

1. SOLID WASTE RFI - INVESTIGATION OF RECOVERED MATERIALS FOUNDATION AND CITY CARE PROPOSALS



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The purpose of this report is to report back on the further exploration of proposals from the Recovered Materials Foundation (RMF), and from City Care, for future provision of waste stream services. The report also recommends a way forward with the Recovered Materials Foundation proposal.

BACKGROUND

In August 2003 the Council put out a request for information (RFI) to meet a range of Christchurch City Council solid waste stream services and objectives.

The key drivers then for seeking requests for information were:

- Improved efficiencies in the management of the waste supply chain (collection, recycling processing, refuse station management, compost plant management) and therefore lowered costs.
- Improved waste minimisation outcomes particularly from greater opportunities for waste sorting at the refuse stations through involvement of commercial partners interested in carrying out this activity.
- Involvement of the commercial waste operators in a partnership approach to management of waste services, thereby reducing the risk to the Council of the easily sorted commercial waste stream being diverted from its refuse stations. This would be likely to result in a considerable loss of efficiency of the Council's own stations.

CONSIDERATION OF SUBMISSIONS TO REQUEST FOR INFORMATION

Seven submissions were received to the request for information process:

- The Recovered Materials Foundation proposed a solution which involved the commercial waste operators operating each of the refuse stations, under a contract to the Recovered Materials Foundation, who in turn would have a lead contract with the Council. This proposal also included the Recovered Materials Foundation managing the Onyx Kerbside collection Contracts.
- City Care proposed a solution which maintained the waste collection and management functions as a "controlled natural monopoly", delivered by a single supplier (City Care).
- Onyx and Canterbury Waste Services (CWS) proposed solutions which had some similarity to the Recovered Materials Foundation proposal, but in the case of CWS, without the Recovered Materials Foundation being in the lead contract role.
- The other three (Global Renewables, Living Earth and R5 Solutions) related to either partial processes, or new technologies.

The report to the Sustainable Transport and Utilities Committee in February 2004 identified considerable merit in the Recovered Materials Foundation proposal, but also identified that a more integrated model incorporating some of the features of the Onyx and CWS models could be developed. The report also recommended further exploring the City Care model as an alternative.

The Council adopted the following resolutions at its February 2004 meeting:

1. *That the Council carry out actions (a) to (f):*
 - (a) *Notify Global Renewables, Living Earth and R5 Solutions that they are not the preferred suppliers for this RFI.*
 - (b) *Commence discussions with CWS to explore the Wilders yard option as a stand alone option.*
 - (c) *Work through detail and implications of the proposed structure with the RMF (including costs and legal issues). RMF would concurrently be working with Onyx, IBOC and CWS, and will be required to provide details of how they intend to resource and implement their proposal.*

- (d) *Commence discussions with City Care on the detail of their model.*
 - (e) *Explore the implications of terminating the current City Care Refuse Station contracts.*
 - (f) *Signal concepts under consideration in the LTCCP process February to June 2004.*
2. *That the outcome of these investigations be reported back to the Sustainable Transport and Utilities Committee by way of an interim report in April 2004, with a final report by July 2004.*
 3. *That if necessary the Council carry out a special consultative procedure subsequent to the final report."*

PROGRESS SINCE FEBRUARY 2004

Subsequent to the February 2004 meeting, the Recovered Materials Foundation and CWS have been working together to produce an amended proposal that meets the needs of all the current commercial operators, with the exception of City Care and have now put a new proposal together, which is described and commented on in this report. They provided a presentation of their proposal to a Council seminar on 13 April 2004.

City Care, with some input from Council officers, has reconsidered their earlier proposal and has also submitted a new proposal. This is described and commented on in this report.

Global Renewables, Living Earth and R5 Solutions have been advised that they are not preferred suppliers for this request for information, at least at this stage.

Because of the discussions between the Recovered Materials Foundation and CWS, it has not yet been necessary to commence discussions with CWS to explore the leasing of the Wilders yard.

The implications and potential costs of terminating the current City Care Refuse Station contracts have been explored.

