

## **Canterbury Regional Landfill Joint Committee AGENDA**

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### **Notice of Meeting:**

A meeting of the Canterbury Regional Landfill Joint Committee will be held on:

**Date:** Friday 14 February 2020  
**Time:** 10.30am  
**Venue:** Committee Room 2, Level 2, Civic Offices,  
53 Hereford Street, Christchurch

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### **Membership**

Members

- Councillor Jimmy Chen - Christchurch City Council
- Councillor Sam MacDonald - Christchurch City Council
- Councillor Phil Mauger - Christchurch City Council
- Councillor Robbie Brine - Waimakariri District Council
- Councillor Liz McMillan - Ashburton District Council
- Councillor Grant Miller - Selwyn District Council
- Councillor Michael Ward - Hurunui District Council

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**5 February 2020**

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Note: The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. If you require further information relating to any reports, please contact the person named on the report.

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**1. Apologies / Ngā Whakapāha**

At the close of the agenda no apologies had been received.

**2. Confirmation of Previous Minutes / Te Whakaāe o te hui o mua**

Both the open and public excluded minutes of the Canterbury Regional Landfill Joint Committee meeting held on 2 September 2019 were confirmed on the 9<sup>th</sup> Day of October 2019 by the Chairperson and Acting Chief Executive of Christchurch City Council, pursuant to Standing Order 23.4.

### 3. Appointment of Chairperson and Deputy Chairperson

Reference / Te Tohutoro: 20/63976

Presenter(s) / Te kaupāhō: Zefanja Potgieter

#### 1. Purpose of Report / Te Pūtake Pūrongo

- 1.1 To provide advice on the process for appointing the Chairperson and Deputy Chairperson of the Canterbury Regional Landfill Joint Committee.

#### 2. Staff Recommendations / Ngā Tūtohu

That the Canterbury Regional Landfill Joint Committee:

1. Appoints a Councillor as Chairperson of the Committee;
2. Decides which system of voting it will use for the appointment of a Deputy Chairperson, if an election is required;
3. Appoints a Councillor as Deputy Chairperson.

#### 3. Context / Te Horopaki

- 3.1 Clause 11 of the Constituting Agreement for the Canterbury Regional Landfill Committee states that the Committee shall appoint a Chairperson, who must be an elected member appointed by the Christchurch City Council, and that the Committee shall appoint a Deputy Chairperson, who must be an elected member appointed by a Council other than the Christchurch City Council.
- 3.2 If there is only one candidate for the deputy position then the Committee may resolve to appoint that person as Deputy Chairperson.
- 3.3 If there is more than one candidate for the deputy position the Committee must then put the matter to a vote, using the voting system the Committee has decided to use.
- 3.4 The Committee must use one of the two voting systems set out in Clause 25, Schedule 7 of the local Government Act 2002 (Appendix A).
- 3.5 Under System A, a candidate is successful if he or she receives the votes of the majority of the members of the Committee present and voting.
- 3.6 If no candidate is successful in the first round of voting, there is a second round (excluding the candidate with the fewest votes in the first round). If no candidate is successful in the second round there is a third and if necessary subsequent round of voting (each time excluding the candidate with the fewest votes in the previous round) until a candidate is successful.
- 3.7 In any round of voting, if two or more candidates tie for the lowest number of votes the person to be excluded from the next round is resolved by lot.
- 3.8 System B is first past the post except that a tie for the most votes is resolved by lot.

## Attachments / Ngā Tāpirihanga

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## Confirmation of Statutory Compliance / Te Whakatūtutanga ā-Ture

Compliance with Statutory Decision-making Requirements (ss 76 - 81 Local Government Act 2002).

(a) This report contains:

- (i) sufficient information about all reasonably practicable options identified and assessed in terms of their advantages and disadvantages; and
- (ii) adequate consideration of the views and preferences of affected and interested persons bearing in mind any proposed or previous community engagement.

(b) The information reflects the level of significance of the matters covered by the report, as determined in accordance with the Council's significance and engagement policy.

## Signatories / Ngā Kaiwaitohu

<b>Author</b>	Zefanja Potgieter - Senior Resource Advisor
<b>Approved By</b>	Ross Trotter - Manager Solid Waste Helen Beaumont - Head of Three Waters & Waste David Adamson - General Manager City Services

Appendix A to report 20/63976

**25 Voting systems for certain appointments**

- (1) This clause applies to—
  - (a) the election or appointment of the chairperson and deputy chairperson of a regional council; and
  - (b) the election or appointment of the deputy mayor; and
  - (c) the election or appointment of the chairperson and deputy chairperson of a committee; and
  - (d) the election or appointment of a representative of a local authority.
- (2) If this clause applies, a local authority or a committee (if the local authority has so directed) must determine by resolution that a person be elected or appointed by using one of the following systems of voting:
  - (a) the voting system in subclause (3) (**system A**);
  - (b) the voting system in subclause (4) (**system B**).
- (3) System A—
  - (a) requires that a person is elected or appointed if he or she receives the votes of a majority of the members of the local authority or committee present and voting; and
  - (b) has the following characteristics:
    - (i) there is a first round of voting for all candidates; and
    - (ii) if no candidate is successful in that round there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and
    - (iii) if no candidate is successful in the second round there is a third, and if necessary subsequent, round of voting from which, each time, the candidate with the fewest votes in the previous round is excluded; and
    - (iv) in any round of voting, if 2 or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot.
- (4) System B—
  - (a) requires that a person is elected or appointed if he or she receives more votes than any other candidate; and
  - (b) has the following characteristics:
    - (i) there is only 1 round of voting; and
    - (ii) if 2 or more candidates tie for the most votes, the tie is resolved by lot.

