

7. REQUESTS FOR INFORMATION (RFI) NO 03/04-58 OPTIONS TO MEET A RANGE OF CHRISTCHURCH CITY COUNCIL SOLID WASTE STREAM SERVICES AND OBJECTIVES

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The purpose of this report is to inform the Council of the results from the recent request for information for options to meet a range of Council solid waste stream services and objectives and to recommend actions to progress this issue forward. The report includes updated recommendations arising from an initial report submitted to the Sustainable Transport and Utilities Committee on 25 November 2003, but which was withdrawn from the subsequent Council agenda of 11 December 2003. It also incorporates suggested changes made at the Sustainable Transport and Utilities Committee seminar on this issue, to which all Councillors were invited, on 4 December 2003.

1 - BACKGROUND

Early in 2002 Waste Management Ltd (WML) wrote to the Council seeking to negotiate some form of partnership arrangement for the management of one or more of the Council's refuse stations. Around that time Onyx NZ Ltd too had expressed interest in such an arrangement. These companies were responding to the Council's increasing waste tipping fees which had risen to the extent that it was becoming viable for the commercial waste collection sector to consider setting up their own waste sorting facilities. Both the waste companies and Council staff, felt that a partnership approach would be worthwhile exploring, as, from the Council's point of view, such a partnership had the potential to avoid new refuse stations being set up unnecessarily. Council officers' concern was, that because any new refuse stations developed by commercial waste operators would be likely to only service commercial operators, this would result in Council's stations being left handling only the domestic waste stream which is relatively expensive to process. These issues were presented through the Sustainable Transport and Utilities Committee to the Council which resolved on 24 April 2002 that:

"Expressions of interest are sought from commercial waste operators for a joint venture with the Council to run one or more of the refuse stations and focussing on recycling and waste minimisation."

Subsequently this resolution was overtaken and put on hold by the review of the solid waste activities that was being carried out at the same time by the Budget Scrutiny and Audit Special Committee. Part of that review focussed on the existing solid waste contracts (Onyx, RMF etc) including the refuse station management contract with City Care. On this issue the Budget Scrutiny and Audit Special Committee, and subsequently the Council resolved:

"That the review of current contracting practices be supported with a goal of reducing costs (a target of \$500,000 saving) and improving waste minimisation outcomes."

The premise behind this was that there are a number of different service providers operating in each of the Solid Waste operational processes (collection/refuse stations/recyclables management) and that the 'hand over' points can be potential areas of reduced efficiency and achievement of waste minimisation goals.

Subsequently a series of meetings with Christchurch's principal waste management suppliers;

- Waste Management Ltd (WML),
- Envirowaste Services Ltd (ESL),
- Onyx Group (NZ) Ltd,
- City Care Ltd (CCL), and
- Recovered Materials Foundation (RMF)

took place looking for ways to find a collaborative waste management model that would;

- Lower operating costs, and
- Increase waste minimisation.

One specific aim of the process was to seek a model that included WML and ESL involvement in waste operations in a significant way, as these two companies collect 36% of the waste stream.

These meetings did not come to an agreed conclusion and a decision was taken (confirmed by the Council in August 2003) to go to the market place with 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 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.

2 - RFI DOCUMENT

The RFI document gave considerable scope to submitters to be innovative in their suggestions for ways to “meet a range of CCC solid waste stream services and objectives”. The objectives/services were derived from the Councils Solid and Hazardous Waste Management Plan which was summarised in the RFI, including the zero waste goal and the current intermediate waste minimisation targets.

The following clauses explained the essence of the background and purpose of the RFI:

- *A recent management review of the solid waste services contracted for by the Council, identified the potential for improving the efficiency and effectiveness of those services by reducing the number of individual contracts managed by the Council. The review also concluded that a single large contract may also increase the opportunities for waste diversion from the landfill through such initiatives as a waste sorting facility.*
- *The primary purpose of this RFI is to seek responses that demonstrate how the resulting benefits noted above, may be best realised, as well as achieving improved waste minimisation whilst reducing costs, greater alignment between contracts and appropriately shared contract risk.*

The document noted that collaborative responses between contractors would be viewed favourably.

The scope of the RFI included the following existing facilities and services:

- Three Refuse Stations - (Parkhouse Road, Metro Place and Styx Mill) operation and management including drop-off points for refuse, greenwaste, soil, rubble and tyres;
- Compost Plant - receipt and processing of greenwaste on an 8 ha site situated at Metro Place Refuse Station;
- Recycling Centres - situated at each of the refuse stations;
- Kerbside recyclables collection and delivery;
- Kerbside waste collection and delivery;
- Hazardous waste services - drop-off points at each recycling centre and disposal through appropriate treatment agencies; and
- Recovered and recyclable materials management and processing - this includes processing, sorting, marketing and sale of recyclable materials, operation and management of the recycling centres, waste exchange (links generators of waste to potential users), providing education programmes, kerbside promotion management, fund management and research and technology projects.

Not included in the scope were:

- Burwood landfill, as it is expected to shut within approximately 18 months,
- Kate Valley landfill operations,
- Transfer of waste to Kate Valley,
- Target Zero, because it was considered that this is best aligned with the Councils Sustainable Christchurch Initiatives,
- The Supershed, because it is branded to the RMF.

Submitters were encouraged to consider offering additional services that would meet the Council objectives such as kerbside organics collection and waste sorting facilities and a particular emphasis was given to development of a putrescibles composting plant, as this is seen as the key to meeting the Councils organic waste reduction target.

