



22. 4. 2004

**SUPPLEMENTARY REPORT BY THE  
CHAIR OF THE STRATEGY AND FINANCE COMMITTEE**

**PART A - MATTERS REQUIRING A COUNCIL DECISION**

**1. PROPOSED REMITS FOR LGNZ CONFERENCE 2004**

<b>Proposers</b> Zone 5 Delegates-Councillors Wells, Anderton, Evans and Harrow and Community Board Chair Yvonne Palmer	<b>Author</b> Allan Watson, Infrastructure Policy Leader, DDI 941-8303
--	---

The purpose of this report is to obtain Council approval to place two proposed remits before the Zone 5 meeting on 14/15 May 2004.

**1. INFRINGEMENT OFFENCES FOR LIQUOR BAN AREAS**

The Environmental Health Policy Leader, Mr Terry Moody, has advised on this issue as follows:

**Introduction**

The report of the Regulatory and Consents Committee to the Council meeting of 25 March 2004 introducing the Liquor Ban Bylaw included the results of a discussion from the Alcohol Policy Subcommittee with the Police and it was recommended as follows.

*That officers be requested to approach central government seeking an amendment to the Local Government Act 2002 to include provision for the issuing of liquor infringement offence notices by the NZ Police.*

*That officers approach other local authorities in support of the amendment to the Local Government Act 2002 to include provision of liquor infringement offence notices by the NZ Police.*

The Council adopted the report as a whole.

**Background**

The Local Government Act 2002 gave the power for local authorities to introduce bylaws controlling the consumption of alcohol in public places within their districts and the power to enable the Police to enforce such prohibitions. This Council is currently undertaking the special consultative procedure for introducing such a prohibition within its district.

The problem faced by Police is that enforcement ranges from warning the offender, or requesting the person to remove the alcohol from the area, to arrest for failing to comply with the prohibition. It has been considered that these two means need to have an interim step of the option of issuing an infringement notice with a fee set at a somewhat lower level than that provided for on conviction.

The power to issue infringement notices is contained in section 245 of the Local Government Act 2002 but only can be implemented for offences prescribed in regulations made under section 259 of the Act. It is considered that the infringement notices should apply to those matters contained in section 147(2), ie the consumption of liquor in a public place; the bringing of liquor into a public place; the possession of liquor in a public place; and the presence or use of a vehicle in a public place in conjunction with the foregoing.

**Conclusion**

As the matter is of nationwide interest it is considered that it should be dealt with through Local Government New Zealand and it has been suggested a remit to this effect should be referred to the next meeting of Zone 5 to be held in Dunedin on 14 and 15 May 2004. The remit could read as follows.

## 1 Cont'd

*"That the Minister be requested to introduce regulations under the Local Government Act 2002 making provisions for infringement offences in relation to the bylaws introduced under section 147, liquor ban prohibitions, and set infringement fees for such offences. Such infringement offences to be available to the Police where they undertake enforcement of such bylaws."*

## 2. REPRESENTATION ON NATIONAL COUNCIL

The proposal made by this remit is that Local Government New Zealand makes provision on its National Council for representation of the Community Board Sector.

There has been a steady consolidation and increased acknowledgement of the role Community Boards play in Local Government evidenced by the position of the New Zealand Community Board Executive Committee as a recognised Advisory Committee to the National Council.

Recent Determinations by the Local Government Commission have reinforced this recognition, recommending that Councils prepare a comprehensive set of delegations to Community Boards (and, incidentally, quoting Christchurch as an example to be followed in this regard). The Commission has generally confirmed existing Community Board numbers, retained Boards with amalgamation or approved new Boards. There was only one case where the number of Boards was reduced against the thrust of submissions.

It is noted that in addition to seven Zone representatives, other sector groups are represented at the National Council table in the form of one Rural, two Regional, one Provincial and three Metro appointments and it is argued that the Community Board sector should be similarly treated.

A remit is recommended as follows:

*"That Local Government New Zealand increase its National Council by one member to allow for Community Board Sector representation."*

**Delegate's**

**Recommendation:** That the two remits set out in the body of this report be submitted to the 15/16 May 2004 meeting of Zone 5 delegates on the understanding that should the Remits receive Zone 5 support they will be forwarded to the LGNZ National Council for consideration.

**Chair's**

**Recommendation:** That the above recommendation be adopted.

## 2. PROPOSAL FOR ABOLITION OF BANKS PENINSULA DISTRICT AND INCLUSION WITH CHRISTCHURCH CITY CITY COUNCIL RESPONSE

<b>Officer responsible</b> General Manager Regulation & Democracy Services	<b>Author</b> Peter Mitchell, DDI 941-8549
--	---

**PURPOSE**

The purpose of this report is to provide information for Councillors to agree on a response to the Local Government Commission's request for comments by the Council by 30 April 2004 on the Banks Peninsula Reorganisation Proposal.

## 2 Cont'd

**BACKGROUND**

As Councillors will be aware, more than 10% of the electors of Banks Peninsula District have initiated a reorganisation proposal under the Local Government Act 2002 that *"...the Banks Peninsula District be abolished and that the whole of that District be included in the Christchurch City Council District."* Reorganisation proposals of this type are referred to the Local Government Commission which is the decision-maker in this process.

