

Wednesday, 24 April 2024



Dear [REDACTED]

Official information requests

I refer to your official information requests as per the table. For ease of reference your requests are copied below along with Council's comments. Please note Council requires clarification on some of the questions. Please note, any clarification or amendment of a request is considered to be a new request for the purpose of calculating the maximum statutory timeframe for response—see section 13(7) of the Local Government Official Information and Meetings Act.

LGOIMA request received: 2/4/24	Response
<p>One additional important question refers to the Joint Waste Assessment June Report, 2017 that states on P 53 the "estimated remaining landfill capacity is in excess of 25 years (consented to 2035)</p> <ol style="list-style-type: none">1. Is this stated detail stated in any contract?2. A second consideration: How onerous, from a ratepayer view, are the costs relating to any "written variations"?	<ol style="list-style-type: none">1. For the duration of the current contract, WM has assured Council they will continue to accept and dispose of waste material, even if the Tirohia landfill is full.2. Variations are discussed and agreed as required, Council cannot know in advance how onerous a variation would be until such details of the variation required is known.
<ol style="list-style-type: none">3. Is there a move to find land for a landfill on the Coromandel	No
<p>I note from the Morrison Low website that you are one of the contact people regarding the so-called case study that involved the three councils' contracts for waste services</p> <ol style="list-style-type: none">1 a. My initial question is one of clarification, namely, the recommendation to undertake a joint procurement was identified as the preferred future option1 b. Apart from signalling that Smart environmental was not seen, in your opinion, as the preferred option, how many	<ol style="list-style-type: none">1a. Correct1b. At least 4 companies excluding Smart

<p>businesses could be identified at the time, as commercial businesses capable of undertaking current service delivery for all three councils?</p>	
<p>4. Secondly, what exact" increased economies of scale" resulting from a "joint procurement" can, in your opinion, be declared in a way that an ordinary rate payer can see those monies have actually been saved?</p> <p>5. Why would your recommendation not result in a joint procurement agreement with all three councils?</p>	<p>4. The three councils using the same templates and processes for the contract procurement meant that there were synergies and the cost of conducting this procurement process was shared between the three Councils rather than each Council paying the full cost of the procurement process.</p> <p>5. The three Councils did conduct a joint procurement process.</p>
<p>6. were either of the two contacts on the website [REDACTED] involved in the earlier investigation into Smart, environmental on behalf of TCDC?</p>	<p>[REDACTED] was not. [REDACTED] was as the Director but did not undertake the analysis.</p>
<p>7. Could this investigation have coloured your opinion? Smart Environmental appeared to ratepayers as doing a reasonable job.</p>	<p>No. "The investigation was undertaken in a professional manner with review by council and its legal representatives. It was completely independent of the procurement process and had no bearing on the procurement outcome."</p>
<p>8. And given, it would appear from correspondence with the TCDC legal team, that "written variations" are accommodated within such contracts, it would be helpful to learn whether there are limits to charges and changes ratepayers are expected to absorb when elements change.</p>	<p>The specifications in the contract documents are comprehensive and robust and designed to minimise variations. However, during a contract, variations are inevitable. Contract variations are permitted by law. The valuation of such variations is based on a defined process outlined within the contract documents which are based upon industry standards. There is no limitation on the quantum of variations, but these will be agreed based upon the required changes to the agreed scope of works. The costs of all approved variations are ultimately borne by the ratepayers.</p>

<p>Questions on Tirohia Landfill</p> <p>1. Had you specified that the contract was to service local councils in the first instance, thereby protecting rate payers from what will quite likely become a further burden, we could imagine you negotiated a contract that works in the interests of the ratepayers who were paying your salaries</p>	<p>Tirohia landfill operated by Waste Management is a private commercial enterprise. Local Council's do not own this landfill and are therefore not in a position to instruct Waste Management about the operation of this landfill. Councils are users of this facility like any other third party who dispose their wastes at this landfill.</p>
<p>2. Would that be the rationale for councils to employ your services in the first instance? Were I representing local ratepayers and paying a consulting firm I would like to imagine the contract would err on the side of ordinary working and retired residents NOT the multinational</p>	<p>Please see response to question above. The Consultant like Council has no authority to instruct Waste Management on how to operate their landfill.</p>
<p>LGOIMA request received: 8/4/24</p>	<p>Response</p>
<p>1. it would appear the statement "may contain commercially sensitive information" implies this determination has yet to be decided, and by whom?</p>	<p>The contract does contain commercially sensitive information. Decision making is conducted by those with delegation to withhold information under the LGOIMA, this includes the CE, Legal Counsel and Solicitors and the Legal Technical Specialist.</p>
<p>2. What entity is actually contracting with WM?</p>	<p>Thames-Coromandel District Council</p>
<p>3. Who are the contracting parties?</p>	<p>Thames-Coromandel District Council and Waste Management</p>
<p>4. What specific services has WM contracted to provide?</p>	<ul style="list-style-type: none"> • Kerbside collection • Transfer station management • Bulk haulage of collected materials to end processing locations
<p>5. What are the expected standards of performance on both sides?</p>	<p>The contract has a range of key performance indicators that are linked to key aspects of service delivery. The contractor's performance is measured against these and there is a penalty framework associated if the minimum level is not achieved.</p>

