

APPENDIX 2

ANALYSIS OF GOVERNANCE OPTIONS – RISKS AND BENEFITS

This section of the paper analyses the two main options recommended by the Working Party and investigates the benefits and risks associated with multiple unitary authorities.

Option 1: A two tier unitary authority

A proposal for a region-wide two tier unitary authority is summarised as follows:

Summary of Proposal
<ul style="list-style-type: none"> • First Tier – Council comprised of 21 councillors elected from multi-member wards and a Mayor elected at large. The first tier is responsible for all functions and can delegate some decision-making for regulatory and non-regulatory functions to the local boards, consistent with s17 of the Local Government (Auckland Council) Act 2009. • Second Tier – 8 Local boards comprised of 9 members who themselves elect a Board Chair. Responsibilities of local boards are as outlined in the Local Government (Auckland Council) Act 2009, specifically ss7, 14-21, and 102. • One organisation supporting both a Wellington Council and Local Boards, with a general manager to support the needs of each Local Board reporting to the Chief Executive. • The proposed boundary of the Wellington Council extends as per the current Greater Wellington Regional Council.

The risks and benefits of a region-wide two tier unitary authority are summarised in the table below:

Perceived benefits	Perceived risks
<ul style="list-style-type: none"> • Single representative “voice” for the whole of the Wellington region. • Single customer service delivery organisation in support of a new council. • Simplified planning and reporting. • Most decisions made by a single entity. • Limited local level democratic representation and advocacy role enabled. • Reduces the opportunity for duplication of strategic activity. • Improved strategic financial capability. 	<ul style="list-style-type: none"> • Potential for duplication and/or significant variation in the delivery of non-regulatory activity by the second tier. • Transaction costs between the governing body and local boards in relation to planning and reporting are high. • Confusion over accountability and responsibility for activity which may or may not fit within non-regulatory delegation principles. • Potential for applications to judicially review decision-making by the governing body which appear to be the jurisdiction of the second tier. • Possible service gaps may appear, as has happened in Auckland, where there is a lack of clarity over non-regulatory activity jurisdiction

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Perceived benefits	Perceived risks
<ul style="list-style-type: none"> • Reduces complexity of strategic decision-making. • May delegate regulatory functions in addition to an allocation of non-regulatory functions to a second service delivery focused tier with limited decision-making power. • The provision of local boards is structural and can only be removed by an application for reorganisation to the Local Government Commission. • Some clarity as to the intended functions of local boards can be achieved through an application for reorganisation to, and possible release of a proposal from, the Local Government Commission. 	<p>between second tier and the governing body.</p> <ul style="list-style-type: none"> • Potential loss of strategic financial capability in the delegation of activities and associated appropriation of resources which may cause conflicts between service providers and decision-makers. • Residents may perceive that they are distanced from “real decision-makers” with an adverse effect on future local democratic participation and engagement. • Uniformity of second decision-making tier has potential to reduce the level to which community identity is reflected in strategic planning. • Potential confusion and inefficiency in the management of operational budgets tagged to assets which also require regional budgetary control and management. • Possible loss of reflection of community of interest and small community identity within a local board framework

Description of a region-wide two tier unitary authority

A council of 21 councillors would be elected from multiple-member wards, and the mayor would be elected at-large from across the entire area. The council would have the functions and powers of a regional council and territorial authority.

All the territorial authorities and the regional council in the Wellington region would be disestablished and local boards established following the enactment of the Local Government (Auckland Council) Act 2009 (the Auckland Act).

The Local Government Act 2002 Amendment Act 2012 (the Amendment Act) puts in place the following two conditions that must be met in any reorganisation application to the Local Government Commission:

- a. That local boards can feature in a reorganisation proposal released by the Local Government Commission for where the proposal’s affected area is predominantly urban, and
- b. That the affected area must have a population of 400,000 or more at the time of the application or five years hence.

This means that in the context of any possible reform to Wellington, a proposal seeking to implement local boards must be in relation to an affected

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area that, in the least, includes the current territorial authority areas of Wellington, Porirua, Kapiti, Lower and Upper Hutt.

The proposal of the Working Party is for the creation of 8 local boards with 9 members each. These would be in addition to a council comprised of 21 councillors plus a mayor. This brings the total number of elected representatives in the proposal to up to 94.

With 21 councillors proposed, the councillor to resident ratio is around 1:23,000. With 8 local boards, each board would cover a population of around 55,000 people with the ratio of board member to resident at up to approximately 1:6,000. These figures may vary significantly depending on how wards and local board jurisdictions are defined by the Local Government Commission.

Shared Governance through Local Boards

The proposal to introduce a new local government structure to the Wellington region, built around a single unitary authority with local boards, is based on the principle of *subsidiarity*.

Under the proposed model, the governing council and local boards would share decision-making responsibilities. It is proposed that the governing council would focus on strategic or regional issues, and local boards would focus on improving the well-being and prosperity of their areas in a way that would retain and support their special character and identity.

Local Boards - Responsibilities

The Amendment Act provides for shared decision-making where local boards are proposed by:

- a. *statute* – The Amendment Act sets out, by reference to the Auckland Act, that local boards would be allocated responsibility for activities such as community engagement and advocacy, preparing local board plans through negotiated agreement with the governing council, and reporting to the governing body on any proposals for the creation of by-laws specific to their local board areas
- b. *delegation* – The Local Government Commission in determining its final proposal, would set out an initial allocation of decision-making responsibilities for non-regulatory activities to local boards. The governing council would allocate the final functions and agree the extent to which local boards would continue to undertake those delegations through consultation with the local boards and residents through the Annual Plan process.