3 - SUBMISSIONS RECEIVED

Seven submissions were received, all but one from organisations currently involved in the Christchurch waste industry. This latter one was from Global Renewables with whom the Council has been in dialogue regarding their waste processing technology. All submitters were afforded an opportunity to present their proposals to staff. A summary of the key elements of each proposal is given below. The first three can be categorised as offers of processing technology, while the subsequent four proposals look more closely at the local situation and its stakeholders and offer solutions that attempt to meet the Councils objectives, while at the same time meeting their own.

3(a) R5 Solutions

This is the company that now manufactures and markets the Hot Rot invessel composting system. It also has links to the United Kingdom "Wastec" waste separation technology. R5 noted that theirs was not a complete response to the RFI, and focussed largely on the organics waste stream. R5 offered:

- Invessel composting technology, developed in Christchurch.
- Mixed municipal solid waste sorting technology (ie a dirty material facility recycling (MRF) approach), although R5 did point out during their presentation that it does not really favour a mixed waste treatment approach, but supports the current direction being taken by the Council of source separation.

3(b) Living Earth

Again not a comprehensive proposal and with a focus on organic waste. Living Earth also noted that they expected to be nominated as a subcontractor in other parties response, as they in fact were, in the CWS response. Living Earth is interested solely in organics management including an integrated organics recovery facility that encompasses processing and marketing of this material. It is not linked to any specific processing technology, taking the view that the differing circumstances of communities require specific solutions. The company offers a design, build and operate service for such a facility.

3(c) Global Renewables Ltd (GRL)

Following an approach from GRL some time ago Christchurch City Council staff have worked with GRL on a feasibility study for their solid waste treatment technology in the Christchurch context. A pre-feasibility report had been completed, and this forms the basis of the proposal from GRL.

The proposal is a comprehensive one and is based on the premise that robust technology capable of effectively sorting and processing mixed municipal waste is the way to go. The proposal is capable of being integrated with the current source separation that occurs with the kerbside recyclables collection. Their philosophy is that waste collection and resource recovery systems should maximise resource value and minimise collection and recovery costs.

"Global Renewables has selected a suite of the worlds best commercially proven resource recovery technologies and integrated them to produce the UR-3R process". While each of the component technologies is working commercially in various places in the world, the combination of these particular technologies together has not yet been proven. However, a full scale facility is under construction at Eastern Creek in Sydney.

The proposal focuses primarily on the domestic portion of the waste stream, which consists of the black bag collection, private domestic collections (wheelie bin, and drum type collections) and the greenwaste stream. Two options are offered:

Option A

- Is for a facility processing 50,000 tonnes per annum of municipal solid waste. Organics and metals are diverted from the waste stream in a receival hall. Organics are processed in a “percolator” and subsequent digester to produce biogas. Percolator product is composted with 15,000 tonnes of additional greenwaste. Residual waste is rendered inert and assumed suitable for disposal at a cleanfill.

Option B

- Is for a facility processing 111,000 tonnes per annum facility of municipal solid waste. Organics, metals, plastics, paper and glass fractions are diverted in a receival hall. Organics are processed as for option A but in addition electricity is generated from biogas. Percolator product is composted with no additional greenwaste. Residual is waste rendered inert and assumed suitable for disposal at a cleanfill.

Total cost per tonne including all operating costs and cost of capital for both these options is slightly higher than current projected costs for the new regional landfill.

Both options are based on a facility life of 25 years, with GRL accepting the technology risk. GRL would build and operate the plant and provide the Council with a 'fee for service type' facility although not specified, it may be assumed that with the magnitude of the capital investment involved there would be a requirement for a fixed minimum operational cost to be paid to the facility operators, irrespective of the actual tonnage processed.

3(d) City Care (CCL)

The City Care proposal states it does not provide “*a definitive technological and contractual path for the achievement of the City’s waste minimisation goals, but focuses on the framework required for any delivery process to remain in the best interests of the Christchurch community, and not be wrested away entirely to benefit the commercial interests of big waste companies.*”

The main argument supporting the proposed framework is that the community of ratepayers best interests are 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 propose that City Care is that provider.) It is suggested for example that it is far more economic for the community to have a single collection of kerbside waste rather than a plethora of different competing collectors. The proposal also notes the risk of a private refuse station being set up to accept commercial waste only, and the additional risk of a commercial waste operator with an interest in Kate Valley controlling its own private refuse station. City Care expresses concern that this scenario could provide a disincentive to waste sorting as profit margins on Kate Valley might be higher than the profit margin on the waste sorting operation.

The proposal picks up on the concept first put forward to the Budget Scrutiny and Audit Special Committee, that having a number of different solid waste service providers contracted to the Council with handover points of the waste materials could work against efficiency and improved waste minimisation. They make the case that their proposal aligns with the solution presented to the Committee to that potential problem ie having the whole of the waste stream managed by a single entity and the efficiencies that might arise from that.

