

REPORT ON REVIEW OF CHATHAM ISLANDS ENTERPRISE TRUST AND CHATHAM ISLANDS COUNCIL

Basil Morrison CNZM JP Hugh Rennie CBE QC

27 August 2009

Introduction:

In 2008, the Chathams community discussed key issues for its future, following the third Taylor Baines report. Amongst the issues raised were the future roles for the Chatham Islands Council and the Chatham Islands Enterprise Trust. Concerns were expressed as to whether there was duplication of governance and administration, and whether their respective tasks were allocated to the body best able to undertake them. We were asked by the Trust and the Council to review their current structures and operations, to consider ways in which there could be combined operations or a merger, and to set out our findings, options for action and our recommendations. In particular we are asked to recommend ways forward for the Chathams to ensure the Islands have a sustainable future.

We issued a discussion document, invited and received submissions, consulted with the Trust, Council, Islands organisations and individuals, and considered current information on government commitments and proposals for the Chathams. We now submit our report.

A copy of our discussions document is Appendix A to this Report.

Cooperation between Trust and Council:

The Trust has been in existence since 1991. The Council in its present form was reconstituted by 1995 legislation, and is now supported by the government funding (to supplement rates and dues) which commenced five years ago.

Each organisation has successfully carried on its respective responsibilities over these periods despite resource limitations of personnel and finance. Each has current issues in respect of future operations. With the exception of recent joint submissions to government, and some past “one off” initiatives on particular projects, we found that the Trust and the Council have operated separately and independently since the Trust was established. There has not been conflict. The suggestion of closer cooperation or merger is new.

Our discussion document identified ways in which the Trust and the Council might work together, or become more closely associated, or become merged. It was apparent in consultations that there is almost universal support in the Chathams’ community for a closer association leading to at least some level of integration. In consequence our report considers these issues from that perspective.

In practical terms, we found there can be initial cooperation, consultation followed by rationalization of activities, and continued joint work towards a single outcome acceptable to both organisations and the community.

Limited economic base of Council and Trust:

With its substantial area, two inhabited islands, and low population level, the Chatham Islands faces local government costs and infrastructure needs which cannot be wholly funded from the Islands economy at its present state of development.

The Council's weak rating base has in the past been supplemented by an import/export due. Because that is levied on goods which cross the wharf or through the airport, (and because of other historical features which are not now relevant), these dues are often seen as revenue from those transport facilities which should be applied to their upkeep. At present, the Council's revenue from such dues is close to the deficit in revenues which the Trust faces in respect of those facilities. This is however a coincidence, as the Chathams Council Act 1995 clearly provides for dues to be a general revenue of the Council. Central government in recent years has recognised that the statutory obligations on the Council as to the services it must provide cannot be wholly funded from rates and dues and has provided direct additional funding so that the Council's financial position is on a rational basis.

The Trust's only income is from its operational activities. Its only capital base is its original capital grant, the assets taken over, and some minor rights to surplus Crown fishing quota for new quota species. The Trust was under-funded as to capital on its establishment, and faces a similar challenge to that which faced the Council in its provision of infrastructure services whose costs (however well-managed by the Trust) cannot be wholly funded from the revenues presently available.

The Trust has been highly successful in managing its assets and income since its establishment in 1991, but a combination of underfunding and inadequate revenues has meant that a day would arrive when it came under financial stress. It is to the Trust's credit that that did not arise until about 17 years after it was established.

There is substantial development potential in the Chathams as successive Taylor Baines reports have confirmed. In time, if this can be achieved, revenues for the Council and the Trust's infrastructure services will rise. In concept, with substantial development, an independently viable local economy will be achieved. History has shown that progress towards that is often followed by events which constrain and even damage such progress (such as changes in central government funding, constraints on shipping services, energy price shocks, unavailability of capital and loan finance).

We discuss the need for central government involvement later in this report.

We were surprised to find that we have been asked to consider ways in which the two organisations might work together or be combined when there has been no past history or any initial steps in that direction. We requested and convened a joint meeting of the Trust and the Council, which was productive. This clearly demonstrated to us that each organisation currently works independently.

