


## 6. PROCEDURAL REQUIREMENTS FOR CREATION OF A UNITARY AUTHORITY



<b>General Manager responsible:</b>	General Manager Regulation and Democracy Services, DDI 941-8549
<b>Officer responsible:</b>	Ian Thomson
<b>Author:</b>	Ian Thomson

### PURPOSE OF REPORT

1. On 20 April 2006 the Council considered a report on preliminary representation proposals that had been developed by the Canterbury Regional Council as part of a review of its present electoral arrangements.
2. The Council resolved that Council officers be requested to report back to it on the possible formation of a unitary authority, in place of both ECan (Canterbury Regional Council) and the Christchurch City Council. This report is in response to that resolution.

### EXECUTIVE SUMMARY

3. The report provides information on the statutory requirements that must be met before a territorial authority, such as Christchurch City Council, can become a unitary authority. It also refers to the options that are available to the Council should it wish to proceed further with the matter, examples of situations where other territorial authorities have looked at creating a unitary authority and views expressed by the Local Government Commission.
4. The steps to be taken before a unitary authority for the Christchurch City Council district could be achieved are set out in the Local Government Act 2002. These are explained in more detail in the body of this report.
5. It is recommended that the report be received for consideration.

### FINANCIAL CONSIDERATIONS

6. The Council would face considerable costs if it resolved to initiate further work on this matter. The decision-making provisions of the Local Government Act would require the Council to obtain proper advice on the reasonably practicable options for achieving the objective of its decision and an assessment of those options. It is likely that external consultants would be engaged.
7. In addition, the Council would incur the cost of undertaking consultation with a wide group of people and organisations, not just in Christchurch City but in other territorial authority areas affected by the decision. Assuming that the proposal received support from those authorities and the public, one of the options available to the Council would involve it arranging a poll of electors. There would also be costs incurred in preparing a reorganisation proposal and making submissions on that proposal to the Local Government Commission. Depending on the outcome of those submissions, the cost of having to defend an application for a judicial review of the Commission's decision could not be ruled out. If the decision was upheld, then further costs would be incurred in establishing the reorganisation scheme.
8. In 2003, when the Timaru District Council investigated options to undertake regional local government functions within South Canterbury, the consultants engaged by the Council estimated that the costs of any reorganisation proposal would be \$1 million.
9. No detailed analysis of costs has been carried out for the purposes of this report. However, given the larger size of the Christchurch City district it could be expected that the cost of complying with the procedural requirements of the Local Government Act 2002 would be well in excess of \$1 million. In addition, if a unitary authority is created there will be establishment costs to be met, such as accommodation, equipment and the hiring of staff. Whilst these may be offset to some degree by the additional revenue derived from rates, it is likely that the Council would need to provide for such costs, at least in the short term.

