



AGENDA

Ordinary meeting of the

Nelson City Council

**Thursday 11 December 2014
Commencing at 9.00am
Council Chamber
Civic House
110 Trafalgar Street, Nelson**

Membership: Her Worship the Mayor Rachel Reese, Councillors Luke Acland, Ian Barker, Ruth Copeland, Eric Davy, Kate Fulton, Matt Lawrey, Brian McGurk, Paul Matheson (Deputy Mayor), Gaile Noonan, Pete Rainey, Tim Skinner, and Mike Ward

Opening Prayer

Apologies

1. Confirmation of Order of Business

2. Interests

2.1 Updates to the Interests Register

2.2 Identify any conflicts of interest in the agenda

3. Public Forum

4. Mayor's Report

5. Approval to Award the Contract for the Suter Art Gallery Upgrade

6-13

Document number A1270967

Recommendation

THAT the report Approval to award the contract for the Suter Art Gallery Upgrade (A1270967) be received;

AND THAT Council approve the tender for \$7,996,663 from Scott Construction Ltd for the building upgrade and landscaping;

AND THAT Council note that this acceptance is on the basis that this is a multi-year contract over two financial years and that the contract be considered a committed contract with funding to be approved to complete the project in the 2015/16 financial year.

6. Solid Waste: Regional Landfill Implementation

14-25

Document number A1279055

Recommendation

THAT the report Solid Waste: Regional Landfill Implementation (A1279055) and its attachments (A1286088 and A1285263) be received;

AND THAT Council approve the amended Memorandum of Understanding between Nelson City Council and Tasman District Council attached to this report (A1286088);

AND THAT the amended Memorandum of Understanding between Nelson City and Tasman District Councils form the basis of a binding deed;

AND THAT the effective date be from 1 July 2015, as per the Memorandum of Understanding;

AND THAT officers write to all submitters advising of Council's decision;

AND THAT in line with the 20 November 2014 resolution, further work be undertaken in 2015 to determine whether the effectiveness and efficiency of solid waste management activities can be improved across the two districts, and if so to undertake a more fundamental review of the activities;

AND THAT work to upgrade a portion of the sewer pipe between Caltex garage and Waimea Road (part of the York Stream upgrade scheduled for 2015/16) be brought forward to this financial year at an estimated cost of \$50,000.

7. Draft Urban Environments Bylaw

Note: This item was adjourned at the Council meeting on 28 November 2014. Further supplementary information will be provided, in accordance with standing orders, for consideration at this meeting.

Note: Standing order 3.12.9 requires adjourned items to be taken first however in this instance other items have been scheduled first to allow for the attendance of external members.

PUBLIC EXCLUDED BUSINESS

8. Exclusion of the Public

Recommendation

THAT the public be excluded from the following parts of the proceedings of this meeting.

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:

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
1	<p>Appointment of Trustees - Nelson School of Music Trust</p> <p>This report contains information regarding:</p> <p>The appointment of Council representatives to the Nelson School of Music Trust Board.</p>	<p>Section 48(1)(a)</p> <p>The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7</p>	<p>The withholding of the information is necessary:</p> <ul style="list-style-type: none"> o Section 7(2)(a) To protect the privacy of natural persons
2	<p>Reappointment of Trustees to the City of Nelson Civic Trust</p> <p>This report contains information regarding:</p> <p>The reappointment of Civic Trust Trustees</p>	<p>Section 48(1)(a)</p> <p>The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7</p>	<p>The withholding of the information is necessary:</p> <ul style="list-style-type: none"> • Section 7(2)(a) To protect the privacy of natural persons

9. Re-admittance of the public

Recommendation

THAT the public be re-admitted to the meeting.

Note:

- **Lunch will be provided at 12.30pm.**

Approval to Award the Contract for the Suter Art Gallery Upgrade

1. Purpose of Report

- 1.1 To secure Council approval to award the Suter Art Gallery upgrade to the preferred tenderer.

2. Delegations

- 2.1 The Works and Infrastructure Committee has delegated authority to approve tenders for new capital and renewal projects within the areas of responsibility for the committee, which includes the provisions of this contract. At its meeting of 27 November 2014 it handed the delegation for this decision to Council.

3. Recommendation

THAT the report Approval to award the contract for the Suter Art Gallery Upgrade (A1270967) be received;

AND THAT Council approve the tender for \$7,996,663 from Scott Construction Ltd for the building upgrade and landscaping;

AND THAT Council note that this acceptance is on the basis that this is a multi-year contract over two financial years and that the contract be considered a committed contract with funding to be approved to complete the project in the 2015/16 financial year.