6. Any provisions for cancellation by either party and what costs?	Provisions for termination are in accordance with the contract terms which is based on NZ standard NZS3917.
7. What specific responsibilities have Council and WM agreed to? For example, is it council or Waste Management, who staff the Transfer Stations	Please refer to question 4 response
8. Is it Waste Management who own the Transfer Stations as well as the Tirohia Landfill.	Council own the Transfer Station sites. Council does not own Tirohia Landfill.
9. How are (Mechanism/formula) payments configured?	Waste Management submit a monthly claim using agreed pricing.
10. On what basis is WM being paid? e.g. (Households? Per pick up? per truckload? per kilogram? per cubic metre?)	The contract is a measure and value contract with payment based on actual costs incurred. The unit of measure is different for different aspects of the services delivered. Some items are paid per household such as collection services, some items are lump sum such as management of refuse transfer stations and some items are per tonne such as the haulage and processing of materials.
11. What, if any performance incentives exist?	None.
12. Are there provisions/circumstances for re-negotiation?	Provisions for re-negotiation or variation are in accordance with the contract terms which is based on NZ standard NZS3917. <i>This applies at any time with any contract.</i>
13. Are there any circumstances that would render the terms non-binding? If so please list	Such circumstances are in accordance with the contract terms which is based on NZ standard NZS3917.
14. What are the provisions for Council to check record keeping?	We have sought clarification from you in our email of 15/4/24.
15. What information must be supplied to Council and what frequency?	Council is provided with various data and incident reporting at regular intervals. We have sought clarification from you in our email of 15/4/24.
16. What recourse does Council have when WM announces Tirohia is soon to be full?	For the duration of the current contract, WM has assured Council they will continue to accept and dispose of waste material, even if Tirohia landfill is full.

<p>17. Were we lulled into believing Tirohia would serve residents for at least ten years? It would appear to be so unless there is a confirmed statement in the contract declaring what was recorded in the Joint Waste Assessment June 2017 Report P 53, where with regard to the Tirohia Landfill we read, the “estimated remaining landfill capacity is in excess of 25 years (consented to 2035)”</p>	<p>Please refer to Councils response to Question 16. TCDC is a customer of Tirohia Landfill. We cannot comment on other’s customer’s arrangements the Landfill.</p>
<p>18. Were the members of the Joint Committee (and TCDC staffers negotiating one assumes alongside Morrison Low) beguiled/bamboozled/hoodwinked by the owners of the Tirohia Landfill (guess who? yes Waste Management) into believing Tirohia was fit for business for the duration of the TCDC/WM contract? And if so what clauses of the contract deal with this issue?</p>	<p>Please refer to Councils response to Question 16.</p>
<p>19. When did TCDC clarify to ratepayers that Gisborne and Bay of Plenty ratepayers pay to truck their rubbish from to Tirohia? A closer landfill for both of those areas would be Tokoroa but maybe WM has yet to buy that business. If the District Councils that own regional landfills are smart they will hold onto ownership.</p>	<p>Please refer to Councils response to Question 16. TCDC is a customer of Tirohia Landfill. We cannot comment on other’s customer’s arrangements the Landfill.</p>
<p>LGOIMA request received: 09/04/2024</p>	<p>Response</p>
<p>Transfer station data collection Could you please let me know whether the contract with Waste Management gives them the right to collect private information (number plate) each time you drop rubbish at a transfer station is this actually IN the contract?</p>	<p>A car’s number plate alone is not personal information. Please refer to this link.</p> <p>Number plate information is collected and stored in connection to the weighbridge in order to calculate the cost.</p>

Regards,

Legal Technical Specialist (LGOIMA)