## LEGAL CONSIDERATIONS

10. As indicated earlier, the Council's statutory obligations are set out in the Local Government Act 2002. The Christchurch City Council is a territorial authority for the purposes of the Act. There are 74 territorial authorities, being city or district councils, and 12 regional councils.
11. A unitary authority is a territorial authority that has the responsibilities, duties and powers of a regional council conferred on it under the provisions of the Local Government Act 2002 or an Order in Council giving effect to a reorganisation scheme. Four territorial authorities have been classified as unitary authorities. They are Gisborne District Council, Nelson City Council, Marlborough District Council and Tasman District Council.
12. The responsibilities, duties and powers of a regional council include:
  - (a) Managing the use of natural resources such as water, air and land.
  - (b) Control of biosecurity measures.
  - (c) Managing rivers, including flood control and mitigating erosion.
  - (d) Regional land transport planning and passenger services.
  - (e) Harbour navigation and safety.
  - (f) Managing marine life.
  - (g) Controlling pollution.
  - (h) Regional civil defence.
13. Those of a territorial authority, such as the Christchurch City Council, include:
  - (a) Community wellbeing and development.
  - (b) Health and safety (including building control, civil defence and environmental health).
  - (c) Infrastructure (roading and transport, sewerage, water/stormwater).
  - (d) Recreation and culture.
  - (e) Resource management, including land use planning and development control.
14. As a result of the 1989 Local Government reforms, it was intended that single "unitary" authorities were to be the exception rather than the rule. The aim was to achieve adequate separation between regulatory and service delivery functions. Gisborne District was recognised to be exceptional by virtue of its location, geographical boundary and community of interest.
15. The establishment of the Nelson City Council and Marlborough and Tasman District Councils as unitary authorities and the abolition of the Nelson-Marlborough Regional Council was achieved by Parliament passing the Local Government Amendment Act 1992. The Local Government Commission was not directly involved in this process, neither did the changes follow the provisions set out in the Local Government Act 1974 for reorganisation of local authorities. The change was initiated by the Minister of Local Government following the Government's review of the functions and responsibilities of regional councils and the results of a postal ballot of residents and ratepayers in the Nelson-Marlborough Regional Council district. This was overwhelmingly in favour of that Council being abolished and the establishment of unitary authorities. In Kaikoura, the residents chose to retain the Kaikoura District Council as an independent territorial authority within the region administered by the Canterbury Regional Council.
16. Since 1989, three territorial authorities have submitted proposals to the Local Government Commission seeking to become a unitary authority. In each situation, after preliminary consideration of the proposal, the Commission referred it back for reconsideration by the authority that presented the proposal. No further, revised, proposals were submitted. This does not mean that all reorganisation proposals will be rejected. However, it is apparent that they must be carefully constructed and comply with criteria established by the Commission.
17. In providing their advice, the consultants engaged by the Timaru District Council identified a number of options available to a city or district council wishing to undertake regional local government functions. Some of these are appropriate to the possible formation of a unitary authority for Christchurch City and have been adapted for this report.

18. The identified options are:

- (a) Option 1: The Christchurch City Council becomes a unitary authority in its district.
- (b) Option 2: Statutory responsibilities are transferred from Canterbury Regional Council to Christchurch City Council.
- (c) Option 3: Canterbury Regional Council delegates statutory responsibilities to the Christchurch City Council.

**Option 1:**

- (a) Section 24(1)(f) of the Local Government Act sets out the matters that may be dealt with in a reorganisation proposal. These include a proposal that a territorial authority assume the power of a regional council (a unitary authority).
- (b) Clause 1(4) of Schedule 3 of the Act states that a reorganisation proposal that involves a territorial authority becoming a unitary authority may be made by:
  - (i) resolution of one or more of the affected local authorities that has the consent of each of the affected local authorities; or
  - (ii) the Minister; or
  - (iii) a petition signed by at least 10% of the electors of each of the affected districts or regions.
- (c) The local authorities with districts in the Canterbury Regional Council's region and which would be affected by a proposal that Christchurch City Council becomes a unitary authority are Ashburton District, Christchurch City, Hurunui District, Kaikoura District, Mackenzie District, Selwyn District, Timaru District, Waimakariri District, Waimate District, Waitaki District and Canterbury Regional Council.
- (d) Either the consent of all those local authorities would be required, or the proposal is supported by a petition signed by at least 10% of the electors in each affected district.
- (e) It is unlikely that the consent of the Canterbury Regional Council would be given to a reorganisation proposal that cut it out of the large rating base that it currently has in the Christchurch City Council district. Therefore, in order for the proposal to proceed, support for it would have to come from either the Minister of Local Government or at least 10% of the electors in the affected districts and region.
- (f) In the event of a reorganisation proposal surviving Schedule 3(1)(4) of the Act, the proposal would then be submitted to the Local Government Commission. Clause 37 of Schedule 3 requires the Commission to take such action that it considers necessary to ensure that the persons or organisations who may be interested in a reorganisation proposal are informed of it. The Commission must:
  - (i) give public notice of the proposal; and
  - (ii) seek the views of specified parties and any other persons or organisations that the Commission considers appropriate.
- (g) The Commission must also grant to the affected local authorities and each local authority whose district or region adjoins an affected local authority, an opportunity to meet with and be heard by the Commission. It will also undertake enquiries and consultation in relation to the proposal with whomever the Commission considers appropriate.
- (h) The Commission may decide either to prepare a draft reorganisation scheme based on the proposal or not to proceed with the proposal at all.

