

**ADELAIDE HILLS COUNCIL
SPECIAL COUNCIL MEETING
Tuesday 9 June 2015
CONFIDENTIAL AGENDA BUSINESS ITEM**

Item: 4.2

Originating Officer: John McArthur, Manager Waste Health and Regulatory Services

Responsible Director: Deryn Atkinson, Acting Director Strategy and Development

Subject: Regional Kerbside Service Tender and East Waste Membership

1. Regional Kerbside Service Tender and East Waste Membership – Exclusion of the Public

Pursuant to section 90(2) of the Local Government Act 1999 the Council orders that all members of the public, except:

- CEO, Andrew Aitken
- Director Engineering & Assets, Deb Richardson
- Acting Director Strategy & Development, Deryn Atkinson
- Director Corporate Services, Terry Crackett
- Director Community & Customer Service, David Waters
- Manager Waste, Health & Regulatory Services, John McArthur
- Manager Governance & Risk, Lachlan Miller
- AHRWMA Waste Strategy Coordinator, Leah Maxwell
- Minute Secretary, Leanne Llewellyn

be excluded from attendance at the meeting for Agenda Item 4.2: Regional Kerbside Service Tender and East Waste Membership

The Council is satisfied that, pursuant to section 90(3) (d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of this information may be detrimental to the preferred tenderer and commercial sensitive information.

2. Regional Kerbside Service Tender and East Waste Membership – Confidential Item

SUMMARY

The Adelaide Hills Council (AHC), along with five eastern suburb Councils, is a Member of the Eastern Waste Management Authority (East Waste) established pursuant to Section 43 of the *Local Government Act 1999*.

East Waste currently provides Council's kerbside waste and recycling collection service and a number of other waste management services. Considering the Council's location in comparison to East Waste's five other member Council's AHC has historically questioned its 'fit' with East Waste. In addition, Council's Waste Management Strategy 2010 – 2015 contains a number of strategies relating to the review of kerbside waste and recycling services. To ensure value for money was being obtained AHC elected to participate in a regional tender process with the Rural City of Murray Bridge (RCMB) and the District Council of Mt Barker (DCMB) for kerbside waste collection services.

The regional tender was prepared so that each participating Council received individual pricing and would enter into its own contract with the preferred service provider. The RCMB and DCMB would progress with the preferred service provider, whilst AHC participated as an option and would assess the tender response against its current service provision via its membership with East Waste. If AHC were to proceed with an exit from East Waste this would be subject to a two year exit period and costs, pursuant with the East Waste Charter.

An assessment has been undertaken regarding the option for AHC to progress with a commercial kerbside collection service provider or to continue its membership with East Waste. As a result of the assessment undertaken it is recommended that AHC maintains its membership with East Waste.

RECOMMENDATION

That Council resolves:

- 1. That the report be received and noted.**
 - 2. That Council does not progress with the regional tender process and maintains its membership with the Eastern Waste Management Authority until resolved otherwise by Council.**
 - 3. The CEO writes to the Eastern Waste Management Authority advising of the outcome of the assessment process undertaken.**
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1. GOVERNANCE

➤ **Strategic Management Plan/Council Policy**

Goal 2 Sustainable Natural and Built Environs

Key Issue 2.3 Waste Management

Key Action 2.3.4 Provide waste collection services, re-use and recycling facilities and evaluation of waste collection service activities to determine success of the process, changes and continuing sustainable approaches

This item relates to evaluating the waste service provision.

➤ **Legal Implications**

The regional tender documents were prepared with legal assistance and the regional tender assessment process was overseen by a probity advisor. Legal advice has also been sought regarding the provisions of the estimated East Waste exit costs.

Clause 10(2) of the *Environment Protection (Waste to Resources) Policy 2010* requires a metropolitan council to provide a weekly general kerbside waste collection service in respect of residential premises within its area.

➤ **Risk Management Implications**

The continued membership with East Waste will assist in mitigating the risk of:

Exiting East Waste and moving to a contractor provided service leading to possible increased costs, risks, service disruption and lack of control.

Inherent Risk	Residual Risk
High	Low

➤ **Financial and Resource Implications**

An assessment has been undertaken between the tendered contractor cost and East Waste cost. This assessment has used two scenarios, a high cost East Waste outcome, and a low cost East Waste outcome. Under the high cost East Waste outcome there are estimated savings of approximately \$87,000 per annum. Under the low cost East Waste outcome there are estimated costs to Council from moving to a contractor of approximately \$48,000 per annum.

More detailed information on the financial assessment undertaken is included within the body of the report.