The legislation also provides for a special dispute resolutions process where the governing council proposes to change the extent to which local boards are delegated non-regulatory functions to a local board. A local board may apply

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to have that decision reviewed through this process or indeed, through a process of judicial review.

The inflexibility of these structural arrangements may result in the new council being slow to adjust to changes in its operating environment or to the demands of its residents over time.

Local Boards – Decision-Making

The Working Party proposes that local boards have a range of decision-making responsibilities:

- a. Proposed activities as part of the local board plan to be agreed with the governing council.
- b. Proposed neighbourhood or village plans to be agreed with the governing council.
- c. Operational policies such as dog control, gambling and gaming machines, liquor licensing and locations of liquor bans, brothels and control of their location and signage.

The Working Party's proposal outlines a broad range of responsibilities rather than absolute decision-making responsibility as part of an initial allocation of activities. Determination of the scope of these responsibilities is then a matter for consideration by the Local Government Commission.

Officer Views – Local Boards

Officers are of the view that the responsibilities of the local boards as proposed by the Working Party are largely managerial. These do not require democratic decisions by the local boards because:

- a. Local board responsibilities remain reliant upon the agreement of the governing council through the local board's proposed plan.
- b. Local boards have no ability to rate and can therefore only propose activities within their areas of jurisdiction which are consequently reliant upon the sufficient allocation of appropriation of funds from the governing council.
- c. Local boards are required, by the Auckland Council Act, to undertake a range of administrative and statutory duties which relate to advocating for an identified community expression of interest in a particular activity. This approach potentially filters those expressions through two decision-making lenses, first the agreement of the local board and secondly the agreement of the governing council.

Local Boards - Functions

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The Working Party has set out a range of examples for how its proposal for local boards would work in practice. In addition to a range of statutory obligations being struck as a result of needing to be consistent with the Auckland Act, a range of other functions may be delegated by the governing council.

The Working Party is aware that Auckland has experienced problems as a result of there being a lack of clarity about what functions would be undertaken by local boards. In light of this, the Working Party has attempted to clarify which functions should be delegated to local boards, for recommendation to the Local Government Commission.

The risk of this, as with any proposal subject to any final agreement, is that the initial allocation proposed in the Working Party's application may not reflect the proposal of the Local Government Commission or indeed what the governing council may resolve to undertake upon election.

The Working Party has acknowledged this but has attempted to ensure that the allocation of functions is a rational division for each category of functions.

Local Democracy

While final decisions with respect to representation on local boards will rest with the Local Government Commission, the proposal would establish up to 72 elected representatives in the region in addition to 21 councillors and a mayor.

The proposal for a second tier defined by smaller boundaries, is focused on broader communities of interest. With respect to the functions and responsibilities of local boards, residents will have access to a local advocacy body which can influence the strategic planning and decision-making of the governing council.

In addition, it is proposed that the strategic, regional issues will be the purview of the governing council, and that residents will be able to engage with councillors directly to influence these decisions.

There are risks in having two bodies responsible for different aspects of the same activity. It may cause confusion for the public and give rise to disputes between the council and the local boards.

For example, the Working Party proposes that swimming pools will be regarded as part of a regional network of service delivery. The Working Party also proposes that swimming pools are part of the responsibilities of local boards where they will retain responsibility for programmes, design and fit-out of new facilities, funding and grants.

Some consideration must be given back to the Auckland Act under which this structure will be established which notes at s17(2) that the governing council may determine that the decision in question may need to be made a regional decision, the Auckland Act provides:

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- a. The impact of the decision will extend beyond a single local board area, or
- b. Effective decision-making will require alignment or integration with other decisions that are the responsibility of the governing council, or
- c. The benefits of a consistent or coordinated approach across the wider area are more desirable.

These provisions do provide a back-stop to the emergence of such issues and gives the governing council some latitude to “lift delegations” where disputes like this arise. The benefit for residents is that their interests can be reflected through the final decision-making of the council.

Asset Management

With respect to how key regional assets such as the port, water, the airport and other major facilities like the stadium or the Wellington Regional Aquatic Centre would be managed, the Working Party has noted a preference for letting the newly established council make those decisions.

The governing council would have a range of options as to how these are dealt with including in-house business units, council controlled organisations, committee controlled organisations or a range of other region-wide governance structures such as regional committees that it may consider appropriate in consultation with residents and local boards.

Option 2: A single tier unitary authority

A proposal for a single tier unitary authority is summarised in the table below:

Summary of Proposal
<ul style="list-style-type: none">• Unitary Authority comprised of 29 Councillors elected from multi-member wards and a Mayor elected at large.• A single organisation reporting to the Chief Executive.• Establishment of Council Appeals-Commissioners as semi-autonomous officers reporting to Council supported by the Chief Executive.• Establishment of ward offices to support the representative activities of councillors, with staff and other resources to facilitate resident councillor engagement.• The proposed boundary to include current Wellington, Porirua, Lower Hutt, Upper Hutt and Kapiti Coast territorial authority boundaries.