4. Background

- 4.1 The Suter Art Gallery Upgrade project was identified in the 2012-22 LTP and most recently in the 2014/15 Annual Plan.
- 4.2 The upgrade is a partnership between Council and the Bishop Suter Trust. A Heads of Agreement (HoA) was signed by the Mayor, CEO and Suter Trust in July 2014 detailing the cost share arrangement with Council's contribution capped at \$6 million.

- 4.3 The Council approved Project Governance Group (comprising the Group Managers Infrastructure and Corporate Services) and representatives of the Suter Trust (Ian MacLennan and John Hambleton) continue to meet regularly with the project manager to discuss project progress.
- 4.4 Council previously resolved that it would be the Principal in the contractual sense, meaning Council would be the party that would enter into a contract with the preferred tenderer.
- 4.5 Plans have been completed, resource and building consent obtained, tenders advertised, evaluated and a preferred tender selected for the project.
- 4.6 The Works and Infrastructure Committee resolved on 27 November 2014 as follows:
- "That the award of the physical works contract for the Suter Redevelopment be referred to Council for consideration at a meeting in 2014".
- 4.7 The project is a multi-year project with construction planned to take place over two financial years - 2014/15 and 2015/16.
- 4.8 Construction is set to commence on 12 January 2015 and the existing gallery will be vacated by 9 January 2015 with alternative accommodation secured for the duration of the project upgrade in the recently vacated Mountain Design building in Halifax Street. The alternative premises were arranged by the Suter Trust and the decanting of the existing building to this alternative location is the responsibility of the Trust.

5. Discussion

Budget

- 5.1 Council resolved as part of the 2012-22 Long Term Plan to invest \$6 million towards the Suter upgrade (refer page 23 of the LTP document).
- 5.2 The HoA signed by the Council and Suter Trust Board entrenched the agreement that each group will fund \$6 million, with Council's contribution capped at \$6 million.
- 5.3 With respect to the Suter Trust's portion, the Trust must wholly fund any expenditure over the \$12 million budget and to do this they may need to either fund raise or reduce the scope of the work under their control (refer to item 5.21 - provisional sums).
- 5.4 Council has spent \$1,070,231 to date as detailed overleaf:

Financial Year	Spent
13/14	\$ 896,712
14/15	\$ 173,519
Total	\$1,070,231

5.5 The projected spend is as below.

Financial Year	Projected	Comments
13/14	\$ 896,712	Actual spent
14/15	\$2,700,000	Estimate from consultants
15/16	\$2,403,288	Available to meet \$6 million cap
Total	\$6,000,000	

Procurement

5.6 Following an initial expressions of interest process to expedite the tender process, five contractors were shortlisted to tender the proposed works. Of these five, only four chose to submit a price.

5.7 The tender was assessed using the Price:Quality method with the Contractor's methodology given a 30% weighting, and price the remaining 70%.

Analysis

5.8 Four conforming tenders were received with prices ranging from \$7,884,353 to \$8,986,845 with tenders received from (in no particular order) Coman Construction, Fitzgerald Construction, Gibbons Construction and Scott Construction. The construction estimate is \$7,720,000.

5.9 The evaluation of the four tenders by the evaluation team (comprising Council officers, the external project manager, the design architect and the Suter Trust representatives on the Project Governance Group) had Scott Construction offering the best value for money and the preferred tender.

