

WASTE UPDATE

1.0 INTRODUCTION

- 1.1 Argyll and Bute Council currently has a 3 model waste disposal arrangement in place. This consists of island landfill sites which the Council operate, a third party off taker for the refuse collected in Helensburgh and Lomond and a PPP contract for the remainder of the Council area which runs until September 2026.
- 1.2 Scottish Government are introducing a Biodegradable Municipal Waste (BMW) Landfill ban at the end of December 2025. The landfill ban will mean that almost all biodegradable material (food, card, paper, pet feces, garden waste etc) will no longer be able to go to landfill. Landfill sites will be retained to take non-biodegradable materials such as rubble and some limited biodegradable materials such as plaster board and animal remains from slaughterhouse processes.
- 1.3 The Council's island landfill sites have had works carried out to facilitate waste transfer ahead of the BMW ban. The Helensburgh and Lomond area has third party off taker currently in place for its waste disposal and an Energy from Waste (EFW) provider will be in place for the 2026 BMW ban.
- 1.4 The Council's PPP contract which covers the remainder of Argyll and Bute currently operates Mechanical Biological Treatment (MBT) plants. MBT plants reduce the amount of material which goes to landfill through processing, separation of materials and the production of compost like output (CLO) which is used in landfill restoration. The MBT process will not be permitted with the BMW ban. In December 2022 the Council Leader wrote to Scottish Government (SG) requesting either a derogation, to allow the MBT plant to continue under the PPP contract for a 9 month period beyond the BMW ban when the PPP contract came to a natural end or for the additional costs to be made available to the Council, c£1.5M to enable the PPP contract to be varied to be compliant with the BMW ban.
- 1.5 At the March 2024 meeting of the Environment, Development and Infrastructure Committee, Members considered a report covering a number of work streams regarding recycling and waste disposal. This report provides an update regarding the Council's request to Scottish Government for a derogation for the Council's PPP contract.

2.0 RECOMMENDATIONS

2.1 It is recommended that Members of the Environment, Development and Infrastructure Committee:-

- i. Consider and note the update regarding discussions held with Scottish Government on the Waste PPP contract;
- ii. Consider the implications of Argyll and Bute Council not receiving the derogation from the Scottish Government, and approve the variation of the Waste PPP contract with Renewi to enable the conversion of the MBT plants into Waste Transfer Stations for BMW ban compliance;
- iii. Note the discussion relating to financial support from Scottish Government and instruct Officers to continue to pursue the Scottish Government for the additional costs for compliance with the BMW ban (circa £1.5m).
- iv. Note that Renewi have formally notified officers that their UK operation, including the Argyll and Bute Contract, is being taken over by Biffa

3.0 DETAIL

3.1 Waste PPP

3.1.1 In December 2022, the Council's Environment, Development and Infrastructure Committee agreed to pursue a derogation from the Scottish Government, from the implementation date of the Biodegradable Municipal Waste Ban of 1 January 2026 to the end of the Council's Waste PPP contract in September 2026.

3.1.2 The Council has in place a 25 year Waste PPP contract which ends in September 2026. The Waste PPP contract covers Oban and Lorn, Mid Argyll and Kintyre, Bute and Cowal together with the inner islands.

3.1.3 The Scottish Government are due to introduce a Biodegradable Municipal Waste (BMW) landfill ban from the end of December 2025. The last 9 months of the PPP 25 year contract will not be compliant with the new regulation.

3.1.4 Argyll and Bute Council is the only Local Authority in Scotland with a PPP contract, this leaves the Authority in a unique situation whereby it is hampered by a 25 year contract which was supported by the Scottish Executive in 2001. To remove itself from the contract has significant financial implications for the Authority.

