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**Report to Council**

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**Date of Meeting: 11 August 2022**

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**Subject: Procurement of Residual Waste and Bulky Waste Treatment Services (ahead of the Biodegradable Municipal Waste to Landfill Ban)**

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**Report by: Strategic Director (Place)**

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**1.0 Purpose**

- 1.1 A 'Strategic Waste Management Update' report was brought before Council on 16 December 2021 which updated Members on national changes in waste disposal which are being brought about in order to end the practice of sending biodegradable municipal waste to landfill and to contribute to climate change targets, ensuring that Scotland's waste is managed in a more sustainable way. It also provided an update on the Local Authority joint working group for a collaborative procurement exercise, supported by the Scottish Government and Zero Waste Scotland.
- 1.2 It stated that Officers intended to bring forward a paper to a future meeting, which will set out a proposed procurement strategy and seek Council approval for same. This report aims to do that and seeks Council approval to commence a joint procurement with Stirling Council.

**2.0 Recommendations**

The Council:

- 2.1. Agrees to take forward a joint procurement process with Stirling Council for a contract for the disposal of Clackmannanshire Council's biodegradable municipal waste that is compliant with the landfill ban which comes into effect on 31 December 2025.
- 2.2 Agrees to the Council entering into a legal agreement on terms and conditions to be agreed between the parties for joint procurement for the disposal of biodegradable waste as detailed in paragraph 2.1.

### **3.0 Considerations**

#### ***Current Residual Waste Disposal Arrangements***

- 3.1 On 12 September 2019 the Place Committee consented that the Council become a signatory to the Scottish Procurement Agency Agreement, in order to access the 'Scottish Materials Brokerage Service for Residual Waste Treatment/Disposal'. This joint Local Authority contract ensured a medium term, legally compliant disposal solution for the Council's approximately 13,500 tonnes of residual and bulky waste to the Avondale Environment Limited (Polmont) landfill site, which including available extension periods will run until 31 October 2024.

#### ***Landfill Ban***

- 3.2 The landfilling of biodegradable municipal waste is to be banned by 31 December 2025, as introduced through the Waste Management (Scotland) Regulations 2012. Municipal waste is typically defined as waste collected by a local authority or created through its own activities.
- 3.3 The Waste service collects and coordinates disposal of all of the authority's non-recyclable residual and bulky waste material from the following sources:
- Kerbside collected household waste i.e. green bin waste;
  - Kerbside collected commercial waste from local businesses;
  - Forthbank Household Waste Recycling Centre black bag and bulky waste;
  - Litter bin and dog bin waste;
  - Special uplift bulky waste; and,
  - Fly-tipped bulky or black bag waste.

#### ***Collaborative Procurement***

- 3.4 On the 12 September 2019, the Place Committee consented for the Council to explore potential Local Authority collaborative procurement opportunities, for a medium term (10 plus 5 year) residual waste disposal solution.
- 3.5 Scottish Ministers have clearly communicated that Local Authorities are expected to make continued and demonstrable progress (at pace) in becoming compliant ahead of schedule to meet this legislative requirement. Landfill tax also continues to rise incrementally annually in Scotland, to further incentivise a prompt shift away from landfilling residual waste.
- 3.6 Collaborative procurement meetings for the Central area have been ongoing since December 2019. Meeting attendees include Zero Waste Scotland (a not for profit environmental organisation funded by Scottish Government that is guiding the procurement process) and four local authorities (Clackmannanshire, Falkirk, Perth & Kinross and Stirling). The Scottish Government committed financial support for the joint procurement exercise and appointed SLR Consulting as technical, procurement and legal specialists to oversee the production of the necessary tender documents.

- 3.7 The view of the collaborative procurement group is that the only proven, viable and available technology for treating non-recyclable municipal waste is via an energy from waste process. It is widely accepted across the industry that this model is currently the most appropriate conduit to achieve best value and to provide a reliable, legally compliant waste treatment solution. This view was further reinforced in a letter to Councillor Holden from Mr Michael Matheson, Minister for Net Zero, Energy and Transport, which was included as an appendix to the report to Council on 16 December 2021.
- 3.8 Participation in this joint procurement is a clear demonstration of the Council's commitment to work 'at pace' as demanded by the Cabinet Secretary. The collaborative development of key procurement documents will enable the burden of a complex tendering exercise to be shared amongst many highly experienced practitioners, which should secure a solution that is legally compliant, reduces risk, minimises impact on limited Officers time and achieves best value for the Council.
- 3.9 After discussions between all four local authorities and SLR, the findings from the soft market test undertaken in April 2021 and industry insight into likely bidding facilities and their available capacity for residual waste feedstock, agreement was reached that Councils would procure this Contract requirement on a collaborative basis, with a focus on development of shared contract documents. Falkirk and Perth & Kinross Councils have developed separate tenders and intend going to market in July/August 2022.
- 3.10 Consequently, Clackmannanshire's optimum solution is for collaboration with our existing waste partner Stirling Council. The Authority's waste service has worked closely with Stirling for nearly 20 years, due to the sharing of a waste transfer station at Polmaise in Stirling since 2004. The two Councils have worked in the past on waste procurements for commodities which must be awarded to the same disposal outlet, having been amalgamated at the transfer station. Clackmannanshire Council does not have a transfer station of its own and it could cost circa £1m to construct one. Given the travelling distances involved it would not be logistically practical to collaborate with any other authority than Stirling.
- 3.11 It is agreed between the two Councils that each will comply with law, its own governance and Contract Standing Orders during the procurement process.
- 3.12 The two Councils will be entered into an agreement, setting out the agreed process and strategy together with costs for joint procurement of the waste project (Memorandum of Understanding).
- 3.13 On approval of this paper the collaborative working will continue. Subject to approved thermal treatment derogations for both Councils, this contract will form two Lots on a single tender exercise.

