

17. 11. 98

**REPORT BY THE CHAIRMAN OF THE
CITY SERVICES COMMITTEE**

1. PROGRESS REPORT ON REGIONAL LANDFILL

RR 8673

Officer responsible Waste Manager	Author Zefanja Potgieter
Corporate Plan Output: Regional Landfill	

The purpose of this report is to:

- Inform the Council on progress with the Regional Landfill processes since the Council meeting of 31 August 1998 when the *Memorandum of Understanding* between the private sector partners (Canterbury Waste Services Ltd) and all participating Canterbury councils was approved by this Council; and
- Recommend the adoption by the Council of resolutions necessary to implement the processes flowing from the *Memorandum of Understanding* and subsequently developed subservient agreements.

BACKGROUND

By approving the *Memorandum of Understanding* on 31 August 1998 the Council agreed to participate in the Canterbury Regional Landfill initiative and bound the Council to subsequent processes that now require implementing. Other than this Council, the other five councils that have signed the *Memorandum of Understanding* and are therefore part of the Regional Landfill process are Ashburton, Banks Peninsula, Hurunui, Selwyn and Waimakariri District Councils.

On 9 October 1998 the *Canterbury Waste Joint Standing Committee* (CWJSC) held its last meeting, to be replaced in November/ December with the *Canterbury Joint Standing Committee* (CJSC) which will at its first meeting appoint a Waste Sub-Committee. This Waste Sub-Committee (to be called *Canterbury Waste Sub-Committee*) will be the Local Authority Entity (LAE) that will take the regional landfill process further for participating councils.

At the 9 October meeting of the CWJSC, recommendations to councils were passed which, when adopted by all participating councils, will set in place the LAE, and also include delegations from each participating council to the CJSC (see recommendations to this council at the end of this report). In summarised form the recommendations address the following issues:

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Recommendation	Description
1	Establishing Canterbury Joint Standing Committee- CJSC (successor to Canterbury Waste Joint Standing Committee).
2	Appointing of this Council's representatives on the CJSC: Three councillors are to be appointed (with one representative only required for a quorum).
3	An over-arching general recommendation setting out all the detail requirements of Section 114Q of the Local Government Act relating to specific powers, duties and functions delegated by the council to the CJSC.
3 (a)	Matters relating to participation in the operation of JVCo for the purposes of selecting, developing, owning and operating a Canterbury Regional Landfill and associated transport and collection systems, with capping of capital and operational expenditure.
3 (b)	Matters relating to the management of waste which the Councils individually may from time to time delegate to the Committee. Committee recommendations to be non-binding until adopted by the Council.
3 (c)	Matters relating to a proposed Solid and Hazardous Regional Waste Management Strategy (including waste minimisation). Committee recommendations to be non-binding until adopted by the Council. Includes a capping of expenditure.
4	An over-arching general recommendation setting out all the detail requirements of Section 114M of the Local Government Act relating to detailed Standing Orders for the Committee and any sub-committee providing for rules of voting.
5	Restriction on revoking of powers, functions and duties contained in 2(c)(i).
6	Powers, functions and duties under 2(c)(iii) can be revoked at any time.
7	Requirements for reporting to councils on entering of contracts.
8	Approval of the Shareholders' Agreement for JVCo.
9	Approval of the proposed Constitution of JVCo.

THE WAY FORWARD

Upon all six participating councils adopting these recommendations the CJSC will be established. It will then appoint the *Canterbury Waste Sub-Committee* (the LAE) which will steer the Regional Landfill process on behalf of the participating councils. Negotiations with Timaru District Council to explore future options to join the Regional Landfill process will also be progressed in parallel.

In addition to its role as LAE for the Regional Landfill, the Waste Sub-Committee will also fulfil other functions (as referred to in the recommendation below and set out in the *Constituting Agreement* approved by the Council on 31 August 1998). These include carrying on the remaining functions of the CWJSC such as regional coordination of waste management initiatives in Canterbury, and preparation of a Canterbury regional management strategy for hazardous wastes.

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SUMMARY

This report does not contain any policy decisions for the Council to make. It is essentially concerned with implementing the *Memorandum of Understanding* as already approved by the Council on 31 August 1998. The recommendations below include delegations to the *Canterbury Joint Standing Committee* of certain functions required to set-up the joint venture company and other structures to find a suitable Regional Landfill site, obtain resource consents, and manage its development with a target opening date of May 2002.