Risks

- 5.10 On the non-physical side of the works, the risk of not awarding the contract is that construction will be delayed which could potentially increase costs, both for further renting of premises to temporarily house the art gallery and collection and cost increases due to inflation. As mentioned earlier, a lease for alternative accommodation has been signed by the Suter Trust.
- 5.11 The project itself also has a number of risks associated with it. These are summarised and evaluated below together with what actions are proposed to mitigate the risks, including any contingencies set aside.
- 5.12 Unforeseen ground conditions which would require significant changes to the proposed foundations. Whilst the effect would be very costly, the likelihood of this occurring is considered low as the site is highly modified and has been supporting the existing building with no obvious issues. Whilst it has not been possible to carry out extensive ground investigations due to the presence of the existing buildings, the architect and project manager have assessed the overall risk as low.
- 5.13 Uncovering archaeological artefacts, both Maori and European, during construction could significantly delay the project. The likelihood is considered low as the site is highly modified. To mitigate this, consent has been obtained from Heritage New Zealand for the work to go ahead and an Archaeological Architect has been appointed to oversee the works, and this has been included in the cost estimate
- 5.14 Inclement weather could disrupt the progress of the works. In order to mitigate this the start date is set for January 2015 in order that much of the below ground work can be completed in summer/autumn. Also under the conditions of contract the Contractor is not due costs due to delays caused by inclement weather, only a time extension with no associated costs. There is also some float within the timeframe to complete the proposed works. The current programme shows that the base build will be complete by the end of April 2016, giving six months for the fit-out and return of the collection prior to the lease on the temporary facility expiring.
- 5.15 The project involves working around an existing historic building on a constrained site, which could be damaged as part of the project. In order to mitigate this, a detailed methodology was requested and this was scored as part of the tender assessment (30% weighting), encouraging the contractors to think about and carefully plan the sequencing of the work.
- 5.16 A number of items in the contract have been noted as prime cost sums due to the uncertainty around them, and this is in line with standard tendering processes. The costs allocated are the best estimate from the designer, but should the costs for these items or services increase then the Principal would be liable for these costs. By doing this, whilst the client is taking on the risk for these items, it means tenderers will not be

adding additional costs into their tender to cover the risk. Prime cost items should only be used where there is insufficient information available for tenderers to accurately price or where it is considered that the risk can be better controlled by the Principal. The specific items are:

- The provision of traffic management. The final traffic management cannot be formalised until the construction methodology is finalised. To minimise the risk the project manager will work closely with the contractor to optimise the traffic management. The costs for this have been included in the overall estimate and the project manager is comfortable with the amount allowed.
- Truss repair in the original gallery. The extent of repair required will not become clear until work actually commences on site and some demolition has taken place. The designer and project manager will work with the successful contractor to find the most cost effective solution within the parameters set by the Heritage Architect.
- Statutory signage as directed on site. The signage carries a low value and is not considered a significant risk.

5.17 The risk of the Suter Trust Board not fronting with their share of the cost has been mitigated by the Suter Trust confirming their funds and this has been verified by the Group Manager Corporate Services. Some of their provisions are by way of donations in kind and these have been factored into the tender price.

5.18 The risks are summarised in the table below:

Item	Mitigation	Risk
Unforeseen ground conditions	No issues with existing building and site highly modified	Low
Archaeological artefacts	Archaeological Architect appointed	Low
Inclement weather	Commence January	Low
Damage to existing building	Contractor provided detailed methodology	Low
Prime cost sums	Council not paying premium for risk	Low/Medium

Scope of Project

5.19 The scope of the proposed upgrade, includes the following:

- Upgrade of existing historic gallery;

- Construction of new gallery buildings;
- Heating, ventilation and air conditioning;
- New kitchen and cafeteria;
- Landscaping as per the resource consent;
- Modification of the existing sewer – work already completed;
- Fit-out (furniture, equipment) – provisional sum of \$225,000;
- Decanting/storage of the collection – provisional sum set at \$600,000;
- Suter care items – provisional sum of \$475,000. Suter care items are items required for a functioning gallery and theatre, and will be contracted separately, by the Suter, to the main construction contract. If these items fall outside the budget then they would be funded by the Suter Trust;
- Electrical fit-out - provisional sum of \$100,000. The Suter will fund this from their budget allocation.

Budget

- 5.23 The budget summary is shown overleaf and shows that the project can be delivered within the overall budget of \$12 million. The portion of the budget from the Suter Trust is inclusive of donations in kind.

Item	Amount
Preferred tender price	\$ 7,632,556
Landscaping	\$ 334,107
Contract insurances	\$ 30,000
Sub-total	\$ 7,996,663
Construction contingency (5.5%)	\$ 447,000
Sewer modifications	\$ 100,000
Sub-total	\$ 8,543,663
Design Costs	\$ 1,026,000
Project management administration	\$ 200,000
NCC management	\$ 80,000
Consents	\$ 71,000
Fixtures and fittings (provisional)	\$ 225,000
Suter care items (provisional)	\$ 475,000
Theatre electrical fit-out (provisional)	\$ 100,000
Decanting	\$ 600,000
Design project risk	\$ 300,000
Sub Total	\$ 3,077,000
Total Cost	\$11,620,663
Less total budget	\$12,000,000
Available budget	\$ 379,337

6. Options

- 6.1 The options open to Council are to approve the award of the contract or not to approve the award of the contract.

