

17. SOLID WASTE RFI

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PROPOSAL/PURPOSE OF REPORT

The purpose of the report is to:

- Advise the Council that since the August 2004 decision, all parties have made considerable investment in time, effort and financial commitment to cooperatively progress the Recovered Materials Foundation (RMF) waste handling proposal and
- To recommend that the Council formalises its decision and confirms that this proposal forms the basis on which the Council's objectives for waste minimisation and disposal are managed.

EXECUTIVE SUMMARY

The Council meeting of 26 August 2004 resolved that the RMF proposal in response to the Christchurch City Council (CCC) Request for Information best met its objectives for waste minimisation and disposal.

Since that time further work has been carried out in drafting the proposed Christchurch City Council/Recovered Materials Foundation contract and lease arrangements with both RMF and Canterbury Waste Services (CWS). A summary of the key elements previously noted by the Council, as of concern to it, are included in the background section of this report. Staff are confident that mutually acceptable terms and conditions can be negotiated and agreed.

Negotiations have continued with City Care (CCL) with respect to a compensation package resulting from the early termination of their contract to run the refuse stations. These are proceeding within the parameters discussed and again staff are confident of a positive outcome.

The Council must now confirm that it wishes to proceed with the RMF proposal. It must make this decision now as the new regional landfill at Kate Valley will open in May 2005 and capital works associated with this proposal including arrangements at the refuse transfer stations must be completed by that time. It is also very important that we demonstrate to our partners that we are able to meet our committed timetable.

No information or persuasive arguments have arisen from the public consultation process which could cause the Council to change the decisions it made on 26 August 2004.

FINANCIAL AND LEGAL CONSIDERATIONS

The report of 26 August 2004 identified two legal issues to be addressed. Firstly the need for a special consultative procedure, which has now been carried out, and secondly the possibility that Commerce Act implications may arise from this proposal. The legal work done since that time has indicated that the latter is not an issue.

There has been no change to the financial implications of the proposal.

STAFF RECOMMENDATIONS

1. That the Council confirm that it wishes to proceed with the RMF proposal in response to the Christchurch City Council request for information since it believes it meets the Council's objectives for waste minimisation and disposal.
2. That staff be delegated authority to finalise the contract conditions with the RMF and the lease agreements with both RMF and CWS.
3. That staff be instructed to conclude negotiations with CCL for compensation for early termination of its contract on the basis of no affect on rates.
4. That the Council further acknowledges the time, effort, cooperation and financial commitment from those involved to ensure that the new arrangements meet the Council's part in meeting the required community outcomes.

BACKGROUND

In August 2003 the Council called for Requests for Proposals for "Options to Meet a Range of Council Solid Waste Stream Services and Objectives". This culminated in August 2004 with the Council resolving:

1. *That Council resolves that the Recovered Materials Foundation proposal in response to the CCC Request for Information (RFI) number 03/04-58 best meets the Council's objectives for waste minimisation and disposal and that the proposal be put out for public consultation pursuant to the LGA 2002 (S.83).*
2. *That the Council adopts the following timetable:*
 - *Public notification - Wednesday 1 September 2004*
 - *Submissions close - Wednesday 20 October 2004*
 - *Hearings Panel appointed - inaugural Council meeting*
 - *Submissions heard - November 2004*
 - *Final Council decision - by 10 December 2004*
3. *That to meet this timetable the new Council therefore must appoint a hearings panel to consider submissions on the proposal at its inaugural meeting.*
4. *That Council notes that extraordinary Council meetings should be convened if necessary to ensure that a final decision is made by 10 December 2004.*
5. *That Council approves the 'Statement of Proposal' and 'Summary of Information' attached as tabled at the meeting.*
6. *That staff be instructed to negotiate an appropriate compensation package with City Care, should its contract be terminated before expiry.*
7. *That staff be authorised to commence negotiating a contract with the RMF for the provision of services including the recommendations in Section 8, S3.4 of the Deloitte report, July 2004. This contract is to reflect the Council's wish to maintain appropriate control consistent with Council's objectives with regard to waste minimisation and public assess to transfer stations.*
8. *That staff be authorised to obtain further legal advice with regard to any Commerce Act implications that might arise once the proposed contractual arrangements with the RMF, CWS and Onyx are more clearly defined.*
9. *That the Council commit to the disposal of black bag refuse at the RMF managed facilities.*
10. *That staff be instructed to commence negotiating market based lease agreements with the parties named in the proposal and that these ensure that the Council retains appropriate controls.*
11. *That the Council note that the concurrent process of establishing a bylaw to license refuse stations and waste sorting facilities is also a means of ensuring that waste diversion occurs at all refuse stations.*
12. *That the Council acknowledge the time, effort, cooperation, and financial commitment from those involved in arriving at a proposal that meets the Council's required community outcomes.*

(Note: Councillor Helen Broughton requested that her vote against the above resolution be recorded)

Comments/Updates on these resolutions are provided below.

Resolutions 1-5: Timetable and Public Submissions

Timetables have been met, and on 2 December 2004 the Council considered the report of the Subcommittee appointed to hear the submissions.