The release of the decision from the Environment Court approving the establishment of Kate Valley has given some urgency to the issues which are the subject of this report. If Kate Valley is to open by mid May 2005 and Burwood closed within its current consent period (31 May 2005), then a number of design and implementation issues need to be resolved quickly. These include modifications at the refuse stations to accommodate the new refuse transfer system to Kate Valley. It is also the reason why CWS needs to decide now where they will build their commercial waste sorting facility.

CITY CARE PROPOSAL

The original proposal from City Care was a reasonably stand-alone proposal which argued that the best interests of the ratepayers would be served by maintaining the waste collection and management function as a "controlled natural monopoly" delivered by a single provider acting in the best interests of the community. They proposed that City Care could be that provider.

Subsequently, with some input from Council staff, City Care has reconsidered their approach, and has now submitted a proposal which suggests a joint venture between City Care and the Recovered Materials Foundation for the operation of what is essentially described as the domestic sorting operation in the Recovered Materials Foundation proposal set out in the next section of this report. The two organisations would set up a new company, which would contract with the Council for the provision of all the kerbside collection services, management of the refuse stations (including the green waste composting plant), processing of kerbside recyclables and other refuse station based waste minimisation operations.

This proposal has considerable merit from the Council's point of view. It would provide some commercial and management expertise that is probably not as well developed in the Recovered Materials Foundation and would avoid the need to buy out the current contract with City Care for the operation of the refuse stations. It would also mean that all the players in the waste stream were involved in the new arrangements.

Attempts have been made to get City Care and Recovered Materials Foundation together to consider this proposal. There has been one meeting between the Chief Executives of the two companies, however, the Recovered Materials Foundation has declined to pursue further consideration of this proposal, for the following reasons:

- Concerns about the impact of a charitable trust owning part of a Council Controlled Trading Organisation and the tax implications;
- Relative size of the assets being transferred to the new company from each of the organisations;
- Unwillingness of CWS to enter into partnering arrangements with a commercial entity;
- Concern that commercial and profit drivers will overtake focus on waste minimisation.

While some of those concerns could be debated, there does not appear to be any means by which the Council could force or entice the parties to come to an agreement. The original City Care proposal did not achieve the outcomes sought by the Council. While the new proposal has considerable merit, it has really come too late in the process, and past history means that trying to require the parties to come together will probably not be successful.

Our conclusion is therefore that the City Care proposal cannot stand on its own, it requires the Recovered Materials Foundation and the commercial companies to agree. Without that agreement, the City Care proposal is, unfortunately, not an option.

RECOVERED MATERIALS FOUNDATION PROPOSAL

A new proposal was received from Recovered Materials Foundation on 24 March 2004. In summary, this proposal has each of the three refuse stations being divided into two independent but mutually supporting operations.

One will be a commercial sorting and consolidation operation providing services to commercial waste operators. That operation will be established and run by Canterbury Waste Services at Parkhouse and Metro, and by Onyx at Styx Mill, on land leased from the Council.

The other will be a domestic sorting operation providing services to domestic and casual users. This would be run by the Recovered Materials Foundation, with land and facilities leased from the Council.

The main differences with the earlier proposal are that the Recovered Materials Foundation no longer has a contractual role between the Council and the operators of the refuse stations, that relationships are maintained by partnering agreements, and that the commercial operators can set up their own independent, but interlinked, refuse sorting stations. The new proposal excludes any consideration of managing the kerbside collection contracts, which makes it a simpler proposal. Although the proposal doesn't set it out, it will probably need to include the green waste composting operation at Metro, because it is unlikely that City Care will want to continue managing this operation if they do not manage the refuse stations.

Having the commercial and domestic operations side by side provides a number of opportunities for cooperation, and interchange of materials between the two operations. For example, material received at the commercial facilities will be made available to the Recovered Materials Foundation, provided it is commercially viable to recover it. Residual waste generated at the domestic facility may be consolidated with the commercial waste to improve efficiencies and reduce duplication of resources.

The proposal by the Recovered Materials Foundation is based on what would happen at and adjoining the Parkhouse Road refuse station. At a later date, similar arrangements would be developed for the Metro site in Bromley, including the greenwaste composting plant, and at the Styx Mill site, with Onyx being involved.

A copy of the full proposal has been separately circulated. A discussion of the merits and issues with this proposal follows.