➤ **Customer Service and Community/Cultural Implications**

If Council were to proceed with an exit from East Waste, customer service levels could be adversely affected through the transition phase from one supplier to another and potentially longer term, subject to the success or otherwise of the contractor in delivering the required services.

➤ **Environmental Implications**

An effective and efficient waste and recycling service minimises waste to landfill and maximises reuse of resources through recycling.

➤ **Community Engagement/Consultation**

Community engagement and consultation is not applicable given the confidential nature of the assessment undertaken and that no reduction in services provided will occur.

2. BACKGROUND

Council's Waste Management Strategy 2010 – 2015 contains the following strategies relating to kerbside waste and recycling services.

Strategy 4: Monitor and evaluate East Waste services and costs.

Strategy 5: By June 2012 evaluate all kerbside service provision options within the region. This timeline for evaluation will enable a decision regarding service provision to be made on a regional basis in line with all contracts expiring by 2015. Based on the results of this evaluation Council may enter into an open tender process.

East Waste is a s43 regional subsidiary of the Adelaide Hills Council, City of Burnside, Campbelltown City Council, City of Norwood, Payneham & St Peters, City of Mitcham and the Corporation of the Town of Walkerville.

East Waste is administered by a Board in accordance with the requirements of the *Local Government Act 1999*, East Waste's Charter and various policies and codes. The membership of the Board comprises seven directors – one director appointed by each of the Constituent Councils, and one independent person who acts as Chair. The Board appoints a General Manager who is responsible for implementing the decisions made by the Board, and running the day-to-day operations of East Waste.

East Waste's primary purpose is to provide effective and efficient waste collection services for its member Councils.

Relevant to the subject matter of this report is clause 15.1.1 of the East Waste Charter which requires a Council to give at least 2 years notice of its resignation to each constituent council, which is to be approved by majority vote of the East Waste Board and the Minister.

2.1 Regional Tender Process

To ensure value for money was being obtained with Council's kerbside collection services provided by East Waste, AHC elected to undertake a market comparison and therefore resolved to participate within a regional tender process for kerbside services along with the RCMB and the DCMB.

The RCMB and the DCMB committed to releasing a tender and proceeding to select a preferred service provider, while the AHC, being a member of East Waste, opted to take part as an optional participant.

The tender process, overseen by a probity advisor, was coordinated by the Adelaide Hills Region Waste Management Authority (AHRWMA) on behalf of the three participating councils. In this capacity, the AHRWMA acted as an advisory and coordinating authority only and did not make decisions on behalf of the councils.

Through the shared resource of the AHRWMA Waste Strategy Coordinator, who works across the AHC, the DCMB and the RCMB, the councils jointly released a tender for kerbside services in November 2014. The standard LGA template model contract documents were used as a basis for the tender.

The tender was prepared so that each council received individual pricing and would enter into its own contract with the preferred service provider. The RCMB and DCMB would progress with one service provider, while AHC participated as an option and would assess the tender response against its current service provision via its membership with East Waste. If AHC were to consider an exit from East Waste this would be subject to a two year exit period, in accordance with the Charter.

A number of options were included within the tender for councils to assess. It was important that individual pricing was requested and individual contracts would be implemented, so that one council would not be negatively impacted by another council's service. However it was recognised that there would be potential cost efficiencies by jointly tendering for a collection service, due to economies of scale for a contractor.

The recyclables market in South Australia has recently seen a significant change. Previously, only one recyclables processor existed that was capable of handling all domestic recyclables. There are now two companies in the local market which has led to a substantial improvement in pricing for the processing of recyclables.

3. ANALYSIS

Given kerbside waste collection and recycling services provided to the community are highly utilised services there is a need to ensure community expectations and demands on the service are met. To ensure service delivery was considered in the assessment process a comparison on service provision has been undertaken between the preferred contractor and East Waste, in addition to an analysis on costs.

3.1 Contractor Service Comparison to East Waste Membership

A Strengths, Weakness, Opportunities and Threats (SWOT) analysis has been completed for East Waste (Appendix 1) and Contractor (Appendix 2). The SWOT analysis identifies a number of factors that need to be taken into consideration when considering the service provision of Council's subsidiary in comparison to a contractor provided service.

As a member of East Waste, AHC realises benefits from the service that a subsidiary can provide. East Waste provides an 'at cost' kerbside waste and recycling collection service for its member Councils. The current arrangement with East Waste enables a free flowing working relationship between Council and East Waste, whereby any service changes can be discussed and adopted by East Waste. An example of this is the introduction and ongoing management of the green bin service and the street litter bin collection service.

