

4. CONSTITUTING AGREEMENT PROVISION RELATING TO APPOINTMENT OF ALTERNATES

General Manager responsible:	General Manager City Environment DDI 941-8656
Officer responsible:	City Water and Waste Manager DDI 941-6231
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1. The report below was submitted to the Canterbury Waste Joint Committee on 12 February 2007. As the Canterbury Regional Landfill Joint Committee Constituting Agreement has the same provision for alternates, the report is included in this agenda as well.
2. The Canterbury Waste Joint Committee resolved that Option 3 from the report was the preferred alternative and that any action to amend the agreement be delayed until the next review/amendment of the agreement is to occur.
3. The Committee suggested in addition that the issues in the report relating to the use of alternates could be raised at a Local Government New Zealand Zone meeting.

STAFF RECOMMENDATION

That the recommendation of the Canterbury Waste Joint Committee be supported.

"PURPOSE OF REPORT

1. *To consider a legal opinion on the appointment by member councils of alternates.*

SUMMARY

2. *Timaru District Council has raised the issue relating to Clause 11 of the Constituting Agreement which reads as follows:*

"Each Council may appoint up to two alternates for its Committee member/s, and where that Council has a member/s on the Subcommittee, for its Subcommittee member/s. The names of alternates are to be notified in writing to the Committee and the Subcommittee as appropriate. 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 Committee or the Subcommittee member for whom he or she is an alternate".

2. *Subsequent to a legal opinion obtained by Timaru District Council (TDC), the Christchurch City Council and TDC jointly requested a further legal opinion which is discussed in the attached legal opinion from Judith Cheyne, Solicitor with the Christchurch City Council.*
3. *The advice in the attached opinion provides three options:*
 - (1) *If the CWJC wants the Councils to be able to appoint members to the CWJC, who operate in a similar way to an "alternate", then significant amendments need to be made to the CWJC constituting agreement. It is suggested that the amendments are made following input from all the members and after receipt of further legal advice. An amended agreement would then need to be signed by the Councils. This option will require some effort and expense on the part of some or all CWJC member councils.*
 - (2) *If the CWJC/Councils do not want "alternates", the references to alternates in the agreement should be deleted, following receipt of further legal advice on the effect of the deletions. This will require that all the Councils sign an amended constituting agreement, as soon as one is prepared. There is likely to be less effort and expense with this option than compared with option 1.*
 - (3) *If the CWJC/Councils do not want "alternates", then action to amend the agreement could be delayed until the next review/amendment of the agreement is to occur, because the Councils cannot act on this provision of the agreement in any event and any current "alternates" cannot continue to act. CWJC members should report back to their Councils about this in the meantime. This option delays any expense of preparing an amended agreement, until such time as this would be incurred anyway.*

STAFF RECOMMENDATIONS

It is recommended that the Committee consider the options."