

6. BANKS PENINSULA REORGANISATION LOCAL GOVERNMENT COMMISSION REQUEST

General Manager responsible:	General Manager, Regulation & Democracy Services Group
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PURPOSE OF REPORT

The purpose of this report is to inform Councillors of the release of:

- (a) The "Study on Operational and Financial Issues Associated with the Reorganisation Proposal for the Abolition of Banks Peninsula District and its inclusion in Christchurch City," by the Local Government Commission;
- (b) The "Draft Reorganisation Scheme for the Abolition of Banks Peninsula District and its inclusion in Christchurch City" on Friday 29 April 2005.

STAFF RECOMMENDATIONS

It is recommended that the Council:

- a) notes that a substantive response to the Draft Reorganisation Scheme will be progressed at a Council Seminar on Tuesday 14 June 2005 and decided at the Council meeting on Thursday 23 June 2005.
- b) appoint under clause 30 of Schedule 7 of the Local Government Act 2002 the CCC/BPDC Transitional Joint Committee as a joint committee with the Banks Peninsula District Council.
- c) appoint four City Council members to the Joint Committee.
- d) notes that the Joint Committee appoints its Chairperson and Deputy Chairperson.
- e) agrees to the terms of reference of the Joint Committee as:
 - I. undertaking preparatory work relating to the Banks Peninsula area for the 2006/07 draft annual plan for the enlarged Council;
 - II. making recommendations to the Christchurch City Council on incorporating elements of the Long-Term Council Community Plan of the Banks Peninsula District into the Long-Term Council Community Plan of Christchurch City.
 - III. considering any ongoing requirement, in the context of the rating policies for the enlarged Christchurch City Council, for loans raised for water and sewerage in Governors Bay under the Banks Peninsula District Council (Rates Validation, Empowering, and Trust Removal) Act 1994; and
 - IV. making recommendations to the Christchurch City Council on such other administrative matters of a governance nature as are required to ensure that the Council is able to effectively carry out its functions in the Banks Peninsula area from the date that the reorganisation scheme comes into effect.
- f) notes that the Joint Committee has a power to recommend only to both Councils.

PREVIOUS CITY COUNCIL RESOLUTIONS

At its meeting on 22 April 2004 the Council passed the following resolutions:

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.
4. That there be one community board established for the Peninsula, comprising seven elected members and one appointed member (eight members in total).
5. That the Local Government Commission be advised that the City Council would be willing to confer the same delegations on the Banks Peninsula Community Board as it confers on the city community boards.
6. That the City Council enter into discussions with the Selwyn District Council and the Banks Peninsula District Council regarding the new boundaries between Banks Peninsula District, Selwyn District and Christchurch City.
7. That the Council in practical terms support 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.

At its meeting on 7 April 2005 the Council passed the following resolutions:

- (a) Supports option 1 of the Commission's October 2004 Terms of Reference, providing for the inclusion of the whole of Banks Peninsula District in Christchurch City.
- (b) Supports the establishment of one community board for the Peninsula (as previously resolved by the Council on 22 April 2004).
- (c) Supports the introduction of the capital value rating system for Banks Peninsula.
- (d) Sees substantive changes to service levels on the Peninsula (other than statutory compliance issues) being matters to be dealt with through the Long-Term Council Community Plan.
- (e) In addition to the delegations given to the City's community boards, at the time reorganisation takes place, will provide a delegation to the Peninsula community board as follows:

"That the Peninsula community board recommend to the Council proposed expenditure from its reserve contributions account."
- (f) Will provide discretionary funding of \$20,000 per annum for the Peninsula Community Board.
- (g) Supports 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.
- (h) Will give priority upon reorganisation to the statutory compliance issues listed in (i) to (v) of 19(b) of this report, and any other statutory compliance issues that may arise.

OPERATIONAL AND FINANCIAL ISSUES STUDY

On 5 April 2005 the Commission released the Operational and Financial Issues Study prepared by Capital Strategy Limited into the proposed reorganisation.