Initial stage – findings:

We find:

- a. Although the community and each organisation have requested an exploration of the proposal for the two organisations coming together, they have not jointly undertaken any investigation of this.
- b. There are obvious areas where joint action would be preferable, and there are also historic (legacy) issues where the Trust carries on activities taken over from the Council as a matter of necessity in 1990 – 1993.
- c. The resources of each organisation are under pressure, neither organisation has spare capacity for additional responsibilities, and it is doubtful whether there are significant financial economies to be made through any combination of the two organisations. However there are likely to be better outcomes (through better use of existing resources and skills) if the two organisations cooperate. Rationalisation of the two management structures will then follow.
- d. It is probable, although not yet certain, that some activities (such as airport and wharf) undertaken by the Trust should be undertaken by the Council as they are an integral part of the regional and national transport strategies and should be funded accordingly. Some activities of the Trust (including charitable and educational grants, fish quota ownership, and some commercial initiatives) need a Trust structure including its powers and taxation environment. In addition they are not suitable for direct Council operation, as opposed to joint action involving Council and Trust. We found community resistance to Council involvement in fish quota ownership and management. We consider promotion of economic development should involve both the Council and the Trust using established models from other local government areas.

Government policies, particularly financial policies, change:

Current government policies differ substantially from those which existed when the Trust was established. Recently this has disconnected some Trust operations from possible government funding sources. However such policies could change again, so any solution must ensure that there cannot be disconnection from government funding sources in the future.

At present the Trust is able to support the operation of key services such as wharf and airport in a way which means that the full cost of those operations does not fall directly on the existing operators or the users. Transfer of those activities to the Council would mean that the financial support from the Trust would have to be replaced by either a full cost recovery from users (which would be a serious economic problem for operators and users), or other Council revenues (which is largely not possible), or government funding (which is not assured to be available now or in the future). If such activities are to be taken over by the Council, it is critical that a permanent government financial commitment to contribute to those operations is obtained before any transfer is made.

Initial stage: options –

1. No change to present arrangements; or
2. Council and Trust initiate joint meetings and a plan for progress towards closer association and in turn possibly a single management structure; or
3. Externally imposed integration, either immediately or over a time period.

Recommendations:

The first option (status quo) is in our view not an option.

We firmly believe that the most effective way of proceeding is option 2. We recommend that the Trust and the Council establish an initial agreement, key elements of which will be:

- a. Joint meetings of the Council and the Trust, we suggest initially at two-monthly intervals. We have suggested that such meetings could be chaired alternately by the Mayor and the Trust Chair, or alternatively by a mutually agreed independent Chair. We discussed this with the Council and the Trust. Both support this. The Council favours an independent chair with Chatham's knowledge; the Trust favours a local and "in house" option. We suggest that this be resolved at an initial joint meeting under an independent chair.
- b. The objective of joint meetings, and the full agenda, is to be identified in an advance. Key initial items are consideration of this Review Report, adoption of whichever recommendations are agreed by all involved, and the initiation of a plan to implement those proposals on a staged basis.

- c. Each organisation to direct its respective Chief Executives to meet in advance of each meeting to settle the agenda matters for discussion, to identify the steps to be taken to ensure that the plan is settled and put in place over an appropriate time (say two years), and to provide a joint report to each meeting on these issues, options, and progress.

- d. In general, such meetings should be held in public except where personally confidential or commercially sensitive matters are being discussed.

An early outcome of this process should be direct negotiations by the Council and Trust jointly with Central government including meeting with Ministers. These should include the involvement of Local Government New Zealand. We will support and facilitate such meetings if requested to do so.

Second stage – transfer of activities:

Following the establishment of the joint meeting structure recommended, the next step would then be to consider what activities of the Trust or the Council could be transferred between the organisations.

We did not identify any Council activities which could or should be transferred to the Trust.

The information we have reviewed suggests that the Trust activities of wharf and airport operations should be transferred to the Council (on terms yet to be established). This is a return to the Council of previous activities. Any return is subject to the essential requirement that the Council is funded on a continuing and permanent basis for all the costs of these services from sources that cannot be met from reasonable user fees and charges (including dues) and rating revenue. In the first instance that assurance could be obtained through an ongoing government commitment. Longer-term it is desirable (indeed essential) that the Council have its own provision in its local government legislation for such funding. Alternatively it may be possible to enter agreements for joint Chathams/government ownership of these facilities, with joint financial contribution. However a number of the submissions which we received identified community opposition to any return to central government ownership of any Islands facility. The past history of government involvement in ownership and management of Islands services is strong evidence against any return to that structure and operating method.