CONSIDERATION OF THE RECOVERED MATERIALS FOUNDATION PROPOSAL

The Recovered Materials Foundation proposal has a number of positive features:

1. It includes or accommodates all of the operators in the waste market, with the exception of City Care. This is a cooperative, partnering approach, which is what the Council has been seeking.

2. It provides a basis for improved efficiencies in the waste collection operations, although most of those will fall to the commercial operators.
3. Waste minimisation is a very strong focus of the proposal. It provides both opportunities and incentives for extracting materials from the waste stream, and provides economies of scale that will increase the likelihood of recycling and reuse.
4. Recovered Materials Foundation and CWS will finance the cost of developing the proposed facilities (although the consolidation systems to enable transport of residual waste may still need to be financed by the Council, for which money is budgeted).
5. There is the opportunity to redesign the way in which the refuse stations operate, both for efficiency and waste minimisation outcomes. More space will be available for waste sorting and other waste minimisation processes.
6. By separating the commercial operation, there will be greater access, and extension of hours for commercial operators, with improved traffic flows and levels of service at both the commercial and domestic operations.
7. There is an opportunity to provide a secondary sorting facility for the domestic, residual commercial, and construction and demolition material from the cleanfill operations.

However, the Recovered Materials Foundation proposal also has a number of issues and concerns that will need to be addressed;

1. The separation of the commercial waste stream will result in a substantial reduction in the quantity of waste, and income, coming through the current refuse stations, which will become the domestic operation. This raises a number of questions about the future financial viability of this operation, and whether it will remain viable to continue to run all three refuse stations for domestic customers.
2. While the Recovered Materials Foundation has a strong record in waste minimisation and innovative recycling and marketing, they have less experience in commercial operations.
3. This proposal requires the Council to obtain City Care's agreement to termination of the current contract for operating the refuse stations, and for the green waste composting plant. While that agreement is likely to be obtained, it will come at a significant financial cost (for which no money is budgeted) to compensate City Care for their loss of future income.
4. The Council loses considerable control of the waste stream which currently all (most) flows through the Councils refuse stations. However, with changes coming with Kate Valley, and the ability of other operators to set up waste sorting facilities, that control may be somewhat illusory.
5. The Recovered Materials Foundation is a charitable Trust that has been set up with waste minimisation as its primary focus. The current Recovered Materials Foundation proposal will change that focus, and will have the trust managing significant commercial operations. It may be timely to discuss the structure of the organisation, and its relationship with the Christchurch City Council.
6. The Recovered Materials Foundation proposal leaves much still to be developed and resolved.

WHAT ARE THE OPTIONS

As already stated, the revised City Care proposal is not an option in its own right. It is not an alternative to the Recovered Materials Foundation proposal. It is in effect a variation which would require the agreement of Recovered Materials Foundation and CWS. That agreement is not forthcoming and there does not appear to be any way that the Council can force that. That is unfortunate, because it would have assisted a number of the concerns about the Recovered Materials Foundation proposal.

The Council could decide for now to retain the status quo at the refuse stations, ie not accept the Recovered Materials Foundation proposal. The expected outcome of that decision would be that CWS would go ahead and develop a separate waste sorting facility, and subsequently possibly another one. We anticipate that Recovered Materials Foundation would work with CWS on a partnering basis to obtain some of the material from that waste stream to add to the material that comes from the current transfer stations and kerbside collections. The City Council would be left with three refuse stations, run by City Care, with a substantial reduction in volume and income. We would need to work with City Care, and Recovered Materials Foundation, to deal with the consequences of that from financial and waste minimisation perspectives. This is clearly not a desirable way forward.

The Recovered Materials Foundation proposal is clearly a serious option with considerable strengths and opportunities, but with issues and risks for the future. Partnering arrangements are now much more accepted and popular in the business and local government arenas, and the Council has been developing a number of partnering contracts with long term suppliers. The Transwaste model for developing Canterbury's landfill solutions is also a successful model.

The Recovered Materials Foundation proposal still has much detail to work through, but it is clearly the best option before the Council. It is appropriate to adopt the Recovered Materials Foundation as the Council's preferred solution, to work through the details, and undertake the necessary special consultative procedure.