In its Findings and Decisions on the Draft Reorganisation Scheme the Local Commission made the following statements regarding this Operational and Financial Study:

“As noted above, the Commission requested Capital Strategy Limited to undertake a study into the financial and operational costs of various reorganisation options based on the proposal. Information was obtained from the Banks Peninsula District Council, Christchurch City Council and Selwyn District Council for the purposes of the study, and those councils, together with the representative of the electors and Te Runanga o Ngai Tahu, were provided the opportunity to comment on the draft report before it was finalised.

The Capital Strategy Limited report states that approximately \$27.3 million (GST excl.) of additional capital spending, over and above the Banks Peninsula District Council’s budget estimates as contained in its Long Term Council Community Plan, would be required in Banks Peninsula over the next ten years to:

- Maintain assets at their current service potential;*
- Address water quality and environmental discharge compliance needs; and*
- Provide appropriate increases in service levels, e.g. road safety improvements.*

The report notes that while the Banks Peninsula District Council would be able to fund this additional capital spending through the sale of its investments (comprising managed funds and equity investments), the sale of some surplus properties and debt, the Council’s debt by 2014 would be near its policy limit.

Accordingly, after 2014, the Council would not be able to raise any more debt to fund additional infrastructure spending beyond the margin that would arise from growth in the number of ratepayers and the margin to its policy limit.

The report states that if all of the investments were not able to be sold to fund the recommended new capital spending, then the viability of the Council could become an issue before 2014. The Council would also have major difficulty in withstanding an unexpected expenditure shock, e.g. as a result of a major storm event.

Capital Strategy Limited considers that the Council currently faces resourcing problems in a number of key areas:

In general we are impressed with the dedication of BPDC staff, and what they have achieved in many areas with a relatively small staff. However we consider that BPDC is not currently adequately resourced with sufficient staff and financial resources to:

- Meet the increasingly onerous requirements and obligations of the wide range and constant stream of new legislation and regulations that local government has to comply with; and*
- In the policy formulation and Bill phase of legislation to be able to advocate effectively on behalf of its residents and ratepayers. We have assumed one additional staff member is required in this area.*

Please note that this is not meant as a criticism of the current BPDC staff’s or elected members’ abilities or efforts; it is symptomatic of a wider problem that faces a number of smaller Councils.

The Council does not currently have an adequate understanding of the condition and remaining life of all of its infrastructure assets that would be expected if it was exercising prudent stewardship as required by the Local Government Act (this is a legacy of prior Councils over many years – over the last few years Council has been addressing this shortcoming). It is assumed additional staffing is required to improve this situation.

Current consents and permits are being processed in a reasonable timeframe. The BPDC database is not up to date. There are many consents and permits in the system from prior years. It is apparent that many of these records apply to applications that have not gone ahead, or are unlikely to have been proceeded with. The status of others is unclear. More staff resources are needed to bring the systems up to an appropriate standard and get the records up to date. In bringing the records up to date Council staff will be able to ascertain if any construction works by applicants in the system have proceeded without Council consents/permits or inspection for compliance.

It is arguable that BPDC does not have the depth of financial and staff resources of a larger Council necessary to adequately plan for or defend its policy position in relation to the RMA.

The report's findings are consistent with the concerns expressed about smaller authorities by the Controller and Auditor-General, as detailed in section 7.4 above. The Commission is of the view that if the proposal were implemented the Christchurch City Council would have the financial resources and staff capabilities to effectively address the local government needs of the Banks Peninsula area.

Small councils, such as the Banks Peninsula District Council, face a range of fixed costs to meet the costs of the democratic process, and to set up and operate corporate systems regardless of the number of ratepayers. Large local authorities can achieve economies of scale so that the proportion of ratepayer money spent on administration and support is lower than what small councils have to spend.