If a contractor service was in place any changes in service provision would require a contract variation and would most likely come at a unit cost e.g. per lift, whereas East Waste can complete these services at cost and not per lift.

For example, the green bin collection service is limited to households within the township and urban areas, however, Council receives applications on an ongoing basis for residents on the outskirts of these areas who are requesting a green bin service. The current arrangement works well, where Council staff and East Waste assess this service provision and if it is on route East Waste provides this collection.

With East Waste the additional cost for this service is minimal, as the truck in most cases is already travelling past the property and the only cost incurred is for a small amount of additional collection time and a small amount of material disposal or processing costs. If Council were to utilise a contractor-provided service each new collection would be provided at a set rate per collection. In addition, there may also be additional costs for new and expanding services with a contractor provided service.

A commercial service provider operates in accordance with a contract and therefore the service levels are clearly defined. The service costs are also fixed and increases are based on CPI adjustments. As a member of East Waste Council does not have a contract in place to control service provision instead relying on a service agreement.

East Waste sets a budget and recovers actual costs from Constituent Councils. East Waste has a history of financial inconsistency due to the charging methodology used previously. It appears a more consistent charging methodology has been put into place which will likely lead to improved budget reliability, however there are no guarantees of this into the future.

The East Waste Board has stated that East Waste costs will not increase by more than the LG price index. East Waste has completed their business plan, which highlights a number of areas for improvement and East Waste has highlighted that they will undertake market analysis and comparison in the future.

Being a part owner of East Waste, as with any subsidiary, means Council is liable, along with other member Councils, for any debts and liabilities incurred by the Authority. Although Council is part liable for East Waste liabilities there are also benefits to being a member of the subsidiary. A notable benefit as part owner of East Waste is that Council has an element of control in the future of the subsidiary through its representation and influence on the Board. Examples include Council's ability to review and direct East Waste's Annual Plan, 10 year Plan and Charter.

A contractor-provided service is limited by the contract and can be subject to disputes and variations. A new provider will have less knowledge of the service area and as a result could lead to service disruptions in the short term. A contractor provided service may be open to risk and liability if the contract is not managed appropriately and Council does not have control in the company direction of a contractor.

There is long term uncertainty with a contractor provided service as Council will continually need to 'go to market' to secure a kerbside waste collection service. When these contracts expire Council will be open to the marketplace and whatever market prices and services are in place at that time. In contrast, as Council is a member of East Waste, and represented on the Board, it has influence over its own long term waste management future.

Council may apply to East Waste to become a Constituent Council again. If application was made to East Waste the Charter requires the following:

- The application must be supported by a thorough, realistic, independent, and diligent Business Case analysis
- The payment of any joining fee or other payment as may be required by the Board
- The approval of the constituent Councils by unanimous decision
- Ministerial approval

3.2 Cost Comparison

In order to compare the cost of the tendered price against the cost of East Waste services discussions were held with the General Manager of East Waste regarding the East Waste budget for the 2015/2016 financial year.

The East Waste budget is an estimate of costs which is paid on a quarterly basis. Council pays for the actual cost of the service and therefore if the costs are lower Council will have surplus budget and if the costs are higher Council will need to pay the additional amount.

East Waste domestic collection budget outcomes for the Adelaide Hills Council between 2012/13 and 2014/15 are as follows:

	Actual	Budget	Variance
2012/13	\$ 2,762k	\$ 3,038k	\$ 276k
2013/14	\$ 2,574k	\$ 2,798k	\$ 224k
2014/15	\$ 2,852k	\$ 2,898k	\$ 46k

After each year end, East Waste reconciles the amounts charged to each Council with actual information on pickups, optimal routes and Council boundaries. This reconciliation results in an 'adjustment' invoice that redistributes the charge to each Council. The adjustment can be an extra charge or a refund. There was a credit of \$(365)k for 2012/13 and an extra charge of \$123k in 2013/14.

The East Waste budget is based on current activities and therefore includes contingencies and does not capture savings that may be possible via improved operations and new contracts etc.

To ensure a 'like for like' assessment was made a budget taking into account known East Waste forecast savings from future recycling contracts, due to be introduced in the coming months, and other possible efficiencies was determined.

There are annual costs that will continue independent of Council's membership with East Waste. These are:

- Annual equity loan repayment to East Waste of \$18,140
- Bin finance of \$64,578

The above costs have been excluded from the cost comparison. The following items have been taken into account when determining the contractor cost which equates to the services currently provided by East Waste:

- Waste collection service
- Recycling collection service

- Green organics collection service
- Recycling disposal (income)
- Green organics disposal (expense)
- Bin supply and delivery
- Event bin service
- Estimated number of services, with a contingency for extra and additional services.