- (i) If a draft organisation scheme is prepared then the Commission will receive and consider submissions and decide whether or not to approve the scheme or not to proceed with it.
- (j) If the draft reorganisation scheme is approved then a poll of electors on the proposal that the reorganisation scheme proceed must be held in each district or region that is directly affected by it.
- (k) Clause 49(4) of Schedule 3 states that for the purposes of holding polls, a district or region is directly affected by a reorganisation scheme if –
  - (i) The scheme provides for the abolition of that district or region. Neither Christchurch City's district, Canterbury Regional Council's region, nor any of the other districts in that region are being abolished.
  - (ii) The scheme provides for the union of the whole of the district or region with all or part of another district or region. Christchurch City Council becoming a unitary authority is not a union of its district with Canterbury Regional Council's region.
  - (iii) The scheme provides for the constitution of a new local authority whose district or region will include the whole of that district or region. If Christchurch City Council becomes a unitary authority, it will have the responsibilities, duties and powers of the Canterbury Regional Council conferred on it in respect of Christchurch City's district. There will be no new local authority constituted.
  - (iv) The scheme provides for the constitution of a new local authority whose district or region will include part of that district or region. A similar situation to (iii) above.
  - (v) The scheme provides for the exclusion of an area from that district or region. Canterbury Regional Council is directly affected by the exclusion of the Christchurch City district from its region.
- (l) Therefore, it is possible that the outcome of a poll on whether or not Christchurch City is to become a unitary authority could be determined in the Canterbury Regional Council's region only. However, the better view is that the Local Government Commission would determine that a poll would be required in Christchurch City as well.
- (m) If a poll, or polls, support a reorganisation scheme, then option 1 would result in the Christchurch City Council having conferred on it the responsibilities, duties and powers of the Canterbury Regional Council in respect of the Christchurch City Council district. The Canterbury Regional Council would continue to exist but only for the balance of the region that it currently controls. Obviously, exercising its functions with a greatly reduced rating base would be difficult and this is likely to be an important issue so far as the Local Government Commission is concerned.

**Option 2:**

- (a) This option contemplates the transfer of the responsibilities, duties and powers of the Canterbury Regional Council to the Christchurch City Council in respect of that Council's district. There are two ways in which this could be achieved:
  - (i) Firstly, it could be done by agreement. Section 17(1) of the Local Government Act 2002 states that:

“A regional council may transfer 1 or more of its responsibilities (other than a responsibility that may be transferred under section 33 of the Resource Management Act 1991) to a territorial authority in accordance with this section.”

Section 17(3) and (4) set out the circumstances in which a transfer of responsibilities may be made:

- “(3) A transfer of responsibilities under this section—
- (a) must be made by agreement between the local authorities concerned and may be on the terms and conditions that are agreed; and
  - (b) may be, as agreed, either—
    - (i) a substantive transfer of responsibilities; or
    - (ii) a delegation of the undertaking of responsibilities with the transferring local authority remaining responsible for the exercise of those responsibilities.
- (4) A local authority may not transfer a responsibility, or accept a transfer of a responsibility, unless—
- (a) it has—
    - (i) included the proposal in its annual plan or draft long-term council community plan; or
    - (ii) used the special consultative procedure; and
  - (b) it has given prior notice to the Minister of the proposal.”