7. Assessment of Significance against the Council's Significance Policy

7.1 The decision to award the contract for the Suter upgrade is not significant in terms of the Significance and Engagement Policy.

8. Consultation

8.1 The project was consulted on through the Long Term Plan 2012-22.

9. Alignment with relevant Council Policy

9.1 The project has been provided for in the 2012-22 LTP and 2014/15 Annual Plan.

10. Inclusion of Māori in the decision making process

10.1 Māori were consulted as part of the design of this project leading to the incorporation of a number of design elements, as well as the statutory requirements in order to gain a resource consent.

11. Conclusion

11.1 A conforming tender has been received that is within the overall budget.

11.2 The risks have been assessed and deemed to be low to medium.

11.3 The Suter Trust has secured alternative premises for the duration of the construction works.

11.4 The Suter Trust Board members on the Project Governance Group have been involved in all aspects of the tender evaluation and are in total support of the assessment of risks and the recommendation to appoint the preferred tenderer.

11.5 Officers recommend acceptance of the tender from Scott Construction Ltd so that construction works can commence on 12 January 2015.

Philip Hamblin
Major Projects Engineer

Attachments

None

Solid Waste: Regional Landfill Implementation

1. Purpose of Report

- 1.1 To report back on the Regional Landfill Statement of Proposal to enable Council to make a decision on the implementation of the Regional Landfill.

2. Delegations

- 2.1 The Works and Infrastructure Committee has the power to recommend final decisions on Special Consultative Procedures to Council. However, it handed the matter back to full Council to hear and deliberate on the submissions.

3. Recommendation

THAT the report *Solid Waste: Regional Landfill Implementation (A1279055)* and its attachments (A1286088 and A1285263) be received;

AND THAT Council approve the amended Memorandum of Understanding between Nelson City Council and Tasman District Council attached to this report (A1286088);

AND THAT the amended Memorandum of Understanding between Nelson City and Tasman District Councils form the basis of a binding deed;

AND THAT the effective date be from 1 July 2015, as per the Memorandum of Understanding ;

AND THAT officers write to all submitters advising of Council's decision;

AND THAT in line with the 20 November 2014 resolution, further work be undertaken in 2015 to determine whether the effectiveness and efficiency of solid waste management activities can be improved across the two districts, and if so to undertake a more fundamental review of the activities;

AND THAT work to upgrade a portion of the sewer pipe between Caltex garage and Waimea Road (part of the York Stream upgrade scheduled for 2015/16) be brought forward to this financial year at an estimated cost of \$50,000.

4. Background

- 4.1 In April 2012, after a Special Consultative Procedure (SCP), Nelson City (NCC) and Tasman District (TDC) Councils adopted a Joint Nelson/Tasman Waste Management and Minimisation Plan (JWMMP). This Plan had an objective to investigate the implementation of a joint regional landfill facility for both districts.
- 4.2 In August 2013, at a joint meeting of the two councils, TDC and NCC agreed their Chief Executives should report to their incoming councils on a recommended approach to a joint landfill strategy, after taking financial and non-financial factors into account. TDC moved ahead of NCC and included the matter in its draft Annual Plan 2014/15. While TDC's timeframe has been driven by a need to re-consent Eves Valley, the proposed outcomes have always been compelling to both councils.
- 4.3 NCC advertised a Statement of Proposal (SOP) for a regional landfill on 25 July 2014 and submissions closed on 25 August 2014. Submissions were heard on 2 September 2014 and officers presented a report analysing those submissions to Council on 25 September 2014.
- 4.4 Council deliberated on this issue on 25 September, 2 October and again on 20 November 2014.
- 4.5 Nelson has a fully consented landfill (consent expires in 2034) with available airspace for the 32 years at current levels of residual waste disposal. Tasman has a landfill which is coming to the end of its consent life, and which requires an investment estimated at \$14 million. Collaborating could lead to better infrastructural investment, both now and in future years, and remove duplication of facilities.
- 4.6 Mr Kris Renwick spoke in public forum on 20 November, and Council resolved to accept this as a late submission.
- 4.7 At its meeting on 20 November 2014, Council resolved as follows:

THAT the report Further Information on Submissions on the Proposal for the Implementation of a Regional Landfill (A1271948) be received;

AND THAT the Memorandum of Understanding (A1222544) be amended to incorporate Tasman District Council's offer of future provision of a landfill, and the receipt of Nelson waste at that landfill on the same provisions as will exist for Tasman District at York Valley;

AND THAT Council note further discussions will take place with Tasman District Council on the future of the waste management activity, and whether this lends itself to a private/public sector partnership;

AND THAT consideration is given to the appointment of a third party to ensure veracity of the 'open book' accounting approach, and to provide transparency and confidence to the public on the arrangements.