Second stage – findings:

- a. The Trust is currently carrying on commercial activities, on a commercial base, which have no prospect of achieving revenues to meet the full costs of operation. This applies to both the wharf and the airport, and has been the position throughout the whole history of the Islands. The Trust

cannot access existing central government assistance (in particular the Financial Assistance Rate funding through the NZ Transport Agency). This should be used to support the costs of the Islands' airport and wharves because they are an integral part of the transport network.

- b. The electricity business has historically earned a profit in every year since 1992. A recent loss appears to be caused by a "social cost" decision to set electricity pricing on a non-commercial basis.
- c. Some reconstruction of the electricity business (to write off unrecoverable investigation costs, introduce alternative generation including renewable generation, and expand the customer base and transmission grid) is required. Once achieved the company should be viable and might operate independently under Trust, Council or community ownership.
- d. The Trust holds fish quota under a separate company, subject in some cases to Trust and/or statutory requirements, and is committed to support and development of the on-Islands fishing industry. Strong opposition was expressed to us from a number of sources to any change in the existing ownership and control of quota through a Trust.
- e. There are opportunities for joint management of quota with other quota holders including iwi groups, and some commercial opportunities to use the capital base of the company to expand its size and profitability to holding deep sea and other zone quota.
- f. The Trust's recent entry into bulk fuel storage, fuel importation and fuel retailing is controversial and needs further consideration. There is a community advantage in community ownership of wharf and storage facilities for bulk fuel and access by bulk users (including electricity) to wholesale price fuel. The case for competition by the Trust with local fuel retailers in retail sales is in our view not proven. Readily available

mainland statistics for changes in retail prices provide a basis for comparison of Islands pricing with New Zealand pricing. This should be a sufficient check and control on Islands pricing (and has been used in the past), but the Trust tells us from its years of experience of price monitoring that this is not sufficient to result in control of prices on the Islands. Any need for retail market entry by the Trust could only be supported if monopolistic profits were being made. This was not shown to be the case.

- g. Trust Forestry investments are best seen as part of the Trust's financial reserves, rather than a distinct business. Expectations of on-Islands timber treatment have not eventuated and are unlikely to do so. As financial reserves they can be allocated as part of any asset transfer to the Trust or Council as the ongoing joint meetings decide.
- h. A single management unit for Trust and Council is likely to be a desirable objective, and can be evaluated by the first stage process recommended. Co-location of the two management units and sharing of resources should occur at an early stage, whether or not they are integrated. The reasons which led to the location of the Trust office at Sandstone are no longer relevant.

Second stage – options:

The options are the same as under the first stage. In the balance of this report we have assumed that option 2 will be taken.

Second stage – recommendations:

Wharf -

Stay with Trust (if no committed government funding for operational losses) or

transfer to Council (with committed government funding for operational losses). In either case government funding for maintenance and repairs will be required. Construction defects should in any event be the government's responsibility given that they arose before the handover date when the construction project was under government management. This is an essential part of the national transport network and this means there should be direct negotiations with Ministers on these issues and funding provided as part of the New Zealand Transport Agency funding for the Chathams.

Airport -

Transfer from Trust to Council should occur provided committed government funding for continued operation. The New Zealand model of joint government/local body ownership at locations such as Westport or Wanganui may be a suitable model although government ownership of the asset raises community issues. Transfer from Trust to Council without committed government funding should not occur as it would expose operators to the full cost of an airfield capable of much higher levels of use than present operations. As with the wharf, the airport is an integral part of the regional and national transport network.

Trust proposal to impose full cost recovery on existing aviation operator –

This should not proceed at this time. There is no necessary correlation between operating costs and the current level of that operator's business. In addition, imposition of higher charges would extinguish the basis for seeking government contribution towards operating costs and cause damage to the existing aviation service and consequent loss to the community. The Trust should defer its intended actions, await the outcome of negotiations with Ministers, and then submit the issue for consideration at a joint Council/Trust meeting.