Compare: 1974 No 66 s 114K

Schedule 7 clause 25(2): substituted, on 7 July 2004, by section 26(8) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Schedule 7 clause 25(3): substituted, on 7 July 2004, by section 26(8) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Schedule 7 clause 25(4): added, on 7 July 2004, by section 26(8) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).





## 4. Background to the Regional Landfill and the Waste Committees

Reference / Te Tohutoro: 20/64391

Presenter(s) / Te kaupāhō: Zefanja Potgieter, Senior Resource Advisor

### 1. Purpose of Report / Te Pūtake Pūrongo

- 1.1 To provide the background to and information about the work of the two joint committees.

### 2. Staff Recommendations / Ngā Tūtohu

That the Canterbury Regional Landfill Joint Committee receives the information.

### 3. Background / Te Horopaki

- 3.1 The elected members on the regional landfill committee also represent their respective councils on the larger regional waste committee. This advice provides information on both committees given their shared origin.
- 3.2 During 1997 the central Canterbury councils, initiated by Waimakariri District Council which was running out of landfill space, decided to jointly explore options for a regional landfill to replace existing landfills, and to work together to reduce waste sent to landfill. The Canterbury Waste Subcommittee was established, with all of Canterbury represented (apart from the Waitaki District Council which falls partly into Canterbury and Otago regions).
- 3.3 The Christchurch, Ashburton, Selwyn, Waimakariri, and Hurunui councils decided to collaborate towards establishing a regional landfill - resulting in Kate Valley in the Hurunui district. Going forward it was decided to have two separate committees: the Canterbury Regional Landfill Joint Committee (CRLJC) for Kate Valley regional landfill related matters with the five councils participating; and the Canterbury Waste Joint Committee (CWJC) for regional waste minimisation initiatives, with all nine Canterbury councils participating. Christchurch City Council provides management and administrative services for both committees and meetings have traditionally been held in Christchurch, being central to the region.
- 3.4 Both the landfill and waste minimisation committees are *joint committees* in terms of the provisions of Schedule 7 of the Local Government Act 2002, quite distinct from other committees of territorial authorities. Each committee has its own founding document, the *Constituting Agreement*, which sets out delegations from member councils to govern committee operations. The joint committees are comprised of elected members from various Canterbury territorial authorities, assisted by staff from each authority.

#### 3.5 Canterbury Regional Landfill Joint Committee

##### 3.5.1 Kate Valley regional landfill

The Christchurch, Ashburton, Selwyn, Waimakariri, and Hurunui councils decided to collaborate towards establishing a regional landfill. After calling for proposals from the open market and selecting a preferred partnership, a memorandum of understanding to proceed with a regional landfill was signed on 3 September 1998 between the committee representing the five councils and a partnership between Envirowaste Services Ltd and Waste Management NZ Ltd.

*Transwaste Canterbury Ltd* was formed on 31 March 1999 to co-own the future landfill as a council controlled organisation - being 50% owned jointly by the five councils and 50% by the two commercial partners. A key provision of the Memorandum of Understanding committed all parties to send residual waste to Kate Valley landfill for a period of 20 years, after the opening of the landfill for business, up to June 2025.

The landfill site and transport to and from the landfill is run by Canterbury Waste Services (CWS), 100% owned by Waste Management NZ Ltd, on behalf of Transwaste. Kate Valley regional landfill opened for business in June 2005 at which time Christchurch's Burwood landfill, used by Christchurch and some neighbouring authorities, closed. In recognition of the landfill being situated near Waipara valley, a community support fund for the surrounding area was established by Transwaste. Since the landfill opened 13 years ago more than one million dollars in grants has been paid to the community fund trust to benefit the local community.

The CRLJC represents the interests of all the five councils and appoints half of the eight directors to the Transwaste board of directors, the other half appointed by Waste Management. The Committee has full delegated powers to decide on all landfill related matters on behalf of the five member councils. The Constituting Agreement determines that the chair is always one of the Christchurch members appointed to the Committee, and the deputy is appointed from one of the other councils. The Committee meets as and when needed, generally twice a year:

- in March/April to consider and comment on Transwaste's annual Statement of Intent of Transwaste, and receive its interim accounts; and
- in August to consider other matters including the annual transport cost report, and appointing representative to the Transwaste AGM (held annually in November).

All agenda papers and minutes from 2002 onwards are on the CCC website.

### 3.5.2 Transwaste shareholding and governance

Transwaste Canterbury Ltd is a limited liability company established to own and operate the Kate Valley landfill. This is a joint venture between Waste Management NZ Ltd and the five local authorities.

The total number of shares in the company is 20,000,000. Waste Management owns 10,000,000 shares (Group A), and the local authorities between them own the other 10,000,000 (Group B). Based on population, Christchurch City Council has a 39.9% interest and the other local authorities share equally the other 10.1%. Group A and Group B shareholders have the right to appoint four directors each.

The local authorities formed the Canterbury Regional Landfill Joint Committee to manage their interests in Transwaste Canterbury Ltd and to appoint the Group B directors. The Chairperson of the Committee must be an elected member nominated by the Christchurch City Council and the Committee is to comprise a maximum of seven members, three being elected members of the Christchurch City Council and one each of the other four Councils.

Appointments to the board of Transwaste Canterbury Ltd are made by the Committee in accordance with its appointments and remuneration policy, with an emphasis on the commercial skills each appointee will bring to representing the interests of the shareholding Councils. The Committee appoints four directors, two of whom are external and two are Councillor directors - one representing the Christchurch City Council, and one representing the other four shareholding Councils.