The Commission has written to the Council seeking its views on the proposal by 30 April 2004. Submissions can be made on any matter relevant to the proposal, including:

- Whether or not the proposal should proceed
- Whether some variation of the proposal should be adopted; and
- If a proposal is implemented, details such as representation and community board structures and functions

The Commission advises that in preparing submissions, submitters should note that the Commission may consider how the proposal affects the system of local government in any district affected by the proposal. This could include-

- Which system of local government within the district best meets the criteria in Subpart 2 of Schedule 3 to the Local Government Act 2002, such as those relating to good local government;
- Whether or not good local government would be promoted by the inclusion of any part of the district in the district of another local authority (whether by the constitution of the new district or by the alteration of boundaries);
- Whether or not the system of representation within the district best meets the criteria in Clause 5 of Schedule 3 to the Local Government Act 2002, such as the requirement of fair and effective representation;
- Whether or not good local government of the district would be best promoted by-
  - The existing system of community boards and their responsibilities; or
  - Any alternative system of community boards or responsibilities; and
  - Any other matters that the Commission thinks appropriate.

At its meeting on 26 February 2004 the Council appointed a Committee comprising the Mayor and Councillors James and Wright to work with officers to develop a Council response and the Subcommittee's work was considered at a Council seminar held on Thursday 15 April 2004. This report is based on the information considered at that seminar and the views expressed at that seminar for discussion and debate by the Council at its meeting on 22 April 2004.

**STATUTORY CRITERIA**

The Local Government Act 2002 sets out the process for reorganisation proposals such as that received from the Banks Peninsula electors.

Clauses 3-5 of Schedule 3 of that Act provide in part:

- "3. (1) *When considering a reorganisation proposal or scheme,....the Commission must satisfy itself that the proposal or scheme will—*
- (a) *promote good local government of the districts....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....that is appropriate for the efficient and effective performance of its role as specified in section 11; and*
    - (iii) *contain within its district....a sufficiently distinct community of interest or sufficiently distinct communities of interests; and*
    - (iv) *be able to meet the requirements of section 76.*

## 2 Cont'd

- (2) *When considering the matters specified in subclause (1) in relation to any reorganisation proposal or scheme,....the Commission must have regard to—*
  - (a) *the area of impact of the responsibilities, duties, and powers of the local authorities concerned; and*
  - (b) *the area of benefit of services provided; and*
  - (c) *the likely effects on a local authority of the exclusion of any area from its district or region; and*
  - (d) *any other matters that it considers appropriate.*
- 4 *Appropriate boundaries*  
*In determining boundaries under any reorganisation proposal or scheme,....the Commission must ensure that,—*
  - (a) *if practicable, the boundaries of regions conform with catchment boundaries; and*
  - (b) *if practicable, the boundaries of districts conform with the boundaries of regions; and*
  - (c) *the boundaries of regions and the boundaries of districts conform with the boundaries of statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes.*
- 5 *Representation*  
*If....the Commission is required to determine the membership of a local authority as a consequence of any reorganisation proposal or scheme,....the Commission must—*
  - (a) *provide fair and effective representation for individuals and communities of that local authority; and*
  - (b) *comply with the requirements of the Local Electoral Act 2001; and*
  - (c) *take into account the responsibilities, duties, and powers of that local authority."*

### LOCAL GOVERNMENT COMMISSION 2004 PROCESS

It is important to note that the Christchurch City Council is not the decision-maker in relation to this reorganisation proposal initiated by a number of electors of the Banks Peninsula District Council. The City Council's role is as an affected local authority but its right to have an involvement in this reorganisation process is the same as any other person in Christchurch and Banks Peninsula. It is able to make submissions and representations to the Commission, as can any other person, but it will be the Commission that decides whether or not this reorganisation proposal continues and it will be the Commission that decides whether or not there is to be a poll only in Banks Peninsula District or in both Banks Peninsula District and Christchurch City.

In calling for submissions by 30 April 2004, the Commission is also consulting with adjoining and affected local authorities, the initiators of the proposal, relevant government agencies, iwi and the public. There have been advertisements in the local media calling for submissions from the public by 30 April 2004 on this reorganisation proposal.

After the closing date for submissions, the process as set out in the Local Government Act 2002, is:

- The Local Government Commission provides the submissions received by 30 April 2004 to the proposer and provides the opportunity for the proposer to withdraw the proposal;
- The Commission, in addition to calling for submissions, may make any further enquiries and investigations it considers appropriate;
- If the proposal is not withdrawn, then the Commission decides whether to issue a draft reorganisation scheme (based on the proposal or on some modification or variation to the proposal) or not to proceed with the proposal at all;
- If the Commission decides to issue a draft reorganisation scheme, then it invites further submissions on that draft scheme for a period of not less than two months from adjoining and affected local authorities, government agencies, iwi and the public;
- The Commission considers any submissions received on that draft reorganisation scheme and then decides whether it will issue a final reorganisation scheme based on that draft (with or without modifications), or to decline to proceed with the scheme at all;

## 2 Cont'd

- If the Commission decides to issue a final reorganisation scheme, then a poll would be held. The final reorganisation scheme would state whether a poll is to be held only in Banks Peninsula District. A final reorganisation scheme is only put into effect if a majority of those who vote in a poll are in favour of the final reorganisation scheme.

If a majority vote in favour at a poll, then the Commission gives effect to the final scheme by arranging for an Order in Council to be signed by the Governor-General which is the legal document which would put the reorganisation scheme into effect.

### 1999 REORGANISATION PROPOSAL

In 1999 electors of Banks Peninsula District also initiated a reorganisation proposal for the abolition of Banks Peninsula District and its union with Christchurch City.