Electricity rationalization and redevelopment -

This should take place within the existing company structure. An early joint meeting should consider the possibility of having directors appointed by both the Trust and the Council. The ultimate ownership and operation of this business should be determined when these changes are complete, the level of government funding is known, and the future plan can be established. A likely outcome is an independently operated commercial business owned by the community either through the Council, or by other means. The Trust has told us that it is an independent company, well on its way to achieving our recommendations, and that it sees no benefit in altering the ownership. This is a community-owned company and how the community organises that ownership is for it to decide.

Fish quota -

The Trust holds about \$12 million of fish quota, mainly inshore wet fish and crayfish. It has built up this strategic portfolio over the past 18 years. One part of the portfolio comprises about 1300 tonnes of mixed quota which the Crown transferred to the Trust subject to conditions. This was the residue of developmental quota promised to the Islands by the Crown but on which the Crown was found by the Ombudsman to have defaulted. The Trust may trade species within this block of quota but must otherwise retain it for use in securing and developing the Islands fishery. The second block is quota purchased by the Trust from its own financial resources, which it can hold or sell. The third is surplus Crown fishing quota for new quota species which the Trust is entitled by statute to receive and which it can hold or sell.

We have identified and reported on the strong – indeed unanimous in our experience – community view that this quota should continue to be held and administered by the Trust (or a successor Trust), independently of the Council. The Council has told us that it agrees with this (but on the assumption of a single administrative unit servicing both Council and Trust).

At present revenue from fish quota is used first to meet the costs of administering the portfolio (the Trust uses a quota holdings company for this), then to repay any monies borrowed to buy quota (including interest on that) and lastly to buy further quota. The quota company has been a relatively passive investor in further quota purchases as it, correctly, aims to avoid competition with Island fishers for such purchases.

We believe that this company is a viable stand-alone unit, correctly structured, consistently profitable, and one which should be owned by the Trust (or a new Trust) and operated in support of the on-Island industry. Retention of quota ownership and control on the Islands is a key to economic development. In time this company may be able to distribute financial benefits more widely from its profits. We consider that its present commitment to use all surplus monies to increase its quota holdings is correct.

The Trust-

The Trust should continue as a charitable trust, holding assets on behalf of the community. It should have specific economic development and charitable objectives, with a revised Trust Deed, and a defined relationship with the Council. A definition of that relationship should follow the other changes as the third stage.

Third stage – legal changes:

At the third stage, government involvement is likely to be required to enable the Council's powers of financial position to be established by statute, the Trust's Trust Deed to be modified.

These steps should not be initiated until the Chathams community, the Trust and the Council (working through the mechanisms described above in the first two stages) have proceeded as far as they can under their existing authorities and powers.

What actually happens should be driven by the community acting through the Trust, the Council and perhaps other organisations such as iwi organisations. It should not be imposed by government intervention at all, and particularly not in the first two stages.

We anticipate that the joint meetings of the Council and the Trust in the first stage will lead to joint cooperation and initiatives in shared management which will bring the organisations together in a way which is accepted by the community and is designed in response to community needs.

It is possible to establish joint management without legislation or other government action. It is also possible to modify the Trust Deed through an initiative of the Trustees. While proposals from the Trustees for modification require the consent of the Minister of Internal Affairs, that does not give the Minister or government a right or even an opportunity to intervene. It is an approval process, not an intervention process.

The position is different in respect of the Council. For the Council to operate effectively, it needs specific powers (both for operations and for finance) which recognize the unique Chatham Islands requirements. It is likely that the Council will require expanded and different powers to that of mainland authorities, at a

time when central government is signalling the possible reduction of the scope of powers of those authorities.

Under current legislation a suitable mechanism for the Council and the Trust (in its changed form proposed above) to work together would be to use the LTCCP local government procedure. An LTCCP (long term Council community plan) is a transparent mechanism involving public consultation. It can provide the means of ensuring both joint activity under a combination of the Trust and Council, and the independence of the Trust in areas outside the Council's current powers, within a public framework.