The risks and benefits of a single tier unitary authority are summarised in the table below:

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Perceived benefits	Perceived risks
<ul style="list-style-type: none"> • Single representative “voice” for the whole of the Wellington region. • Single customer service delivery organisation supporting the new council, freeing up Councillors to undertake their democratic functions effectively. • Highly efficient, simple decision-making which will carry an increased expectation of performance of the Council’s committees and resident engagement processes to inform strategic decision-making from a neighbourhood level. • Simplified planning and reporting informed by neighbourhood level input without the need for statutory reporting and additional administration. • All decisions made by a single entity which has direct accountability between residents and councillors. • Limited local level democratic representation and advocacy role enabled through community boards, community charters, innovative approaches to engagement that enables residents to engage with the council’s customer service delivery arm as well as its governance body based on their preferences. • Reduces duplication of strategic activity because there is clear delineation between customer service and governance arrangements and no second tier of decision-making . • Improved strategic financial capability through the formation of a much larger single entity empowered to make decisions on a regional basis. • Reduction of complexity for strategic decision-making and clarity for both decision-makers and residents about who is responsible for decisions and who is responsible for the quality delivery of local services and amenities. 	<ul style="list-style-type: none"> • Perceived loss of democratic representation and engagement mechanisms to influence decision-making. • Potential centralisation of power and decision-making that may lead to a loss of community identity in regional planning. • Potential focus on the Central Business District in the decision-making process. • Reliance on Community Boards to ensure advocacy for community identify in strategic planning, requires strong community support for implementation of community boards.

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Description of a single tier unitary authority

The Working Party has included as an alternative to its preferred approach of a region-wide two tier unitary authority with local boards - a single tier unitary authority with no local boards.

Comprised of up to 29 Councillors elected from multi-member wards and a single mayor elected at large, the proposal would establish a unitary authority by disestablishing a number of existing councils, these are:

- a. Wellington City Council
- b. Porirua City Council
- c. Lower Hutt City Council
- d. Upper Hutt City Council
- e. Kapiti Coast District Council
- f. Greater Wellington Regional Council.

Residents will be familiar with this model because it reflects New Zealand's Parliamentary democracy, with a single decision making body, supported by a range of mechanisms to help do the work of the council while facilitating high-quality public engagement with increased accountability to residents.

One of these mechanisms is community boards, which are provided for under the 2002 Act. Community boards can perform a range of functions from simple advocacy through to undertaking activities that relate to formal delegations they have received from the governing council.

Local boards have an extensive range of statutory obligations to perform for and with the governing council. This proposal contemplates that the same level of decision-making and advocacy can be achieved by communities who want community boards because the law currently provides for it.

In addition to community boards the model relies upon a range of participatory tools which are designed to reflect both the preferences of residents as well as to provide accountability mechanisms between residents and councillors.

Research shows that residents who participate in "consultation" with local government in Wellington feel that these processes are formal and perhaps for some, outdated. That same research identifies that residents who are not already very interested in the range of activities that their council undertakes, are unlikely to participate in consultation.

The proposal sets out an expectation that the governing council would put in place not only tools such as online self-selection engagement tools, but also reporting which shows what impact input from residents has had on decision-making.

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Direct Access and Direct Accountability

The approach is predicated on the basis that direct-access means residents will know who their elected representative is because they have elected them from their community. Councillors will be the representatives of the people who live in their ward, and they will provide a local voice at the decision-making table.

Being able to influence decision-makers directly is already part of our culture and the proposal seeks to build on that. Each of Wellington's local authorities already offers direct access to decision-makers. The proposal argues that it brings genuine decision-making and influencing power closer to residents, by providing them with direct access to decision-makers on a body with genuine clout at regional and national levels.

Supporters of this proposal argue that a second-tier of decision-making diminishes the quality of democratic representation that citizens receive because both organisations may "argue on the side of residents" from different and opposing perspectives. The proposal seeks to eliminate that and require councillors to engage with residents directly to understand their views fully, in the same way an MP must make strategic decisions informed by individual and community views.

Addressing Community Aspirations

While there are clear and obvious benefits to strategic decision-making, vision-setting and giving Wellington a "voice", there are risks that councillors will become distracted from the advocacy aspect of their role for their communities.

The model proposes that councillors be adequately resourced:

- a. To ensure that councillors are "freed up" to undertake their representative duties and are not required to manage customer service delivery process
- b. To ensure that residents have access to their governance or democratic representative to discuss issues related to the decisions they make and the standards they set for council officers. It also ensures that residents can have customer service issues dealt with by an officer at the time the issue is raised.

The proposal would also establish councillor offices in community halls and service centres throughout the region in much the same way that an MP has an electorate office. The purpose of these offices is to enable residents to access their councillors in the communities they serve. The proposal sets out that it expects these offices to be hub-offices and shared by two or three councillors to create a sense of community around the office as a place in the community of the council.

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Checks and Balances

While continuing with existing approaches at both the local and central government levels to support democratic engagement between residents and decision-makers directly, the increased scope and responsibilities of a larger council requires checks and balances to guard against any abuse of power.

The proposal could include the establishment of Council Appeals-Commissioners covering a range of matters including administration, based on the Parliamentary Commissioner for the Environment and the Ombudsman operating in a similar fashion in addressing concerns on policy decision-making between council and residents.