## Risks

3.14

Risk	Probability (L/M/H)	Impact (L/M/H)	Actions required to manage risk
No contract in place when current contract ends	L	H	The current contract has already been extended to 31 <sup>st</sup> March 2023 and can only further be extended to 31 <sup>st</sup> October 2024. The Council needs to ensure we have a contract in place that enables compliance with the landfill ban that comes into effect 2025.
Delay in entry to market	M	H	Council needs to move at pace. Scottish Government expects procurement processes to be in place to ensure a smooth transition to landfill ban arrangements.
Limited Tenderer returns.	L	M	The collaboration received 11 responses to the soft market test invitation, which has given a strong indication of several likely bids.
Delay in achieving, or failure to achieve, thermal treatment derogation from SEPA, leading to additional costs of pre treatment.	L	H	Potential implications for ability to publish tender without confirmation of this requirement. Close contact to be maintained with SEPA and escalated via ZWS and SG if necessary to prioritise. Council will need to strongly demonstrate all available attempts to maximise recycling are in place.

## Procurement Timescales

- 3.15 Timely decision making and governance procedures are required to ensure both Councils meet their legislative commitments ahead of the 31 December 2025 landfill ban.
- 3.16 The procurement timetable is set out below. It is recognised that the timetable is challenging and that there could be potential slippage. This is mitigated by the approach of collaboration and sharing of resource and support with ZWS and with support from the Transformation team.

Timescale	Key Task
11 August 2022	Obtain Council approval to undertake a collaborative procurement with Stirling Council and agree the contract strategy
July/August 2022	Confirmation of Thermal Treatment Derogation application from SEPA - response to queries submitted to SEPA 19 June 2022

July/August 2022	Drafting of tender documents and version controlled review by all lead officers
16 August 2022	Final document workshop with technical consultants SLR, Stirling Council and Legal/Procurement officers
8 September 2022	Stirling Council committee approval for collaborative procurement with Clackmannanshire Council and proposed contract strategy
September/ October 2022	All governance sign offs and approvals (including Committee dates for Stirling)
End September 2022	Go to market
October/November 2022	All tender stages completed
January 2023	Intent to award
January /February 2023	Standstill period (15 days)
February 2023	Contract award
April 2023	Mobilisation and handover period

### ***Contract Strategy***

- 3.17 If members require further detail about the procurement process that is contained within the contract strategy then this can be provided in the form of a briefing.

## **4.0 Sustainability Implications**

- 4.1. Waste Services are seeking to implement measures to move the management of waste further up the hierarchy of options, away from landfill disposal which is the least preferred option at the bottom of the hierarchy. This reflects directly on the four strategic priorities in the Council's Sustainability and Climate Change Strategy, as follows:

- Reducing our contribution to climate change and preparing to adapt to its consequences
- Creating sustainable communities
- Living within environmental limits and
- Protecting our natural resources and enhancing our environment

- 4.2 Adoption of the approach set out in this paper will enable Clackmannanshire Council to end the practice of sending biodegradable municipal waste to landfill and to contribute to climate change targets, helping to ensure that Scotland's waste is managed in a more sustainable way.
- 4.3 Zero Waste Scotland published a report entitled 'The Climate Change Impact of Burning Municipal Waste in Scotland' in July 2021 which highlights that the carbon impacts of incinerating municipal waste in Scotland are 27% lower than landfilling the same waste. The report also highlights the importance of increasing recycling to reduce fossil carbon (e.g. plastics) in the residual waste stream.
- 4.4 As previously reported to Council, Zero Waste Scotland has funded an assessment of the Council's waste collection service by external consultants, the aim of which was to develop options to maximise the volume and quality of recyclates being recovered. The Waste service intends to bring a further report to Council in October about the outcome of this options appraisal, which will make recommendations about driving behavioural change by residents, to increase recycling and hence reduce the quantity of residual waste requiring disposal.
- 4.5 Furthermore, there needs to be a concerted effort across the entire Council to maximise recycling and reduce the amount of waste that requires disposal from e.g. Housing, Property and Environment services, schools and Council buildings. Such initiatives will reduce the pressure on the waste disposal budget, helping to ensure that the service remains affordable and that it can continue to operate within existing budgets.