The Committee recommended to the Council that the proposal proceed as adopted by the Council at its meeting on 26 August 2004 see attachment 1.

Resolution 6: City Care Negotiations

An offer based on a land deal at the site of City Care's asphalt plant (Springs Road) is under negotiation, which will assist to meet City Care's strategic property goals.

This proposal is rates neutral.

Resolutions 7. 8. 9: Contract Issues

The key elements of the draft CCC/RMF contract will be considered at the Council seminar of 7 December 2004. With specific reference to the issues raised in resolution 7, the following points have been agreed and are included in the contract document:

- **Service Levels**
 - Minimum opening hours: 9 hours per day
 - Target levels of recycling: Covered by the proposed bylaw, which gives the Council the power to set targets on an annual basis.
 - Resource Consent requirements: With the exception of the compost plant operational consents, all consents will be transferred to the RMF. The consent for the compost plant is not transferable, but the agreement requires RMF to operate in compliance with that consent, and to take any necessary action to ensure compliance.

- **Tipping Fee Levels**

The principles suggested by Deloitte's in their report will be incorporated in the contract:

 - Modest level of operating surplus to be agreed with RMF.
 - RMF to consult with the Council regarding any change to gate charges.

In addition it is proposed that gate fees be capped at no higher than the CWS fee for general waste disposal

- **Reporting**

Reporting is aligned with the current CCC/RMF contract and requires:

 - Half-yearly management reports against KPI's including waste and recycled materials statistics that the Council has traditionally collected.
 - Annual audited financial reports complying with generally accepted accounting practice.

- **Gain Sharing**

While a gain sharing concept was proposed in the Deloitte report, subsequent consideration of this has led to the conclusion that other mechanisms may better achieve the objective of allowing the Council to benefit from surpluses generated from increased recycling. The central issue is what is the Council's primary objective with this project, and officers consider that it is improved waste minimisation. It is proposed that if at some time in the future the RMF is indeed making considerable surpluses through recycling, the issue can be addressed at that time through a percentage return into the waste minimisation funds.

- **Assignment**

RMF is unable to assign its contract without Council agreement, and such agreement is entirely at the Council's discretion.

- **Commerce Act Implications**

Legal Services staff have sought advice during the drafting of the contract on potential Commerce Act implications and no issues have arisen.

- **Black Bags**

The contract commits the Council to instructing its kerbside collection contractor to dispose of the black refuse bags at the RMF managed facilities. Since the Council pays the tipping fee directly this instruction will have no implications for the Onyx contract. This has been confirmed with Onyx.

Resolution 10: Lease Arrangements

The key elements of the lease arrangements are:

- CWS: Straightforward land lease for that portion of the Parkhouse site they wish to occupy. This site excludes the existing refuse pit. Terms will be 10 + 10 years. Lessee solely responsible for any capital expenditure, and all operating costs. Ownership of capital works to revert to Council at end of term, at agreed valuation, or CWS required to remove at their cost.
- RMF: Metro, Parkhouse and Styx main sites as separate undivided leases. Terms 10 + 10 years. All buildings remain in CCC ownership, but lessee responsible for operating costs. CCC responsible for capital works maintenance (eg structural repair, replacement of major structure items etc) of CCC owned assets. Agreed CCC capital works plan to be included as a schedule to each lease. RMF solely responsible for any new capital works, including process improvement works.
- Ex Wilders yard and 13A Parkhouse Road sites separate leases with term of five years with five yearly renewals.

Resolution 11: Bylaw

Hearing Panel appointed.

Resolution 12: Commitment

All parties continue to demonstrate strong commitment

THE OBJECTIVES

The objectives sought through this process are:

- Improved efficiencies in the management of the waste supply chain,
- Improved waste minimisation outcomes,
- Involvement of the commercial waste operations in a partnership approach.

THE OPTIONS

Given the process that has already been worked through and the Council's resolutions of 26 August 2004, there are now only two options facing the Council. These are essentially the same as the two options presented to the Council in the report considered by the Council and are clearly set out in appendix 1 of the attached report. The key points to note are:

Option 1: Confirm we proceed with RMF proposal

Pros	Cons
<ul style="list-style-type: none">• Meets Council objectives (as set out above).	

Option 2: Do not proceed with the RMF proposal

Pros	Cons
	<ul style="list-style-type: none">• Loss of control of waste facilities as CWS will set up elsewhere• Loss of goodwill of other parties (CWS, RMF) as so far they have invested in good faith.• Lost opportunity to progress improved waste minimisation objectives.• Lost opportunity to realise efficiencies in the management of the waste supply chain.

THE PREFERRED OPTION

The comprehensive 26 August 2004 report set out in detail the Council's objectives in originally calling for proposals. It discussed risks and mitigating strategies and compared the costs and benefits of the two options noted above. Legal issues and financial issues were also discussed. With one exception the Council voted unanimously that the RMF proposal best met its objectives for waste minimisation and disposal.

The public consultation process has provided no information or substantive arguments to change the assessment of issues in the 26 August 2004 report. All other issues have also been addressed.

Option 1 ie to accept the RMF proposal, therefore remains the preferred option.