As part of that 1999 proposal, the Commission carried out a review of local government in Banks Peninsula and gave consideration to the appropriate local government structure for the Banks Peninsula District in accordance with the statutory criteria then set out in the Local Government Act 1974. Those 1974 Act criteria are generally the same as are contained in the 2002 Act. In carrying out that review, the Commission was satisfied that the 1999 reorganisation proposal would promote good local government of Banks Peninsula District, and met the relevant statutory criteria in force at that time.

In particular the Commission concluded that:

- A local authority resulting from such a reorganisation would have the resources necessary to enable it to carry out its functions, duties and powers;
- That such a local authority would have a district that is appropriate to the efficient and effective performance of its role as set out in the Local Government Act 1974;
- That the Lyttelton Harbour Basin was becoming a suburb of Christchurch and it referred to statistics from the 1996 census. Updating the 1996 census, references to the latest census in 2001 shows the interdependence of the Lyttelton Harbour Basin with Christchurch to the extent that in 2001 almost 58% of the Lyttelton area workforce was employed in Christchurch and that 46% of those employed in the Lyttelton and Mt Herbert areas are Christchurch residents. In Lyttelton, Christchurch resident workers outnumber Lyttelton resident workers 624 to 408, while employment for people living elsewhere in the Banks Peninsula District is almost entirely within the District itself.

The Commission also noted that while many residents of Banks Peninsula District, outside the Lyttelton Harbour Basin, had little daily contact with metropolitan Christchurch, that most secondary schools pupils from Akaroa-Banks Peninsula District, outside the Akaroa township, travelled to Christchurch for their schooling and that some secondary students, primarily from the Little River area, travel to Lincoln. Further, residents of Christchurch figured largely as absentee landowners of land in the Banks Peninsula District and that with Banks Peninsula District being an important recreational area for residents of Christchurch, the Christchurch City Council had acquired extensive areas of land in the District for use as reserve accentuating the position of the Peninsula as an important area for recreation for Christchurch residents.

- That a new local authority comprising both districts would be able to provide the governing and administrative structures which would comply with requirements of the Local Government Act 1974.
- That the new authority would have the ability to deliver appropriate services to the various parts of the new District in a more efficient and effective manner.

## 2 Cont'd

The Commission also noted in this 1999 review that:

- (a) Legislation from 1989 had increased the demand for competencies in local government. Local authorities with their greater and more broadly based resources will tend to have an advantage providing the needed competencies. Likewise, a local authority must be sufficiently resourced to be able to put meaningful and realistic financial planning into effect. Certainly that demand for competencies has been increased by the requirements in the Local Government Act 2002 and so this reason from the 1999 review would be equally valid today.
- (b) In 1999 the Commission considered there was a need for long-term resource management and financial planning and that the integrity of such planning must be maintained if a local authority is to be able to respond to the wishes and aspirations of its residents. Similarly, this requirement would be equally applicable today.
- (c) The Commission also found that there would be service benefits to the Banks Peninsula District. This aspect and the financial implications today of a reorganisation proposal of this type will be considered in further detail below.

In summary, the Commission was satisfied that the proposed new local authority would best promote good local government for the Banks Peninsula District, that Banks Peninsula was an area of recreational importance for Christchurch citizens, and that if Banks Peninsula District was to become a part of the City, then Christchurch residents would be able to have a more direct say in planning for, and the provision of recreational facilities, within the area.

The Commission also noted that there would be potential disadvantages in that there would be a rate increase across the whole of the new City, that the Council of a larger district may be perceived as not being able to attend to in detail as many matters as the Council of a smaller district (however, the Commission believed an enhanced range of responsibilities could be dealt with by the community boards) and that there would be one-off costs in moving to a single local authority which may include staff transition costs and costs involved in rationalising accommodation, operating systems and service deliveries, but the Commission noted these initial costs would result in medium term cost reductions and efficiencies.

In 1999, the then City Council consciously took a neutral position regarding the final reorganisation scheme.

Polls on that final reorganisation scheme were held in both Banks Peninsula District and Christchurch City Council and a majority voted in favour of the scheme in Banks Peninsula District. In Christchurch City, a majority voted against the final reorganisation scheme in the margin of 54,959 to 34,089 in the poll held on 18 March 2000. As a consequence of that result, the 1999 proposal was defeated and the reorganisation did not go ahead.

As noted above, residents of Banks Peninsula District have again initiated a new reorganisation proposal and the Commission has now asked the Council to provide submissions by 30 April 2004 on the matters referred to above, and any other matters the Council considers relevant. It is considered that this reasoning by the Commission in its 1999 review which led to its decision to issue a final reorganisation scheme for the union of Banks Peninsula District and Christchurch City would be equally applicable today.

Before considering the specific issues the Commission has raised, it is considered appropriate for comment to be made on finance and infrastructure issues to provide background information for Councillors.

### **FINANCIAL MATTERS**

This section of this report is based upon the information presented by Mr Bob Lineham at seminars held by the Council on this topic in 2003.

The summary referred to below had been derived from the publicly available Annual Plan of the Banks Peninsula District Council for the 2003/04 year.