An annual contractor cost has been determined as of October 2015 to allow a comparison with East Waste. If council were to proceed with a contractor provided service actual costs would be based on rates in 2017, CPI adjusted from 2015. The following items have been taken into consideration when determining East Waste costs:

- Costs based on a budget set for 2015/2016
- To ensure a like for like comparison an estimated income from recyclables has been taken into account (based on information available via recent East Waste tendering process)
- Contingencies currently included within the East Waste budget for recyclables contamination has been removed as this will not be required under the new recyclables contract
- Consideration has also been given to potential efficiencies that East Waste has identified, which includes alternative truck parking locations and alternative locations for green organics processing
- An East Waste best case scenario has included savings potentially possible via these identified efficiencies at \$135,000.

Under clause 15.2 of the East Waste Charter, if the Council chooses to resign from East Waste, it will remain liable to contribute to the debts and liabilities of East Waste incurred whilst it is a constituent council. The Charter provides that this includes a contribution to the depreciated value of any asset acquired by East Waste during that time and for a share (i.e. in equal parts) of any future losses on contracts entered into whilst the Council is a constituent Council. Collectively, these costs are referred to as 'exit costs' in this report.

It is known that there will be a cost associated with exiting East Waste. The actual cost will not be known until the time of exit. However an estimate has been completed based on the information provided by East Waste to date.

East Waste has provided an estimate of possible exit costs, if AHC were to exit East Waste immediately and a draft of possible exit costs if Council were to exit as of 30 June 2017. The estimated exit costs provided for an immediate exit have been approved by the East Waste Board however the draft costs provided by the General Manager of East Waste for an exit in two years had not been approved by the Board at the time this report was prepared. It is considered the General Manager of East Waste has sufficient understanding of the operations of East Waste to provide reasonable estimates of the exit costs in 2017.

If Council were to resign from East Waste an independent review of the exit costs should be completed. An independent review has not been undertaken in preparation of this report as the forecast exit costs indicate there is insufficient justification to exit East Waste. If an independent review was undertaken the actual cost will be still subject to variation which will be unknown until the time of exit.

Estimated potential exit costs are as follows:

- Exit Immediately: \$1,524,000
- Exit 30th June 2017: \$1,223,110

An internal estimate regarding the in house costs that would be incurred if Council moved to a Contractor provided service has also been included, which encompasses staff time for contract implementation, start up, contract overview and customer service staff. This estimate totals \$95,240.

The tendered contractor cost based on the regional tender process, combined with the East Waste exit costs, divided over the contract term (five years) and the in house costs, divided over the contract term (five years) has been compared to two East Waste cost scenarios.

The first East Waste scenario, is a high cost outcome, assuming that efficiencies identified cannot be implemented and the second scenario is a low cost outcome, assuming efficiencies identified can be implemented.

High Cost East Waste Outcome

Expected savings from moving to a contractor provided service, taking into consideration exit costs and transition costs, are estimated to be approximately \$87,000 annually based on the high cost East Waste scenario.

Low Cost East Waste Outcome

If East Waste is able to implement efficiencies, as identified, it is likely that the costs of a contractor provided service, taking into consideration transition and exit costs, would be greater than the current service cost of East Waste. Based on the low cost East Waste scenario this outcome could cost Council approximately \$48,000 annually to move to a contractor.

Whilst there are no guarantees, it is likely the end result will range towards the low cost East Waste outcome which is dependent upon successfully locating East Waste trucks in a more efficient location and sourcing alternate locations for green organics processing. In the worst case scenario, the high East Waste outcome, the savings are estimated to be approximately \$87,000 annually.

Based on the initial estimate and associated benefits of East Waste outlined in Section 3.1 and the SWOT analysis it is recommended not to progress with the regional tender process and to maintain Council's membership with East Waste.

3.3 Conclusion

It is likely that East Waste will be able to achieve the savings they have identified within the next year. Any savings that East Waste are able to achieve are realised by Council. East Waste provides many additional member benefits as identified via the SWOT analysis.

Expected savings from moving to a contractor provided service, taking into consideration exit costs and transition costs, are approximately \$87,000 annually (total budget of approximately \$2.5 million). It is however likely that the costs of a contractor provided service with transition and exit costs would be greater than the current service provision with East Waste. If East Waste is able to implement efficiencies, as identified, moving to a contractor provided service could cost \$48,000 annually.

The exit costs and transition costs have been divided over the 5 year period, for the purpose of comparison. Upon expiry of this period these costs would no longer apply, however Council would also be in the process of re-tendering for services and therefore the market costs at this point and potential future savings or additional costs are unknown.