5. Discussion

Memorandum of Understanding

- 5.1 Having heard public submissions and deliberated on the issues over three days, Council resolved to amend the Memorandum of Understanding (MoU) to include the offer from TDC of future provision of a landfill and the receipt of Nelson waste at that landfill on the same provisions as they exist for Tasman District at York Valley. Refer to Attachment 1 for the revised MoU. If Council confirms its position, this MoU will form the basis of a legally binding deed.

Effective Date of Implementation

- 5.2 Council raised a number of issues in deliberations – off site dust; speed of trucks; keeping truck movements outside of peak school morning times – which they asked officers to incorporate into management practices where feasible. It was recognised that as there is a quarry nearby, some impacts may not come purely from the activity of the landfill.

Trucks

- 5.3 Attachment 2 shows the daily average truck loads through York Valley weighbridge since 1996. This shows that truck loads peaked in the period 2004-2006, and have been decreasing since. Note that Buller's waste is included in the bar graph from 2008.
- 5.4 The graph has been projected out for 2015 on the basis of two options: TDC using covered truck and trailer units, and TDC using closed bins. Closed bins allows greater compaction and will reduce truck movements. The proposal was originally scoped on covered truck and trailers; during the consultation process, TDC offered to convert to closed bins to alleviate concerns. (Note Buller's waste will continue in covered trucks.)
- 5.5 TDC advise it is unlikely they can have bins in place before 1 October 2015 and that the proposed reduction in traffic movements from bins will only be realised post this date.
- 5.6 The MOU has a commencement date of 1 July 2015 *or such earlier agreed date as may be agreed*. There is benefit from an earlier implementation date – from Council's perspective, this would increase the revenue to York Valley, and reduce the deficit that is currently

building in this financial year. The issue here is that the closed bin system will not be in operation.

- 5.7 The financial impact of an earlier implementation date is additional revenue of \$30,000 per month (ie \$120,000 from 1 March-30 June 2015). The proposal also establishes a stabilisation fund to provide a buffer to the variable waste volumes, and \$16,500 per month would be allocated to this (ie \$66,000 for the same period).
- 5.8 Direction is sought from Council on the acceptability of this. The recommendation proposes 1 July 2015, as this has the greatest alignment with the proposal. However, the financial performance of the landfill account for 2014/15 was not evident at that time, and this information is presented for Council's consideration.

Cultural Impact Assessment

- 5.9 The JWMMP requires a cultural impact assessment to be undertaken for out of district waste. TDC is currently undertaking such an assessment for the Buller waste being received at Eves Valley. Officers consider that any transfer of Buller waste within the region does not require a further cultural impact assessment.

Leachate

- 5.10 The surcharging of waste at the Caltex garage is not related to leachate, but to an undersized sewer pipe between the garage and Waimea Road. This work is scheduled to be completed as part of the York Stream upgrade works next financial year.
- 5.11 However, this part of the work - to alleviate immediate surcharging at the Caltex garage (estimated to be in the order of \$50,000) - could be undertaken this financial year. Officers accept that whilst this is not ideal in terms of programming capital works, it makes sense in terms of addressing a submitter's concerns.

Further review

- 5.6 At its meeting on 20 November, Council recognised the opportunity for a review of the efficiency and effectiveness of the solid waste management activities across the two authorities, and noted it may be an activity that would benefit from a public/private sector partnership.

This work will commence in 2015. Any change in the arrangements would prompt a review of the Joint Waste Management and Minimisation Plan (next due for review in 2017).

6. Options

- 6.1 Council can decide to either implement the Regional Landfill proposal as per the Statement of Proposal or reject the proposal.

6.2 Officers are of the view that collaborating on solid waste across the two districts remains valid and that this collaboration could lead to better infrastructural investment, both now and in future years, and remove duplication of facilities. For this reason, the advice is to implement the proposal.

7. Assessment of Significance against the Council's Significance Policy

7.1 The landfill at the time the SCP was initiated was listed as a significant asset in Council's Significance policy.

8. Alignment with relevant Council Policy

8.1 A regional landfill aligns with the JWMMP adopted in 2012.

8.2 This Special Consultative Procedure on the implementation of a Regional Landfill, is the culmination of long term discussions with the community about the management of waste in the Nelson and Tasman regions.