If agreement can be reached between the Canterbury Regional Council and the Christchurch City Council on the transfer of responsibilities in respect of the Christchurch City Council district, then there would be no need to go through the procedures required by Option 1. There would be no need for a reorganisation proposal to be prepared and submitted to all affected local authorities, the approval of the Local Government Commission would not be required and there would be no need for a poll of electors to be held. However, obtaining the consent of the Canterbury Regional Council may be difficult.

- (ii) Secondly, a transfer of responsibilities may be achieved by way of a reorganisation proposal.

Section 24(1)(e) of the Local Government Act states that a reorganisation proposal may deal with the transfer of a statutory obligation from one local authority to another. Clause 1(1) of Schedule 3 of the Act provides that a transfer may be made:

- “(i) by an affected local authority; or
- (ii) by the Minister; or
- (iii) by a petition signed by at least 10% of the electors of the area subject to the proposed reorganisation.”

- (b) Unlike reorganisation proposals involving the creation of a unitary authority or a new region, an affected local authority may make a reorganisation proposal for a transfer of statutory obligations without the consent of the other affected local authority. It is possible, therefore, that the Christchurch City Council could make a reorganisation proposal for a transfer of all or any of the statutory functions, powers or duties of the Canterbury Regional Council, without that Council’s consent.

- (c) Proposals for the transfer of responsibilities are provided for in Schedule 3 (subpart 3) of the Act. It is initiated with a copy of the reorganisation proposal being filed at the principal office of each affected local authority.
- (d) Clause 10 of Schedule 3 sets out the procedure for dealing with a proposal. The affected local authorities must consult with each other for the purpose of determining whether the proposal should be dealt with by a joint committee of the affected local authorities, whether it should be dealt with by an “appointed local authority” agreed to by the authorities or whether it should be referred to the Local Government Commission.
- (e) If a joint committee or appointed local authority is not agreed upon within 60 days, the reorganisation proposal is referred to the Commission and considered under the same provisions of the Local Government Act that apply to other reorganisation proposals. However, there is no requirement that a poll of electors be held following approval by the Commission of a draft reorganisation scheme.
- (f) Section 33 of the Resource Management Act 1991 states that a local authority may not transfer the approval of a policy statement or plan or the issuing of a requirement for a designation or a heritage order under that Act. It could be argued that this section simply prevents the transfer of these functions under that section, but may not prevent them being transferred from one local authority to another by way of a reorganisation proposal. This point would need to be clarified.

**Option 3:**

- (a) This option suggests delegating the statutory responsibilities of the Canterbury Regional Council to the Christchurch City Council in respect of the City’s district.
- (b) Section 17(3)(b) of the Local Government Act provides that a transfer of responsibilities under section 17 of the Act may be achieved by a delegation of the undertaking of responsibilities with the transferring local authority remaining responsible for the exercise of those responsibilities.
- (c) The advantage of this option is that if the consent of the Canterbury Regional Council could be obtained, neither Council would need to go through the reorganisation proposal procedure required to create a unitary authority. However, obtaining the consent of the Canterbury Regional Council would be the hard part.
- (d) It should also be noted that ultimate responsibility for the exercise of any of the responsibilities transferred would remain with the Canterbury Regional Council. This could reduce the benefits of this option, as would the fact that a delegation of responsibilities could be subsequently varied or reversed pursuant to section 17(6). This could be initiated by either party to the transfer.