Significant savings for Banks Peninsula ratepayers would accrue if the proposal were implemented. The following table shows the rates requirements for the Banks Peninsula District, applying the capital spending and other assumptions contained in the Capital Strategy Limited report, compared with the rates that would be imposed over the Banks Peninsula area if it formed part of Christchurch City. The assumptions take account of advice provided to Capital Strategy Limited by Christchurch City Council staff that the Council would apply its current rating policy, which generally takes a district-wide approach to areas of benefit, in the first full financial year following an implementation of the proposal, rather than continuing with the complex Banks Peninsula District Council policy in the transition period.

Annual rates requirement for Banks Peninsula area (\$000) GST excl.	04/05	05/06	06/07	07/08	08/09	09/10	10/11	11/12	12/13
Abolition of BPDC and its area included in Christchurch City	8,276	8,588	9,301	9,782	10,165	11,126	12,228	13,043	13,621
BPDC continues	9,013	10,004	10,734	11,111	11,542	12,496	13,546	14,338	14,963
Increase/ (Decrease) in Rates Income Required	(737)	(1,416)	(1,433)	(1,329)	(1,377)	(1,370)	(1,318)	(1,295)	(1,342)

Annual costs savings in the Banks Peninsula area would average \$1,350,000 per annum (GST excl.) after the first year.

The implementation of the proposal would have negligible impact on the rating burden of the ratepayers of the existing Christchurch City. Capital Strategy Limited has advised the Commission that because the costs associated with the area of Banks Peninsula being incorporated with Christchurch City would be spread across the approximately 150,000 ratepayers of the enlarged City, the impact on current Christchurch City ratepayers is insignificant. The estimated rates income for Christchurch City in 2005/06 is \$194 million (GST incl.), or an average of \$1,366 (GST incl.) per ratepayer across the current 142,000 ratepayers. The new rating requirement in 2005/06, including the Banks Peninsula area, would be approximately \$204 million (GST incl.), or an average of \$1,360 (GST incl.) spread across about 150,000 ratepayers. Year 2 (2005/06) has been chosen for comparison purposes because in Year 1 there would be transition costs of \$973,000 (GST excl.) that offset cost savings to some extent.

The application of the Christchurch City rating policies to rateable properties in Banks Peninsula District would have a significant impact on the rates charged to rateable properties in Banks Peninsula District. The rating impact would not be uniform across all properties because of the relatively complex rating policies currently applied by the Banks Peninsula District Council. Some examples of the rating impact follow (readers should refer to the Capital Strategy Limited report at www.lgc.govt.nz for further details and examples, and information on the assumptions that apply – all amounts are GST incl.)”

DRAFT REORGANISATION SCHEME

On Friday 29 April 2005 the Commission publicly released the Draft Reorganisation Scheme, and its Findings and Decisions in relation to the proposal for the abolition of Banks Peninsula District and its inclusion in Christchurch City.

Key matters in that Draft Scheme are:

- The area of the present Banks Peninsula District is to form the Banks Peninsula Ward of Christchurch City and elect one Councillor.
- There are to be two Community Boards, being the Lyttelton-Mt Herbert Community Board electing five members, and the Akaroa-Wairewa Community Board electing five members also. The Akaroa-Wairewa Community Board is divided into two subdivisions for electoral purposes only, being the Akaroa subdivision (comprising the area of the current Akaroa Ward of Banks Peninsula District) and the Wairewa subdivision, (comprising the area of the current Wairewa Ward of Banks Peninsula District). The Akaroa subdivision elects three members, and the Wairewa subdivision elects two members. The one Councillor elected by the Banks Peninsula Ward and appointed by the Council is a member of both the Akaroa-Wairewa Community Board and the Lyttelton-Mt Herbert Community Board.
- The first election for the Banks Peninsula Ward and the two Community Boards is proposed to be held on 25 February 2006 and that election is to be conducted by the Electoral Officer of the Christchurch City Council and shall be conducted by postal voting.
- The Community Boards shall have the same delegated powers as those conferred on Christchurch City Community Boards, subject to the two Peninsula Community Boards having the power to recommend to the Christchurch City Council the proposed expenditure from its reserve contributions account, and each board is to have a discretionary funding of \$10,000.00 (excl. GST) per annum.
- The rating system is to be the capital value rating system and the existing service centres in Lyttelton, Little River and Akaroa are to continue in existence for a period of at least 5 years from the date that the reorganisation scheme comes into effect and they are to provide at least the same levels of service as provided at the date the scheme comes into effect.
- The Summit Road (Canterbury) Protection Act 2001 is amended so that two members of the Summit Road Protection Authority are appointed by the Christchurch City Council and one member by the Selwyn District Council.
- The Canterbury Museum Trust Board Act 1993 is amended so the one member currently appointed jointly by the Selwyn District Council and the Banks Peninsula District Council will be appointed by the Selwyn District Council only.

