

3. LOCAL GOVERNMENT ACT 2002

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The purpose of this report is to provide information on relevant sections of the Local Government Act 2002 as it affects the CJSC, and its members' participation in the joint standing committee.

BACKGROUND

The cumbersome Local Government Act 1974 has been largely replaced by the new 2002 Act, which in essence is based on general un-prescribed powers for local government, with a control mechanism of community authorisation. However, as far as solid waste management is concerned, Chapter XXXI of the 1974 Act has not been repealed and remains the governing legislation for waste management plans, incentives and disincentives for waste reduction etc. In that regard the *status quo* therefore remains.

The 2002 Act does, however, require all territorial authorities to have a waste management plan by 2005, and requires an assessment of waste services to be made by territorial authorities by (s125). Local Government New Zealand has produced detailed guides on the 2002 Act, which are available on their web site www.lgnz.co.nz.

RELEVANCE OF THE 2002 ACT TO THE CJSC (AND CWSC)

For purposes of the CJSC three relevant aspects of the Act are highlighted below:

1. Issues relevant to all members of the CJSC

(a) Chairman's casting vote

The provision of casting votes for local authority meetings has changed in the new Act. However, legal advice from Buddle Findlay has confirmed that these changes do not affect the chairman's casting vote for the Canterbury Joint Standing Committee (CJSC) and the Subcommittee (the CWSC), and therefore no change is required to the Constituting Agreement.

(b) Under the LGA 1974 there was an automatic discharge of joint standing committees (such as CJSC) following each triennial election, with no ability for the constituent councils to resolve to the contrary. Under the new act joint standing committees can remain in place. Each and every Council which is a member of the Canterbury Joint Standing Committee and Canterbury Waste Subcommittee is required to pass the following resolution:

"The Council resolves as provided for by Clause 30(7) of Schedule 7 to the Local Government Act 2002 that the Canterbury Joint Standing Committee and the Canterbury Waste Subcommittee shall not be deemed to be discharged on the coming into office of the members of the Council elected or appointed at the next triennial general election of members."

As the relevant provision in the Local Government Act 2002 does not come into force until 1 July 2003, the above resolution is to be passed by each Council after that date.

2. Issues relevant only to shareholders in Transwaste Canterbury Ltd:

(a) In terms of the new Act, existing Local Authority Trading Enterprises (LATEs) will be renamed either Council Organisations (COs), or Council Controlled Organisations (CCOs), depending on the level of shareholding/voting applicable. Within the CCO category, provision is made for Council Controlled Trading Organisations (CCTOs), which are CCOs that operate for profit, like Transwaste. As such Transwaste is required to produce a Statement of Intent, (similar to its existing Statement of Corporate Intent) by 1 July 2003, which will be made available to CJSC for comment.

SUMMARY

No change to the Constituting Agreement is required as a result of the 2002 Act. However, CJSC member councils will need to confirm membership of the CJSC on a three-yearly basis. For shareholders in Transwaste Canterbury, a new *Statement of Intent* will be prepared.

Staff

Recommendation:

1. That the information be received.
2. That member councils of the CJSC pass the appropriate recommendation provided in the report before the next triennial election.

Chairman's

Recommendation:

That the above recommendation be adopted.