**LOCAL GOVERNMENT COMMISSION**

- 19. Assuming that the Local Government Commission is given the opportunity to consider a reorganisation proposal, there are a number of statutory matters that the Commission is required to take into account.
- 20. Schedule 3(3) of the Act states that:
  - “(1) When considering a reorganisation proposal or scheme, the joint committee of the affected local authorities or the appointed local authority or 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 interests; 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 joint committee of the affected local authorities or the appointed local authority or 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.”
21. It is relevant to note that section 11 of the Local Government Act 2002 states that the role of a local authority is to give effect to the purpose of local government. This is to enable democratic local decision making and action by and on behalf of communities and to promote the social, economic, environmental and cultural wellbeing of communities in the present and for the future. The Local Government Commission would have to be satisfied that any reorganisation proposal made by Christchurch City would be able to meet these criteria.
22. Of relevance also is the application of clause 4 of Schedule 3 of the Act. This states that:
- “In determining boundaries under any reorganisation proposal or scheme, the joint committee of the affected local authorities or the appointed local authority or the Commission must ensure that,—
- (a) if practicable, the boundaries of regions conform with catchment boundaries;”
23. The effect of this provision is that the current Christchurch City Council district may not conform with catchment boundaries more suited to a regional council. For example, the city’s northern boundary is in the middle of the Waimakariri River.
24. It is worth noting too, that the Local Government Commission is required by Schedule 3(40) of the Act to consider wider issues, such as the effect that a proposal may have on the system of local government of any district or region affected by that proposal. In particular, the Commission may consider –
- (a) which system of local government in the district or region best meets the criteria set out in subpart 2 (the promotion of good local government);
  - (b) whether or not good local government would be promoted by the inclusion of any part of the district or region in the district or region of another local authority (whether by the constitution of a new district or region or by the alteration of boundaries);
  - (c) whether or not the system of representation in the district or region best meets the criteria in clause 5 (representation);

- (d) whether or not good local government of the district or region would be best promoted by–
    - (i) the system of communities (if any) and the responsibilities, duties and powers of the community boards in the district or region; or
    - (ii) an alternative system of communities; or
    - (iii) a change in the responsibilities, duties, and powers of the community boards in the district or region;
  - (e) any other matters that the Commission considers appropriate.
25. The Commission will be mostly concerned with the promotion of good local government. It would be up to the Council to convince the Commission that any reorganisation proposal made would achieve this objective.
26. Some idea of how the Local Government Commission will address these issues is set out in the Commission's publication of "Guidelines to the Procedures for Reorganisation of Local Authorities under the Local Government Act 2002".
27. In that publication, the Commission refers to section 76 of the Act, covering the decision-making processes that local authorities are required to adopt. In dealing with the present matter, the Council would have to:
- (a) seek to identify and assess all reasonably practicable options for the achievement of the objective of its decision;
  - (b) give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter;
  - (c) identify and consider the impact of inconsistency of decisions;
  - (d) have processes in place to provide opportunities for Maori to contribute to the decision-making processes;
  - (e) provide reasonable access to relevant information and encourage persons to present their views;
  - (f) give due consideration to views submitted and retain an open mind;
  - (g) inform persons who present their views of the relevant decisions and the reasons for those decisions.

These processes provide an opportunity for the Council to test support for and the validity of a decision to make a reorganisation proposal.

#### **OTHER REPORTS AND PROPOSALS**

28. As indicated earlier in this report, a number of other local authorities have investigated the possibility of creating a unitary authority for their districts. Some have progressed this to a point where reorganisation proposals have been submitted to the Local Government Commission. Others did not proceed beyond reports prepared by external consultants.

It may be useful for the purposes of considering this report to refer to these examples. They are a guide to what the Council can expect to have to deal with should it wish to pursue the formation of a unitary authority.



