

5. ESTABLISHMENT OF THE CANTERBURY WASTE SUBCOMMITTEE (CWSC)

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PURPOSE OF THE REPORT

The purpose of this report is to establish the Canterbury Waste Subcommittee (CWSC).

EXECUTIVE SUMMARY

The Constituting Agreement for the Canterbury Joint Standing Committee (CJSC) provides for the establishment of a Subcommittee as set out below under the heading "*Background*".

All 10 constituent councils of the Canterbury Joint Standing Committee namely:

Ashburton District Council
Banks Peninsula District Council
Christchurch City Council
Hurunui District Council
Kaikoura District Council
Mackenzie District Council
Selwyn District Council
Timaru District Council
Waimakariri District Council
Waimate District Council

have now formally adopted the required resolution in terms of clause 30 of Schedule 7 of the Local Government Act 2002 to re-establish the CJSC and CWSC with the same delegated functions, powers, duties and voting rights that existed immediately prior to its discharge following the 2004 local authority elections.

Accordingly it is therefore now appropriate for the Committee to formally resolve that the CWSC be re-established and that all members of the CJSC be appointed to that Subcommittee in terms of the Constituting Agreement and clauses 30(1)(b) and 30(2) of Schedule 7 of the Local Government Act 2002.

Due to recent changes to the Local Government Act 2002 relating to quorum requirements for joint committees there is no reason left to retain the dual structure of CJSC and CWSC in the future, and the report therefore recommends revising the Constituting Agreement early 2005 and once that has been done to proceed with only one committee, the Canterbury Waste Joint Committee (CWJC). This would not affect the nature of the joint committee nor existing delegations from member councils to the joint committee.

FINANCIAL AND LEGAL CONSIDERATIONS

There are no financial considerations. The Constituting Agreement for the CJSC, however, stipulates that the CJSC will establish the Subcommittee. As this is a matter relating to general administration of the CJSC members may vote on the basis of one vote per member, with the exception that the three votes cast by the members appointed to represent the Christchurch City Council must be cast as a block and cannot be split.

STAFF RECOMMENDATIONS

It is recommended:

- (a) That the Committee appoint a Subcommittee of the Committee (to be called the Canterbury Waste Subcommittee) pursuant to clauses 3 to 8 of the CJSC Constituting Agreement and clause 30 of Schedule 7 of the Local Government Act 2002.
- (b) That it delegate to that Subcommittee all the functions, duties and powers delegated to the Canterbury Joint Standing Committee by the constituent councils.
- (c) That the membership of the Subcommittee consist of all the members of the Canterbury Joint Standing Committee.

- (d) That Buddle Findlay be requested to update the Constituting Agreement in line with amendments to the Local Government Act 2002.

BACKGROUND

The CJSC consists of all 10 Canterbury territorial local authorities and is formed pursuant to clause 30 of Schedule 7 of the Local Government Act 2002. It was initially established in 1999 with the objective of establishing a regional landfill and co-operating together on a regional basis on reducing waste to landfill. Some six of the 10 member councils are shareholders in Transwaste Canterbury Ltd, the joint venture company formed with Canterbury Waste Services Ltd to establish and operate the regional landfill.

Clause 3 of the Constituting Agreement of the Canterbury Joint Standing Committee (CJSC) provides that:

- “3. *The Committee shall:*
- (a) *appoint a sub-committee of the Committee (“the Sub-committee”) pursuant to section 114P(1) of the Local Government Act 1974;*
 - (b) *delegate to the Sub-committee all the functions, duties and powers delegated to the Committee by the Councils.*
4. *The Sub-committee shall report to the Councils at least annually on the exercise of the Sub-committee’s functions.*
5. *The members of the Sub-committee shall be appointed by the Committee and shall consist of a maximum of twelve members as follows:*
- (a) *three elected members of the Christchurch City Council;*
 - (b) *nine members made up of one elected member from each of the other Councils.*
6. *The members of the Committee shall be, ex-officio, members of the Sub-committee. If a Committee member declines to be on the Sub-committee, the Council that appointed that member shall appoint a replacement Sub-committee member.*
7. *Subject to clause 8, only elected members may be appointed to the Sub-committee.*
8. *Each Council may appoint up to two alternates for its Sub-committee member, one of whom may be an employee of that Council. The names of alternates must be notified in writing to the Sub-committee. No prior notice of attendance at a meeting by an alternate is required. An alternate shall be entitled to the same voting rights as the Sub-committee member for whom he or she is the alternate.”*

The CJSC delegates all its powers and responsibilities to the CWSC. The responsibilities of the CJSC in terms of the Memorandum of Understanding, Joint Venture Company Shareholders Agreement and Constitution are then exercised by the Canterbury Waste Subcommittee. These relate specifically to the appointment of nominee directors, exercising of voting rights and monitoring and receiving reports on the performance of Transwaste Canterbury Ltd.

RECENT UPDATE

Due to recent changes to the Local Government Act 2002 the quorum requirements for the CJSC has in effect been changed from all members to half the members if the number of members (including vacancies) is even, such as for the 12 members of the CJSC. The previous legal requirements for a quorum of all members for the CJSC was the only reason for creating the CWSC because its quorum requirement is a manageable six members. With the recent changes to the Act there is no reason left to retain both the CJSC and the CWSC.

However as the Constituting Agreement still provides for a quorum of all members it is recommended that Buddle Findlay be instructed to revise the Constituting Agreement to reflect the latest changes to the Local Government Act 2002.

When the revised Constituting Agreement is presented for consideration in February or March 2005 it should provide provisions for just one committee, provisionally called the Canterbury Waste Joint Committee (CWJC) to replace the CJSC and its Subcommittee (CWSC). This proposed technical 'adjustment' of the Constituting Agreement would not affect the nature of the joint committee nor existing delegations from member councils to the joint committee.

OBJECTIVES

To continue the operation of the Canterbury Waste Subcommittee.

OPTIONS

The only two possible options are either to not adopt the recommendations and not form the Subcommittee or to adopt the recommendations. If members chose not to form a Subcommittee this would be clearly contrary to the intent of the current Constituting Agreement and also mean that a full quorum of all 12 members would be required for every meeting of the CJSC. As this would be administratively difficult it is considered essential that a Subcommittee of the Committee be formed.

THE PREFERRED OPTION

That a Subcommittee of the CJSC to be called the Canterbury Waste Subcommittee be established in accordance with the Constituting Agreement.