The policy states that the required skills, knowledge and experience of a Councillor director should be similar to those of external directors. It also states that a similar process for appointment should be adopted by the Committee, which means using either an external consultant, or the governance committee of Christchurch City Holdings Ltd. The policy further states that the Councillor director representing the Christchurch City Council should be nominated by its three representatives on the Committee, and that the Council wishes those representatives to apply similar criteria to potential candidates to those used by Christchurch City Holdings Ltd in its assessment of candidates for other Council-controlled Trading Organisations. Of relevance is the contribution they can make to the organisation, rather than the fact they represent the Council.

Councillor directors are appointed, for a three year term, at the first meeting of the Committee following the triennial local government elections.

### 3.5.3 Dividend payments to Transwaste shareholders

The general policy for the company is to declare dividends calculated at 100% of the parent company net profit after tax after allowing for working capital requirements, as set out in the company's Statement of Intent.

The practice has been to pay the dividends twice yearly:

- Around February of each year an interim dividend of 50% of the estimated Kate Valley-related profit for the current year
- Around the end of August, once the Transport Equalisation amounts are advised by CRLJC, a final dividend of the remainder of the profit from the year just finished.

Burwood Resource Recovery Park Limited is treated as a separate project and interim dividends paid as special dividends, appropriate to the stage of the project.

#### Kate Valley-related dividends paid each year (year end 30 June, \$):

	2015	2016	2017	2018	2019
Final from prior year (August)	7,600,000	8,500,000	7,000,000	7,900,000	6,400,000
Interim for current year (February)	6,000,000	6,300,000	6,000,000	5,500,000	5,000,000
Total Kate Valley-related dividends paid for the year	13,600,000	14,800,000	13,000,000	13,400,000	11,400,000

#### Allocation of dividends by shareholder:

	2015	2016	2017	2018	2019
Ashburton District Council (3.0%)	408,000	444,000	390,000	402,000	342,000
Christchurch City Council (38.9%)	5,290,400	5,757,200	5,057,000	5,212,600	4,434,600
Hurunui District Council (1.2%)	163,200	177,600	156,000	160,800	136,800
Selwyn District Council (3.0%)	408,000	444,000	390,000	402,000	342,000
Waimakariri District Council (3.9%)	530,400	577,200	507,000	522,600	444,600
Waste Management NZ Limited (50%)	6,800,000	7,400,000	6,500,000	6,700,000	5,700,000
Total Kate Valley-related dividends paid for the year	13,600,000	14,800,000	13,000,000	13,400,000	11,400,000

**Burwood Resource Recovery Park Limited project dividends paid each year (year end 30 June, \$):**

	2015	2016	2017	2018	2019
Special Interim Project Dividend	-	-	10,000,000	5,000,000	5,000,000

### 3.5.4 Transport Equalisation

In September 2004 the *Kate Valley Transport Cost Equalisation Deed* was entered into which provided a formula for an annual subsidy by Christchurch and Waimakariri councils (closer to the landfill site) of part of the transport costs of Selwyn and Ashburton councils (further away from the landfill site). Hurunui as host council for the landfill was not required to be part of the subsidy arrangement. The mechanism for payment of this subsidy is an annual adjustment of the Transwaste dividend. In August each year the committee authorises the actual subsidy amount and advises Transwaste to make the dividend adjustments accordingly. A typical example (from the August 2019 report) is reflected below:

	Total waste in tonnes	Christchurch share	Waimakariri share
Ashburton	12,138	\$163,511	\$10,368
Selwyn	18,692	\$59,351	\$3,763

### 3.5.5 Tiromoana Bush

Ownership of the land on which Kate Valley landfill is situated includes a large area which runs out to the coast. This has been developed as a nature reserve, Tiromoana Bush, with a focus on natural regeneration of the vegetation since the landfill opened. It has been fully deer fenced since 2019. The reserve is open to the public with various walking tracks available.

<https://transwastecanterbury.co.nz/webpage/tiromoana-bush/>

<https://visithurunui.co.nz/listings/listing/tiromoana-bush-walk>

### 3.5.6 Burwood Resource Recovery Park (BRRP)

Christchurch closed its Burwood landfill when Kate Valley opened, followed by major capping and landscaping to enhance the site as part of the larger recreational reserve. Subsequent to the 2010/11 seismic events a part of the Burwood landfill site was required to receive vast quantities of earthquake related material - mostly demolition waste.

In 2013 management of the reopened Burwood facility was transferred to Transwaste as a separate business venture and renamed Burwood Resource Recovery Park (BRRP). The BRRP operation processed, sorted and recovered the material received, however, due to declining volumes the site was closed for receiving earthquake material in December 2019.

A separate area of the landfill, site 'D', was established for the storage of sensitive building demolition material from sites where there was loss of life (including material from the CTV and PGG buildings). It is likely that this sensitive material will be relocated to site 'B' and this is currently being assessed by the National Emergency Management Agency, Transwaste and Christchurch City Council.

The Burwood landfill site will still receive soil for landfill capping, until the end of 2020.

<https://transwastecanterbury.co.nz/webpage/burwood-resource-recovery-park/>

<https://www.brrp.co.nz/>

3.5.7 Transwaste reports back to the CRLJC regarding Kate Valley landfill, Tiromoana Bush and BRRP.

#### 4. Canterbury Waste Joint Committee

4.1 The following councils are members of the committee<sup>1</sup>:

- Ashburton 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.