We do not intend to provide recommendations in respect of the third stage as we believe they are best developed through the operation of the first two stages. This ensures that the community defines and controls what happens and is the best way to identify the specific needs for legislation in the third stage.

Supplementary – specific issues

In the course of our review, a number of specific issues were raised with us. While these were not central to the issue of the joining or merger of the organisations, some were of current significance and we list these with brief comments.

Public disclosure

A number of submitters drew a contrast between the operation of the Council under Official Information and Public Bodies Meetings requirements, and the operation of the Trust. The Trust is not subject to either requirement. The Council is subject to both and is able to restrict public access to confidential sections of its meetings. The extent of Trust meetings which would be similarly restricted (if the Local Government Official Information and Meetings Act requirements apply) is such that we do not see that provision as useful or relevant to the Trust. In respect of Official Information disclosure it appears that the Trust has reported widely on a continuing basis and in different ways. The concern appears to be that there may be matters that the Trust has not disclosed. It is open to the Trust to voluntarily adopt and apply Official Information principles, including the safeguards for commercial confidentiality. We strongly recommend the Trust consider this. At the time we completed this report the Trust advised us that it has recently agreed to public disclosure of its minutes and that it has undertaken to continue its initiative on disclosure. We recommend this. In any third stage legislation, this matter can be looked at by government also.

Aviation charges

Concern was expressed to us, in particular but not solely by Air Chathams, that a full cost recovery approach to air field operation would impose high charges leading to adverse effects on the transport, freight and tourism aviation services. Full cost recovery does not operate at similar small airports in mainland New

Zealand, and imposition of that policy in the Chathams may have the effects suggested and seems likely to have a substantial negative affect on economic development. We have recommended above that government sharing in operational costs (and future capital requirements) be pursued and that full cost recovery from landing charges should not be attempted at this stage.

Bulk fuel

We have already commented on bulk fuel issues, which are largely outside the scope of our terms of reference. As with many other services in the Chatham Islands, bulk fuel and retail operations incur special additional costs and competition (through duplication of facilities in particular) can be economically inefficient. It should be possible to establish a fuel price monitoring service which would provide confidence that on-Islands prices are fair when these different cost structures are taken into account.

Kaingarooa electricity supply

Although we received information from the Trust and from Kaingarooa residents in respect of this issue, it is now being dealt with as a community issue at Kaingarooa and does not require report or comment from us. It is apparent to us that in the longer term this service will require financial support.

Iwi organisations

We received valuable submissions and had useful discussion with representatives of iwi organisations. These organisations are a substantial part of the economic structure of the Islands. At the individual level there are many persons engaged in these organisations and also in aspects of Council and Trust activities. In many respects iwi organisations will operate in the future in an independent way but in cooperation with the ongoing Council/Trust organization. We were pleased to hear expressions of support for this from

those we spoke to. It is not our task to identify how this relationship is to be defined and proper status given in the future to these organisations, but we emphasise that this is an important issue for consideration as the joint work in stage one gets under way.

Shipping

Both the Council and the Trust have provided submissions on shipping issues. The Trust told us that shipping is the “number one” issue facing the Chatham Islands at the moment and that it intends to invest in shipping in order to provide “a long term sustainable shipping service that allows the Islands to achieve its full potential”. The Council places similar importance on shipping and sees this as being within a “transport” mandate which would follow the transfer to it of the airport and wharf.

We agree that in many ways every issue in the Chathams is either dependent on or influenced by shipping services. We did not see it as part of our role to attempt to analyse and report on the current issues (which in this or a similar form have been a feature of Chathams issues for decades).

Coastal shipping in New Zealand is a very high risk business which has seen many failures and few long term successes and the Chathams shipping history is the same. We see merit in the Council or Trust investing in shipping infrastructure (ownership of wharves and other terminal facilities, and possibly in the ownership of a ship or ships) but have serious reservations as to the ability of the Council or the Trust to carry on a shipping business.

If the infrastructure is owned by the Council, we do not believe the Council should be an investor in a shipping business. Options for Chathams investment in shipping businesses include private ownership (which applies currently with other examples in the past 20 years), community ownership (through a co-operative or similar structure), or investment (in a ship or in a business) by a

public entity. If the last option is adopted (which we are not in a position to assess) we consider the Trust (or a successor Trust) should undertake that and deal at arms length with the Council as wharf and terminal operator.

