

4. DRAFT NEW CONSTITUTING AGREEMENT AND PROPOSED MEMBERSHIP OF CANTERBURY REGIONAL COUNCIL

General Manager responsible:	General Manager City Environment
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PURPOSE OF REPORT

1. The purpose of this report is to present a new draft *Constituting Agreement* for the Canterbury Joint Standing Committee (CJSC), and to further consider the issue of the proposed membership of the Canterbury Regional Council (Environment Canterbury/ECan).

EXECUTIVE SUMMARY

2. On 11 July 2005 the Canterbury Waste Subcommittee resolved that "*Christchurch City Council staff develop a formal proposal on Environment Canterbury becoming a member of the Canterbury Joint Standing Committee for consideration by the Subcommittee*".
3. As set out in the attached report, due to changes in the Local Government Act 2002, the CJSC's *Constituting Agreement* (the Agreement) needs to be revised in any event and the concurrent proposal for ECan to be invited to join the CJSC would add further reason to revise the Agreement. A draft new Agreement (Attachment A) has therefore been drafted for consideration, to become effective on 1 July 2006. The draft new agreement when adopted will result in replacing the existing dual structure of CJSC and CWSC (Canterbury Waste Subcommittee), as required by the Local Government Act 1974, with a single committee called the Canterbury Waste Joint Committee (CWJC). The new Committee will continue as before to:
 - (a) Advance regional waste minimisation initiatives in all 10 territorial authority areas of Canterbury. However, the proposal is to invite ECan to become a participating council for regional waste minimisation purposes, and
 - (b) Be the conduit by which only the six territorial authorities that are shareholders in Transwaste Canterbury Ltd for disposal at Kate Valley landfill (Christchurch City and the District Councils for Banks Peninsula, Ashburton, Selwyn, Waimakariri and Hurunui) operate together on landfill issues.
4. However, in response to ECan's letter (see Attachment B discussed in paragraph 11 below) a second alternative version of the draft Constituting Agreement is also attached for consideration as Attachments C and D. These allow for two separate committees, one dealing only with regional waste minimisation with all 10 territorial authorities, and the other only with Kate Valley landfill with the six shareholder councils as members. In practice there would be little difference with this alternative as the committees would meet consecutively. Nevertheless the separation would provide transparency with respect to the separate activities.

LEGAL CONSIDERATIONS

5. Buddle Findlay advised on the previous Agreement, and were therefore requested to assist in the revision process, and John Buchan will attend the 12 September meeting.

STAFF RECOMMENDATIONS

It is recommended that the Subcommittee:

- (a) Adopt the attached draft new Constituting Agreements for two separate joint committees, the Canterbury Waste Joint Committee and the Canterbury Regional Landfill Joint Committee, for consideration by all member councils.
- (b) Extend a formal invitation to Canterbury Regional Council to consider the approved version of the new draft Constituting Agreement as a basis for possible future membership.