4.2 The Committee is tasked with advancing and supporting waste minimisation in Canterbury and comprises of 11 elected members, three appointed by Christchurch, and one each by the other eight member councils. The Chair is always an elected member from Christchurch and the deputy is appointed from one of the other councils.

4.3 The Committee currently meets once a year in August to consider staff proposals from all member councils for regional waste minimisation projects. However, project proposals from external applicants may also be considered for funding on a case by case basis.

4.4 Funding of the Committee's annual budget of \$112,000 for qualifying regional waste minimisation projects is sourced proportionally from all nine member councils, as set out in the *Constituting Agreement*. In some years all the funding is allocated, and in other years only partly allocated, depending on the number of proposed projects. Over many years a great variety of waste minimisation projects have been funded.

4.5 The webpage <https://ccc.govt.nz/environment/sustainability/waste-minimisation-in-canterbury-grant/> sets out the procedure and eligibility criteria to be followed for applications to the fund. Applications by for-profit commercial enterprises are generally referred on to other funding agencies, but have in the past not been excluded from consideration.

4.6 All agenda papers and minutes from 2002 onwards are on the Christchurch City Council website.

#### Attachments / Ngā Tāpirihanga

There are no attachments to this report.

#### Confirmation of Statutory Compliance / Te Whakatūtutanga ā-Ture

Compliance with Statutory Decision-making Requirements (ss 76 - 81 Local Government Act 2002).
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<sup>1</sup> Canterbury Regional Council became a member of the Committee in July 2006, however withdrew from the Committee at the end of 2009.

- (a) This report contains:
- (i) sufficient information about all reasonably practicable options identified and assessed in terms of their advantages and disadvantages; and
  - (ii) adequate consideration of the views and preferences of affected and interested persons bearing in mind any proposed or previous community engagement.
- (b) The information reflects the level of significance of the matters covered by the report, as determined in accordance with the Council's significance and engagement policy.

### Signatories / Ngā Kaiwaitohu

<b>Author</b>	Zefanja Potgieter - Senior Resource Advisor
<b>Approved By</b>	Helen Beaumont - Head of Three Waters & Waste David Adamson - General Manager City Services

## 5. Transwaste Canterbury Ltd Directorships

Reference / Te Tohutoro: 20/65058

Presenter(s) / Te kaupāhō: Zefanja Potgieter, Senior Resource Advisor

### 1. Purpose of Report / Te Pūtake Pūrongo

- 1.1 To appoint two members of the Canterbury Regional Landfill Joint Committee as directors on the board of Transwaste Canterbury Limited.

### 2. Staff Recommendations / Ngā Tūtohu

That the Canterbury Regional Landfill Joint Committee:

1. Appoints a member of the Committee as a director to represent Christchurch City Council on the board of Transwaste Canterbury Ltd for the period of 15 February 2020 up to the first Committee meeting after the 2022 local government elections, and that Transwaste Canterbury Limited be advised forthwith.
2. Appoints a member of the Committee as a director to represent Ashburton District Council, Hurunui District Council, Selwyn District Council and Waimakariri District Council on the board of Transwaste Canterbury Ltd for the period of 15 February 2020 up to the first Committee meeting after the 2022 local government elections, and that Transwaste Canterbury Limited be advised forthwith.

### 3. Context / Te Horopaki

- 3.1 The Committee has two elected-member directorships on the Board of Transwaste Canterbury - one elected member representing Christchurch City Council and one elected member jointly representing Ashburton, Selwyn, Waimakariri and Hurunui District Councils. Mr Glenn Livingstone (for Christchurch) and Mr Dick Davison (for the other four Councils) currently fill these positions as they have been the Committee's elected member directors during the previous electoral term, and as such remain on as directors up to the appointments as recommended in this report have been made.
- 3.2 The Committee therefore needs to consider the appointment, including length of tenure, of:
  - 3.2.1 One director to the Transwaste Canterbury Ltd Board from the elected members representing Christchurch City Council; and
  - 3.2.2 One director to the Transwaste Canterbury Ltd Board from the elected members representing Ashburton, Selwyn, Waimakariri and Hurunui District Councils.
- 3.3 Clause 18.2 of the Committee's *Constituting Agreement* sets out the delegated powers of the Committee, including the appointment of nominee directors to the Board of Transwaste (Attachment A). On 10 March 2008 the Committee approved a policy document on the appointment of directors (Attachment B).
- 3.4 In addition to the two elected member directors the Committee also has two directors appointed to the Transwaste Board for their commercial expertise, Mr Gill Cox (current chairman) and Ross Pickford. *(For clarification Waste Management NZ Ltd as the other shareholder also has four directors, making up the eight person Transwaste Board).*

## Attachments / Ngā Tāpirihanga

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B <a href="#">↓</a>	Policy on Directors	28

## Confirmation of Statutory Compliance / Te Whakatūtutanga ā-Ture

Compliance with Statutory Decision-making Requirements (ss 76 - 81 Local Government Act 2002).

(a) This report contains:

- (i) sufficient information about all reasonably practicable options identified and assessed in terms of their advantages and disadvantages; and
- (ii) adequate consideration of the views and preferences of affected and interested persons bearing in mind any proposed or previous community engagement.

(b) The information reflects the level of significance of the matters covered by the report, as determined in accordance with the Council's significance and engagement policy.