Attached as Appendix I of this report is the statement prepared by the Commission of the advantages and disadvantages of the abolition of Banks Peninsula District and its inclusion in Christchurch City.

This Draft Reorganisation Scheme is open for submissions until Thursday 30 June 2005. It is proposed that there be a seminar for Councillors to consider the Operational Financial Study and a response to the Draft Reorganisation Scheme on 13 June 2005. The City Council's draft submission to the Commission can then be considered by the Council at its meeting on 23 June 2005.

After considering the submissions received by 30 June 2005 the Commission proposes to hold public hearings in Banks Peninsula district and Christchurch City in July 2005. If the Commission then decides to issue a Final Reorganisation Scheme based on the Draft Scheme, or modifications to the draft scheme, then it is proposed to hold a poll in Banks Peninsula district in late November or early December 2005.

If more than 50% of the votes cast in that poll are in favour then the Final Reorganisation Scheme is implemented and it is proposed that the election for the one Councillor and ten Community Board members be held on 25 February 2006. This date is open to submissions. The Commission proposes that upon the Electoral Officer giving public notice of the result of that election (approximately one week

after the election itself), then that day of the public notification will be the day when the Banks Peninsula District Council is legally abolished and its District included with Christchurch City. If the 25 February 2006 date is kept to it is probable that the legal abolition date will be in early March 2006.

If less than 50% of votes are for the reorganisation then the Final Reorganisation Scheme goes no further.

Most of the Commission's draft reorganisation scheme is in accord with previous resolutions passed by this Council regarding one Ward, one Councillor and three Service Centres at Little River, Akaroa, Lyttelton.

However there are some aspects of the Draft Reorganisation Scheme that require further comment.

(a) **Number Of Community Boards**

The City Council's position that there be one Community Board on the Peninsula has not been accepted by the Commission and it is proposing that there be two Community Boards. The Commission will decide on this issue in the Final Reorganisation Scheme and its decision will bind this Council. The Council could submit on this issue in its response to the Commission.

In releasing the Draft Reorganisation Scheme the Commission also released its Findings and Decisions with regard to the proposal for the abolition of Banks Peninsula district and its inclusion in Christchurch City.

With regard to the issue of community board structure in the Banks Peninsula Ward, the Commission stated in those Findings and Decisions the following:

"The Banks Peninsula District has two community boards – the Lyttelton Mount Herbert Community Board and the Akaroa-Wairewa Community Board. Each board has four elected members and two councillors appointed to the board.

Of those submitters who supported the proposal and expressed a view on community boards, there was strong support for the retention of a community board structure in the Banks Peninsula. Some considered that one board for the area would be appropriate while others supported the retention of two boards. On 7 April 2005 the Christchurch City Council resolved to support the establishment of one community board in the Banks Peninsula area if the proposal were put into effect.

The Commission is of the view that, at this time, a structure of two community boards in the Banks Peninsula area should be retained to reflect the communities of interest in the Banks Peninsula area. This structure will enable local issues to be appropriately discussed and dealt with at the local level. Consistent with the elected membership of each existing Christchurch City community board, the Lyttelton-Mount Herbert Community Board and the Akaroa-Wairewa Community Board would each have five elected members. Additionally, the member of the Christchurch City Council for the Banks Peninsula Ward would be appointed to each of the Banks Peninsula community boards.