Democracy and Customer Services

The proposal seeks to delineate between what is democratic engagement or governance and what is customer service or management. This is achieved through making a clear split between councillors as decision-makers and officers who are responsible and accountable to councillors and residents for the delivery of high quality services.

The proposal sets out that councillors will be supported, as discussed earlier, with staff, resources and facilities, council's decision-making processes supported with a stronger focus on committees and increased accountability enabled through a range of tools. In addition however, the proposal sets out that the quality of customer services to be delivered will be set by councillors and that officers will be responsible for ensuring they are delivered to the standards set, in the places residents need them to be and managed in an efficient and value-for-money way.

Alternative Arrangements – *Wairarapa Unitary Authority*

A proposal for a Wairarapa Unitary Authority is summarised in the table below:

Summary of Proposal
<ul style="list-style-type: none">• Unitary Authority comprised of 12 councillors elected from seven multi-member wards and a Mayor elected at large.• Continuation of three community boards at Martinborough, Featherston and Greytown and the establishment of a new community board for Masterton, all consistent with proposed ward boundaries.• Establishment of a rural advisory committee.• The proposed boundary to include the current South Wairarapa, Carterton and Masterton District Council boundaries, exiting from the current Greater Wellington Regional Council boundary.

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The risks and benefits of a Wairarapa unitary authority with local boards are summarised in the table below:

Perceived benefits	Perceived risks
<ul style="list-style-type: none"> • A unified “voice” for a distinct community of interest. • Cost efficiencies achieved through a common customer service delivery approach. • Simplified planning and reporting with specific focus on provincial priorities, maximising regional comparative advantage. • Direct control over, and prioritisation of, the intent and delivery of both regulatory and non-regulatory activities that relate specifically to the provincial nature of the Wairarapa. • Enhanced strategic financial capability with benefits directly to the Wairarapa that might otherwise be lost under a pan-regional approach or under the status quo or some variant of it. • Consistent with legislative provisions that allow for rural and urban distinctions. 	<ul style="list-style-type: none"> • Financial sustainability arising from service costs currently met by the Greater Wellington Regional Council under the current arrangements. • Service level depletion arising from a possible lack of expertise in areas currently supported by Greater Wellington Regional Council under current arrangements. • Cross boundary issues such as bio-diversity, economic development and cooperation and major transport and infrastructure will require a shared-services or shared management approach.

Description - Wairarapa

The Working Party has not made specific reference to proposals for a Wairarapa Unitary Authority other than noting that the single tier unitary authority proposal assumes that this approach is viable and desired by those who reside in the Wairarapa.

As the proposal would directly affect a population smaller than the required 400,000 for local boards and because it is largely rural in nature, the proposal may not establish local boards as part of any application for reorganisation.

A single-tier of decision-making is all the law permits to be established for the area if successful. Any Wairarapa unitary authority would, by definition, take on the responsibilities of the regional council and thereby assumes it to be abolished in relation to the Wairarapa.

In addition, the proposal would abolish three councils:

- a. South Wairarapa District Council
- b. Carterton District Council
- c. Masterton District Council.

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Despite any amalgamation of the three councils in the Wairarapa, the combined population is still smaller than any of the remaining councils in the western area of the current Wellington region, though they are responsible for around 80% of the total physical area.

The three Wairarapa councils have established a working party and undertaken several rounds of consultation with their residents. On each round of consultation, including one in cooperation with other councils in June 2012, the number of people who have responded in support of unification in the area has grown.

The Wairarapa Working Party has recently reported that more than 75% of its residents have indicated a preference for a single Wairarapa authority. Based on these numbers, the Wairarapa Working Party believes that residents have a strong sense of community and see Wairarapa as “different” to the rest of Wellington primarily because of its rural nature.

Functional Analysis Indications

In terms of a functional analysis relating to the viability of a Wairarapa unitary authority, the following table summarises the analysis included in a workshop held in September 2012:

Table 7: Summary of functional analysis – Wairarapa

Activity/Driver	Discussion	Conclusion
<p>Transport</p> <p><i>Fits with establishing a Wairarapa Unitary Authority.</i></p>	<ul style="list-style-type: none"> • Functions currently split giving rise to potential replication/redundancy of delivery. • Concentration of activity is focused on an east and west split between Wairarapa and the urban areas of the region. • Electrification of rail and future development of major road infrastructure focused on urban areas. • Does not require co-governance to facilitate greater effectiveness, linkages require cooperation within and external to the region. 	<ul style="list-style-type: none"> • A functional analysis of transport functions concludes on an urban/rural focus. Transport networks are interlinked throughout the country, passenger services do however require a local focus and the analysis results in the likelihood of greater effectiveness being achieved through greater focus on the urban transport network. • Linkages through rail and roading between the Wairarapa and the areas west of the Rimutakas would continue to occur consistent with inter-regional transport arrangements.

