



## **NOTICE OF MEETING**

**Notice is hereby given of the Waste Advisory Group  
to be held in the Council Chambers  
Invercargill City Council  
101 Esk Street, Invercargill  
On Wednesday 18 December 2019 at 2.00 pm**

Cr N Davis  
Cr C Bolger

Cr W Clark  
Cr A Crackett

Mayor G Tong  
Cr E Kremer

CLARE HADLEY  
CHIEF EXECUTIVE



# A G E N D A

		Page
1.	<b>APOLOGIES</b>	
2.	<b>CONTRACT 850 RECYCLABLES ACCEPTANCE SERVICES – RFP MEDIATION UPDATE</b>	5
3.	<b>RFP FOR CONTRACT 850 RECYCLABLES ACCEPTANCE SERVICES UPDATE</b>	7
	3.1 Appendix 1	9
4.	<b>UPDATE ON OTHER ISSUES</b>	11
5.	<b>COMMITTEE IN PUBLIC EXCLUDED SESSION</b>	

Moved, seconded and RESOLVED that the public be excluded from the following parts of the proceedings of this meeting; namely

(a) *Emission Trading Scheme Landfill Price*

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) under Section 48(1) for the passing of this resolution</b>
(a) Emission Trading Scheme Landfill Price	Enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities.	<b>7(2)(h)</b>



**TO: WASTE ADVISORY GROUP**

**FROM: CAMERON MCINTOSH, WASTENET SOUTHLAND REPRESENTATIVE**

**MEETING DATE: WEDNESDAY 18 DECEMBER 2019**

<p align="center"><b>CONTRACT 850 RECYCLABLES ACCEPTANCE SERVICES - RFP MEDIATION UPDATE</b></p>
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**RECOMMENDATIONS**

**That the report “Contract 850 Recycling Acceptance Services RFP - Mediation Update” be received; and**

**The Waste Advisory Group note that mediation took place on 22 August 2019; and**

**That Invercargill City Council held the workshop agreed to at mediation on 10 September 2019; and**

**That WasteNet note mediation remains adjourned.**

**ISSUES**

The Contract 850 RFP process was stalled when the WasteNet recommendation to award the contract was not unanimously agreed by the WasteNet member councils. Invercargill City Council (ICC) neither confirmed nor declined the award of contract at that time.

Under the terms of WasteNet’s Joint Waste Management Agreement, a dispute between the parties was raised by Gore and Southland District Councils, and the matter was referred to mediation.

Mediation took place on 22 August 2019 and was adjourned to allow ICC to conduct a workshop on the matter related to the RFP. That workshop was held on 10 September 2019.

Due to the proximity of elections in October, the matter was not returned to ICC in the last triennium.

The mediation was between the Councils and was separate to WasteNet. ICC delegates at mediation did not have a delegation to make decisions on behalf of Council.

Invercargill City Council has now resolved not to enter into any contract pursuant to the RFP process and has requested the matter be brought to an end without award of contract (as provided for in clause 7.16.1 of the RFP).

The matter of mediation remains adjourned.



**TO: WASTE ADVISORY GROUP**

**FROM: CAMERON MCINTOSH, WASTENET SOUTHLAND REPRESENTATIVE**

**MEETING DATE: WEDNESDAY 18 DECEMBER 2019**

<p><b>RFP FOR CONTRACT 850 RECYCLABLES ACCEPTANCE SERVICES UPDATE</b></p>
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**RECOMMENDATIONS**

**That the report “RFP for Contract 850 Recyclables Acceptance Services Update” be received;**

**AND THAT**

**The Waste Advisory Group note that in accordance with clause 7.16.1 of the Request for Proposal documentation Contract 850 RFP will be concluded without an award of contract.**

**UPDATE**

At the Invercargill City Council meeting on 10 December 2019, the following resolution was passed:

That Council instruct our Chief Executive, Clare Hadley, to negotiate the tender (RFP) closure with Southland District Council and Gore District Council Chief Executives by 24 December 2019.

Smart Environmental was advised of the item being on Invercargill City Council's agenda, and forwarded a letter. That letter is provided for information (refer to **Appendix 1** attached).

The RFP process is able to be concluded without an award of contract as provided for under the RFP terms.

The ICC Chief Executive has spoken with her colleagues at Gore and Southland and understands they will take the necessary steps to conclude the process. An update on that position will be provided at the meeting.

Accordingly this report advises that the three councils should have come to an agreed position by the meeting, and officers will now communicate with the tenderers.