The Commission considered whether either community should be divided for electoral purposes. It came to the view that the division of the Akaroa-Wairewa Community into two subdivisions would provide effective representation of communities of interest located in the community. The two subdivisions are:

- *the Akaroa Subdivision – covering the area of the current Akaroa Ward; and*
- *the Wairewa Subdivision – covering the area of the current Wairewa Ward.*

The 2001 Census usually resident population for the Akaroa Ward was 1,671 persons, and 960 persons for the Wairewa Ward. Applying the population per elected member requirements of section 19V(2) of the Local Electoral Act 2001 enables fair representation to be achieved with an allocation of three members for the Akaroa Subdivision, and two members for the Wairewa Subdivision."

(b) **Lake Ellesmere**

For many years Lake Ellesmere has been divided between Selwyn District and Banks Peninsula District. In its Terms of Reference issued in October 2004 the Commission had contemplated placing the whole of Lake Ellesmere within the Selwyn District and with the new boundary between Christchurch City (if the reorganisation proposal was to go ahead) and Selwyn District along State Highway 75 and then down to the coast, with Birdlings Flat remaining in the enlarged Christchurch City if the reorganisation proposal proceeded

In its Findings and Decisions on this aspect the Commission stated:

“The issue of the jurisdiction of Lake Ellesmere (Te Waihora) has been the subject of considerable deliberations by the Commission. The Selwyn District Council and the Canterbury Regional Council requested that the area of the lake currently within Banks Peninsula District should transfer to Selwyn District if the proposal were to proceed, while the Banks Peninsula District Council considered that the lake area should fall within one territorial jurisdiction and the Christchurch City Council considered that the matter required further consideration. The views of the tāngata whenua were similarly mixed. While Te Taumutu Runanga advised that if the proposal were to proceed its preference would be for the area to be included in Selwyn District, other persons at the hui at Te Wheke marae, Rapaki, on 3 February 2005, considered that as the Halswell catchment, which drains into the lake, flows through Christchurch City, it would be logical for the entire area of the lake and Kaitorete Spit to be included in Christchurch City.

The existing territorial authority boundary at Lake Ellesmere (Te Waihora) is a long-standing boundary, which pre-dates the 1989 reorganisation of local government. The Commission is of the general view that boundaries should not be changed unless sound reasons come forward, providing justification for such a change. At this time the Commission is not convinced that a change to the boundary in this area is warranted. By running across the lake the current boundary would appear to minimise territorial cross-boundary issues for the Selwyn District Council and Banks Peninsula District Council, compared with a boundary at a lake-land interface. In terms of the draft reorganisation scheme that the Commission is issuing on the proposal, it would welcome further submissions from the parties and interested persons on this matter.”

Accordingly the draft reorganisation scheme proposes that the boundary be down the middle of Lake Ellesmere.

(c) **Orion Shares**

In its Findings and Decisions the Commission noted that Banks Peninsula District Council currently owns 1.65% of Orion Group Limited. There are pre-emptive rights and a defined process associated with the sale of these shares under the Company's constitution. The Commission has expressed the view that the shareholding in Banks Peninsula District Council would transfer to the Christchurch City Council when the reorganisation scheme take effect in accordance with a clause in the Local Government Act 2002 that provides that all real and personal property vested in an abolished local authority vests in its successor.

The Commission has also expressed the view that the vesting of the Orion shares in the Christchurch City Council would not involve a sale, so that the pre-emptive rights process in the company's constitution would not be initiated.