## 2 Cont'd

In terms of a comparison of the financial size of both councils, this can be seen in the following table:

	BPDC	CCC
<b>Total Revenue</b>	\$13.4M	301.5
- Rates	\$8.4M	156.3
- Fees, Subsidies etc	\$3.6M	103.6
- Investment Income	\$1.5M	42.9
<b>Total Operating</b>	\$13.1M	287.1
<b>Operating Surplus</b>	\$0.2M	14.4
<b>Total Assets</b>	\$205M	3,793
<b>Total Liabilities</b>	\$12.4M	172.4

Features of the Banks Peninsula District Council's Annual Plan for 2003/2004 are:

- Rate Increase of 16.84% in 2004/2004
- Amount of rate increase - \$1.2M
- Net Borrowing - \$1.4M
- Merging of separate rates
- Extraordinary one-off operating costs - \$0.4M
- Facing up to issues
- Under funded Depreciation - \$560,000

The potential impact on Christchurch City Council ratepayers, if this proposed reorganisation is given effect to, is:

	04/05	05/06	06/07	07/08
Reduction For BPDC	11.23%	15.34%	18.11%	17.13%
Increase For CCC	0.6%	0.8%	1.0%	0.9%

When considering the preceding table it is very important to bear in mind that these figures have been calculated on the basis of existing levels of service as shown in the current Annual Plans for both the Banks Peninsula District Council and the Christchurch City Council. Any potential increase in costs or efficiencies arising out of any reorganisation would be as a result of decisions made by the Council to be elected at the October 2004 elections to increase current levels of service in Banks Peninsula District. As such decisions cannot be known at this point in time, it is not feasible to provide financial information on this aspect.

The Banks Peninsula District Council forecasts based on the current Annual Plans, if this reorganisation was to come into effect are:

		03/04	04/05	05/06	06/07	07/08	08/09	09/10	10/11	11/12
Capex	\$M	5.4	4.8	10.1	4.3	3.7	3.7	7.3	6.8	4.4
Rates	\$M	8.4	8.8	9.4	10.1	10.7	11.1	11.8	12.4	13.0
Rate Increases	%	16.8	6	6.1	7.8	5.2	3.7	6.2	5.2	4.9
Borrowing	\$M	2.1	2.1	7.4	1.5	0.6	1.4	3.1	2.7	1.6
Total Assets	\$M	205	207	214	215	216	216	220	223	224
Liabilities	\$M	12.3	13.7	19.9	20.1	19.2	18.9	20.1	20.6	19.9
Debt to Equity	%	5.3	6.0	9.1	9.2	8.7	8.5	9.0	9.1	8.7
Debt Cost to Rate Revenue	%	8.6	10.0	13.4	15.7	15.9	16.0	16.4	16.9	16.6
Debt per Ratepayer	\$	1482	1657	2534	2555	2411	2361	2506	2572	2460

Those sums incorporate forecast capital expenditures on which the Banks Peninsula District Council is planning for the future.

## 2 Cont'd

At the present time Banks Peninsula residential rates are much higher than the Christchurch City rates for a property of the same valuation. The table below gives some indication of the difference.

<b>Residential</b>	<b>Lyttelton</b>	<b>Akaroa</b>	<b>Governors Bay</b>	<b>Christchurch</b>
Average CV	\$158,000	\$195,000	\$245,000	\$164,170
Average BPDC Rates	\$1476	\$1725	\$1544	\$954
Christchurch Rates at these values	\$922	\$1114	\$1372	\$954

At the present time it is not possible for this Council to give any binding commitments regarding increasing levels of service in Banks Peninsula District as the reorganisation process will not be completed before the elections in 2004. Any determination of this reorganisation proposal will occur in 2005 or later and so any decisions as to increasing levels of service would be a matter for the next Council.

If reorganisation goes ahead, then the rating policy to be applied would need detailed study and would require the development of a new funding policy for the enlarged district.

One potential scenario is that the residential and commercial rates of the current Banks Peninsula District could be on the same basis as Christchurch City presently, but the rural area of Banks Peninsula District would need a detailed review as the current cost structure of Banks Peninsula District could be quite different from the cost structure of the Christchurch City Council.

Another potential financial implication is the issue of the Transfund subsidy for local authorities. At the present time Banks Peninsula District Council has a higher Transfund subsidy than the Christchurch City Council. Banks Peninsula District Council has a subsidy of 53% compared to the City Council's 43%. The subsidy formula is set by Transfund and generally is based on an "ability to pay" basis. With any reorganisation proposal, and Banks Peninsula becoming part of Christchurch City, then it is probable that Transfund will set the subsidy for the new combined area at the City Council's current level of 43%.

Based on the current capital works programme of Banks Peninsula District Council, a 10% drop in the Transfund subsidy would equate to approximately \$300,000 a year which would need to be met by the City Council.

It has been suggested that the Banks Peninsula District could be "ring-fenced" so as to maintain the higher Transfund subsidy. That appears to be a matter that would require the approval of the Board of Transfund and at the present time there is no precedent in New Zealand for such "ring-fencing".

Another matter to have regard to with the financial issues is that the Banks Peninsula District Council does not currently fund for depreciation of approximately \$560,000 per annum and it has been the practice of this Council to fully fund depreciation. If the reorganisation was to proceed, then the new Council would need to counter this issue but under its present policy of funding a percentage of capital works from a combination of depreciation and operating surplus may be able to adjust the operating surplus so that there is no impact on rating levels.

With regard to the comments above about the development of a new funding policy to enable the Council to assess priorities between Banks Peninsula District and the rest of Christchurch City, the seminar held on 15 April 2004 considered that it was appropriate for the Council to indicate at this point in time that it would recommend to the next Council that that Council (except for statutory compliance issues) "ring-fence" Banks Peninsula District to current levels of service as provided by the Banks Peninsula District Council for a period of five years to enable the next Council to fully understand the issues involved in the district and to enable the Council to develop a new funding policy through public consultation processes. This would enable any additional expenditure (other than statutory compliance expenditure) to be addressed through the Council's Long-Term Council Community Plan for the 2006/07 year, assuming that the reorganisation proposal is given effect to in time for work to be incorporated into that Long-Term Council Community Plan. An issue to be considered regarding capital expenditure is whether items already in the BPDC 10-year forecast should be considered within the "ring-fence". This would seem to be a reasonable approach.