## **5.0 Resource Implications**

### ***Financial Details***

- 5.1. The revenue cost of residual waste treatment sits within the existing Waste Services disposal budget. Market forces during the tender process will determine gate fees at Waste to Energy facilities going forward, however the soft market testing undertaken in 2021 indicated a high level of commercial interest.
- 5.2. Estimated contract value over the 10+5 year contract term is £32,275,000. This figure assumes 3.5% annual inflation and an incremental increase in waste arisings over the contract term, as the number of households increases. There are difficulties in estimating the total contract value over an extended period of 15 years. Inflation is running at its highest for four decades. This will impact construction costs if the solution includes a waste to energy plant under construction or yet to be built. The number of new houses to be built in future years and hence the impact on tonnage arisings is unknown and there could be changes in government fiscal policy such as the introduction of an incineration tax, as landfill tax revenues inevitably reduce. Estimated contract value is based on current landfill gate fees. Waste to energy gate fees will not be known until tenders are submitted. They are assumed to be comparable for this exercise. If the tenders come in outside of existing budget then further governance in relation to contract award will be required.

- 5.3 This contract is not expected to realise savings, relative to the existing landfill disposal budget, but it is thought that the collaborative procurement approach and amalgamation of tonnages with Stirling will produce economies of scale and achieve best value. Doing nothing is not an option. A treatment solution that ensures legal compliance with the landfill ban by 01 January 2026 must be procured.
- 5.4 Subject to Council agreeing the recommendations of this report, the Scottish Government, via Zero Waste Scotland, will pay for an element of ongoing technical support to the procurement process. This support will extend to provision of two workshops to consider bidder clarifications and tender evaluations. SLR Consulting have not been costed to read any submitted tenders. The majority of the tender evaluation process will fall to Council Officers with SLR only used for their technical expertise.
- 5.5 Legal Services anticipate that external legal advice will be required to facilitate the project. The costs of this are estimated in the region of £25,000-£30,000. These costs will need to be met from within existing Waste budgets.
- 5.6 The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate.  
Yes
- 5.7 Finance has been consulted and has agreed the financial implications as set out in the report.  
Yes
- 5.8 Agreeing the recommendations of this report would minimise pressure on existing staff resources in respect of the procurement process. Otherwise there are no staffing implications associated with this report.

## 6.0 Exempt Reports

- 6.1 Is this report exempt? Yes  (please detail the reasons for exemption below)

This report falls within subsection 8, 9 and 10 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973.

## 7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

- (1) **Our Priorities** (Please double click on the check box )

Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all

Our families; children and young people will have the best possible start in life

Women and girls will be confident and aspirational, and achieve their full potential

Our communities will be resilient and empowered so

that they can thrive and flourish



(2) **Council Policies** (Please detail)

**8.0 Equalities Impact**

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes

No

**9.0 Legality**

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

**10.0 Appendices**

10.1 None.

**11.0 Background Papers**

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes  (please list the documents below)

Landfill Scotland Regulations 2003

<http://www.legislation.gov.uk/ssi/2003/235/contents/made>

Waste (Scotland) Regulations 2012

<http://www.legislation.gov.uk/ssi/2012/148/contents/made>

New Climate Change Plan <https://www.gov.scot/publications/scottish-governments-climate-change-plan-third-report-proposals-policies-2018-9781788516488/>

SEPA Guidance: Biodegradable Municipal Waste Ban

[https://www.sepa.org.uk/media/352595/sepa\\_bmw\\_landfill\\_ban\\_guidance\\_note.pdf](https://www.sepa.org.uk/media/352595/sepa_bmw_landfill_ban_guidance_note.pdf)

Zero Waste Scotland: Scottish Materials Brokerage Service

<https://www.zerowastescotland.org.uk/brokerage>

Public Contract Scotland – Scottish Materials Brokerage Service contract award notice

[https://www.publiccontractscotland.gov.uk/Contracts/Contracts\\_View.aspx?id=514180](https://www.publiccontractscotland.gov.uk/Contracts/Contracts_View.aspx?id=514180)

Scottish Government Recycling Policy

<https://www.gov.scot/policies/managing-waste/>

WRAP Gate Fees Report 2017

[http://www.wrap.org.uk/sites/files/wrap/Gate%20Fees%20report%202017\\_FINAL\\_clean.pdf](http://www.wrap.org.uk/sites/files/wrap/Gate%20Fees%20report%202017_FINAL_clean.pdf)



[an.pdf](#)

SEPA – Frequently asked questions about Energy from Waste facilities

[https://www.sepa.org.uk/media/28979/energy-from-waste\\_faqs.pdf](https://www.sepa.org.uk/media/28979/energy-from-waste_faqs.pdf)

Department for Environment, Food & Rural Affairs – Energy from Waste (Guide to the debate)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/284612/pb14130-energy-waste-201402.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/284612/pb14130-energy-waste-201402.pdf)

European Commission – The role of waste-to-energy in the circular economy

<http://ec.europa.eu/environment/waste/waste-to-energy.pdf>

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**Approved by**

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