29. In October 2005, the Rodney District Council received a report from external consultants on whether or not the Council should become a unitary authority. There are a number of matters covered by that report that are relevant and these are identified as follows:
- (a) The regional and district plans required by the Resource Management Act 1991 can be developed and combined into a single plan. This would reduce potential administrative duplication and sets out in a single document all the rules that govern the management of resources in a unitary authority's district. Having both regional and district planning functions would enable a unitary authority to establish plans that integrate the environmental, social, cultural and economic outcomes sought for the district and to assess the influence of one or more of these factors on the others.
  - (b) Unitary authorities are able to establish a "one stop shop" for resource management advice, processing consent applications and monitoring.
  - (c) A unitary authority would be directly responsible for the preparation of a regional land transport strategy and regional public passenger transport plan for its district. It would be able to set its own priorities for transport, roading and public passenger transport services based upon an assessment of local needs and to seek funding for these directly from central government.
  - (d) Ratepayers might see a unitary authority as an advantage in that they would have to pay one local authority rate each year.
  - (e) Exclusion of a local authority from a regional council's jurisdiction could be viewed as being detrimental to the overall role of the regional council and have an impact on regional planning, environmental management and transportation planning.
  - (f) There is potential for a reduction in resource expertise occurring at both the local authority and the regional council. The unitary authority would need to employ specialists for regional council functions and there may be some difficulty with this. Likewise, the ability of the regional council to maintain its current level of expertise in overall environmental operations may be affected if its fee and rating base is reduced.
  - (g) If the proposal to create a unitary authority was to proceed along existing boundary lines, the issue of two authorities having joint responsibility for a catchment may arise.
  - (h) The unitary authority would need to enter into negotiations with a restructured regional council for a continuation of transport services that may transverse the regional boundary.
  - (i) Ownership/operation of any regional parks located within the local authority's district would be expected to transfer and become the responsibility of the new unitary authority. This may have an effect on rates given the cost of operating these parks. Regional parks are protected in perpetuity from sale or other disposal pursuant to section 139 of the Local Government Act 2002.
30. The report to the Rodney District Council came to the conclusion that in terms of the legislation as currently enacted for the reorganisation of local authorities in New Zealand, a proposal from the Council to the Local Government Commission to obtain unitary authority status was unlikely to succeed.
31. In 1993, the Local Government Commission received a proposal from the Westland District Council for that Council to exercise the functions, duties and powers of the West Coast Regional Council within the Westland District. Following are extracts from the Commission's response to the proposal:

- (a) “The northern boundary of the proposed unitary authority would be the existing boundary between the Westland and Grey Districts. This boundary divides the catchment area of the Taramakau River, which is not only a major natural resource but also a major transportation route. The river and its catchment area require significant management because of –

- its flooding potential;
- the major transportation route within the river valley;
- its potential as a hydro electric resource.

The Commission, in considering this boundary, has also had regard to the provisions of [the Local Government Act 1974], which provides that one of the relevant criteria in relation to a reorganisation proposal involving the alteration of a regional boundary is that, where practicable, the regional boundaries should conform with catchment boundaries. Although the present boundary is satisfactory for the purposes of dividing two district councils, it is not considered appropriate as a boundary between two local authorities undertaking regional functions.”

- (b) “The Commission notes that so far as is practicable, a local authority’s regulatory functions shall be separated from other functions at both the political and management levels. Although this is comparatively easily achieved in a city or district council, undertaking only territorial local authority functions or, alternatively, in a regional council undertaking only regional council functions, it is significantly more difficult to achieve the necessary separation in the political and management structures of the unitary authority undertaking both district and regional council functions.”
- (c) “If a proposal is given effect to, this would transfer not only regional functions but also financial resources to the Westland District Council. As intimated earlier, the Commission noted the view of the Parliamentary Commission for the Environment that the West Coast Regional Council had already experienced difficulties in meeting its obligations directly, as a result of having insufficient resources.”

32. In delivering its decision the Commission noted that:

“Having considered the information and views made available to it, the Commission has come to the belief that implementation of a proposal would make it difficult to ensure the good local government of both the Westland District and the West Coast Region. The northern boundary of the proposed unitary authority district is not appropriate as a boundary between authorities undertaking regional council functions as it divides significant river catchment. Implementation of the proposal would transfer not only regional functions, but also regional financial resources to the Westland District Council. This would reduce the financial base of the Westland Regional Council to a level that would make it extremely difficult, if not impossible, for that Council to exercise its functions, duties and powers within the remaining part of the region.”