## 2 Cont'd

### LEVELS OF SERVICE AND INFRASTRUCTURE

This section of this report is based upon information provided by Mr Chris Kerr at council seminars on levels of service and infrastructure and previous reports to the Council.

Since 1989 the Christchurch City Council has generally had a policy of providing the same level of services throughout its district. There are some minor differences within Christchurch with regard to the relatively small rural area in the City. Within the built up area the approach has been to provide a uniform standard of service. As will be noted below however, there are still some parts of the level of service, e.g. water supply, where that is not the case.

A single funding policy is also applied across the City so that the 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 service standards such as kerbs and channels and footpaths. However, there will be some areas where it will be likely that a new Council would consider that in the interest of equity services for Peninsula residents would need to be improved. However, that will be a matter for the new Council in balancing priorities as between demands on the Peninsula and demands in Christchurch.

The cost of services are 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 to 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 the more local basis, although it is recently moved to a more uniform basis of rating.

It will be up to the new Council to develop a new funding policy for rates and user charges.

An analysis done in 1999 regarding the reorganisation proposal at that time still reflects the current situation of some operational efficiencies which would be available upon reorganisation being offset in part by some increased operational level of service related expenditure. The 2003 Administrative Services Review had highlighted some areas of level of service issues for the City Council today.

As reported to the Council at its 24 April 2003 meeting, the 2003 integration analysis identified that there were some areas where statutory compliance requirements would require an increase in service to Banks Peninsula residents. These requirements would include monitoring of resource consent conditions and inspections of swimming pools for the purpose of the Fencing of Swimming Pools Act 1987.

The Commission had noted in its 1999 review that upon reorganisation proceeding, there were likely to be significant one-off costs for matters such as customer service, data conversion and rating systems. However, this is considered inevitable in any reorganisation proposal.

Officers consider that today the Banks Peninsula District Council Asset Management Plan is in good shape although naturally there is some uncertainty regarding asset condition for buried assets.

Given the geographic nature of Banks Peninsula District, it is anticipated that there will be ongoing asset problems and costs to be met by the City Council if the proposal proceeds. The asset management approach by the current Banks Peninsula District Council appears to have captured and quantified the major service related risks and these are being addressed by that Council. There is nothing identifiable at this stage which suggests that there is likely to be any catastrophic failure of those assets.

## 2 Cont'd

Knowledge acquired by the City Council since the 1989 amalgamation has shown that before officers can confidently predict what will be required, then the Council needs to actually manage and operate the assets on a day to day basis. If expenditure is required in the future on Banks Peninsula District assets, then this will need to be prioritised against other City Council projects.

There are currently different levels of service between the City Council and Banks Peninsula District Council and some of these will be addressed as work systems are integrated with relatively little fuss or cost, while others will take some time to properly cost and prioritise. It is considered that the most sensible approach, given the comment above that the City Council needs to manage the services before it can be confident about how to go about improvements, is for the Council today to confirm that current levels of service will be maintained as a minimum and improvements to current levels of service in Banks Peninsula District can then be considered against other benefits and other priorities that the Council have at that point in time.

It should be noted that the fact that a reorganisation occurs of this type does not automatically mean that the same level of service would be provided across both Christchurch City and the current Banks Peninsula District. There should not be an assumption that a 'one size fits all' approach to levels of service would necessarily result if the reorganisation goes ahead. The City Council itself today, 14 years after the 1989 amalgamation, still continues to provide differentiated levels of service in Christchurch City. An example of this would be the different level of service for water pressure provided in the City.

### 2003 REORGANISATION PROPOSAL

As noted above, the proposal received by the Local Government Commission in November last year, from the electors of Banks Peninsula District is for abolition of Banks Peninsula District and its inclusion with Christchurch City. The fact that the petition was presented in this way is legally significant.

The Local Government Act 2002 provides different means by which what is generally referred to as a "reorganisation" of territorial authorities can be given effect to. The final reorganisation scheme adopted by the Local Government Commission can provide for:

- (a) the abolition of a district (and effectively including that district with another district or city); or
- (b) the union of one district with another district or city.

The legal significance of the distinction is that with (a) (i.e. abolition of a district and inclusion in another district or city), a legally binding poll of electors which will determine the outcome of the reorganisation proposal is required only in the district proposed to be abolished, and not in the district or city in which that abolished district is to be added.

With paragraph (b) (i.e. the abolition of both districts and the union into a new district), then a poll is required in both districts to be abolished and a majority of those voting in both polls must vote in favour of the reorganisation proposal to be given effect to.

In 1999, the Commission put forward a final reorganisation scheme which proposed a union whereby the Christchurch City Council and Banks Peninsula District Council would in legal terms be abolished and a new Christchurch City Council having responsibility for the combined area of Banks Peninsula District and Christchurch City would be formed. Because the final reorganisation scheme was drafted this way when the poll based on that scheme was held in 2000, two separate polls were held, one in Banks Peninsula District and one in Christchurch City. Although the poll in favour of the scheme was successful in Banks Peninsula District, it was unsuccessful in Christchurch City and for that reason, the reorganisation proposal did not proceed.