SPECIAL CONSULTATIVE PROCEDURE

If the Council decides to select the Recovered Materials Foundation proposal, it will be required to undertake a special consultative procedure. Legal advice has been taken, and put simply, there is no way that the Council can avoid the special consultative procedure process on this matter. This has been spelt out in the Solid and Hazardous Waste Management Plan and a range of waste minimisation options and opportunities have been included in Part 2 of that Plan, and also in the LTCCP. It has stated in Part 2 that a process of public consultation will precede the final adoption of the Plan. Even without all those statements, section 88 of the Local Government Act 2002 requires a special consultative procedure when the Council wishes to change the mode of delivery of a significant activity from a Council controlled organisation to another organisation.

That special consultative process should take place following the consideration of submissions to Part 2 of the Solid and Hazardous Waste Management Plan currently being undertaken through the LTCCP.

WHERE TO FROM HERE

What the Recovered Materials Foundation and CWS are looking for is "approval in principle" from the Council that the Recovered Materials Foundation proposal is the best way forward, and that the Council will enter into meaningful consideration of the details of the proposal, sufficient for CWS to decide to enter into negotiations with the Council to lease the Wilder property, and begin design and construction of a commercial waste sorting facility.

Because of the need to undertake a special consultative procedure, it is not possible for the Council to give "approval in principle". What the Council can do is adopt the Recovered Materials Foundation proposal (as further developed over the next couple of months) as the Council's preferred solution, and consult with the public through the special consultative procedure.

It is expected that will be sufficient for CWS to commence negotiations with the Council for the lease of the Wilder yard, and for the Recovered Materials Foundation to further develop, in conjunction with the other operators and the Council, their proposal. It could be that the costs, and consultation processes, mean that in the end the implementation of the proposal is not viable. In that case the commercial facility would at least be located next door, and future opportunities would not be precluded.

The issues and detail that will need to be worked through include:

- Detailed plans and arrangements for the domestic waste facility to be run by Recovered Materials Foundation, including layouts, costings, who pays, who sets the fees, contractual agreements;
- Negotiating an agreed compensation with City Care for the termination of the refuse station contracts;
- Negotiating a lease of the Wilder yard site to Canterbury Waste Services;
- Being satisfied that the Recovered Materials Foundation has the financial and management strengths, and organisational structure, to undertake the domestic waste facility;

- Exploring whether it is appropriate or necessary to develop a bylaw to license refuse stations and waste sorting facilities;
- Preparing the final proposal for adoption by the Council for the purposes of undertaking a special consultative procedure.

CONCLUSION

The Recovered Materials Foundation proposal provides a significant advance and opportunity for increasing waste sorting and waste minimisation, and it does so in a way that includes all of the commercial operators. It is unfortunate that this does not include City Care in that mix. The proposal also introduces a number of risks, mainly in the areas of costs, and loss of control, for the Council. On balance it appears to be the best way forward, certainly for the proposal to be developed in more detail, and in a way that enables CWS to set up a waste sorting facility on the Wilder site adjoining the Parkhouse Road refuse station.

- Recommendation:**
1. That the Council acknowledge that the Recovered Materials Foundation proposal appears to be the best solution from the 'request for information' process to meet the Council's waste management objectives.
 2. That the Council note that there is a significant amount of work still to be done on this proposal.
 3. That Council staff work through the details of this proposal with the Recovered Materials Foundation and its partners, with the aim of a developed proposal being considered by Sustainable Transport and Utilities Committee and the Council in July 2004.
 4. That it be noted that the developed proposal, if adopted by the Council, will need to be the subject of a special consultative procedure.
 5. That staff include an assessment of any risks associated with the Recovered Materials Foundation proposal and recommend mitigating strategies to address these.
 6. That as part of that detail, Council staff begin discussions with City Care on the consequences of cancelling the current City Care Refuse Station and green waste contracts, should that be necessary.
 7. That in the meantime the Council agree to the negotiation of a lease of the Wilder yard site to Canterbury Waste Services.
 8. That staff explore whether it is appropriate to develop a bylaw to license refuse stations and waste sorting facilities.

(Note: Councillor Helen Broughton requested that her vote against recommendation numbers 1, 3 and 6 and the clause as a whole be noted.)