the Final Reorganisation Scheme, make provisions dealing with the transitional district plans currently operated by both Christchurch City and Banks Peninsula District, and also dealing with the proposed city plan, the city plan for Christchurch City and the proposed district plan for Banks Peninsula. If that is not the case there is a serious doubt as to the legal status of those planning documents.

We suggest the following clauses for inclusion in the Final Reorganisation Scheme:

- '(1) The transitional district plans and the proposed district plans under the Resource Management Act 1991 of the former councils shall be deemed to be the operative district plans, or as the case may be, the proposed district plans, of Christchurch City.*
- (2) Where any former council had, prior to its dissolution, begun the preparation of any review of its district plan or any change or variation thereof, then, subject to any resolution of the Christchurch City Council to the contrary, all such preparation shall be deemed to have been done by, or on behalf of, the Christchurch City Council and may be adopted and acted upon by it.*
- (3) Where before the coming into force of this clause any application had been made to any of the former councils by any person pursuant to any provision of the Resource Management Act 1991, and:*
 - (a) No hearing by that former council or any committee thereof had begun of such application or any submission thereto, the application shall be deemed to have been made to the Christchurch City Council and shall be dealt with by it accordingly; or*
 - (b) Such application had been heard or otherwise disposed of by that former council and either of the time for any appeal against such decision had not expired or notice of appeal had been given, any such appeal shall be deemed to be against the Christchurch City Council; or*
 - (c) Such application had been either partly or fully heard or considered by the former council but no decision thereon had been given, the application shall be heard or considered again by the Christchurch City Council or, as the case may require, a committee or delegate thereof.*
- (4) Paragraph 21 of Part II of Schedule 3B of the Local Government Act 1974 shall not apply to this Final Reorganisation Scheme.*

Recommendation 2:

The process set out in this report (page 10) for Council reaching a view on appropriate boundaries for Wards and Communities within the City by 26 August be adopted and advised to the Local Government Commission.