33. A proposal by the Far North District Council that it be empowered to exercise the functions of both a regional and territorial authority was considered by the Commission. It stated that:

- (a) “The southern boundary of the proposed unitary authority would be the existing southern boundary of the Far North District Council. This boundary divides the catchment area of the northern Wairoa River. The management of the northern part of the catchment, which would be in the far north unitary authority district, would be of major concern to the Kaipara District Council. The flooding potential of the river is of major significance, particularly to the town of Dargaville, which is the major urban area within the Kaipara District.

The Commission, in considering this boundary, has also had regard to the provisions of [the Local Government Act 1974] which provides that one of the relevant criteria in relation to a reorganisation proposal involving the alteration of a regional boundary is that, where practicable, the regional boundaries should conform to catchment boundaries.

Although the present boundary is satisfactory for the purposes of dividing two district councils, it is not considered appropriate as a boundary between two local authorities undertaking regional functions.”

- (b) The Commission concluded, in fact, that the southern boundary of the proposed unitary authority is not appropriate as a boundary between authorities undertaking regional council functions as it divides a significant river catchment.

34. The Commission has carried out a review of local government in the Hawkes Bay region, Wairoa District, Hastings District, Napier City and Central Hawkes Bay District, and the proposal for the establishment of a single unitary authority for the Hawkes Bay region. One of the identified options was that there be three unitary authorities created to exercise the functions, duties and powers of the regional council in their respective districts. The Commission noted that:

- (a) “The Commission does not consider that the three unitary authorities, and in particular the proposed unitary authorities for Central Hawkes Bay and Wairoa Districts, would be able to undertake the regional council functions in the various parts of the district in a more effective and efficient manner than the current Hawkes Bay Regional Council.”
- (b) “The establishment of three unitary authorities for an area which is currently served by one regional council would result in the fragmentation of responsibilities for resource management across the wider Hawkes Bay. The Commission considers that such fragmentation would have a detrimental effect on the development of effective resource management strategies for the Hawkes Bay.”

The Commission concluded that:

“Taking into account the resource constraints that would exist in the Wairoa and Central Hawkes Bay Districts to perform regional council functions, and the division of river catchments which would occur with the implementation of this proposal, the Commission is satisfied that the proposal does not promote good local government of the districts concerned.”

35. In March 2001 a report was prepared by consultants engaged by the Franklin District Council for the purpose of investigating whether or not the Council should become a unitary authority. The report concluded that the Council, as a unitary authority, would not meet the statutory tests of good local government and neither would it result in cost savings for Franklin residents. It was considered that the proposal had a poor chance of succeeding through the statutory and other hurdles for the following reasons:

- (a) The Franklin District did not constitute a separate community of interest for the purpose of environmental management.
- (b) Significant cross boundary arrangements or transfers of functions would be necessary to ensure good local government, in particular relating to regional parks, control of the Waikato River, management of the Manukau Harbour, inter-regional growth management and catchment management of the numerous catchments which would cross the new regional boundaries.
- (c) The unitary authority, while having an adequate resource base to deliver regional functions, would not perform better than the existing regions with their larger resource base and ability to recruit and retain specialist staff and fund more sophisticated information systems.

- (d) Annual additional costs to the Franklin community would conservatively be in the order of \$1.3 million for a similar or slightly lower level of service delivery of regional functions.
- (e) Capital expenditure of at least \$1.45 million would be required for office extensions, additional vehicles and IT upgrading.
- (f) Staff would need to increase by about 25% to 30%.
- (g) The Council would need to significantly alter its current policy on environmental management, especially in the environmental information, monitoring and enforcement areas.
- (h) There would be some savings for the two regional councils of between \$750,000 to \$1,000,000 but these could well be absorbed by the cost of cross boundary arrangements and issues.
- (i) The enhanced choice and self-determination that would result for the Franklin District as a unitary authority does not outweigh the disadvantages of the proposal.
- (j) It is difficult to envisage a circumstance where special legislation would be enacted to circumvent the usual local government reorganisation procedures under the Local Government Act.
- (k) In the judgment of the authors of the report, the proposal failed to meet the statutory tests in the Local Government Act as interpreted by the decision-making body, the Local Government Commission.