Government involvement is essential:

At the outset we referred to the essential role of central government in the Chathams economy. The Chathams are part of New Zealand (and have been since 1842) and government must deliver to the Islands the services they need, to the same standard as any other comparable part of New Zealand. If there were no private sector component to the Chathams economy, central government would still face major costs in areas such as conservation, biosecurity, sovereignty, law and order, fisheries management etc, with no local revenue base (or volunteers for fire, ambulance, search and rescue etc) to meet any part of those costs. The current partnership between central government and the community to ensure adequate funding of the Council is the correct model and offers many benefits to both. The Trust in contrast never had that relationship and was required on its foundation to operate independently and with no right of recourse to central government.

The work we have done and the recommendations we make assume that central government, as well as the Council and the Trust, will play a part in implementing what we recommend (in such form as the community decides). Without that central government involvement there can be no solutions, no progress, and the Island economy will deteriorate (and the community shrink).

A first priority in responding to this report is therefore to ensure that central government commitment is obtained to the actions to be taken. We cannot state that too plainly or too bluntly – without this, we will have wasted our time

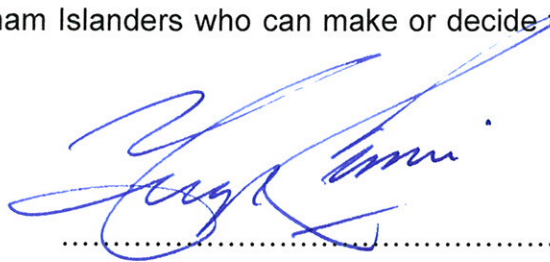
Afterword - appreciation:

We wish to record our appreciation to all those who assisted us, including in meetings, discussions, submissions and the provision of information. We particularly appreciated the positive and constructive involvement of the Mayor, Councillors, General Manager and staff of the Chatham Islands Council, and the Chairman, Trustees and Chief Executive of the Chatham Islands Enterprise Trust. Especially amongst the incoming generation of Chatham Islanders (now represented extensively in both the Council and the Trust) there is passion and commitment to the future of the Islands which is impressive and which gives us real confidence for the future.

The final word: It is only the Chatham Islanders who can make or decide their future.



Basil Morrison CNZM JP



Hugh Rennie CBE QC

27 August 2009

APPENDIX A

REVIEW OF THE COUNCIL AND THE TRUST

1 May 2009

Dear Chatham Islander

The Chatham Island Council and the Chatham Island Enterprise Trust have jointly asked us to carry out a review.

We are asked to look at the past history of each of the organisations and the recent Taylor Baines Report, and consider whether there are ways in which the Trust and the Council could work together more closely, or become linked together, or merged.

We are asked to provide a report to both organizations. They will then make up their own minds (together with the Island community) as to how to proceed.

We wish to ensure that we identify all the issues, and also have a broad range of views from Chatham Islanders. Accordingly we now invite you to let us have your views, either directly, or through any Chatham Island organization which you wish to use.

There are several ways in which you can provide these views. These are:

- You can send your views to either of us at any time by post or email. Our contact details are enclosed.
- You can work with any organization to put a submission to us in writing.
- You can make your views known to the Council or the Trust, and ask that they form part of their consultation with us.
- You can ask to meet with us when we are in the Chathams for that purpose in July. We will be making appointments for individuals and organisations to meet with us. We will be meeting with the Council, and with the Trust, at that time. If you would like to have such a meeting please let us know now.

We will be on the Island between the evening of 13 July and the morning of 16 July. Following those meetings we will be preparing our report and making it available to the Trust and the Council.

These are important issues. Whatever is decided will have an impact on everyone in the Chathams in the next few years. We hope you will assist us in carrying out this work. Attached to this letter are some discussion documents for you to consider.

PLEASE SEND YOUR RESPONSE TO US addressed to "Chatham Islands Review" C/- Hugh Rennie QC, P O Box 10242 Wellington or email it to either of us at the email addresses at the end of this circular before 30 June 2009. If you wish to meet with us please also let us know by then.