(d) **Transition Issues**

The Commission notes in its Findings and Decisions that the Local Government Act does not empower the Commission to specify that a transitional committee should be constituted under the draft reorganisation scheme as would be the case with a union of two local authorities. However the Commission on this aspect states:

“Although the Act does not empower the Commission to specify that a transitional committee should be constituted under the draft scheme, it considers that the two councils should carefully consider the benefits of forming a joint committee to deal with transition issues. Some of the issues that such a committee might consider include:

- (a) *undertaking preparatory work relating to the Banks Peninsula area for the 2006/07 draft annual plan for the enlarged Council;*
- (b) *making recommendations to the Christchurch City Council on incorporating elements of the Long-Term Council Community Plan of the Banks Peninsula District into the Long-Term Council Community Plan of Christchurch City.*
- (c) *considering any ongoing requirement, in the context of the rating policies for the enlarged Christchurch City Council, for loans raised for water and sewerage in Governors Bay under the Banks Peninsula District Council (Rates Validation, Empowering, and Trust Removal) Act 1994; and*
- (d) *making recommendations to the Christchurch City Council on such other administrative matters as are required to ensure that the Council is able to effectively carry out its functions in the Banks Peninsula area from the date that the reorganisation scheme comes into effect.*

The Commission considers that the Councils should consider involving a representative of local Banks Peninsula iwi on any joint committee formed to deal with transition issues.”

The issue of appointment of a joint committee at this stage is one that needs to be considered by this Council. It could be said that it is premature to appoint such a joint committee at this time because there is only a draft reorganisation scheme, there are still public submissions by 30 June 2005 and the Commission has yet to decide whether or not to issue a Final Reorganisation Scheme. Further there is still a poll to be held in Banks Peninsula District in late November or early December 2005 and it may be considered by some that the appointment of a joint committee now by the two Councils would be pre-empting the outcome of that poll.

However on the Commission’s current proposed timeframe there would be a poll held in late November or early December with the legal abolition of Banks Peninsula District to take place around early March 2006. The eleven to twelve weeks between the date of the poll and the legal abolition of the Banks Peninsula District Council (if that poll was successful) and bearing in mind it is over the summer holiday period does not realistically leave an appropriate amount of time for the transitional issues that would be involved with the abolition of Banks Peninsula District and its inclusion in Christchurch City to be given proper consideration in a timely fashion and also for this Council to make any decisions that may be necessary of a transitional nature.

This is particularly because of the key issue of the Christchurch City Council having to prepare a Long Term Council Community Plan which, given the early March 2006 date the Commission has set for the abolition of Banks Peninsula, means that the LTTCP adopted by this Council in March or April next year will need to include the area currently in Banks Peninsula District. The transitional issues arising out of the City Council proposing to include Banks Peninsula District within in its own LTTCP cannot be dealt with in a matter of some weeks over next summer and planning needs to commence soon.

On balance it is considered that it is appropriate for this Council to form a joint committee at this point in time on the basis that the appointment of the Committee is to enable good management of the transitional issues in the event that the poll later this year is successful. The appointment of this committee should not be seen as this Council assuming that the poll result will be in favour of the final reorganisation scheme if one is issued by the Commission. It is entirely a matter for the residents of Banks Peninsula as to whether they support the reorganisation scheme or not.

If Banks Peninsula residents vote in favour of the poll then the work of the joint committee would have been useful in addressing transitional issues that may arise. On the other hand if the poll vote was to reject the reorganisation scheme, then in effect the work of the committee would be wasted but it is considered that that is an appropriate risk for this Council to take.

Regarding the Commission’s reference to appointing a representative of local Banks Peninsula iwi on the Joint Committee, I understand Banks Peninsula District Council resolved on 19 May 2005, that the Council has a commitment to ensure that a representative of local iwi on Banks Peninsula be consulted on relevant issues by the Joint Committee. This commitment is instead of that representative being a member of the Council Joint Committee, and it is considered appropriate that the Banks Peninsula District Council manage that consultation process.

The Local Government Act 2002 provides that a joint committee appoints its own Chairperson and Deputy Chairperson.

A joint officer working party has been established which would manage the transitional issues of a management nature and also provide advice to the joint committee.

It is recommended that this Council appoint a joint committee and that it appoint four members to that committee to work with Banks Peninsula District Council on transitional issues.