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<p>Water catchment and the “3 Waters”</p> <p><i>Fits with establishing a Wairarapa Unitary Authority</i></p>	<ul style="list-style-type: none"> • Functions are, in part, being coordinated in the urban areas of the region with heavy reliance on territorial authority commitment to a shared mechanisms. • Variable standards exist by virtue of enduring territorial authority priorities. • 3 distinct catchment areas exist within the region with a shared discharging environment. 	<ul style="list-style-type: none"> • The assumption is that it is unlikely that the Kapiti Coast will assume unitary authority status. Therefore, despite the independent nature of its water management services and network, the degree of integration and cooperation in the western areas and the predominantly independent network and water management services in the Wairarapa, two unitary authorities is most clearly concluded.
<p>Economic development</p> <p><i>Fits with establishing a Wairarapa Unitary Authority</i></p>	<ul style="list-style-type: none"> • The Wellington Regional Strategy has demonstrated some success in cooperative efforts to drive strategic economic development activities. • Research into the economic potential under a range of possible reform scenarios for the Wairarapa shows strong potential through unification as either a territorial or unitary authority. • Economic development activities consistent with the nature of the Wairarapa’s economy suggests niche possibilities from which the Wairarapa can leverage. These also outweigh the disadvantages of the economic potential arising out of unification in areas west of the Rimutakas. 	<ul style="list-style-type: none"> • There is strong support for a unified Wairarapa approach through the strength of evidence that has emerged from research investigating the potential economic impacts of unification in the Wairarapa. • Arrangements made by areas west of the Rimutakas have also, to some extent, aligned some strategic decision-making with a regional perspective. Greater effectiveness is possible and structural reform may be one driver for that. • Economic linkages between the rural east and urbanised west do not necessarily require co-governance. Indeed, some independence between the two areas may bring about efficient and more focused decision-making.
<p>Regional and community amenities</p> <p><i>Viable for establishing a Wairarapa Unitary Authority, viable for a region-wide unitary authority also.</i></p>	<ul style="list-style-type: none"> • The burden for the majority of funding in respect of regional and community amenities falls upon the Wellington CBD, and continues to despite the formation of the Regional Amenities Fund. 	<ul style="list-style-type: none"> • There is no affect from considering regional and community amenities as a driver for reform in the region. Any number of boundaries are workable. • For how sports and

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	<ul style="list-style-type: none"> • Attempts to coordinate through the Regional Amenities Fund have shown mixed success with partial or time limited participation. This results in the CBD continuing to bear the majority of the funding burden. 	<p>recreational facilities are considered, a regional unitary authority would provide the benefit of creating an integrated network for more effective management.</p>
<p>Spatial planning</p> <p><i>Viable for establishing a Wairarapa Unitary Authority, viable for a region-wide unitary authority also.</i></p>	<ul style="list-style-type: none"> • Spatial planning may relate to either the region-wide geographic area or the Wairarapa as a single geographic area. 	<ul style="list-style-type: none"> • Simplicity of planning resulting in a single area plan is met by either a Wairarapa unitary authority or a region-wide authority. • The criteria is not dependent upon scale. Rather it focuses on the simplicity of the planning process and a strategic approach to spatial management. • The approach would therefore be consistent but must be read in line with the Local Government Commission's intention to provide for "regionalism".
<p>Communities of Interest</p> <p><i>Supportive of establishing a Wairarapa Unitary Authority</i></p>	<ul style="list-style-type: none"> • Communities of interest can be social, demographic or geo-political in nature. • Investigations undertaken by Martin Jenkins, Morrison Lowe and WCC as part of a wider consultation process in June 2012 have all identified a strong sense of place in the Wairarapa most significantly defined by a natural boundary, but also characteristics of economy and lifestyle. 	<ul style="list-style-type: none"> • The 2002 Act allows for there to be some distinction between communities of interest in considering reorganisation applications. • The Wairarapa has a clearly identifiable community of interest by virtue of its rural nature as well as a number of other social factors; it has its own provincial rugby team, its residents choose to socialise and socially collect in the area, there is strong recognition of identity with the Wairarapa. • Consultations so far indicate a strong

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		preference for a regional identity that is the Wairarapa.
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Against the functional analysis, which seeks to take the broadest areas of interest from a local government perspective, functional indicators demonstrate consistent support for the establishment of a Wairarapa unitary authority.

Legislation – Urban and Rural

One of the key factors in considering the viability of a Wairarapa unitary authority rests, eventually, with the legislative provisions allowing for reorganisations. There are a number but the Wairarapa Working Party has identified that as well as the factors listed in the table above, there is a clear indication in the 2012 Act supporting that appears to support the proposal.

DLA Phillips Fox, in an opinion to Wellington City Council officers, has noted the following in relation to a 2006 proposal to transfer part of Rodney District (Okura) to North Shore City:

...In the case of Wellington region, the matters relating to communities of interest may be particularly important, given that the various options reflect the different character of the urban and rural areas involved.

...The decision highlights the importance of considering options for reorganisation in terms of the nature of the infrastructure and services expected by residents in rural and urban areas, and also any differences in character involved. It also suggests that those options which involve different arrangements for urban and rural areas may well be well-received.

Officers agree that the Local Government Commission in considering any application where a Wairarapa unitary authority is proposed would give strong consideration to it, with heavy weighting likely to be given to its previous decisions supporting delineation between rural and predominantly urban areas.

Risks and Opportunities

Key to whether the Local Government Commission can give full consideration to an application which may propose a Wairarapa unitary authority is whether it can demonstrate it has financial viability to do so.

At the time of writing this report, discussions between the Wairarapa Working Party and Greater Wellington Regional council about the value of funding for activities undertaken by the regional council in the Wairarapa had not concluded.

The issue revolves around whether Wairarapa can financially sustain the cost of the activities delivered by the regional council and the extent to which those

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activities is currently determined has not yet been fully quantified. Further work will be required in order for there to be a conclusion to that discussion.