Yours sincerely

Basil Morrison

Hugh Rennie QC

What could be changed?

At present the Trust and the Council are independent organizations. A comparison of the two, listing some of the main differences, is in this circular.

If you think the Council and the Trust could work together more closely, or be linked, or merged, then there are a number of ways in which this could be done. Some examples are:

- Agreement to co-operate in defined areas or generally (partnering or joint venture (JV) agreement); or
- Shared management without partnering or a JV agreement; or
- Shared management with partnering or a JV; or
- Council contracts to manage the Trust, separate trustees remain (the opposite does not appear to be legally possible); or
- Alteration to the CIET Trust Deed to provide for Councillors (or some of them) also to be trustees (with or without others). NB There are taxation issues which then arise; or
- Transfer of the CIET assets to CIC on some basis which meets existing trust obligations (NB statutory change would be required to protect the fish quota rights and perhaps some other aspects; also given the past history it is doubtful that the trustees could prudently agreed to this unless continued government support were committed); or
- Merger of the two entities under special legislation.

These may not be the only options.

Some people have suggested that there should be a new organisation which gives greater autonomy to the Chatham Islands. While you are welcome to comment on this, such constitutional changes are outside the scope of the review and will be matters for consideration after the review is complete and the review issues have been dealt with.

Some people have suggested that our review should recommend changes which provide for more direct involvement of other Island organizations (including iwi organizations). There have been suggestions for the creation of a group to represent all such interests.

Some people have suggested that such a group would be the controlling council for the Island, others that it would advise and guide the Council and the Trust and perhaps have some involvement in selecting trustees or councillors.

If you have views on any of the above proposals you can include them in your submission. We will include information about all matters raised with us when we report to the Council and the Trust. However our recommendations will only relate to the roles of the Council and the Trust.

**COMPARISON OF LEGAL AND CONSTITUTIONAL
FEATURES OF CHATHAM ISLANDS COUNCIL
AND CHATHAM ISLANDS ENTERPRISE TRUST**

	CHATHAM COUNCIL	CHATHAM TRUST
Powers	Limited by statute. Can be changed by Parliament	All powers of a natural person for matters within Trust Deed scope
Status	Crown in local government role	Private sector trust (not a Crown entity) with public interest duties
Financial	Can rate and compel payments	Private sector. No power to rate or compel payments.
Continuity	Council: All up for election on one date. Staff: In part regulated by local government law	Election for 2 trustees in one year, 1 in each of other years. 4 year terms. Stable continuity. Staff: Private sector contracts
Business	Not permitted directly but can use LATEs etc. Limited application of competition law.	Can operate any business for purposes of the Trust. Fully subject to Commerce Act and other competition law.
Geographical limits	Chatham Islands territory	None
Special statutory powers	Chatham Islands Council Act	Right under statute to surplus Area 4 quota. Benefits of Charitable Trust Act incorporation.
Winding up	Can only be merged or abolished by statute	Possible under Charitable Trusts Act – assets must go to Chathams people
Official Information	1982 Act applies	Not subject to OIA
Public Bodies Meetings Act	Applies	Does not apply
Taxation	Not eligible directly for charitable status, but not subject to income tax	Currently exempt from income tax and a charity for tax purposes
Long term planning	Required	Best practice required – no external controls
Change in structure	Requires Act of Parliament	On initiative of trustees with consent of settlor (Minister of Internal Affairs) – also subject to control of High Court/ Solicitor-General as supervisor of trusts. Minister and Crown cannot initiate change.
Special obligations	Local authority for Chatham Islands Territory	Holds some fish quota on trust. Subject to airport companies legal requirements (including restrictions on land transfer)

Information about the Chatham Island Council and the Chatham Island Enterprise Trust:

If you need more information about the Council or Trust, here is where you can find it.

You can approach the Council or the Trust in person. However much of the information you are likely to need is available in printed material and on the internet. We suggest you start with that information. You may also find it helpful to look at the Taylor Baines Report, which is available on request from the Trust.

The Chatham Islands Council is the local government organisation for the Chatham Islands. Virtually all of its activities are controlled by the Local Government Act, which applies to all New Zealand regional district and unitary councils.