With the reorganisation proposal initiated by the electors of Banks Peninsula District in 2003, the proposers have specifically requested that Banks Peninsula District Council be abolished and included with the Christchurch City Council. As the law is written, if the Commission issues a final reorganisation scheme on that basis, then a binding poll of electors is only required in Banks Peninsula District, and there is not a binding poll in Christchurch City as there was in 2000. If only one poll is held and 50% of those voting in the Banks Peninsula District poll vote in favour of the reorganisation proposal, then that poll is binding on the Commission and the City Council and the reorganisation proposal will go ahead.

## **2 Cont'd**

The final reorganisation scheme itself, when published by the Commission, would set out the date on which the reorganisation scheme would take legal effect, and this would be the date when the Banks Peninsula District Council is legally abolished. For example, if a poll is held in 2005, then the Commission may well decide to have the Banks Peninsula District Council abolished in that year with the result that a by-election could be held to elect Councillor(s) representing the Banks Peninsula area to an augmented Christchurch City Council.

### **CITY COUNCIL RESPONSE TO LOCAL GOVERNMENT COMMISSION**

The matters raised in this section of the report were discussed at the seminar held on Thursday 15 April 2004 and reflect the views expressed at that seminar in relation to the different matters discussed in this section.

### **CITY COUNCIL SUPPORT FOR THE REORGANISATION PROPOSAL**

The consensus at the seminar was that the City Council should actively support this reorganisation proposal.

While it was noted that the Council had taken a neutral position with regard to the 1999 proposal, it was considered that the time has now arrived for the Council to change its position to one of active support.

It is considered that the time has arrived for the Council to take a leadership position within the community in this matter and to actively promote the reorganisation proposal initiated by the Banks Peninsula District residents.

Since the 1999 proposal there has been ongoing discussions and liaison with the Banks Peninsula District Council in relation to the sharing of administrative services while retaining separate democratic functions. Those discussions took place from 2001 to 2003 but in April 2003, the Council concluded that it was not a viable proposal for the City Council to provide such administrative support.

It is considered that the reasons stated by the Local Government Commission in 1999, both in its review and in the final reorganisation scheme, regarding the advantages and disadvantages of a reorganisation proposal are valid today and the Council agrees with the view of the Commission at that time that any disadvantages which the Commission had identified are well outweighed by the advantages.

It was also considered that the residents of Christchurch City would now be more accepting of a reorganisation whereby the City Council also administered Banks Peninsula, and reference was made to the financial advice of a reorganisation proposal involving a maximum of 1% increase in rates for Christchurch City residents in the 2006/07 year, based on current levels of service. That advice does not include any increase in cost which may result from requirements to increase levels of service in statutory compliance areas, although on the other hand, it does not incorporate any savings through reduced costs with the abolition of the Banks Peninsula District Council and potential savings in relation to shared services.

### **ABOLITION/INCLUSION OR UNION**

The majority at the seminar clearly favoured the Council supporting the final reorganisation scheme based on the abolition of Banks Peninsula District and its inclusion with Christchurch City, and not a union of both local authorities. This would have the effect that there would not be a binding poll with Christchurch City electors.

Factors which lead to the view to support abolition/inclusion were:

- (a) the small size of any potential rate increase;
- (b) the small number of potential residents to be added to Christchurch City: 316,227 Christchurch City residents to 7,833 Banks Peninsula residents;

## 2 Cont'd

- (c) Councillors had not received any adverse comments from Christchurch residents about joining with Banks Peninsula. Where comments had been received, they were clearly supportive of the reorganisation proposal;
- (d) a final reorganisation scheme based on a union would involve the dissolution of the Banks Peninsula District Council and the Christchurch City Council, together with the community boards in both districts. As is standard practice, and as is the Commission's usual practice, a transitional committee of both councils would be appointed to:
  - (i) make arrangements for a person to be the Acting Chief Executive of the Council for a united district;
  - (ii) make recommendations to the Council on administrative structure;
  - (iii) make recommendations to the Council on general principles of funding and rating policies for the united district; and
  - (iv) make recommendations to the Council on such other administrative matters as are required to ensure that the Council is able to function effectively from the day on which it comes into existence.

That was the process proposed by the Commission in 1999 and is contained in its most recent 2003 reorganisation proposal for the union of two councils. The majority view at the seminar on this aspect was that the addition of another 7,833 residents to a city of over 316,000 did not warrant the dissolution of the Christchurch City Council, but particularly given that the City Council had recently appointed a new Chief Executive with significant changes in that Council's senior management team.

In conclusion on this aspect, it was considered that the City Council should support a final reorganisation scheme based on the abolition of Banks Peninsula District and inclusion in Christchurch City with a binding poll only to be held in Banks Peninsula District.

### **WARDS FOR BANKS PENINSULA DISTRICT**

If the reorganisation proposal goes ahead, the question arises of what ward structure should be put in place for Banks Peninsula District, as part of the Christchurch City Council, and how many Councillors should be elected from the former district.

In 1999, the Commission proposed adding the Lyttelton/Mt Herbert area to the then Ferrymead Ward of the Christchurch City Council with no increase in Councillors, so that the two Councillors then elected by the Ferrymead Ward would also be the same Councillors who would represent the Lyttelton/Mt Herbert area. The Commission proposed that a new ward be established in the Akaroa/Wairewa area, electing one additional Councillor to the City Council.

In 1999, the Council had resolved that there should be one ward for Banks Peninsula District, including Lyttelton, Mt Herbert and Akaroa, electing one additional Councillor.

The Lyttelton/Mt Herbert area has 5,205 residents and the Akaroa/Wairewa area has a population of 2,628.