## Signatories / Ngā Kaiwaitohu

<b>Author</b>	Zefanja Potgieter - Senior Resource Advisor
<b>Approved By</b>	Ross Trotter - Manager Solid Waste Helen Beaumont - Head of Three Waters & Waste David Adamson - General Manager City Services



Dated July 2006

**CONSTITUTING AGREEMENT  
CANTERBURY REGIONAL LANDFILL JOINT COMMITTEE**

ASHBURTON DISTRICT COUNCIL  
CHRISTCHURCH CITY COUNCIL  
HURUNUI DISTRICT COUNCIL  
SELWYN DISTRICT COUNCIL  
WAIMAKARIRI DISTRICT COUNCIL

**BUDDLE FINDLAY**

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11/386298

**CONSTITUTING AGREEMENT**  
**CANTERBURY REGIONAL LANDFILL JOINT COMMITTEE**

**DATED:** 2017

**PARTIES**

**ASHBURTON DISTRICT COUNCIL, CHRISTCHURCH CITY COUNCIL, HURUNUI DISTRICT COUNCIL, SELWYN DISTRICT COUNCIL and WAIMAKARIRI DISTRICT COUNCIL** and their successors, all local authorities under the Local Government Act 2002 (collectively "the Councils" and individually "a Council")

**BACKGROUND**

- A. The Councils (together with Kaikoura District Council, Mackenzie District Council, Timaru District Council and Waimate District Council) had previously constituted the Canterbury Joint Standing Committee ("the CJSC") to achieve regional co-ordination, co-operation and commitment as most recently recorded in the Constituting Agreement dated 16 September 2003 ("the 2003 Agreement"). To address operational issues, the CJSC had appointed the Canterbury Waste Subcommittee ("the Subcommittee").
- B. The CJSC and the Subcommittee were discharged as a consequence of the 2004 triennial general election of members.
- C. In December 2004 the Territorial Authorities reconstituted the CJSC and had the CJSC reappoint the Subcommittee relying on the 2003 Agreement.
- D. The Councils own shares in Transwaste Canterbury Limited ("TCL") which is a joint venture with Canterbury Waste Services Limited ("CWS") concerned with the operation of the Canterbury landfill at Kate Valley and associated transport services ("the Landfill Joint Venture"). The Councils and CWS have entered into a Shareholders' Agreement dated 31 March 1999 ("the Shareholders' Agreement") which sets out the principles under which the joint venture will operate.
- E. The Councils had previously delegated their involvement in the Landfill Joint Venture to CJSC and the Subcommittee. CJSC and the Subcommittee are by separate Constituting Agreement being reconstituted as the Canterbury Waste Joint Committee which is to have no role or responsibility in relation to the Landfill Joint Venture. Accordingly, the Councils now wish to appoint and constitute a new joint committee to be known as the Canterbury Regional Landfill Joint Committee.

**TERMS OF THIS AGREEMENT:**

**EFFECTIVE DATE**

1. This Agreement shall come into effect on 1 July 2006.

**COMMITTEE**

2. Pursuant to clause 30(1) of Schedule 7 to the Local Government Act 2002 the Councils shall appoint and constitute a joint committee which shall be known as the Canterbury Regional Landfill Joint Committee ("the Committee").
3. The Committee shall consist of a maximum of seven members as follow:
  - (a) three elected members of the Christchurch City Council;
  - (b) four members made up of one elected member from each of the other Councils.
4. The Committee shall report to the Councils at least annually on the exercise of the Committee's functions.

**TERMS AND CONDITIONS OF ENTRY**

5. The Councils may only allow other Councils to join the Committee on such terms and conditions as are agreed unanimously by the Councils.

**WITHDRAWAL OF COUNCIL**

6. A Council may only withdraw from the Committee if that Council has complied with all of its obligations under this Constituting Agreement up to the date of withdrawal and agrees to satisfy its continuing obligations (if any) in a manner which is satisfactory to all of the remaining Councils.

**AVOIDANCE OF DISCHARGE**

7. The Councils declare that they have each resolved that the Committee shall continue to function after a triennial election with the same delegated functions, duties, powers and voting rights that existed prior to that election and accordingly the Committee shall not be discharged under clause 30(7) of Schedule 7 to the Local Government Act 2002.

**QUORUM**

8. The quorum for a meeting of the Committee is four members at least one of whom is a member appointed by Christchurch City Council. An alternate shall be deemed to be a "member" for the purposes of achieving a quorum.

**ALTERNATES**

9. Each Council may appoint up to two alternates for its Committee member/s. The names of alternates are to be notified in writing to the Committee 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 member for whom he or she is an alternate.

#### **APPOINTMENT AND DISCHARGE OF MEMBERS**

10. The power to discharge a member of the Committee and to appoint another in his or her stead, may only be exercised by the Council that made the appointment.

#### **CHAIRPERSON AND DEPUTY**

11. The Committee shall appoint a chairperson (who must be an elected member appointed by Christchurch City Council) and a deputy chairperson (who must be an elected member appointed by another Council other than Christchurch City Council).

#### **MEETINGS/STANDING ORDERS**

12. Meetings of the Committee shall be held at Christchurch (unless otherwise agreed) at such times as may be appointed and as are necessary for the performance of the functions, duties and powers delegated under this Agreement. The rules regulating the proceedings of the Committee shall be those set out in NZS 9202:2001, "Model Standing Orders for Meetings of Territorial Authorities, Regional Councils and Community Boards" as varied in accordance with this Agreement. For the purposes of clause 25 of the NZS 9202:2001 the "principal administrative officer" means the City Manager of the Christchurch City Council or his delegate.
13. Any resolution requiring a decision on a matter of significance to be considered at a meeting of the Committee must be the subject of prior notice which ensures that each member is fully and fairly informed of the background and rationale for any proposal to be considered and the period of notice must be sufficient to enable every member to consult with his or her appointing Council.