9. Consultation

9.1 Consultation was via a Special Consultative Procedure.

10. Inclusion of Māori in the decision making process

10.1 Māori were not specifically consulted.

11. Conclusion

11.1 Council has undertaken a Special Consultative Procedure on the proposal for a regional landfill facility at York Valley. It has heard submissions and deliberated on them.

11.2 The Statement of Proposal outlines the reasons why a regional landfill is the most cost effective option for both Nelson and Tasman councils. It enables waste disposal to be managed more efficiently due to economies of scale, which will financially benefit both communities.

11.3 In line with the requirements of the JWMMP, TDC is seeking a Cultural Impact Assessment for the receipt of waste from outside the region (Buller waste). Officers believe there is no need for such an assessment between the regions, as the JWMMP was entered into by both councils.

11.4 Council has robustly tested and questioned officers on all aspects of concern during deliberations. Officers will seek to amend management practices for themselves and their contractors where possible. This report proposes addressing the sewer between the Caltex garage and Waimea Road this financial year.

11.5 The MoU has been amended as resolved at the 20 November Council meeting. This will be the basis of a legal binding agreement between the two authorities.

- 11.6 Should Council approve this proposal officers will work with TDC officers to commence collecting waste from TDC as from the agreed implementation date.
- 11.7 Officers recommend that the approach set out in the Statement of Proposal, as advertised, subject to the changes set out above, be approved.
- 11.8 Finally, the two councils will undertake further work in 2015 to determine whether the effectiveness and efficiency of their solid waste management activities can be improved.

Clare Hadley
Chief Executive

Attachments

Attachment 1: Amended Memorandum of Understanding ([A1286088](#))

Attachment 2: Daily Average Truck Loads through York Valley Weighbridge ([A1285263](#))

Memorandum of Understanding

Regional Landfill Operations for Nelson City Council and Tasman District Council

(Not intended to be legally binding)

Between

Nelson City Council and Tasman District Council

Background

- A. Nelson City Council owns and operates the York Valley landfill at 34 Market Road, Bishopdale, Nelson.
- B. Tasman District Council owns and operates the Eves Valley landfill at 214 Eves Valley Road, Waimea West, Tasman.
- C. The councils each have a statutory obligation under the Waste Minimisation Act 2008 (the Act) to adopt a Waste Management and Minimisation Plan.
- D. Nelson City Council and TDC formed a Joint Waste Working Party in 2009 to undertake a joint Waste Assessment under section 51 of the Waste Minimisation Act 2008.
- E. Following the completion of this Waste Assessment in April 2010 the councils resolved to develop a Joint Waste Management and Minimisation Plan (JWMMP) under section 45 of the Act.
- F. In December 2011 a draft JWMMP was approved for consultation by the councils, using the special consultative provisions of section 83 of the Local Government Act 2002.
- G. On 26 April 2012, following consideration of submissions by the Joint Waste Working Party and recommendations to the councils by the Joint Waste Working Party, the councils each adopted the Nelson-Tasman Joint Waste Management and Minimisation Plan.
- H. A key issue identified in the Waste Assessment and addressed in the JWMMP was the need for the two Councils to review the appropriateness of operating two separate landfills in the region. Policies 3.1.5 and 3.1.6 of the JWMMP outline the councils' policies and proposed actions to address joint use of landfill capacity.
- I. In October 2012 the councils jointly commissioned an assessment of landfill options for the region, which recommended the use of the York Valley landfill for solid waste in the short to medium term. This report was considered by the Joint Waste Working Party and further work was commissioned by the councils in April 2013.
- J. On 20 June 2013 the Engineering Services Committee of Tasman District Council gave delegated authority to the Chief Executive to enter into negotiations with Nelson City Council.

- K. On 18 July 2013 the Nelson City Council gave corresponding delegation to the Chief Executive to enter into negotiations with Tasman District Council.
- L. Staff of the councils collaborated and developed proposals for the disposal of waste at the York Valley landfill, and in March 2014 the Tasman District Council included the proposal as a potential option in the draft Annual Plan.
- M. Nelson City Council is also proposing to publicly consult with the Nelson community regarding this proposal through the Special Consultative Procedure outlined in section 83 of the Local Government Act 2002.
- N. On 21 July 2014 staff from the councils met to finalise a proposal for all residual regional waste to be disposed at the York Valley landfill from 1 July 2015 and for the mothballing of the Eves Valley landfill (but with capacity and consents retained in case of emergency).
- ~~O. This Memorandum of Understanding sets out agreements in principle reached at this meeting, but is not intended to be legally binding or pre-empt any consideration of submissions received through this public consultation.~~
- P. Nelson City Council has consulted its community during the period 25 July-25 August 2014, heard from submitters on 2 September, and deliberated on the issue on 25 September, 2 October and again on 20 November 2014. It completes the process at its meeting on 11 December 2014.