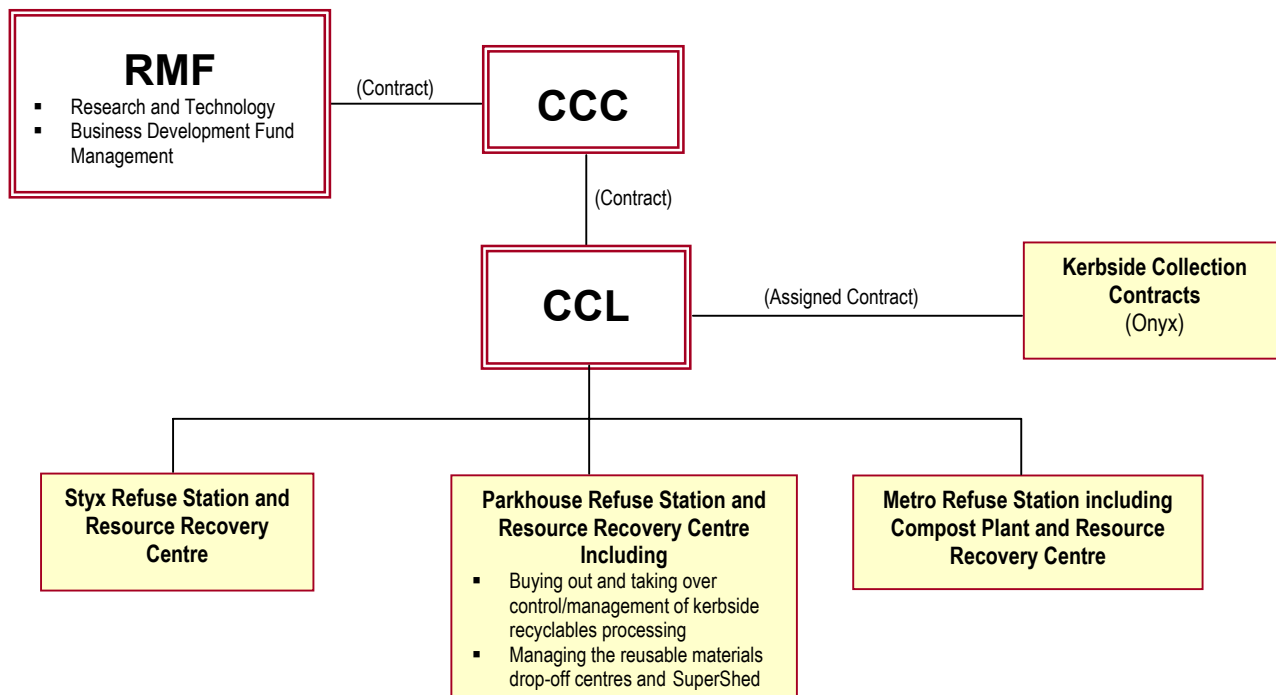
In its conclusion City Care proposes that the Council:

- Maintains rates funding (of the domestic kerbside waste collection) to keep control of the waste stream.
- Legislates to ensure the majority of the City’s waste goes through the refuse stations, so that opportunities for effective recycling are maximised and, thereby, residual waste to landfill is minimised.
- Provides a complete and “free” recycling service to households, and implements a Council controlled but user pays service for residual waste.
- Contracts to a single commercial entity (City Care) to achieve the benefits of efficiency of scale and total coordination of waste under commercial drivers.
- Aligns contract incentives to waste minimisation, and,
- Provides a separation of service suppliers to counter the waste maximisation profit drivers for Transwaste Canterbury.

City Care further proposes that its role in this framework includes:

- An open book contract between Christchurch City Council and City Care Limited with a profit/risk share arrangement for a minimum of ten years.
- Assignment of the Onyx kerbside collection contract to CCL.
- A “sale” of the recyclables processing section of the RMF business, so that CCL takes over management of the operational side of the RMF's current role i.e recyclables processing, baling, promotion etc.
- A guarantee that the total cost of the services it would provide, would be less than or equal to the Christchurch City Council's current cost for those services.

The operational management model CCL proposes is shown below:



Value Added Services

With the proviso that achievement of the Councils waste minimisation targets relies on a willingness for the community to pay, CCL offers to work cooperatively with the Christchurch City Council within their proposed framework and suggest that the appropriate way forward in terms of services on the ground is:

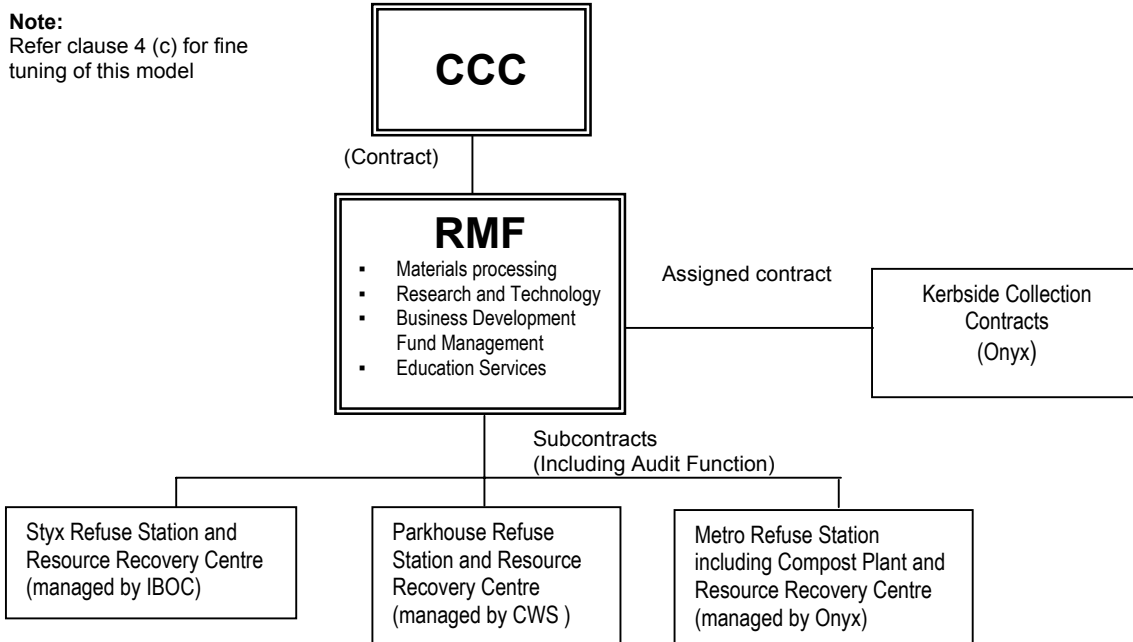
- Continuation of the kerbside recyclables collection service by Onyx with their contract assigned to City Care.
- Implementation of a wheelie bin kerbside collection service for green and kitchen waste.
- Continuation of residual refuse collection in bags.
- Investment in an invessel composting plant at Metro Refuse Station.
- Commencing sorting for construction waste and timber at Parkhouse Refuse Station.
- Application of a differential cost structure between stations so as to encourage different waste streams to go direct to the most appropriate refuse station and development of a Refuse Station charging regime to incentivise waste sorting.