#### **VOTING**

14. Notwithstanding anything to the contrary in Model Standing Orders NZS 9202:2001 voting at meetings of the Committee shall be:
  - (a) the members appointed to represent the Christchurch City Council shall be entitled to 50% of the votes able to be cast on any resolution (which votes may only be cast as a block and may not be split);
  - (b) the members appointed to represent the other Councils, one vote each.

For the avoidance of doubt, this means for example that if all 4 other Council members are present then the members appointed by the Christchurch City Council will have 4 votes to be cast as a block.

15. To the extent that it may be necessary all of the Councils shall procure an amendment to their standing orders to permit voting on the basis set out in clause 14.

#### **CASTING VOTE**

16. In all cases where there is an equality of votes the chairperson shall have a casting vote. Where a casting vote is to be exercised the following principles shall apply:

- (a) the casting vote is to be used in the best interests of the Canterbury community represented by the Councils considered together;
- (b) the casting vote is to be used in the best interests of the Councils considered together;
- (c) the Committee members shall use their best endeavours to avoid use of a casting vote, by obtaining consensus;
- (d) the casting vote shall not to be used unreasonably in favour of any one Council.

#### DELEGATIONS

17. All delegations made by the Councils to the Committee shall record the functions, duties and powers that have been delegated in writing and may set out:
- (a) the extent to which the Council may be bound in respect of those delegated functions, duties and powers that are delegated;
  - (b) the limit (if any) to which the Council can be committed to expenditure of funds in pursuance of those delegated functions, duties and powers;
  - (c) the circumstances in which (if any) the Council can withdraw those delegated functions, duties and powers in whole or in part.
18. Subject to prior compliance with clause 17 in respect of the delegations proposed by this clause 18, the Councils agree to delegate to the Committee all matters relating to participation in the Landfill Joint Venture for the purposes of owning and operating the Canterbury regional landfill at Kate Valley and associated transport and collection systems (transfer stations to the landfill only), including without limitation:
- (a) performing the obligations of the Councils under the Shareholders Agreement;
  - (b) exercising the voting rights attached to TCL shares held by the Councils;
  - (c) appointing nominee directors to the board of TCL;
  - (d) considering the issues in relation to any scheme for the equalisation of transport costs between the Councils and if appropriate, developing such scheme;
  - (e) appointing the Councils' representatives at TCL shareholders' meetings.
19. Notwithstanding any statutory power to do so the Councils shall not revoke the delegations to the Committee referred to under clause 18 until TCL is liquidated. By contrast, it is agreed that a Council will be entitled to revoke any other delegation to the Committee referred to under clause 17 as may be provided for by that delegation and subject always to compliance by the Council concerned with all of its obligations in respect of such delegation up to the date of revocation.

#### ADMINISTRATIVE COSTS

20. Christchurch City Council agrees to provide such management, administrative, secretarial and accounting services as the Committee shall reasonably require at no cost to the other Councils.

Nothing in this clause shall prevent any Council agreeing to make a contribution towards those costs. For the avoidance of doubt, where Christchurch City Council is directed to source any such services (ie other than from its own staff) the costs incurred shall be recoverable from the Councils in the percentages given in the table forming part of clause 27.

#### **GOOD FAITH NEGOTIATIONS**

21. In the event of any circumstances arising that were unforeseen by the Councils at the time of entering into of this Agreement or in the event of a dispute in any way relating to this Agreement the Councils will negotiate in good faith to resolve that dispute or to add to or vary this Agreement in order to resolve the impact of those unforeseen circumstances in the best interests of:
- (a) the Councils represented on the Committee considered together; and
  - (b) the Canterbury community represented by the Councils considered together.

#### **ARBITRATION**

22. Any dispute arising out of the interpretation of this Agreement, including any question regarding its existence, validity or termination, which cannot be resolved by good faith negotiations under clause 21 shall be referred to arbitration.
23. If the Councils are unable to agree upon the appointment of a single arbitrator within 10 working days of the receipt of written notification of the desire of a party to have a dispute arbitrated, or if any arbitrator agreed upon refuses or fails to act within 10 working days of his or her appointment, then any party may request the President for the time being of the Canterbury District Law Society to appoint an arbitrator and the arbitration shall be carried out in accordance with the Arbitration Act 1996. For the purposes of this clause "working day" has the meaning attributed to those words in Section 2 of the Resource Management Act 1991.
24. In this clause time shall be of the essence and the Councils agree to be bound by any arbitration decision, determination or award.

#### **SERVICE OF NOTICES**

25. Any notice required to be served under this Agreement may be served in the manner provided in Section 152 of the Property Law Act 1952 and in any event shall be deemed to be served if actually received.
26. A notice under clause 25 must be addressed:
- (a) in the case of Christchurch City Council or the Committee for the attention of the Legal Services Manager at the Civic Offices, 163 Tuam Street, Christchurch (P O Box 237, Christchurch); and
  - (b) in the case of every Council other than Christchurch City Council, for the attention of the Principal Administrative Officer of the Council to whom the notice is addressed, to that Council at its principal administrative office.

#### HOLDING OF TCL SHARES

27. The Councils shall continue to hold 50% of the equity securities of TCL in the proportions in which they subscribed for those shares, being the proportions set out below:

Council	Population (1996 census)	%
Christchurch	322,700	77.8
Waimakariri	32,100	7.8
Hurunui	10,000	2.4
Selwyn	25,000	6.0
Ashburton	25,000	6.0
<b>TOTAL</b>	<b>414,800</b>	<b>100</b>

28. Each Council will fund the capital requirement of TCL from time to time as required by the Shareholders' Agreement, in proportion to their shareholding in TCL.
29. The Councils must appoint their representatives on the Committee as their representative at TCL shareholders meetings in accordance with the Companies Act 1993 and TCL's constitution.