The Proposal

York Valley Landfill

1. The Nelson City Council owns, manages and maintains the York Valley landfill. This will continue.
2. Nelson City Council agrees to receive solid waste from Tasman District Council at the York Valley landfill from 1 July 2015 or such earlier date as may be agreed.
3. Nelson City Council will invoice Tasman District Council for the disposal of this refuse, at the rate published for commercial refuse disposal.
4. Nelson City Council agrees to also receive, subject to approval, other refuse from outside Tasman District (for example waste from the Buller District, currently received at the Eves Valley landfill).
5. Nelson City Council will discuss any proposal to receive out of district waste and will generally agree to receive the waste when it is commercially advantageous to do so providing any relevant policy and legal compliance obligations can be met. For the sake of clarity Tasman District Council will not seek to retain Buller waste under any agreement that gives effect to this Memorandum of Understanding.

Eves Valley Landfill

6. Eves Valley landfill will continue to be owned and maintained by Tasman District Council.

7. Tasman District Council will from 1 July 2015, or such earlier date as may be agreed, mothball the Eves Valley landfill, but maintain it in a state so that it can be reopened at short notice in the event that the York Valley landfill is inoperable or inaccessible. The cost of maintaining Eves Valley landfill in a ready state will be met by the Tasman District Council.
8. Tasman District Council will endeavour to obtain resource consents so that it is able to receive Nelson-Tasman waste for a total period of up to two years, in the event that this is required. The cost of obtaining the resource consents will be met by the Tasman District Council.
9. Tasman District Council confirms that Eves Valley landfill is not currently leased to a third party operator for landfill operations, and undertakes not to do so in future.

Future Landfill Capacity

10. The proposed arrangement will increase waste tonnages to York Valley and is expected to result in the closure of the current stage in approximately 2031.
11. ~~The councils intend to jointly fund investigations into further regional landfill capacity in advance of the closure of the current stage at York Valley.~~ Tasman District Council agrees to provide a reciprocal opportunity to Nelson City Council, on terms consistent with those agreed in relation to York Valley, to receive Nelson sourced waste at Eves Valley (or an alternative site provided by Tasman District Council) in the future.

Payment of Local Levy

12. Nelson City Council funds waste minimisation activities through a fixed "local levy allocation", which is charged to the York Valley landfill account and is accounted as an expense prior to any operating surplus. This sum is set at \$1,787,000 in the 2014-15 financial year.
13. For each full year or part thereof that the Tasman District Council disposes waste to the York Valley landfill the Nelson City Council will pay the Tasman District Council a fixed sum (pro rated for a part year) that matches the local levy allocation of Nelson City Council. This will also be treated as an expense prior to any operating surplus.
14. The matching payment to Tasman District Council will be made on a monthly basis and generally applied as a credit to landfill disposal fees.

Landfill operating surplus

15. Nelson City Council will pay Tasman District Council a 40% share of the operating surplus of the York Valley landfill (after the matching local levy payment).
16. This payment will be made annually, at the conclusion of the financial year.
17. While operating deficits are not anticipated, the Tasman District Council would also contribute 40% of any operating deficit of the York Valley landfill should it occur (after utilisation of any stabilisation fund).

Stabilisation Fund

18. Nelson City Council will establish a Stabilisation Fund to smooth out surpluses returned to the Councils and reduce the need to adjust disposal charges throughout the year to achieve the budgeted surplus.
19. The fund will be initially set at \$400,000 and will be funded in the first year of agreement by the retention of \$200,000 of operating surplus normally distributed to each council.
20. The councils will develop a detailed set of criteria that describes the circumstances in which the Stabilisation Fund may be drawn down and replenished.

Determination of Landfill Fees and Charges

21. Fees and charges at the York Valley landfill will be determined by Nelson City Council, in consultation with Tasman District Council.
22. It is expected that each council will normally pay the published disposal fees for disposal of waste.
23. The councils will agree an equitable arrangement for any discounted fees for bulk loads or special circumstances.