3(e) Recovered Materials Foundation (RMF)

The RMF proposal is wide reaching in both its scope, and suggestions for change. It is inclusive in that an attempt has been made to find a role for all the waste operators currently working within the city.

The essential premise underlying this proposal and advocated by the RMF is that as a not for profit organisation with a total commitment to waste minimisation, the RMF is the most appropriate organisation to manage the City's waste infrastructure and services. They make the case that because they are not commercially driven, they believe there is sufficient trust in them from other commercial operators for them to undertake this key role of contract manager/broker on behalf of the Christchurch City Council. They argue that this model fits what the Christchurch City Council is seeking in having a single entity manage the whole of the waste stream, which thereby allows the greatest opportunity to maximise waste reduction.

The proposed contract model from the RMF is as follows:



Competition between refuse stations to set 'own' dumping fees but still collect BDF and WM Levy.

As may be seen from the diagram the RMF proposes to take on a significant new role in contract management and would:

- Continue to manage and operate the recyclables processing facility at Parkhouse Road, plus the other functions they currently perform under contract to the Christchurch City Council.
- Develop and implement an independent audit function at all three refuse stations with the objective of ensuring that the maximum practical diversion of waste through the resource recovery parks does take place (this is a condition of the Kate Valley MOU between the parties). This would involve RMF directly managing the refuse station kiosks, and therefore controlling, on behalf of the Christchurch City Council, the revenue stream and the waste data flow.
- Under contract to the Christchurch City Council, negotiate, implement and manage performance based subcontracts with Onyx, CWS (Canterbury Waste Services) and IBOC (Independent Bin Operators Collective) for management of the refuse stations. The RMF proposes these companies would be in competition with each other, which would drive the creation of efficiencies. The subcontracts would require that each station set up a resource recovery park for sorting of the waste stream. Stations would be leased to the respective companies which would be responsible for station maintenance and development costs.
- Directly manage the refuse station kiosks, including waste data capture and revenue management, including collection of the Waste Minimisation levy.
- Have the kerbside collection contracts assigned to it.
- Directly manage any new kerbside collection contracted services that may be introduced such as kerbside putrescibles.
- Aim waste minimisation initiatives Canterbury-wide, not just Christchurch.

Value Added Services

Included in the RMF proposal are suggestions that the following services over and above the current levels of service will be investigated and/or provided:

- Development of a putrescibles composting plant.
- Reconfigured collection system to allow for future development (eg additional grades of plastics and other examples provided).
- Kerbside putrescibles collection.
- More resources channelled into education.
- Community based facilities for recyclables drop-off and/or composting.
- Development of a refuse station charging regime to incentivise waste sorting.
- More resources channelled into providing recycling facilities at events.

3(f) Onyx New Zealand Ltd

The Onyx proposal aligns with the RMF proposal in many ways but there are points of significant difference. Common elements are:

- RMF as central manager/broker with single contract to the Christchurch City Council.
- Subcontracts with CWS, Onyx and IBOC to manage Parkhouse, Metro and Styx respectively.
- Conversion of all stations to resource recovery parks.
- Primary focus of commercial sorting at Parkhouse.
- Organics processing to remain at Metro.
- Collection contracts assigned to RMF.
- Audit function as per Transwaste MOU by RMF.

Essential differences are:

- Onyx takes over operation of the RMF recyclables processing site.
- Integrate the kerbside collections contract with the street cleaning contract.

(This latter suggestion of integration of the street cleaning and refuse collection contracts is worthwhile exploring. There seems to be an increasing issue relating to street litter, and as kerbside recycling crates reach capacity they become a source of litter. However, investigation of this suggestion is outside the scope of this RFI process.)

3(g) Canterbury Waste Services (CWS)

CWS has put forward a number of options, all focussed on refuse station management.

Option 1

- CWS leases Parkhouse Road and Metro Place on a 10-year + 10 year basis.
- CWS converts the refuse stations into resource recovery facilities.
- CWS funds the capital for the conversions including any modifications required to accommodate new transport arrangements to Kate Valley.

Option 1a

- The concept is as for Option 1 with the significant difference that instead of converting existing facilities into resource recovery facilities, new purpose built facilities for handling and sorting the commercial waste stream would be built. At Parkhouse Road the location would be the Council owned old Wilders yard immediately adjacent to the refuse station and at Metro Place the location would be on the open space to the north of the existing facility. Domestic waste would continue to be processed through the existing facilities. All incoming waste would continue to be weighed and charged for at the existing weighbridges, with the Council setting gate charges. Note that this proposal aligns with the Councils original objective in purchasing the Wilders yard land i.e for a waste minimisation activity.