The Chatham Islands Council has its own Act. You can access that Act at www.legislation.govt.nz. This Act provides for some special arrangements for the Chathams. The main ones are that the Chatham Islands Council is a unitary authority (which means it carries out both regional and district council functions), and that it can raise part of its revenue from wharf dues. The other provisions in the Act about public notification and time limits are legal matters which are now of little significance.

The Chatham Islands Council has a website (www.cic.govt.nz). On this website you will find a description of the activities of the Council. You will also find documents which it is required to have in respect of its activities. These include a District Plan, which deals with the management of resources, Annual Plan and the Annual Report which set out the past performance and the future intentions and budgets of the Council, and other longer term plans.

The Chatham Islands Council gains its revenue from rates, Council dues, other charges for services, general funding for local government from central government, and special funding for the Council which the government initiated several years ago.

The Council is controlled by a Mayor and Council who are:

Patrick F. Smith QSO JP – Mayor	Monique Croon – Councillor
Alfred W. Preece – Deputy Mayor	Nathaniel Whaitiri – Councillor
Antoinette (Toni) Gregory-Hunt – Councillor	Nigel C. Ryan – Councillor
Eva-Cherie Tuck – Councillor	Phillipa Christiansen – Councillor
	Jeffrey Clarke – Councillor

The administrative staff of the Council is headed by the General Manager Mr Owen Pickles. The Council's contact details are:

9 Tuku Road
PO Box 24
Waitangi 8942
Phone: (03) 305 0033 or (03) 305 0034
Fax: (03) 305 0044
Email: info@cic.govt.nz

The Chatham Islands Enterprise Trust was established in 1991. Although the deed of settlement was created by the Minister of Internal Affairs at the time, the Trust is independent of the Crown and the government has no control over the Trust. The only remaining power held by the Minister is that if the trustees wish to change the trust deed they must obtain his/her agreement.

The Trust is responsible for provision of some sections of the infrastructure in the Chatham Islands. This includes the electricity supply, the airport and the main cargo wharves at Waitangi and Pitt Island. The Trust also has investments in forestry and fishing quota, and previously operated the meat works.

The Trust is a registered charitable trust with the Charitable Trust Act. It has tax-exempt status. Under its trust deed it has some powers to undertake economic development, but it has never been funded for this.

Trustees have adopted a policy as to how the work of the Trust will be carried out. This is a written policy and is available from the Trust and was published in the *Chatham Islander* in March 2009. The trust deed has twice been amended, once to support its tax exempt status and once in relation to the way in which elections are conducted. The amended trust deed (in its current form) can be obtained from the Trust.

The Trust publishes an annual report, which is distributed as part of the *Chatham Islander* newspaper. The annual report can be inspected at the Trust office, or a copy obtained from there.

The Trust is funded from the initial capital sum provided by government, and its trading revenues. It has also had some benefit from a government policy to transfer surplus Area 4 Crown fish quota to it.

The Trustees are:

Philip Seymour (Chair)
Greg Horlor (Trustee)
Brent Mallinson (Trustee)

Donna Gregory-Hunt (Trustee)
Denise Thomas (Trustee)

The Trust staff is headed by the Chief Executive, Mr Ian MacFarlane.

Trust contact details are:

PO Box 65
Waitangi
Phone: (03) 305 0066
Fax: (03) 305 0248
Email: info@cietrust.co.nz

Members of review – Background and contact information

Basil Morrison has many years experience as a farmer, in local government in his own area, and in the national organisation of local bodies (Local Government New Zealand). Basil has been asked by the Chathams Island Council to undertake this review. His contact details are:

Basil Morrison
Basil J Morrison & Associates
13 Fern Rise, Paeroa
Email: b.k.morrison@xtra.co.nz

Hugh Rennie QC is a lawyer, based in Wellington, who was the initial chairman of the Trust and its earlier establishment board (1990 – 2001). Hugh has been asked by the Chatham Island Enterprise Trust to participate in the review. His contact details are:

Hugh Rennie QC
PO Box 10 242
Wellington 6143
Email: hughrennie@legalchambers.co.nz