

3. RECOVERED MATERIALS FOUNDATION (RMF) RESTRUCTURE

Officer responsible City Water and Waste Manager	Author Councillor Denis O'Rourke
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The RMF currently operates as a charitable trust under the Charitable Trusts Act under a constitution which provides for governance by a board of trustees. The relevant parts of the constitution, for the purposes of this report, provide:

- "7.1 (a) *The trust shall be administered by a board of not more than eight and not less than four trustees to be known as 'trustees' and may not act in the event the number of trustees for the time being shall be less than four except as referred to in clause (f) hereof but otherwise may act notwithstanding the number of trustees for the time being shall be less than eight.*
- 7.1 (f) *In the event of there being any vacancy in the number of trustees of the full board then (notwithstanding there shall be less than four trustees but not limited to there being less than four trustees) the board may appoint a suitable person to fill such vacancy and for the sake of clarity it is hereby confirmed that a 'suitable person' for the purposes of this clause may include a person representing the New Zealand recycling industry."*
- 7.2 (a) *Notwithstanding anything contained in clause 7.1 hereof the Christchurch City Council shall have the right to appoint two trustees and Canterbury Development Corporation, Canterbury Manufacturers Association, Canterbury Employers Chamber of Commerce, The Sustainable Cities Trust, and the Clean Washington Centre (or their successor organisations) shall each have the right to appoint one trustee. The foregoing organisations are referred to herein as 'The Founders'.*
- 10.1 *The board may appoint such persons as it sees fit to be advisory trustees to the board on such matters as the board may require advice. Advisory trustees may (if called upon to do so by the board) attend meetings of the board and speak at such meetings but shall not be entitled to vote thereat.*
- 14.1 *[This clause indemnifies trustees and advisory trustees by the Trust out of the trust funds, except for "willful default or willful breach of trust"]*
- 14.2 *No trustee shall be liable for any loss not attributable to his or her own dishonesty or to the willful omission by him or her of any act known by him or her to be a breach of trust.*

There are currently six trustees:

- 2 City Councillors (Denis O'Rourke and Sally Buck)
- 1 from the CDC (Chris Pickrill)
- 1 from the CMA (Dr Robin Mann)
- 1 from the CECC (Phil Falloon)
- 1 from the recycling industry (Dixon McIvor)

Following the resignation of Jonathon Elworthy, the Sustainable Cities Trust has not formally appointed a trustee.

Clean Washington Centre no longer exists and has no successor.

There are three advisory trustees: David Dougherty (previously Clean Washington Centre, now Enviros UK), Mike Stockwell (CCC Water and Waste Manager) and Mark Prain.

Like the CCC, some of the other TLAs in Canterbury have contracts to supply recyclables to the RMF for processing, but are not able to make an appointment to the board. More district councils in Canterbury are likely to contract for materials supply/processing/marketing etc in the future (in some cases the near future). In addition, those councils collectively via the joint committee of councils known as the Canterbury Waste Subcommittee, may also contract in the future for services such as waste exchange, on a regional basis. It is appropriate that they have the right to appoint at least one trustee to the board (perhaps two - one for the southern councils and one for the northern ones).

It is not desirable for the board to become too big, and eight (with the addition of advisory trustees) seems appropriate.

The Sustainable Cities Trust appears to have had some difficulty in appointing a trustee in recent times, and currently has made no formal appointment (although Arthur as chair of Sustainable Cities has been attending board meetings). The previous two appointments by Sustainable Cities have not been enduring. Sustainable Cities did have a role to play originally in assisting the formation of the RMF, but no longer seem to have such a clear role. More particularly, Sustainable Cities appears to have changed its outlook and approach, and rather than acting as an adviser/consultant, now seems to have adopted a more aggressively 'ginger group' sort of role. This does not sit comfortably with the position of the RMF as a contractor to councils and a supplier to commerce.

I believe that the time has come to restructure the RMF board to take account of changed and changing circumstances. I also believe that the board should have the right to be consulted on appointments nominated to it before those nominations take effect, so as to ensure as far as possible that an appropriate mix of skills is retained amongst board members.

It seems to me that the current six board members do represent an appropriate mix, and that two appointees by the other district councils should be provided for, and that the trust deed not in the future provide for appointments by Clean Washington or Sustainable Cities.

Following legal advice the RMF board has now made the necessary changes to the RMF's trust deed. The board now comprises the six people named above. It is now possible for two additional trustees to be appointed by the Canterbury TLAs (other than Christchurch), perhaps one by/from the southern TLAs and one by/from the northern ones, via the Canterbury Waste Subcommittee.

This matter is therefore referred to the committee for this purpose.

Chairman's

Recommendation: That the member Councils (other than Christchurch City) consider two appointments to the RMF board.