#### TRANSFER OF TCL SHARES

30. Subject to the terms of this Agreement, in the event that a Council for any reason wishes to transfer any equity securities of TCL, those equity securities shall be offered at fair value to and purchased by the remaining Councils in proportion to their existing shareholding in TCL at a fair value.
31. If the Councils cannot reach agreement on a fair value then the fair value shall be fixed by a single valuer (if the Councils can agree on a single valuer) or otherwise by two valuers (one appointed by the transferring Council and one appointed by the other Councils) and an umpire appointed by such valuers before entering into the determination of such fair value.
32. Such valuer (if one is agreed on) or such umpire shall certify the sum that is in his or her opinion the fair value of the equity securities and in giving such an opinion shall be considered to be acting as an expert and not as a valuer. The provisions of the Arbitration Act 1996 shall not apply and the value of the equity securities shall not be the subject of arbitration.
33. Immediately following the determination of the fair value the transferring Council shall be obligated to transfer, and the other Councils shall be obligated to purchase, the equity securities at the fair value, pro rata in accordance with their current shareholding.



34. Clauses 30 - 33 shall not apply to a transfer of equity securities of TCL held by a Council if the equity securities are transferred with the consent of at least 75% of the votes of the Councils to any one or more of the other Councils.

**EFFECT OF COUNCIL AMALGAMATION**

35. Subject to the effect of any statutory or regulatory provision that governs the re-organisation of local authorities, if a Council is to amalgamate, merge or join with a local authority that is not a party to this Agreement, and the local authority that is not a party to this Agreement is to be the continuing body:
- (a) if the Councils unanimously agree, that local authority shall enter an agreement with the Councils on the same terms as this Agreement (except for adjustment of clause 27 to reflect amended population statistics) and the equity securities held by the Council so amalgamating, merging or joining shall be transferred to that local authority; or
  - (b) the equity securities held by the Council so amalgamating, merging or joining shall be offered to and purchased by the remaining Councils on the terms and conditions set out in clauses 30 - 34.

EXECUTED by the Councils on the date set out above

THE COMMON SEAL of )  
ASHBURTON DISTRICT COUNCIL )  
was affixed in the presence of )

\_\_\_\_\_

\_\_\_\_\_

THE COMMON SEAL of )  
CHRISTCHURCH CITY COUNCIL )  
was affixed in the presence of )

\_\_\_\_\_

\_\_\_\_\_

THE COMMON SEAL of )  
HURUNUI DISTRICT COUNCIL )  
was affixed in the presence of )

\_\_\_\_\_

\_\_\_\_\_

THE COMMON SEAL of )  
SELWYN DISTRICT COUNCIL )  
was affixed in the presence of )

\_\_\_\_\_

\_\_\_\_\_

THE COMMON SEAL of )  
WAIMAKARIRI DISTRICT COUNCIL )  
was affixed in the presence of )

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\_\_\_\_\_

Attachment A

## **DIRECTORS - POLICY ON APPOINTMENT AND REMUNERATION - TRANSWASTE CANTERBURY LTD**

### **1. Purpose**

The purpose of this policy is to set out, in accordance with Section 57(1) of the Local Government Act 2002 (“the Act”), an objective and transparent process for:

- The identification and consideration of the skills, knowledge and experience required of directors of a council organisation; and
- The appointment of directors to a council organisation; and
- The remuneration of directors of a council organisation.

### **2. Principles**

The following principles underlie this policy:

- Appointments will be made on the basis of merit;
- The Committee will follow corporate governance best practice;
- Directors will be appointed on the basis of the contribution they can make to the company, and not on the basis of representation;
- All directors should comply with the Christchurch City Council’s Code of Conduct for Directors (attached).

### **3. Definitions**

The term “council organisation” (“CO”) is used in the context of the definitions provided in Section 6 of the Act.

The Act also creates two sub-categories of COs – “council-controlled organisations” (“CCOs”) and “council-controlled trading organisations” (“CCTOs”).

The following definitions are provided for guidance purposes only. Fuller definitions are provided in Section 6 of the Act.

#### *Meaning of “council organisation”*

In broad terms, a CO is an organisation in which the Council has a voting interest or the right to appoint a director, trustee or manager (however described). This is a wide-ranging definition, covering a large number of bodies.

#### *Meaning of council-controlled organisation*

A CCO is an organisation in which one or more local authorities control, directly or indirectly, 50% or more of the votes or have the right, directly or indirectly, to appoint 50% or more of the directors, trustees or managers (however described).

#### *Meaning of council-controlled trading organisation*

A CCTO is a CCO that operates a trading undertaking for the purpose of making a profit eg Transwaste Canterbury Ltd.

The Canterbury Regional Landfill Joint Committee, and Transwaste Canterbury Ltd are referred to as the CRLJC and TCL in the policy.

### **4. Transwaste Canterbury Limited**

#### *Background*

The Christchurch City Council (CCC) has a 39.9% interest in Transwaste Canterbury Limited (‘TCL’). A further 10.1% is held by the other four Canterbury local authorities, and 50% by Canterbury Waste Services Ltd.

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The CRLJC has been constituted to represent the ownership interests of the local authorities

The CRLJC is a joint committee for the purposes of the Local Government Act, involving interests external to the member Councils. Whilst their appointment policies cannot be applied directly to the CRLJC, the Councils have an interest in ensuring that appropriate appointments are made to the TCL Board.