It is not CWS's preferred option to manage the facilities that would continue to process the domestic waste, but it is open to negotiation on this.

Option 2 and 2a

- As per option 1 and 1a except that CWS would manage and build new facilities at Parkhouse Road site only.

4 - OPTIONS

4(a) General

As noted previously the proposals from Living Earth and R5 are essentially from companies selling composting technology, and can be seen as lower level proposals that could be fitted into any of the other proposals that advocate the development of an invessel composting plant. The decision about which composting technology to choose is not necessary as part of the consideration of the RFI's in general, and indeed, if any of the higher level proposals are pursued, the decision about composting technology could well end up being made by one of the contractor stakeholders. These proposals have therefore not been considered further.

The GRL proposal is also a technology sales proposal albeit a considerably more comprehensive one, and one where the technology risk is accepted by the company. This robust processing approach would, however, strongly move the Council in the direction of doing away with the current kerbside collection. While the GRL proposal can physically easily integrate with the kerbside collection, financially it makes no sense for the Council to invest in a technology capable of sorting recyclables from the mixed municipal waste stream, and to retain an expensive separated collection system. It is therefore considered likely that termination of the current kerbside recyclables collection would be an integral part of acceptance of the GRL technology.

The remaining four proposals effectively fall into two models. On the one hand the RMF model, which with some modification could accommodate both the Onyx and the Canterbury Waste Services Proposal and on the other hand the City Care model. It should be noted that integrating the RMF, CWS and Onyx models would require some compromise by each of the parties. All parties have indicated a willingness to cooperate in such an approach, but there would be considerable detail to be negotiated. In particular there are some significant differences between the way the RMF and CWS see this integration working, but they are currently in dialogue to seek ways to resolve these differences.

For the remainder of this report reference will be made to the 'integrated RMF model' to distinguish it from the RMF model per se, and it is this integrated model to which the following discussion refers.

As a guide to selecting the most appropriate model an initial tabulated assessment of the three models (City Care, GRL and Integrated RMF) has been carried out based on the following criteria:

- Potential to drive efficiencies and lower costs,
- Potential to meet waste minimisation targets,
- Environmental sustainability of proposal,
- Equity/inclusiveness/waste stream control,
- Reduction in material handover points between operators,
- Ability to implement proposal,
- Refuse station modifications implications (compared to current),
- Cost of change arising from contract renegotiation.

This process showed the Integrated RMF proposal as a slightly more favourable option than the City Care proposal giving a five point score and four point score respectively, (refer Attachment A for the evaluation). The Global Renewables proposal however, rated significantly lower for two reasons. Firstly it scored low on the equity/inclusiveness category, as no mention was made of working with other stakeholders, and secondly because it is not a proven technology package as a whole. Also it did not score highly on the potential to meet waste minimisation targets or the environment sustainability criteria. It may be successful in both those areas, but this is expensive technology and the financial risk to the Council if the process does not work is high. It is recommended that Christchurch should only seriously consider well proven technologies, to avoid a potential failure here.

Note that setting aside the GRL proposal at this point in this process does not preclude its consideration at some future time. The heart of the GRL system is geared towards processing the domestic portion of the waste stream, and it is possible that in the final analysis a significant quantity of this (mixed) waste will need to be processed in such a fashion as the GRL proposal.

For these reasons only the City Care and Integrated RMF models are considered in further detail in this report.

4(b) City Care Model

This model proposes substantial change to current contractual relationships, but contains no element of inclusion of other waste operators, which was a specific aim of the RFI process.

Essential features of this model are:

- Council contracts to a single entity for provision of solid waste management.
- Contract includes all refuse station management, compost plant, recyclables drop-off centres, control of collection contracts and recyclables processing.
- Rates funded recyclables service, and user pays refuse collection service.
- Legislation to block development of private refuse stations.
- Excludes Waste Management and Envirowaste from bidding to be the “single entity”.
- Refuse station management contract to be set up to provide better returns from recycling than from refuse disposal.
- Complete control of the waste stream maintained by the Council (but only if the legislation to block private refuse stations is workable).

The following strengths/weaknesses chart has been drawn up assuming that City Care is the selected single entity for managing the solid waste systems.

Strengths	Weaknesses
<ul style="list-style-type: none"> ● Control and actual operation by single entity reduces potential material multiple contract interface handover conflict ● Realistic approach to new waste management initiatives ● Financial risk relatively low as least change model ● City Care is a Council controlled organisation, and hence the Council may retain a greater ability to influence actions and outcomes ● Strong record in management of subcontractors <p>Note: If other refuse stations are set up by commercial operators as is considered likely with this model, refuse station modification costs would be lower with the lower tonnages through the existing facilities</p>	<ul style="list-style-type: none"> ● Recyclables material handover point to the RMF after processing tends to be counter productive to maintaining high quality recyclables (see bullet points in section 6 for a fuller explanation) ● Exclusion of commercial partners significantly increases the likelihood of other refuse station development ● No track record in recyclables processing management ● Recent track record in reducing refuse station costs not strong ● Recent track record in initiatives to minimise waste not strong ● Existing service standards mediocre and not especially proactive in seeking improvements ● Legislation to prevent other refuse station development likely to be problematic (a legal opinion obtained confirms this difficulty) ● Benefits of handing control of collection contracts to City Care not at all clear ● Proposed differential pricing structures between stations may be perceived negatively ● Monopolistic model provides no inherent incentives for improved service levels or efficiencies

4(c) Integrated RMF Model

This model proposes a greater level of structural change than the other models. It is innovative and includes most of the waste operators currently operating in Christchurch. The scale of change is such that a long term view is needed. The proposal would set the scene for a different way of managing Christchurch City's solid waste for the foreseeable future. While the vision painted in the proposal is exciting and expansive, there is a degree of over optimism in some aspects of the proposals, and the potential costs of some of the initiatives may be high. However, accepting the model would not commit the Council to many of these initiatives, which would in many instances need to be approved through the LTCCP before they were proceeded with.

