

4. EXISTING DELEGATIONS TO CANTERBURY JOINT STANDING COMMITTEE

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Detailed below is a copy of a report prepared for the Christchurch City Council that sets out the background to the Council's delegations to the Subcommittee. The report is presented here for the information of other members of the Subcommittee. Please note that Attachment C referred to in the report is not included.

"The purpose of this report is to provide information regarding existing delegations by the Council to the Canterbury Joint Standing Committee for the proposed regional landfill.

BACKGROUND

- (a) Councillors will be aware of the background leading to the establishment of the Canterbury Joint Standing Committee (CJSC), the Canterbury Waste Subcommittee (CWSC, or the Subcommittee), and Transwaste Canterbury Ltd (refer to Attachments A and B for an explanation of the structural relationships). These all relate to the Canterbury regional joint venture to establish a new regional landfill (Kate Valley).
- (b) During the Council meeting of 22 August 2002 a question was asked regarding delegations to the Canterbury Joint Standing Committee, and reporting processes.

On 31 August 1998 the Council resolved to join the regional landfill process by adopting the Memorandum of Understanding. On 17 November 1998 the Council decided to, in conjunction with all Canterbury territorial local authorities, appoint a joint standing committee called the Canterbury Joint Standing Committee (CJSC). The Council then appointed three members of the then City Services Committee (now Sustainable Transport and Utilities Committee) as representatives of the Council on the CJSC, requiring that one of them be nominated to be Chairman of the CJSC (and the Sub-Committee which was appointed by the CJSC to perform all its delegated functions). The 17 November 1998 report and resolutions are included as Attachment C.

- (c) In addition, in recommendation 3(a) of the report (Attachment C), the Council authorised the delegation to the CJSC of:

"all matters relating to participation in the operation of JVCo formed by the Councils and Canterbury Waste Services Limited as set out in the Memorandum of Understanding dated 3 September 1998 ("MOU") for the purposes of selecting, developing, owning and operating a Canterbury regional landfill and associated transport and collection systems (transfer stations to the landfill only)" after which 6 specific functions were listed.

- (d) The effect of this delegation in recommendation 3(a) is that the CJSC (and therefore the Subcommittee) is empowered, on behalf of the six participating territorial local authorities (Christchurch, Banks Peninsula, Ashburton, Selwyn, Waimakariri and Hurunui = the members), to pass resolutions relating to the regional landfill on their behalf. Those resolutions are then reported to the respective member councils for information. Member councils therefore do not have the authority to pass resolutions on matters already delegated by themselves for total and complete jurisdiction to the Subcommittee.

Recommendation 5 of the report (Attachment C) furthermore states:

"The functions, powers and duties delegated under resolution 3(a) above may not be revoked other than in accordance with the Constituting Agreement between the participating Councils".

The detailed arrangements for the territorial local authorities to work together on the regional landfill project plus work cooperatively as a regional group on certain non-landfill regional waste initiatives is contained in the Constituting Agreement (dated 6 May 1999) which stipulates that those members who signed the Memorandum of Understanding "shall not" revoke the 3(a) delegations (mentioned above) until Transwaste Canterbury Ltd is liquidated, and until after the expiry of such a period as is reasonably necessary to conclude its then current business.

- (e) At the 22 August Council 2002 meeting the question was asked why Transwaste Canterbury Ltd does not report to CCHL, as other Local Authority Trading Enterprises (LATES) do. The difference is that none of the other LATES operate through a joint standing committee such as CJSC that has been given specific delegations, and which acts on behalf of not only this Council but also five other territorial local authorities. The Local Government Act provides that a joint standing committee is deemed to be a committee of this council and a committee of the other participating councils. This Council's interests in the joint venture company Transwaste Canterbury Ltd is therefore managed through CJSC (and the Subcommittee), unlike any other LATE, and therefore reporting through the committee (and not CCHL) is appropriate.

Additional comments by Councillor O'Rourke: There is a close relationship between the commercial constraints on the Transwaste Canterbury Ltd landfill gate charge and the need for waste incentive and disincentive charges at both district/city and at regional level. This can only effectively be handled via the CWSC. CCHL is too remote from issues of that kind to be able to effectively conduct the governance of Transwaste Canterbury Ltd, given that the company's commercial affairs are interwoven with waste minimisation and community issues, as well as the implementation of the councils' various waste plans and the regional waste minimisation agreement.

SUMMARY

The Council has joined other stakeholders (5 other territorial local authorities and 2 commercial companies) to establish a joint venture Canterbury landfill. As discussed in the report, short of unraveling the entire joint venture (i.e. liquidating Transwaste Canterbury Ltd) and leaving this Council with no refuse disposal site when Burwood is filled up, this Council is committed to the project via the Memorandum of Understanding with the other stakeholders and has delegated all matters regarding the development of the new landfill to the CJSC."

Chairman's

Recommendation: That the information be received.