3.1.5 As advised at the March Environment, Development and Infrastructure committee, the SG were given a drop dead date of 5 April 2024 to grant the derogation to landfill until the PPP contracts subsists in September 2026. To date the SG have not committed to the derogation and given the parliamentary process that would be required to achieve a derogation through changes to regulation it is very unlikely that a derogation can now be achieved. Therefore, the PPP contract will require a variation or agreement in principle to cease the production of CLO in the Mechanical Biological Treatment (MBT) plants and to

convert the plants into Waste Transfer Stations in Oban, Lochgilphead and Dunoon. General waste will then be taken to third party off takers for Energy from Waste (EfW) feed stock rather than being processed with residual being landfilled. This approach will also future proof the Council's waste service in line with the BMW ban. The Council is seeking funding for the additional costs (circa £1.5M) which would be incurred by the Council in respect of varying the PPP contract from Scottish Government. As advised in the March 2024 Waste Update, the Executive Director and Head of Service met with officials from Scottish Government on 9 February 2024, Scottish Government officials stated that subject to due diligence it would be more likely that some form of associated grant payment could be forthcoming rather than a derogation. At the stage of writing this report, the SG has not confirmed this arrangement in writing.

3.1.6 From the options appraisal carried out in 2022, the additional costs to the Council for varying the contract with Renewi is c£1.5M. The financial modelling within the options appraisal is being refreshed as part of a due diligence exercise. However, it is not expected that the additional costs of £1.5M will change significantly.

3.1.7 Renewi have formally notified officers that their UK operation, including the Argyll and Bute Contract, is being taken over by Biffa. Officers understand that this will not affect the terms of the existing contract and that the Renewi staff based in Argyll and Bute will remain. We do not have details of the exact date when the take-over will come into effect. When more detail becomes available officers will update Renewi accordingly. Business with Renewi continues as per the contract.

4.0 CONCLUSION

4.1 In concluding this report, an update on discussion has been provided in relation to discussions with SG. There has been no response received regarding the derogation. The Council is now committed to the second option of converting existing site infrastructure into Waste Transfer Stations. Officers will engage with Renewi on instruction from the Environment, Development and Infrastructure Committee to ensure the conversion of the MBT plants to Waste Transfer Stations in accordance with BMW ban compliance.

5.0 IMPLICATIONS

5.1 Policy – The Council's Waste Strategy will evolve in line with the changes in legislation relating to the BMW ban of waste to landfill. The current Renewi contract will be varied to comply with legislative changes.

5.2 Financial – Compliance with the 2025 Landfill ban will require financial resource from the Council. As the Scottish Government are initiating the change, Officers

will pursue financial support from the Scottish Government for this change to provide a long-term financially sustainable solution. However, there remains a risk that funding is not forthcoming.

- 5.3 Legal – The existing PPP contract was not designed or written to accommodate the changes that the 2025 legislation will require. The contract allows variations to be made although the process is quite cumbersome. There will be legal implications, which will need to be resolved, relating to a contract variation regarding the changes in Renewi's contract.
- 5.4 HR – HR issues will be addressed prior to and during the process of contract handback. Having sufficient resource will factor into the project demands of waste management. TUPE will be relevant at the handback and during the process of progressing to handback should the Council operate the sites themselves.
- 5.5 Fairer Scotland Duty:
 - 5.5.1 Equalities – None.
 - 5.5.2 Socio-economic Duty – None.
 - 5.5.3 Islands – There may be potential ferry capacity issues for bulking and transporting waste material from islands, this has been raised with Transport Scotland.
- 5.6 Climate Change – Transitioning from Landfill to Energy from Waste (EfW) would result in a reduction in the annual quantity of Greenhouse Gas generated in Argyll and Bute. Additional road miles incurred taking waste to EfW markets will partly offset the carbon reductions achieved through not landfilling.
- 5.7 Risk – There are financial risks associated with no derogation. The costs are approx. £1.5m, a refresh of all Waste PPP costs will be undertaken.
- 5.8 Customer Service – None.
- 5.9 Rights of the Child – None arising from this report.

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