- Recommendation:**
1. That pursuant to Section 114S of the *Local Government Act 1974* the Council unites with the Councils set out in the attached Schedule (“the Councils”) in appointing a joint standing committee which shall be known as the Canterbury Joint Standing Committee (“the Committee”).
 2. That three members of the City Services Committee be appointed as representatives of the Council on the CJSC and that one of them be nominated to be Chairman of the CJSC and the Sub-Committee.
 3. That pursuant to Section 114Q of the *Local Government Act 1974* and Section 4 of the Public Bodies Act 1959 the following functions, duties and powers are delegated to the Committee:
 - (a) 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), being:
 - (i) performing the obligations of the Councils under the MOU and/or a subsequently developed shareholders agreement with Canterbury Waste Services Limited in relation to JVCo;
 - (ii) exercising the voting rights attached to JVCo shares held by the Councils;
 - (iii) appointing nominee directors to the board of JVCo;

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- (iv) developing and voting on the adoption of a constitution for JVCo after first being referred to the Councils for comment;
- (v) developing a transportation equalisation scheme in accordance with clause 42 of the Constituting Agreement as agreed upon by the Councils on 20 March 1998;
- (vi) appointing the CJSC's representatives at JVCo shareholders' meetings;

provided that the Committee shall not commit the joint Councils to initial capital expenditure exceeding in the aggregate \$13,000,000, or other operating expenditure exceeding in the aggregate \$1,000,000 in any financial year, in performing these functions, duties or powers.

- (b) any matters relating to the management of waste in relation to all or any of the Councils' districts which the Councils individually may from time to time delegate to the Committee. Provided that where any such delegation of functions, duties and powers could be potentially binding the Committee will seek the consent of each individual Council prior to such delegation;
- (c) to investigate and make recommendations to the Councils on a Solid and Hazardous Regional Waste Management Strategy (including waste minimisation) that is mutually acceptable to the Councils provided that the Committee shall not commit the Councils to expenditure exceeding in the aggregate \$100,000 in any financial year in performing these functions;

and that such delegations be recorded in the delegations register.

4. That pursuant to Section 114M of the *Local Government Act 1974*, the Standing Orders as they apply to the meetings of the Committee and any sub-committee established by the Committee be amended to provide for the following rules of voting:

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- (a) on any matter under which the Committee is exercising the functions, duties or powers delegated under resolution 3(a) above;
 - (i) the members appointed to represent the Christchurch City Council to hold 50% of the votes able to be cast on any resolution of the Committee, which votes may only be cast as a block and may not be split. In the event there is not unanimity amongst members representing the Christchurch City Council then the Christchurch City Council vote shall be determined by the majority of such members;
 - (ii) the members appointed to represent any other Council that holds equity securities in JVCo, one vote each (and in the case of a sub-committee, one vote for each Council which that member represents);
 - (iii) the chairperson be entitled to a casting vote.

- (b) on any matter under which the Committee is exercising the functions, duties or powers delegated under resolution 3(c) above;
 - (i) the members appointed to represent the Christchurch City Council to hold 50% of the votes able to be cast on any resolution of the Committee, which votes may only be cast as a block and may not be split. In the event there is not unanimity amongst members representing the Christchurch City Council then the Christchurch City Council vote shall be determined by the majority of such members;
 - (ii) the members appointed to represent any other Council, one vote each (and in the case of a sub-committee, one vote for each Council which that member represents);
 - (iii) the chairperson be entitled to a casting vote.

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5. 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.
6. The functions, powers and duties delegated under resolution 3(c) above may be revoked at will by any of the Councils.
7. That pursuant to the provisions of the *Public Bodies Contracts Act, 1959*, the Committee shall report to the Council on all contracts entered into as set out below:
 - (a) In respect of contracts pursuant to resolution 3(a) above, the Committee shall report annually to the Council on all capital expenditures up to \$6,500,000 and operating expenditure up to \$500,000 incurred in any financial year;
 - (b) In respect of contracts pursuant to resolution 3(c) above, the Committee shall report annually to the council on all expenditure up to \$50,000

Any expenditure beyond these limits shall be reported to the council at its next ordinary meeting.
8. That the *Shareholders' Agreement* with Canterbury Waste Services Limited relating to the operation of JVCo (as approved by Canterbury Waste Joint Standing Committee) be approved and the seal of the Council be affixed to that document.
9. That the proposed *Constitution* of JVCo as (as approved by Canterbury Waste Joint Standing Committee) be approved.

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Chairman's

Recommendation:

1. That the above recommendation be adopted.
2. That Councillors Denis O'Rourke, Ron Wright and David Close be the Council's representatives on the Canterbury Joint Standing Committee and the Canterbury Waste Sub-Committee.
3. That Councillor Denis O'Rourke be nominated to chair the Canterbury Joint Standing Committee and the Canterbury Waste Sub-Committee.

CONSIDERED THIS 17TH DAY OF NOVEMBER 1998

MAYOR