Officers are aware that Martin Jenkins has been instructed by the Wairarapa Working Party to provide advice and analysis with respect to the value of the regional services performed in the area.

Some concern exists by some parties in the Working Party as to whether the Wairarapa should be included as part of any future local government arrangement in the region or whether it could be excluded. The primary concern revolves around whether the area would continue to have capacity and capability for undertaking the regional as well as local activities as they are now.

The proposal of the Wairarapa Working Party concludes that the area can deliver those functions based on an assessment of what the area thinks it needs and the standards its residents demands of any future Wairarapa unitary authority.

Some concern has also been raised by some members of the Working Party that consultation has not been undertaken in the area. The Wairarapa Working Party has consulted progressively for an extended period of time, a range of information has been obtained from residents about their views and most recently that in excess of 75% are in support of a unified Wairarapa Council.

Alternative Arrangements – Multiple Unitary Authorities

A proposal for a multiple unitary authorities is summarised in the table below, using a Hutt Valley Unitary Authority proposal as an example. Officers have considered four options as part of a broad comparison of options against the legislative assessment criteria, good governance criteria and efficiency and costs savings and productivity and performance criteria:

Summary of Proposal
<ul style="list-style-type: none">• The composition of any proposed Hutt Valley Unitary Authority is yet to be determined by the Hutt and Upper Hutt Councils but it must be a single-tiered decision-making structure as per legislation.• The proposed boundary to include current Lower Hutt City Council and Upper Hutt City Council boundaries. The proposed boundary would support a new Wairarapa Unitary Authority.

The risks and benefits of a Hutt Valley unitary authority, which implies a multiple unitary authority outcome, are summarised in the table below:

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Perceived benefits	Perceived risks
<ul style="list-style-type: none"> • A unified “voice” for a distinct community of interest. • Cost efficiencies achieved through a common customer service delivery approach. • Simplified planning and reporting with specific focus on provincial priorities, maximising regional comparative advantage. • A local government structure that replicates some sub-regional central government agency coordination and service delivery. • Direct control over and prioritisation of, the intent and delivery of both regulatory and non-regulatory activities that relate specifically to the Hutt Valley. • Enhanced strategic financial capability with benefits directly to the Hutt Valley that might otherwise be lost under a pan-regional approach or under the status quo or some variant of it. 	<ul style="list-style-type: none"> • Requires the formation of Council Controlled Organisations, or other joint arrangements, for common service delivery activities such as regional water, transport, environmental management and other major asset and infrastructure management and monitoring. • Implementation of a regionally focused entity may need to be formed in order to provide guidance and take responsibility for region-wide service delivery activities. • A Hutt Valley unitary assumes the formation of a Wairarapa unitary authority and either a combined Wellington, Porirua and Kapiti Coast amalgamation to form its own unitary authority or separate unitaries, It is considered to be sub-optimal from regional interests because it repeats the disadvantages of the status quo without realising the full benefits of amalgamation. • Is inconsistent with an intended focus on “regionalisation” where reform to the structures of local government in any area is proposed. (refer Local Government Commission statements in relation to a draft Nelson/Tasman proposal – 2012). • Is inconsistent with legislative provisions against which any application would be considered by the Local Government Commission .

Description – Example of a Multiple Unitary Authority Outcome - Hutt Valley Unitary Authority

A full description of an option being considered by Hutt City Council and Upper Hutt City Council is not yet available. However, like a proposal for a Wairarapa Unitary Authority, a Hutt Valley Unitary Authority may be established but it may not include a structural option for local boards as it does not meet the 400,000 population requirement.

A Hutt Valley Unitary Authority is being considered as complementary to a proposal for a Wairarapa Unitary Authority and is considered to result in the establishment of a “Western Unitary” or a “Wellington Unitary” and a “Porirua Kapiti Unitary”.

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It should be noted that Kapiti Coast District Council Mayor Jenny Rowan has noted that if a Hutt Valley and Wairarapa Unitary Authorities proposal is further developed, Kapiti Coast District Council may want to explore a Kapiti Coast Unitary Authority.

In the case of a multiple unitary approach to local government reform in the Wellington region, an array of outcomes are possible in relation to the current Wellington, Porirua and Kapiti arrangements – assuming the establishment of unitary authorities in both the Wairarapa and Hutt Valley.

A Hutt Valley Unitary Authority involves abolishing the Greater Wellington Regional Council and the Hutt Council and Upper Hutt City Councils and would have consequential affects on the remainder of the region.

In the event the Local Government Commission releases a draft proposal which would result in the establishment of a Wairarapa Unitary Authority and a Hutt Valley Unitary Authority, Wellington, Porirua and Kapiti Councils will need to consider making submissions which include consideration of establishing a number of other unitary authorities.

The Hutt Valley's consultation exercises have identified that over 75% of residents do not want reorganisation to the structures of local government in the region to be undertaken. In the event that changes were to be made, the strongest preference of residents by a significant margin is for the establishment of a Hutt Valley Unitary Authority.