Being inclusive, it is more difficult to view this model generically as the strengths that the individual partners bring to the proposal are an essential part of it.

Essential features of the model are:

- Council contracts with a single entity (the RMF) for provision of solid waste management.
- Contract includes all refuse station management, compost plant, recyclables drop-off centres, control of collection contracts and recyclables processing.
- Competition between individual refuse stations.
- Auditing of refuse station waste minimisation performance.
- Includes all major waste operators currently operating in Christchurch including the collective of operators who provide the 40 gallon drum collection services.
- Opportunity for waste sorting of commercial waste streams.
- Substantial control of the waste stream retained by the Council.
- Buy-out of City Care from their current operational contract for the three refuse stations.

Strengths

- Considerably lowers risk of other refuse stations being set up in Christchurch due to collaborative approach.
- High potential for more waste minimisation - commercial and domestic.
- Potentially retains Council control of waste stream (commercial and domestic) and refuse charges.
- Lowers capital expenditure required on existing refuse station modifications for Kate Valley transport system, as lower tonnages through existing pits changes the most cost effective transport system, reducing need for station modifications.
- Passion expressed for, and commitment to waste minimisation.
- Utilises experience and knowledge from the commercial waste management field.
- Potential for improved levels of service, particularly for commercial customers.
- Potential for smoother transition to Kate Valley transport system, as proposal envisages new sorting and handling facility at Parkhouse being built prior to Kate Valley opening.
- Potential for improved refuse station efficiency through competitive nature of Refuse Station subcontracts.

Weaknesses

- Relatively complicated structure, and the full details/implications have not yet been explored.
- RMF has limited experience, and resources in contract management.
- Concept of IBOC managing Styx, possibly problematic and high risk.
- Benefits of handing control of kerbside collection contracts to RMF not at all clear.
- Some possible perceptions over large waste companies having too much control of the waste stream from collection to disposal.
- Conflict of interest concerns with RMF having both audit of waste minimisation function (as per MOU with Transwaste), and control of the refuse station management contracts.
- Cost of buying out City Care Ltd from their current operational contract for the three refuse stations.
- Proposed differential pricing structures between stations may be perceived negatively.

5 - OTHER ISSUES

5(a) Limited Life of Canterbury Waste Services (CWS) Proposal

Envirowaste is already operating a resource recovery facility, and Waste Management Ltd (WML) had an option on land which lapsed in December 2003, (also for the purpose of a refuse station and resource recovery park), pending the outcome of the earlier RFI report. WML advises that, that avenue nevertheless remains open to them.

An opportunity exists now to form a partnership with these companies that will prevent a proliferation of refuse stations, and consequent loss of control of the waste stream. It is considered this very significant opportunity is unlikely to re-present itself.

Canterbury Waste Services (CWS) accepts that the Council will have difficulty in quickly making any final decisions on future agreements, but it does seek a determination from the Council about its wish to negotiate with CWS. This would allow CWS to make decisions on its property options in light of the potential to reach final agreement with the Council

5(b) Collection Contracts

Both the above models propose that the control of the kerbside collection contracts move from the direct control of the City Water and Waste Unit to either CCL or the RMF. It is considered that the decision about the desirability of this move should be taken separately to the selection of the preferred model. There are issues of perceived loss of accountability to the Council, customer interface/call centre issues which would need to be thought through, and issues of ownership of the recyclables, as part of that decision.

6 - LEGAL ISSUES

(a) Introduction

This part of the report is to provide preliminary legal advice obtained from the General Manager Regulation and Democracy Services regarding a number of process issues concerning the project. This advice is preliminary in nature and a number of detailed issues will need to be worked through as discussions are held with various parties.

(b) Waste Management Plan

Under Part 31 of the Local Government Act 1974 (which continues in force notwithstanding the commencement of the Local Government Act 2002) the Council is required to have adopted a waste management plan by 30 June 2005.

The Council has previously decided to adopt this plan in two parts and has already adopted Part 1. Part 2 of the Waste Management Plan, which sets out the operative detail of that plan, is to be adopted through the Long Term Council Community Plan in the first half of 2004.

It is intended that, notwithstanding the comments below regarding the timing of the RFI 58 proposal, that this Stage 2 still be adopted through the Long Term Council Community Plan process in 2004. Effectively Part 2 will then set the strategy under which the RFI 58 proposal, if adopted by the Council, would sit.

(c) Local Government Act 2002 Compliance

This RFI 58 proposal would be a "significant activity" within the meaning of the Local Government Act 2002 and the Council's Policy on Significance. For this reason it is important that the Council ensures that a high degree of compliance is given to the requirements of that new Act in relation to the Council's decision-making processes on this matter.