10 December 2019

Attention: Clare Hadley

Invercargill City Council  
101 Esk Street  
Invercargill 9840

**By email to:** clare.hadley@icc.govt.nz

**Copy to:** ian.evans@southlanddc.govt.nz

## INVERCARGILL CITY COUNCIL MEETING AND WASTENET TENDER INFORMATION

1. We act for Smart Environmental Limited (**Smart**).
2. As you know, Smart submitted a tender in response to WasteNet's request for proposal for recyclables acceptance services (**RFP**). Smart was advised last week that information relating to its tender would be discussed at an upcoming meeting of Invercargill City Council (**Council**).
3. That meeting is scheduled for 3:00pm today. A report provided with the meeting's agenda includes high-level information about Smart's tender. The report recommends that:
  - a. the Council requests that the Waste Advisory Group close the RFP and not award a contract; and
  - b. the Council delegates full authority to Council representatives to allow them to make a decision, in alignment with the Council's position on the RFP.
4. The purpose of this letter is outline Smart's expectation that no further information relating to its tender will be released (at the Council's meeting or otherwise) and confirm, in the event that the RFP is closed and no contract awarded, that Smart will consider all possible avenues to recover its costs associated with the process.

### Confidential information

5. Smart's tender contained a range of confidential and commercially sensitive information, which was provided in good faith for the purpose of the RFP process. Releasing that information publicly, including by publishing the tender document (or related documents) or discussing the tender at a public Council meeting would breach the Council's obligation to protect Smart's confidential or commercially sensitive information.
6. Smart acknowledges that the Council is subject to the Local Government Official Information and Meetings Act 1987 (**LGOIMA**), however the LGOIMA does not provide justification for the release of Smart's information. On the contrary, there are good grounds for withholding the information (if requested), including:
  - a. Releasing the information will likely unreasonably prejudice Smart's commercial position and would potentially disclose trade secrets (including by

potentially releasing Smart's intellectual property to competitors and by prejudicing Smart's future negotiations) – section 7(2)(b) LGOIMA.

- b. The information was provided in confidence through the tender process. Its release will likely result in Smart and other tenderers providing less information to the Council or WasteNet in the future – section 7(2)(c) LGOIMA.
  - c. Releasing the information may prejudice the Council's ability to carry out commercial activities or negotiations without prejudice or disadvantage – section 7(2)(h) and (i).
7. If Smart's tender is to be discussed at a public meeting of the Council, the public should be excluded in accordance with section 48 LGOIMA.
  8. Given the above, Smart considers that there are no good grounds for releasing information associated with its tender. We therefore ask that you take all steps to guard that information against release, including at today's Council meeting.

### Recovery of costs

9. As noted above, a recommendation at today's meeting is to request that the RFP is closed without awarding a contract.
10. Smart has instructed us to formally put the Council on notice that if the RFP is closed without awarding a contract, Smart will consider every possible avenue to recover its costs and losses associated with the RFP from the Council.

Yours faithfully  
Wynn Williams

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**TO: WASTE ADVISORY GROUP**

**FROM: CAMERON MCINTOSH, WASTENET SOUTHLAND REPRESENTATIVE**

**MEETING DATE: WEDNESDAY 18 DECEMBER 2019**

<b>UPDATE ON OTHER ISSUES</b>
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## **RECOMMENDATIONS**

**That WasteNet receive the oral update and provide appropriate guidance to officers.**

## **ISSUES**

WasteNet had a different composition for the Contract 850 process, and had separate meetings. For all other matters WasteNet has not met formally since 26 July 2019. A number of matters were outstanding at that time, and some new issues have arisen.

An oral update on these will be provided at the meeting:

1. Ministry for the Environment Consultation on Waste Levy
  - a. The Landfill Levy is currently \$10 per tonne for waste disposed to municipal landfills (i.e. those that accept household waste). The national revenue generated is managed by the Ministry for the Environment. 50% of the revenue is returned to Councils based on the Councils percentage of population, the remaining revenue goes into a contestable fund (about 45%) and administration (about 5%).
  - b. In November 2019 the Ministry for the Environment commenced a consultation process, seeking feedback on their proposals to increase and expand the Landfill Levy. WasteNet is working with the WasteMINZ Territorial Authority Officers Forum (TAO) on a national submission and also intends to submit its own submission. WasteNet officers intend to present the draft submission to this Committee at its January 2020 meeting.
2. PGF funding
  - a. PGF has set aside \$40M for investment in waste minimisation innovation. The regulatory framework is changing – product stewardship, waste levies, container deposit scheme – and these pieces of work will change the landscape for how the market works.
  - b. Plastics recycling is a major driver for the Government. The scheme requires co-investment, but there may be opportunities for Southland.
3. Review of Southland Waste Management and Minimisation Plan
  - a. WasteNet chose to undertake the Contract 850 process before reviewing its WMMP.
  - b. Direction is sought on the priority of this work now.
4. Review of Southland Solid Waste Bylaw

- a. Gore and Invercargill both have solid waste bylaws which are due to expire at the end of June 2020.
- b. WasteNet had agreed to undertake a review (and include Southland District in this bylaw) as the collection arrangements are joint.
- c. Direction is sought on the priority of this work.