Functional Analysis Implications

In terms of a functional analysis relating to the viability of a Hutt Valley Unitary Authority, the following table summarises an analysis councillors received as part of a Workshop held in September 2012:

Activity/Driver	Discussion	Conclusion
<p>Transport</p> <p><i>Officers are not supportive of a Hutt Valley Unitary Authority without implementation of new governance structures which may require legislative amendment to the Transport Act.</i></p>	<ul style="list-style-type: none"> • Functions in the region are currently split giving rise to potential replication/redundancy of delivery. • Concentration of activity is focused on an east and west split between Wairarapa and the urban areas of the region. • Electrification of rail and future development of major road infrastructure focused on urban areas. • Does not require co- 	<ul style="list-style-type: none"> • The transport network, unlike a split between unitary Wellington and the Wairarapa, is very heavily integrated. • Strong commuter transfers between the Hutt Valley and Wellington city and with other parts of the Wellington area. • Rail, bus and commuter transport networks are naturally integrated as there are no physical barriers between the Hutt

This report is officer advice only. Refer to minutes of the meeting for decision.

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Activity/Driver	Discussion	Conclusion
	<p>governance to facilitate greater effectiveness, linkages require cooperation within and external to the region.</p>	<p>Valley and Wellington City areas. Arguably, the physical barriers to other parts of the region, except for the Wairarapa, are nominal in any case.</p> <ul style="list-style-type: none"> • Co-governance arrangements for managing, monitoring and enhancing the network (one of the key purposes of the 2012 Act for Local Government) will be required with possible implications requiring amendment to the Transport and 2002 Act to provide for decision-making across borders. • Shared-services or cooperation agreements are both highly undesirable due to a significant reliance on the culture of agreeing councils to remain part of any agreement over such an integrated network and potential inconsistency with good local government arising from such a scenario. • Council controlled organisations are of strong likelihood given reference in the Auckland Act. • Considered by officers to be a highly undesirable outcome for residents.
<p>Water catchment and the “3 Waters”</p> <p><i>Not strongly supportive of a Hutt Valley Unitary Authority without the implementation of new governance structures with statutory powers of decision-making.</i></p>	<ul style="list-style-type: none"> • Functions are, in part, being coordinated in the urban areas of the region with heavy reliance on territorial authority commitment to a shared mechanisms. • Variable standards exist by virtue of enduring territorial authority 	<ul style="list-style-type: none"> • Western areas of Wellington, apart from the Kapiti Coast, retain a highly integrated water services network. These services are currently delivered by a Council Controlled Organisation. Abolishing the Regional Council will result in investigations into ensuring that CCO would

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Activity/Driver	Discussion	Conclusion
	<p>priorities.</p> <ul style="list-style-type: none"> • 3 distinct catchment areas exist within the region with a shared discharging environment. 	<p>be sufficiently empowered to operate effectively across borders given the strength of integration of networks.</p> <ul style="list-style-type: none"> • Co-governance arrangements for managing, monitoring and enhancing the network (one of the key purposes of the 2012 Act for Local Government) will be required with possible implications requiring amendment to legislation to provide for decision-making across borders. • Shared-services or cooperation agreements are both highly undesirable due to a significant reliance on the culture of agreeing councils to remain part of any agreement over such an integrated network and potential inconsistency with good local government arising from such a scenario. • Council controlled organisations are of strong likelihood given reference in the Auckland Act. • Considered by officers to be a highly undesirable outcome for residents.
<p>Economic development</p> <p><i>Not strongly supportive of a Hutt Valley unitary without the implementation of new governance structures with delegated decision-making powers.</i></p>	<ul style="list-style-type: none"> • The Wellington Regional Strategy has demonstrated some success in cooperative efforts to drive strategic economic development activities. • Economic development activities consistent with the nature of the Wairarapa's economy suggests niche possibilities from which 	<ul style="list-style-type: none"> • Performance of current initiatives aimed at cooperation between territorial authorities has demonstrated some mixed success. Region-wide strategic decision-making will require significant improvement of performance to be viable, and this will be required as part of any application to the Local Government Commission in

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Activity/Driver	Discussion	Conclusion
	<p>the Wairarapa can leverage which may also outweigh the disadvantages of the economic potential arising out of unification in areas west of the Rimutakas.</p>	<p>consideration of key performance and efficiency criteria.</p> <ul style="list-style-type: none"> • Shared-services or cooperation agreements are both highly undesirable due to a significant reliance on the culture of agreeing councils to remain part of any agreement over such an integrated network and potential inconsistency with good local government arising from such a scenario. • Considered by officers to be a highly undesirable outcome for residents.
<p>Regional and community amenities</p> <p><i>Viable for establishing a Hutt Valley Unitary Authority, viable for a region-wide unitary authority also.</i></p>	<ul style="list-style-type: none"> • The burden for the majority of funding in respect of regional and community amenities falls upon the Wellington CBD, and continues to despite the formation of the Regional Amenities Fund. • Attempts to coordinate through the Regional Amenities Fund have shown mixed success with partial or time limited participation and results in the CBD continuing to bear the majority of the funding burden. 	<ul style="list-style-type: none"> • Performance of current initiatives aimed at cooperation between territorial authorities has demonstrated some mixed success. Region-wide strategic decision-making will require significant improvement of performance to be viable, and this will be required as part of any application to the Local Government Commission in consideration of key performance and efficiency criteria. • Shared-services or cooperation agreements are both highly undesirable due to a significant reliance on the culture of agreeing councils to remain part of any agreement over such an integrated network and potential inconsistency with good local government arising from such a scenario. • Considered by officers to be a highly undesirable outcome for residents.

