

5. DELEGATION BY COUNCIL TO RESOLVE APPEALS AGAINST BURWOOD CONSENT

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| Officer responsible City Water and Waste Manager | Author Zefanja Potgieter, DDI 941-8271 |
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The purpose of this report is to recommend that the Council delegate power to the Solid Waste Manager to resolve the appeals lodged against Environment Canterbury's consent to continue landfilling at Burwood.

BACKGROUND

The following is an extract from a report to the 11 June 2002 meeting of the Sustainable Transport and Utilities Committee, which resolved to receive the information:

"The current resource consent to operate Burwood landfill expires 31 May 2002 and applications to extend the period of landfilling were lodged with Environment Canterbury in December 2000. Environment Canterbury's decision was released in April 2002, and in summary granted:

- (a) An extension of the operating life of the site till May 2005, or until the regional landfill is operative, whichever is earlier, subject to conditions (which were acceptable to the Council), and*
- (b) Approved a closure plan for ongoing rehabilitation and monitoring till 2037 for the period once all landfilling has stopped, with conditions as proposed by the Council.*

Two appeals to the Environment Court have been lodged. One is by Smith Developments Ltd, a property developer operating in the area and the relief sought is to either decline the application or grant it subject to different conditions. The other appeal is by the Queenspark Residents' Association and the relief sought is to require the Council to install a leachate liner and gas collection system. These appeals mean that the new April 2002 decision of ECAN cannot become effective and the existing consent continues to be legal and remains in place until the Environment Court has decided on the matter.

If the parties to an appeal before the Environment Court consider that the appeal may be able to be resolved without the need for a hearing they may request mediation. All parties must agree to participate in the mediation. The Court has no power to compel parties to mediate. Where mediation is agreed to, an Environment Court commissioner is appointed as the mediator. If the parties reach agreement as to how the appeal(s) can be resolved, this is recorded in a consent order issued by the Court, which is binding on all parties. If the matter is not settled, it is then set down for a hearing. All matters raised in the mediation are confidential and cannot be used in a subsequent hearing.

If the appeals require a hearing it may be between 6 and 12 months before they can be heard".

Environment Canterbury, the Council, and the two appellants entered into negotiations in July 2002 and there is a reasonable likelihood of resolving the issues raised with at least one of the appellants, which could result in that appeal not proceeding.

The authority to decide on issues raised in the appeals has not been delegated and therefore rests with the Council. Not delegating the authority could mean potential lengthy delays and would restrict the negotiations process.

It should be emphasised that the current negotiations may not result in a settlement of the appeals. However, the current process whereby all decisions material to the negotiations must be put to and approved by the full Council could frustrate the negotiation process as it unfolds. For example some operational issues raised involve access and egress vehicle routes around the landfill site, and the sequence of filling on different sections of the site.

It is therefore recommended that the Council delegate such authority to the Solid Waste Manager, as the issues raised are of an operational nature.

SUMMARY

A delegation from the Council is recommended to assist in progressing the possible resolution of the appeals lodged against the April 2002 Consent to continue operating at Burwood.

Recommendation: That the Solid Waste Manager be authorised to commit the Council to a binding agreement to resolve the appeals filed by Smith Developments Limited and the Queenspark Residents' Association, provided that no such agreement requires any Council expenditure not currently authorised by existing Council delegations.

(Councillor Helen Broughton requested that her vote against the above resolution be recorded.)