In particular, a future report to the Council will need to consider and identify all reasonably practicable options open to the Council in relation to this RFI 58 proposal, including the option of not taking any action at all.

The Council will also be required to assess the benefits and costs of each of those options in relation to the outcomes adopted by the Council in the Long Term Council Community Plan.

(d) Need for a Request for Proposals

It has been suggested that because the Council has embarked upon a request for information proposal which has led to RFI 58, that there is a legal requirement for the Council to proceed to the stage of a request for proposals before the Council can commence its decision-making process.

In my opinion there is no such legal requirement for the Council to proceed to an RFP stage and the Council is fully entitled to reach a decision based on the information it has acquired to date, and any further discussions with parties who responded to the RFI. The RFI 58 makes it quite clear that the Council has all options open to it in relation to this matter.

(e) Integration of RFI 58 With 2004 Long Term Council Community Plan

In RFI 58 the Council stated "Should any responses emerging out of the process appear likely to be accepted, then they would be included...in the Part 2 document." As noted above in paragraph one, the Part 2 document of the Waste Management Plan is to be progressed through the 2004 Long Term Council Community Plan.

There are also other references to changes through RFI 58 being incorporated in the 2004 LTCCP.

In my view it is not practicable now for the decision-making process contemplated by RFI 58 to be included in the 2004 Long Term Council Community Plan process. This is because the first 2004 LTCCP Council meeting is on 18 March 2004 and it would be very difficult for all of the information required for the Council to reach a decision on this matter so as to be able to include it in the LTCCP by that date. It would be compressing the RFI 58 decision-making process to an unwarranted extent. Further, at this stage it would appear there is no other legal requirement for the Council's decision-making process in relation to RFI 58 to be included in the LTCCP. The only separate statutory process which may be required, depending on which decision the Council makes, could be the need for a special consultative procedure under section 88 of the Local Government Act 2002 in relation to City Care and this will be commented on in further detail below.

If it is accepted that the RFI 58 process is not to be included in the LTCCP, then that gives the Council until May of 2004, time to discuss and negotiate with the parties involved in relation to the formulation of a report to the Council leading to a decision-making process in July 2004, after the adoption of the LTCCP.

It is considered that the following timetable could be considered for adoption by the Council:

January - March 2004:	Discussion with affected parties;
April 2004:	Consideration by the Sustainable Transport and Utilities Committee on an interim basis;
May - June 2004:	Further consideration of issues and matters requested by the Sustainable Transport and Utilities Committee;
July 2004:	Consideration by the Sustainable Transport and Utilities Committee and the Council of a report complying with the Local Government Act 2002 requirements of the Council and potentially leading to an adoption of an option set out in RFI 58.

In this decision-making process there is no longer any legal requirement in the Local Government Act 2002 (as there was in the Local Government Act 1974) for the Council to publicly tender any proposed contract arising out of RFI 58. However, the Local Government Act 2002 would require the Council in considering this matter to observe the following governance principles which are of particular relevance:

- The Council must undertake any commercial transactions in accordance with sound business practices; and
- Ensure prudent stewardship and efficient and effective use of the Council's resources.

(f) Wilder Land

There is a proposal to lease the Wilder land adjacent to the Parkhouse Road Transfer Station to Canterbury Waste Services Ltd. From initial enquiries it does not appear that there is any legal impediment to the Council leasing this land to Canterbury Waste Services Ltd, and on one view it could be seen as a distinct issue from the RFI 58 proposal.

Any proposed lease in anticipation of the implementation process for RFI 58 should be a straight lease of the land, rather than any “partnering” with Canterbury Waste Services Ltd over the development of the waste sorting operation on the land as contemplated in the earlier part of this report to the Council.

(g) Additional Statutory Processes

The comment was made above that there may be an additional statutory process required in relation to the RFI 58 proposal under section 88 of the Local Government Act 2002 in relation to any proposed ending of the City Care contract.

Section 88 of the Local Government Act 2002 states:

- “(1) A local authority must use the special consultative procedure in relation to any proposal for an alteration (of the kind described in subsection (2)) in the mode by which a significant activity is undertaken by or on behalf of the local authority.*
- (2) The kind of alteration to which subsection (1) refers is an alteration that involves:*
 - (c) a change from delivery of the activity by a council-controlled organisation in which the local authority is a shareholder to delivery of the activity by another organisation or person.”*

Section 88 may therefore require a separate special consultative procedure in July to September 2004 (after adoption of the Long Term Council Community Plan) depending on the Council's decision.

(h) Variation to LTCCP

I would also note that any proposed decision which would lead to a significant alteration of the level of service involved in the waste collection system could trigger a legal requirement to vary the LTCCP as an additional statutory process. This would be done after July 2004 in the way of other formal variation, but at this stage this appears unlikely. This is because section 97 of the Local Government Act 2002 provides that any Council decision to alter significantly the intended level of service provision for any significant activity (which includes the refuse collection system) undertaken by the Council can only be made if the proposed decision is explicitly provided for in an LTCCP.

If the Council reaches a decision in July 2004, and any special consultative procedure (whether under section 88 or as a variation to the LTCCP) then the Council could commence such a special consultative procedure in July 2004 with the procedure to conclude in September 2004.

The Council would then be able to make a decision at the Council meeting in September 2004 on that special consultative procedure. In effect this would mean that the implementation of any proposal arising out of RFI 58 could not take place before September 2004. However, putting the RFI 58 implementation process after the LTCCP, would avoid any allegations of the RFI 58 proposal pre-empting the LTCCP process.