#### **SUMMARY**

- 36. The purpose of the report is not to recommend any particular course of action to the Council. That could only result from a much more comprehensive examination of matters such as the options available under the Local Government Act 2002 an assessment of those options and determination of a preferred scenario. In addition, a thorough analysis of the costs and funding requirements to support the recommended structure and an assessment of the future delivery of core statutory responsibilities would be necessary.
- 37. If Christchurch City Council became a unitary authority, it would assume all of the functions of the Canterbury Regional Council as well as those of the Council for the Christchurch City Council district. There may be a synergy of purpose in respect of some of these functions but there would also be a need for transparency of decision-making and a clear separation of regulatory and service delivery obligations.
- 38. Irrespective of the process that might be adopted by the Council if it decides to proceed with a reorganisation proposal, the experience of other territorial authorities and the approach taken so far by the Local Government Commission should not mean that the proposal would necessarily fail. However, it is clear that there will be a need to demonstrate that by creating a unitary authority certain objectives can be achieved including (not but exhaustively):
  - (a) The promotion of good local government.
  - (b) Efficient and effective performance of the Council's role in –
    - (i) enabling democratic local decision-making;
    - (ii) promoting the social, economic, environmental and cultural wellbeing of its communities.
  - (c) The boundaries of its district conforming with water catchment boundaries.
  - (d) The best system of representation in its district.

- (e) The reduction of administrative duplication by integrating the social, economic, environmental and cultural outcomes sought for the district in one city plan.
  - (f) Development of a regional land transport strategy and public passenger transport plan for its district.
  - (g) One local authority rate.
  - (h) Political and management structures that are able to undertake both city and regional council functions.
  - (i) Cost savings.
  - (j) Enhanced choice and self-determination.
39. Notwithstanding that the Council may be able to achieve these objectives by becoming a unitary authority, it may well be that steps taken to improve the status quo may provide a solution to the problem that the Council believes exists. This could result in:
- (a) Negotiation of a more robust triennial agreement that reflects a need for change within the Canterbury Regional Council.
  - (b) Achievement of a realistic option, given the current legislative landscape and Local Government Commission criteria for unitary authorities.
  - (c) A low cost option compared to the other options identified in this report.
  - (d) The Council securing undertakings with regard to the Canterbury Regional Council carrying out its statutory functions and delivering an acceptable service.
40. The report to the Timaru District Council recommended this course of action.
41. It goes without saying that should a similar approach be pursued by Christchurch City Council, both parties would have to enter into any discussions in a spirit of goodwill and co-operation.

#### **ACKNOWLEDGEMENTS**

42. This is not a full scale comprehensive report into the options open to the Council with regard to the possible formation of a unitary authority, nor have the benefits of such a move been properly assessed. Because of that, some reliance has been placed on the work carried out for other local authorities that have considered the same issue. Local Government Commission findings on reorganisation proposals submitted to it and the Commission's own guidelines have also been used. These sources are acknowledged as follows:
- (1) Timaru District Council – Review of Regional Council Functions in South Canterbury: Polson Higgs & Co and Simpson Grierson.
  - (2) Rodney District Council – Should Rodney District Council become a Unitary Authority: Victor F Sears.
  - (3) Franklin District Council – Unitary Status Review: Coopers & Lybrand.
  - (4) Franklin District Council – Investigative Report into the proposition of becoming a Unitary Authority: Hill Young Cooper Limited and Brian Sharplin Limited.
  - (5) Local Government Commission – Guidelines to the Procedures for Reorganisation of Local Authorities under the Local Government Act 2002.

#### **STAFF RECOMMENDATION**

It is recommended that the Council receive this report for consideration.