The Commission's 1999 rationale adding Lyttelton on to the Ferrymead Ward, and creating a separate Akaroa/Wairewa Ward, was that the requirement for the constitution of wards in the Local Government Act to ensure effective representation of communities of interest within the district, and that where a community of interest differed significantly from other communities of interest within the district, it requires a separate ward to achieve effective representation. It does not matter if the population of the ward is considerably below the average population per member in other wards and the Commission cited examples in Auckland, Manukau, Waitakere and Dunedin cities where this is the case.

With the issue of determining how the communities within the existing Banks Peninsula District would be most effectively represented, the Commission saw that there was ample evidence that the residents of Lyttelton Harbour Basin and the rest of the Peninsula had distinct communities of interest. They said that the Commission itself in 1989, had contemplated the inclusion of Lyttelton Harbour Basin to a ward of Christchurch City and Akaroa/Wairewa in a completely different district. The Commission found that all the evidence presented to the Commission in the 1999 review tended to show that the communities of interest for the residents of Lyttelton Harbour Basin were still distinctly

different from the communities of interest of the residents of Akaroa and Wairewa. Lyttelton was becoming very much a suburb of Christchurch and therefore had much in common with other suburbs, such as Heathcote, Halswell and Sumner.

The Commission found that the extent to which residents of the Lyttelton Harbour Basin shared commonalities with residents of the present Christchurch City meant, in the Commission's opinion, that they would continue to be effectively represented as part of one of the City's urban wards. The Commission considered that the communities of interest for the rest of the residents of Banks Peninsula District did not fit so easily with communities in the City and therefore the Commission considered the establishment of a separate Akaroa/Wairewa Ward, represented by one Councillor, would be appropriate.

A significant difference regarding this issue of wards now from 1999 is the Commission's decision on Thursday 8 April 2004 when it decided on the establishment of six wards for Christchurch City, and not the current 12.

This had the effect that a new ward is to be created from the existing Hagley/Ferrymead Wards and that if the Commission was to take the approach it did in 1999 and add the Lyttelton Harbour Basin on to that Hagley/Ferrymead Ward, then the situation would arise whereby the Councillors in that ward would in practical terms be representing communities of interest stretching from Cathedral Square to Port Levy. The requirement in the Local Government Act 2002 regarding the establishment of wards is that there be "effective representation" of the electors in that ward by their Councillors. The view at the seminar was that establishing a ward of that size in Christchurch City would not be effective representation.

Given the change in ward structures announced recently, it was considered that the Commission should take the view, notwithstanding its 1999 position, that there be one ward constituted for the current Banks Peninsula District, including the Lyttelton/Mt Herbert and Akaroa areas and that that ward elect one Councillor to the Christchurch City Council.

#### **COMMUNITY BOARD REPRESENTATION**

The 1999 reorganisation scheme proposed that there be two community boards on the Peninsula, one for the Lyttelton/Mt Herbert area and another for the Akaroa/Wairewa area. The Commission took the view that Banks Peninsula has two communities: the Lyttelton/Mt Herbert community and Akaroa/Wairewa community. The Commission came to the view that the Akaroa/Wairewa community should be retained and that the local government interests of the residents of Lyttelton/Mt Herbert would be retained in obtaining the community under the same name and establishing community boards for each of these two areas. The City Council in 1999 agreed with the establishment of two community boards.

If those boards are to be on the same basis as the City boards after October 2004, then they would be represented by five board members together with Councillor representation from the wards constituting the community. The Local Electoral Act provides that Councillors can only be appointed to community boards from the wards in which a community is situated.

The consensus at the seminar was that there should be two communities established on Banks Peninsula. A new issue raised at the seminar of Thursday 15 April 2004 was the use of area or ward committees for Banks Peninsula District instead of community boards.

There are two potential models for ward or area committees.

The Hurunui District Council has one community and four ward committees. Its ward committees are committees of the Council with a maximum of 11 members, including the two ward Councillors. One appointment is made by a reserves committee and the eight remaining appointments are elected by a separate ballot or show of hands at a public meeting within six months of each triennial election.

The Committee has a liaison role with ward residents and represents local concerns, and recommends that specific services are developed within the ward.

## 2 Cont'd

The Council delegates to the ward committees local policy determination in respect of matters such as recreation reserves, ward beautification, sewerage and drainage, water, footpaths and lighting. These matters are funded by ward rates and the ward committee would recommend the setting of a rate within the ward for development over and above that which would be programmed by the Council itself.

The Waimakariri District Council has a model of using advisory groups for three of their four wards. The fourth ward has the Kaiapoi Community Board. The advisory groups have no legal status and comprise between seven to 10 members publicly elected by residents and ratepayers in the ward. Elections of the advisory group are to be held within two months of territorial authority elections and with meetings held at least bi-monthly.

The role of advisory groups are stated to ensure effective representation of the ward area, to represent and act as an advocate in the interests of the community, to maintain an overview of the services provided by the Council within the ward, to make submissions on the Council's expenditure within the ward, and to liaise with community organisations and special interest groups within the ward.

Advisory groups generally have power to make recommendations on various matters such as land purchase, granting of lease or licences or approval of liquor applications for facilities on Council properties.

The model is generally based around the community board framework although not having the formality of a community board.