NEW AGREEMENT

6. While most of the proposed amendments to the existing Agreement are consequential to:
 - (a) there being no legal reason anymore for a committee plus subcommittee structure, and
 - (b) accommodating the proposed ECan membership,the opportunity exists to review the whole agreement, evaluating which causes are still required or not. The following changes in particular are noted:
7. Existing clause 26: This regional waste minimisation clause has not so far been used (no specific delegations from individual councils addressing regional waste minimisation) and the suggestion is to delete it. Clause 26 itself has never been necessary as clause 25 already provides for delegations. Removing clause 26 therefore has no effect other than tidying up the Agreement. The fact that councils have over the years contributed a budget for regional waste minimisation initiatives and will remain doing so carries an implicit delegation to use it only for such purposes. Regional waste minimisation initiatives will therefore not be adversely affected by this proposed deletion.
8. Existing clause 33 was intended to operate with delegations under clause 26 and the recommendation is to replace it by a simple process as contained in new clauses 22-24.
9. The issue of the size of the annual budget for regional waste minimisation may also be reviewed as for the 2005/06 financial year it is likely that all of the \$75,000 will be spent. With Kate Valley up and running more time and resources could and should be directed towards regional waste minimisation and the increased budget will allow more to be achieved. A future budget of \$150,000 is recommended. This doubling of the budget will enable much more to be achieved and will only increase the annual funding for existing member councils by 50% (eg for Christchurch an increase from the current annual contribution of \$50,000 to \$75,000, and for Hurunui from the current \$1,575 to \$2,363, and so on) if ECan were to become a member on the basis of a 25% share of the future budget (\$37,500), as recommended in new clause 23.
10. Assuming that ECan becomes part of the CWJC, the existing Regional Hazardous Waste Working Party would need to become a subcommittee of the new CWJC as provided for in new clause 4(a) to (c). At the first meeting of the new CWJC the new committee would need to delegate to the subcommittee such powers needed to operate as it does at present, including spending its separate budget.
11. No clause changes are proposed to Part B of the Agreement dealing with the joint venture regional landfill. However a typographical error needs to be corrected. The percentage split of shares held by the six participating councils in the joint venture project incorrectly reflects Christchurch's share as 75.5%, whereas actual Christchurch shareholding has always been 75.7% (confirmed by Transwaste Canterbury Ltd). This has therefore been corrected in the new Agreement.
12. Copies of the draft new Agreement and this report were sent to staff of all members councils and to ECan for initial comments. A copy of a reply received from Mr Mike Freeman, Director Regulation, Environment Canterbury, is attached as Attachment B and needs to be considered at the meeting on 12 September. The letter raises three different issues for consideration:
 - § Having two separate committees (one for regional waste minimisation and one for regional landfill). In response to ECan's letter a second alternative version of the draft Constituting Agreement is attached for consideration as Attachments C and D. These achieve the same outcomes as before, but allow for two separate committees, one dealing only with regional waste minimisation with all 10 territorial authorities, and the other only with Kate Valley landfill with the six shareholder councils as members.
 - § Extending an invitation to Waimate District Council. Note: Waimate District Council was originally invited to join the Subcommittee but declined at the time. Part of Waimate district falls into Canterbury and part in Otago.
 - § Inserting a clause into the agreement to clarify the regional waste minimisation function of the committee. Note: This is not strictly necessary. However, it would not present a problem.

THE PROCESS FROM HERE

13. A proposed process for moving forward to a target date of 1 July 2006 for establishing a new structure could be as follows:
 - (a) The 10 member councils of the CWSC adopt a preferred version of a new draft Agreement on 12 September for submission to member councils for consideration and formal approval. The CWSC then forwards an invitation for possible membership as from 1 July 2006 to ECan based on the draft new Agreement. The Agreement therefore also fulfils the function of 'conditions' for ECan membership.
 - (b) Each of the 10 territorial authorities need to formally consider the draft new Agreement at their own council meetings and then inform the CWSC in writing of their approval of the new Agreement. There is a requirement in the existing Constituting Agreement that only with the unanimous support of all 10 territorial authorities could another party join. During this period ECan has the opportunity to formally respond to the proposal.
 - (c) At the December or February meeting (depending on formal feedback received from all councils) the CWSC would then consider the feedback from all members, as well as the response received from ECan. Assuming that all member councils have approved the new Agreement (and therefore ECan membership) and should ECan have resolved to accept the invitation to join, then the member councils would be able to resolve to formally discharge CJSC/CWSC and simultaneously establish the new structure at a date to be determined. The new Constituting Agreement would then be forwarded to member councils for signature.
14. Note that this schedule of required steps is based on the assumption that all member councils will adopt the draft new Agreement without any changes that need to be referred back to the Subcommittee for consideration, and that ECan will proceed with the process. It is recommended that when approving the new draft Agreement, and if no issues for reconsideration by the Subcommittee have been identified, member councils specifically authorise their representative on the subcommittee to approve minor changes that may arise on behalf of their respective councils
15. ECan has identified issues to be discussed with the subcommittee which might result in extending the schedule. Similarly a decision by ECan not to participate in the future CWJC would logically require some amendments to the draft new Agreement.
16. While extending the schedule and therefore the completion date for this process poses no problems, it would have the potential to affect the selected date for the Agreement to become effective – currently targeted for 1 July 2006, being the start of a new financial year for all parties.