7 - DISCUSSION AND CONCLUSION

Both of the models under serious consideration have a common theme that much greater control of the solid waste management infrastructure, and services would be devolved to a single organisation. Beyond that the approach of the two models is quite different. The City Care model seeks to control the waste stream through regulation and prohibiting the major commercial players from an opportunity to bid for management of the stations. The RMF model (including Onyx and CWS) in contrast seeks to control the waste stream and provide opportunities for waste minimisation through contracting the current players in the market to manage portions of the infrastructure with a competitive element operating between the three refuse stations. It is considered that the latter model by the nature of its inclusiveness, is intrinsically more likely to achieve a stable long term structure for the City's waste management, provided the detail can be satisfactorily worked through to set up the structure initially.

Both Onyx and City Care Ltd have proposed managing the recyclable processing operations. On balance it is considered this should not be pursued because:

- RMF has no profit margin in its financial structures. Handing over to a profit oriented organisation would probably raise the cost.
- Moving the handover point of the materials is likely to be counter productive to maintaining highest quality recyclables. Quality auditing of the collectors performance is easier at the drop-off point rather than post baling, or other processing.
- RMF is quality driven to maintain the highest possible return for the materials (of which a percentage is returned to Council).

Both proposals suggest various options for increase in kerbside collection services, but ultimately changes such as these will be costly, and as noted in the City Care proposal, need community buy-in. Therefore consideration of these suggestions do not need to be made at this time. They are included in the Solid and Hazardous Waste Management Plan Part 2, which is itself to be included in the LTCCP process.

If it is accepted that the Integrated RMF model is the preferred choice, a consequent issue arises with respect to the CWS proposal. While the detail of the many parts of the Integrated RMF proposal can be worked through over the coming months, a decision on whether the Council wishes to seriously consider the CWS proposal for Parkhouse Road Refuse Station needs to be made more promptly. It is recommended that a positive response be provided, as forming a partnership with these two companies is a principal key to reducing the risk of other refuse stations. If for example the detail of the Integrated RMF proposal proves too difficult to resolve, nothing would have been lost in agreeing to leasing the Wilders yard to CWS.

A further consequence of accepting the Integrated RMF model would be the need to buy City Care Ltd out of the current contract for operating the Refuse Stations. A key component of the Integrated RMF proposal is to provide a level of competition between the Refuse Stations by leasing these facilities to CWS (Parkhouse Rd) to Onyx (Metro Place) and to IBOC (Styx Mill Rd). There would be a cost to the Council in effectively breaking the contract, the terms of which, would need to be negotiated with City Care. This possibility was foreseen in the recent negotiations with City Care Ltd which resulted in Council acceptance of an offer by City Care to reduce its costs by \$1.5m if certain contracts were extended by three years. The resolution in this regard was :

"That the transfer station contract be included in the overall schedule of contracts in this proposal but the Council and City Care Ltd recognise that contract review processes currently underway may result in changes, including the possibility that the City Care contract could be terminated, to the contract and to contract roles and any such changes will be negotiated in good faith between the parties."

The position of the Council with respect to this issue was the subject of a separate report written by Peter Mitchell considering the public excluded section of the Committee's agenda.

Taking all of the factors discussed in this report into account it is considered that, while the Integrated RMF proposal appears to have significant advantages over the CCL model and the greatest potential to meet the objectives of the Council, both models warrant further investigation.

8 - THE WAY FORWARD

It is therefore proposed that discussions be commenced with all the parties involved in the Integrated RMF proposal, and in parallel discussions take place with City Care, with a view to reporting back to this Committee later in the year. These discussions would be held with the objective of gaining a full understanding of the implications of the proposals, and exploring further the initial costs submitted. It is possible that this process will result in different final models to that currently under consideration. Discussions are also proposed with CWS over the development of a waste sorting operation on the Wilders site, independently of the integrated RMF, or City Care proposal.

Actions

The actions below have been modified from those originally proposed by staff, following committee input when this report was initially submitted to the Sustainable Transport and Utilities Committee on 25 November 2003, and further amended from suggestions made at a subsequent seminar about the RFI held on 4 December 2003. The proposal to further investigate the City Care model, has also been subsequently added.

- (a) Notify Global Renewables, Living Earth, and R5 Solutions that they are not preferred suppliers for this RFI.
- (b) Commence discussions with CWS to explore the ex 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 discussion 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 - June 2004.

Note: Refer to 6 Legal Issues above for the proposed timetable for these actions.

9 - SUMMARY

Proposals were received from:

- (a) Global Renewables Ltd,
- (b) Living Earth,
- (c) R5 Solutions,
- (d) Onyx Ltd,
- (e) CWS,
- (f) RMF, and
- (g) City Care Ltd.

- Proposal (a) is not considered consistent with Council's waste management approach at this point.
- Proposals (b) and (c) are of a minor nature.
- Proposals (d), (e) and (f) can be meshed together. They are collaborative, inclusive and innovative and potentially offer significant advantages over proposal (g). However, it is considered that both this "Integrated RMF Model" and the City Care model warrant further investigation.

- Recommendation:**
1. That the Council carries out the actions (a) to (f) set out in Section 8 of this report.
 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 to the Committee in July 2004.
 3. That if necessary, the Council carry out a special consultative procedure subsequent to the July report.

(Note: Councillor Helen Broughton requested that her vote against the above recommendation be noted. In addition Councillors Denis O'Rourke, Ron Wright and Sally Buck declared an interest in respect to this item and retired from discussion and voting thereon.)