At this stage, there are clearly precedents for a district that has a mix of community boards and area or ward type committees. However, I note that in the recent electoral reviews which were released by the Local Government Commission on Thursday 8 April 2004, the Selwyn District Council had operated a Selwyn Central Ward "area board". There had been representations to seek the constitution of a Selwyn Central Community Board. The Commission commented in its decision:

*"This (area) board is established by the Council and appears to operate in a similar way to a community board. The Commission considers the continuation of a community level governance for the area would be desirable. It considers that this would best be achieved through the constitution of a community board for the area. This would ensure that the area's community governance is carried out under the normal accountability arrangements and framework of responsibilities for community boards."*

While the establishment of a ward or area committee is a possibility for the Banks Peninsula area, if the Council was minded to pursue this, then further research would need to be done into the merits of this type of alternative. However, it must be borne in mind given the Commission 1999 decision to establish two community boards on the Peninsula, and also the comments referred to above regarding the Selwyn District Council Electoral Review, the Commission may well be minded to take the position that there should be two community boards for the Banks Peninsula area.

The Commission has indicated that it wishes to meet with this Council in relation to this reorganisation proposal and this could be an issue for discussion with the Commission at that time.

If the Council was to vote for the establishment of two community boards, then to be consistent with the other community boards in Christchurch City, they would have five elected members and two councillors appointed by the Council.

### COMMUNITY BOARD DELEGATIONS

The Commission can specify the delegations to be provided to any new community boards in the final reorganisation scheme. However in 1999 the Commission took the position that it would not do that given that the City Council already has a system of delegations in place for the community boards within Christchurch City.

In the 1999 final reorganisation scheme provides the community boards would have the functions, duties and powers as were delegated back to them from time to time by the Council.

## 2 Cont'd

The 15 April 2004 seminar considered that the same provisions should be made in any final reorganisation scheme for this current proposal. I would also note that under the Local Government Act 2002, local authorities have a new duty to "...consider the issue of delegations to community boards." This new requirement was in response to submissions that the Local Government Act 2002 should specify mandatory delegations to be made by councils to community boards. The Select Committee hearing the submissions declined to accept those submissions but instead recommended that councils have a duty to "consider" the issue of delegations to community boards. The issue of delegation to community boards within this Council is being dealt with through the Subcommittee considering the review of the Council's committee structure.

### **SERVICE CENTRES**

At the present time the Banks Peninsula District Council has three service centres situated at Lyttelton, Akaroa and Little River. In its 1999 final reorganisation scheme the Commission, as tends to be its standard practice, provided that on reorganisation the Council was to maintain those service centres for a period of five years. The services to be provided by these service centres were to be not less than those provided by the Banks Peninsula District Council at the beginning of that five-year period.

The seminar considered that the same situation should apply in regard to this reorganisation proposal for those three service centres for a five-year period.

### **BOUNDARY ISSUE**

At the present time, part of the boundary between Banks Peninsula District Council and Selwyn District Council runs across Lake Ellesmere.

There have been discussions between the Banks Peninsula District Council and Selwyn District Council regarding a change in that boundary so as to provide that the Lake is entirely within the district of one territorial authority. The seminar considered that consideration should be given by the Christchurch City Council to the relocation of that boundary line and that is a matter that could be discussed in further detail as the consultation process on the reorganisation proposal proceeds.

Regarding the management of Lake Ellesmere, control of the Lake levels at the present time is managed by the Selwyn District Council which has overall management responsibilities for the Lake.

The Rūnanga that is involved in the Lake is wholly within the Te Taumutu Rūnanga and I understand that that Rūnanga is aware of the discussions between Selwyn District Council and Banks Peninsula District Council regarding the proposed alteration of the boundaries through the middle of the Lake.

Discussions held between the Banks Peninsula District Council and Selwyn District Council, generally provide for the Lake to be within Selwyn District Council although the Birdling Flats community would still remain within Banks Peninsula District, and the Christchurch City Council, if the reorganisation proposal goes ahead.

### **Staff**

#### **Recommendations:**

**(Based on the seminar on Thursday 15 April 2004)**

1. That the Christchurch City Council actively support the reorganisation proposal filed with the Local Government Commission for Banks Peninsula District Council to become part of Christchurch City.
2. That the Christchurch City Council support this reorganisation proposal on the basis that it is for the abolition of Banks Peninsula District and its inclusion with Christchurch City recognising that this means that a binding poll will only be held in Banks Peninsula District on the reorganisation proposal.
3. That there be one additional ward for the whole of the current Banks Peninsula District electing one Councillor to the Christchurch City Council.

**2 Cont'd**

4. That there be two community boards established for the Peninsula.
5. That the community boards be based on communities comprising the current Lyttelton/Mt Herbert Ward of Banks Peninsula District and the other comprising a combination of the Akaroa and Wairewa Wards of Banks Peninsula District.
6. That there be five elected members of each of those two community boards.
7. That the Local Government Commission be advised that the City Council would be willing to confer the same delegations on the two Banks Peninsula community boards as it confers on the City community boards.
8. That the Council support the retention of the three service centres at Lyttelton, Akaroa and Little River for a period of five years commencing on the date of the Order in Council giving effect to the reorganisation proposal and based on the levels of service provided by Banks Peninsula District Council at those service centres at that date.
9.
  - (a) That the Council support the alteration of the current boundary between the current Banks Peninsula District and Selwyn District insofar as it relates to Lake Ellesmere.
  - (b) That the City Council enters into discussions with the Selwyn District Council and the Banks Peninsula District Council regarding the new boundary between Banks Peninsula District and Selwyn District with a view to the Lake being incorporated entirely within Selwyn District.
10. That the Council in practical terms supports the "ring-fencing" of the levels of service for Banks Peninsula District for a period of up to five years commencing on the date of the Order in Council giving effect to any reorganisation proposal.

**Chair's**

**Recommendation:** That the above recommendations be adopted.

**CONSIDERED THIS 22ND DAY OF APRIL 2004**

**MAYOR**