The CRLJC, has the power to appoint four directors to TCL. It has previously adopted a policy of appointing two Councillor directors (one from the Christchurch City Council and one from one of the rural Councils) and two external directors. All directors are nominee directors.

## **5. Appointment of Directors**

### *Representation*

The four directors appointed by the CRLJC to the TCL Board will comprise two internal appointees, one appointed to represent the Christchurch City Council and one to represent the other four remaining shareholder Council representatives on the CRLJC. All appointees will be appointed by the whole joint committee with the emphasis being on the commercial skills they will bring to representing the interest of the shareholder councils on the TCL Board.

### *Attributes*

In general terms, the following qualities are sought in the directors appointed by the CRLJC:

- a) Intellectual ability
- b) Commercial experience
- c) Understanding of governance issues
- d) Sound judgement
- e) High standard of personal integrity
- f) Commitment to the principles of good corporate citizenship
- g) Understanding of the wider interests of the publicly-accountable shareholder

It is expected that all appointees will undergo, or already have undergone, formal corporate governance training, or have the requisite experience in this area.

### *Appointment Process for TCL Directors*

When a vacancy arises for any of the four appointees on the TCL Board CRLJC will follow the process set out below.

### *External Appointees*

#### *Search*

In most cases a specialist consultant, or the Governance Committee of Christchurch City Holdings Ltd will be contracted to assist with the provision of names of possible candidates and the initial evaluation. In most cases the vacant position/s will not be advertised as this would not normally be expected to add any significant value to the process.

Following the search process a short list of recommended candidates will be provided to the Joint Committee for its consideration.

#### *Appointment*

Formal confirmation of the appointment will be made by the CRLJC at a properly constituted meeting. It is expected that the process will be undertaken on a confidential "public excluded" basis to protect the privacy of the individuals concerned.

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### *Reappointment*

Where a director's term of appointment has expired and he or she is offering him/herself for reappointment, the CRLJC will consult on a confidential basis with the TCL Chairperson with regard to:

- Whether the skills of the incumbent add value to the work of the board;
- Whether there are other skills which the board needs;
- Succession issues.

The CRLJC will consider the information obtained and, taking into account the director's length of tenure decide on the appropriateness of reappointment or making a replacement appointment.

Where reappointment is not considered appropriate then the appointment process outlined above will apply.

### *Length of tenure*

Directors will normally be appointed for periods of three years. Subject to a review of the directors performance after each three year period, the normal tenure for a director will be six to nine years. Following nine years of service, a director may be re-appointed for a further three years in exceptional circumstances.

### *Councillor Directors*

#### *Search*

The required skills knowledge and experience of a Councillor appointment to the TCL board should be similar to those applied to external director appointees. A similar process to that used for external appointees should be used, with the services of either an external consultant or the Governance Committee of Christchurch City Holdings Ltd being utilised to recommend candidates.

~~In respect to the Councillor director representing the CCC expressions of interest will be sought from all CCC Councillors and list of recommended candidates will be provided for the consideration of the Joint Committee.~~

The Councillor director representing the CCC should be nominated by the three CCC representatives on the CWSC in accordance with the provisions contained in the Constituting Agreement.

~~The four shareholder members of the CRLJC other than the CCC, will be responsible for the nomination of candidates for the one director representing them, who may be a Councillor from any of the four shareholder Councils other than the CCC~~

The four shareholder Councils of the Canterbury Regional Landfill Joint Committee other than the Christchurch City Council, will be responsible for the nomination of candidates for the one director representing them, who shall be one of the councillors appointed by the four shareholder Councils, other than the Christchurch City Council, to the Canterbury Regional Landfill Joint Committee.

The Christchurch City Council expects its representatives on the CRLJC to support the principles set out in the Council's appointments policy when such matters are considered by them.

In general terms, the Council wishes its representatives to apply similar criteria to potential candidates to those used by Christchurch City Holdings Ltd in its assessment of candidates for other CCTO's. In particular this principle set out in the Council's appointments policy that directors of CCTO's will be appointed on the basis of the contribution they can make to the organisation, and not on the basis of representation, is considered to be relevant.

In respect of Councillor appointments, the Council would expect its representatives to also take into account a candidate's potential to quickly acquire business and financial skills, as well as his or her existing skills and experience.

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*Length of Tenure*

Any Councillor directors will be appointed for a three year term and should be appointed at the first meeting of the CRLJC following the triennial local government elections. In the situation where a Councillor has been appointed to the TCL board but fails to retain their seat in the elections, or resigns from their position as an elected representative, then their position may be reviewed by the CRLJC before expiry of their full term of three years.

**6. Remuneration of Directors**

The CRLJC may recommend to TCL that TCL reviews the level of remuneration made available to its nominee directors appointed by the CRLJC.

In recommending a review of remuneration, CRLJC will take account of the following factors:

- The need to attract and retain appropriately qualified directors;
- The levels of remuneration paid to comparable companies in New Zealand;
- The performance of the company and any changes in the nature of its business;
- Any other relevant factors.

In general, it is intended that directors of TCL should receive a level of remuneration that is competitive with the general market, while recognising that there will be differences from time to time, particularly in the period between reviews. Professional advice will be sought where necessary.

The Christchurch City Council would expect its representatives to apply similar policies and practices as are applied by Christchurch City Holdings Limited in its review of the remuneration of CCTO Boards.

The CRLJC also supports the payment by TCL of directors' liability insurance and the indemnification of directors.

Draft November 2007

08/1798