Determination of Local Levy Allocation

24. The value of the Local Levy Allocation will be determined by Nelson City Council on an annual basis, in consultation with Tasman District Council.
25. This sum will not be less than \$1,715,000 in the 2015-16 financial year and in subsequent years not less than \$1,715,000 plus adjustments indexed to the consumer price index.

Annual Review of Budgets

26. Nelson City Council will provide to Tasman District Council proposed fees and charges and any changes to the Local Levy Allocation and Stabilisation Fund in the course of preparing draft Annual Plan and Long Term Plan budgets. This information will be provided in a timely manner in line with the normal budgeting cycles of the councils.
27. The Nelson City Council will consider proposals from Tasman District Council for amendments to these budgets prior to the adopting of the draft Annual Plan of Nelson City Council.

Review of Arrangements

28. Nelson City Council and Tasman District Council agree to undertake further work in 2015 to determine whether the effectiveness and efficiency of their solid waste management activities can be improved across the two districts and if so to undertake a more fundamental review of the activities.
29. The councils will conduct a review for the need for the Stabilisation Fund on a three yearly basis, from the date of signing this memorandum.

30. The councils will conduct a joint review of the equity of Local Levy Allocations and distribution of operating surpluses within six years of the date of signing this memorandum.

~~31. The councils will conduct a joint review of regional landfill capacity and funding of future landfill development within nine years of the date of signing this memorandum.~~

~~32. Agreement on the site is to be reached no later than with four years' capacity remaining at York Valley landfill.~~

Operating Principles

33. The councils will operate in an open and transparent manner in the matters of landfill management and operation, in keeping with the principles of the JWMMP and of the councils' shared services agreement.

34. Each council will operate on an "open book" approach with respects to operating accounts. Each Council will provide management reports to the other Council by arrangement and on a regular basis.

Signed by:

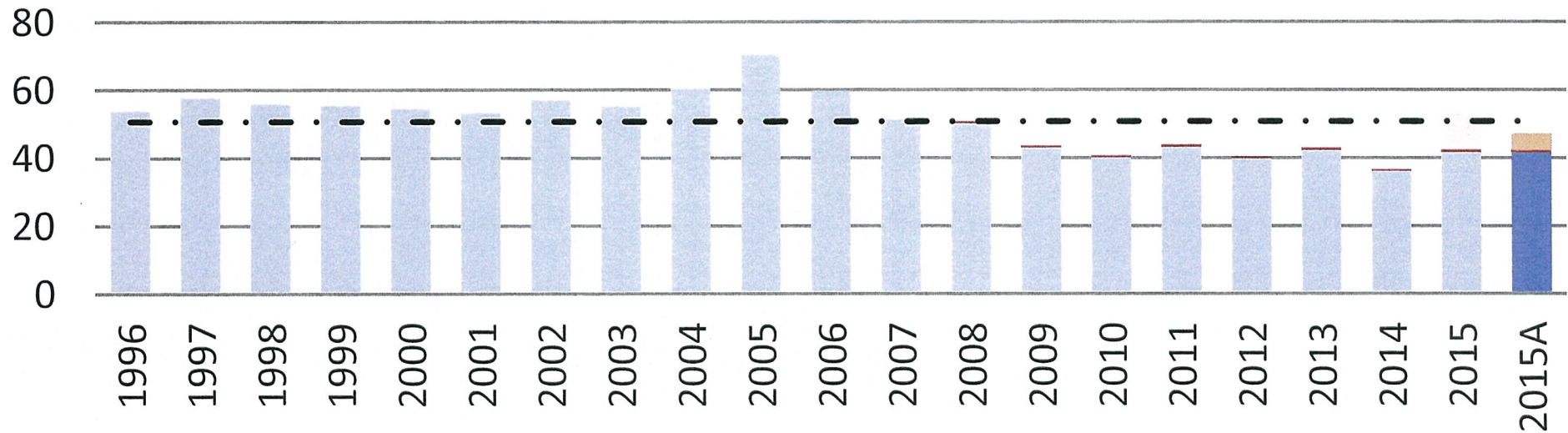
Rachel Reese, Mayor, **Nelson City Council**

Date

Richard Kempthorne, Mayor, **Tasman District Council**

Date

Daily Average Truck Loads through York Valley Weighbridge



Option A Compacted waste in Truck and Trailers used by TDC

Nelson
 Buller
 TDC
 Long term average