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<p>Spatial planning</p> <p><i>Viable for establishing a Hutt Valley Unitary Authority, viable for a region-wide unitary authority also.</i></p>	<ul style="list-style-type: none"> • Spatial planning may relate to either the region-wide geographic area or the Wairarapa as a single geographic area. 	<ul style="list-style-type: none"> • Simplicity of planning resulting in a single area plan is met by either a Wairarapa unitary authority or a region-wide authority. • The criteria is not dependent upon scale, rather it focuses on the simplicity of the planning process and a strategic approach to spatial management. • The approach would therefore be consistent but must be read in line with the Local Government Commission's intention to provide for "regionalism".
<p>Communities of Interest</p> <p><i>Nominally viable for establishing a Hutt Valley Unitary Authority, viable for a region-wide unitary authority also.</i></p>	<ul style="list-style-type: none"> • Communities of interest can be social, demographic or geo-political in nature. 	<ul style="list-style-type: none"> • The Hutt Valley is a demonstrable community of interest but must be considered as part of any reorganisation application to be read against provisions for a rural and predominantly urban split as well as an intention to provide for regionalism.

Consideration given to the performance and efficiency aspects of a proposal which would create a Hutt Valley Unitary Authority are crucial as discussed below. However, the implications of such an approach may be a strong desire to further granulate applications as highlighted above with a number of possible applications supporting the implementation of other unitary authorities for Wellington City, Porirua and Kapiti, or Porirua and Kapiti separately.

These outcomes are undesirable for residents as there is a significant loss of efficiency in having to create a range of governing structures to manage and monitor key infrastructure and assets, most notably transport and water. Any such applications are may have difficulty in demonstrating the necessary savings and improvements in performance required to be considered a reasonably practical alternative proposal under the Local Government Commissions assessment criteria.

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The formation of a Hutt Valley Unitary Authority may indeed be seen by residents in the area as desirable from a community of interest perspective. However the success of such an application is unlikely due to the nature of the considerations the Local Government Commission must take on receipt of an application. Most importantly, in light of an application from members of the Working Party it will result in such proposals being demonstrably inferior to more regionally oriented proposals such as the two region-wide unitary authority proposals.

Legal Opinion

While a legal opinion on the potential success of an application to the Local Government Commission on the basis of this approach cannot be declarative, the following opinion has been provided by DLA Phillips Fox:

The meaning of 'good local government' has, however, been subtly changed, because it is now to be assessed by reference to the new purpose of local government set out in section 10 (which, as you know, is focussed largely on cost-effectiveness), and a number of other criteria relating to economic performance and efficiency. This is clear from clause 12 of the Third Schedule:

12 Promotion of good local government

For the purposes of clause 11(8), the Commission must be satisfied that its preferred option—

- (a) will best promote, in the affected area, the purpose of local government as specified in section 10; and*
- (b) will facilitate, in the affected area, improved economic performance, which may (without limitation) include—*
 - (i) efficiencies and cost savings; and*
 - (ii) productivity improvements, both within the local authorities and for the businesses and households that interact with those local authorities; and*
 - (iii) simplified planning processes within and across the affected area through, for example, the integration of statutory plans or a reduction in the number of plans to be prepared or approved by a local authority.*

We think that following the 2012 reforms, the LGC will be focussing primarily on two broad issues when determining its preferred option:

- Efficiency and costs savings; and,*
- Productivity and economic performance*

Officers agree with this assessment and note that assessments with respect to both sets of those criteria, as well as an assessment of key activities in light of the 2012 Act and its purpose, make such a proposal extremely unlikely to be successful.

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Further, officers are of the view that implementing such an option (or any of the consequential proposals that may arise as a result) is highly undesirable for residents of the region.

Finally, despite those views, it is further unlikely in the light of an application which proposes either a single or two tier unitary authority that the Local Government Commission would consider this approach consistent with its own views.

The LGC issued an *Explanatory Statement of Advantages and Disadvantages of Proposed Union of Nelson City and Tasman District* in response to the draft proposal from those areas early in 2012. The statement says the following:

Advantages

Regional decision-making and action

The draft reorganisation scheme better represents the nature and interests of communities within the Nelson-Tasman area and removes an increasingly artificial boundary between Nelson City and Tasman District.

[...]

Shared service arrangements between the councils will not achieve this [a truly regional approach¹] because of their limited scope and dependence on coordinated decision-making by the two councils. The interests of, and accountability to, the two separate communities will remain paramount over the interests of the regional community as a whole. The draft scheme will enhance:

- the efficiency and effectiveness of council decision-making as a consequence of the ability to take account of truly regional community interests and views*
- community and other stakeholder participation in the planning and development of the region*
- representation of, and accountability to, the region*
- advocacy on behalf of the region.*

[...]

It [the scheme] maintains a ward structure to ensure specific representation of rural and outlying communities. It provides district-wide coverage of community boards to enable decision-making and action by and on behalf of local communities where appropriate.

¹ Refers to previous comments in the statement from the Local Government Commission about a regional approach to council-community decision-making and action and that this is required to efficiently and effectively address key issues facing the wider region.

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The clear intention of the legislation is to provide for reorganisation, but the further intention which has been articulated by the Local Government Commission is that reorganisation should look towards the formation of regional entities rather than a granulation of unitary authorities.