There is an unknown future with a contractor provided service and Council will be open to the market into the future. A change in service provider may also result in service disruptions in the short term and Council will lose the control that they currently have via the membership with East Waste.

Considering the benefits of East Waste now, and into the future, exiting East Waste does not appear to be justified.

Both options have risks and advantages, however, having some control of East Waste is a significant benefit. Into the future, East Waste will be undertaking market tests and comparisons, which will provide an indication of how the Authority is tracking in comparison to the market. If the market comparisons identify East Waste is not competitive, than AHC, and the other constituent Councils, have the influence, through the Board to make change with a view to making operations of East Waste more efficient and comparable to external providers.

4. OPTIONS

The following options are available to Council.

Option1: Council does not progress with the regional tender process and maintains its membership with the Eastern Waste Management Authority.

Option 2: Council resigns from East Waste and progresses with the preferred contractor identified through the regional tender process.

Option 1 is the recommended option as the assessment undertaken does not identify savings of sufficient value to warrant the short and long term risks associated with resigning from East Waste and engaging a private contractor to undertake Council's kerbside waste collection service.

5. APPENDICES

- (1) SWOT Non-Financial Benefits East Waste
- (2) SWOT Non-Financial Benefits Contractor

6. Regional Kerbside Service Tender and East Waste Membership – Period of Confidentiality

That having considered Agenda Item 4.2 in confidence under section 90(2) and 90 (3) (d) of the Local Government Act 1999, the Council, pursuant to section 91(7) of that Act, orders that the documents, reports and minutes pertaining to this matter, including discussions and considerations, be retained in confidence until the negotiations are complete, but not longer than 12 months pursuant to section 91(9).

Appendix 1

SWOT Non-Financial Benefits East Waste

SWOT ANALYSIS – NON FINANCIAL BENEFITS

Maintaining membership with East Waste

<p>Strengths</p> <ul style="list-style-type: none"> • Aligned values between Council and East Waste • Council has a seat on the East Waste Board, and equal part shareholder • Reduced exposure to commercial markets • Non-profit (no commercial margin added) • Ability to pass through savings at any time • High service standards (>90% of bins returned upright and lid closed) • Independent Chairman, and experienced Executive • Established staff and depot • 10 Year Business Plan, financial plan, asset management plan • Flexible to respond to Council's needs (organics service, litter bins) • Responsive to Council's needs (Sampson Flat Bushfires, Lobethal Lights) • Strong relationship with Council, staff, and community • Routes and runs established (community acceptance, efficiencies) • Increased accountability and transparency with GPS charging system • Charter, rather than protracted contract variations, quarterly adjustments • Internal maintenance capabilities • Well-presented and maintained fleet 	<p>Weakness</p> <ul style="list-style-type: none"> • Legacy of financial turbulence due to charging methodology • Contingency planning is under developed • Succession planning for key staff • No commercial element to operations • IT contingency • Legacy operations/customer service responsiveness • Little diversification in service offering • Lean organisational structure • Yearly tendering for replacement vehicles rather than a longer term supply agreement • Yearly supply agreements for fuel and tyres
<p>Opportunities</p> <ul style="list-style-type: none"> • Education and promotion activities facilitated by East Waste • Efficiencies anticipated in recycling/organics processing contracts • Parking up of East Waste vehicles at Heathfield • Promotion of Council events/messages on side of trucks • Expansion of service offerings to Member Councils (hard waste, litter, event bins, high density developments, nursing homes) • Market testing/benchmarking to determine value for money • Business Continuity Planning (currently under development) • Access to online GPS information for Council Staff • Incoming Councils under a commercial arrangement • Incoming Councils under the Membership model • Establishment of Operations Committee (one officer from each Member Council) to inform the East Waste Board and explore commonalities • Service Level Agreements to document minimum expectations • New Enterprise Bargaining Agreement in 2016 – driver wage increase review • Dividend payments back to Member Councils • Supply agreements for trucks, fuel, tyres to reduce costs • Rationalisation of the two GPS systems to a single provider 	<p>Threats</p> <ul style="list-style-type: none"> • Disputes with Member Councils • Member Council deciding to exit East Waste • Natural disasters • Increased competitor activity • New market entrants • Inability to show value for money and non-cost benefits • Key asset price increases • Key supply chain increases • Key staff leaving • Failure of GPS tracking system • Legislative changes • Lease of depot site (10 years) could be revoked

Appendix 2

SWOT Non-Financial Benefits Contractor

SWOT ANALYSIS – NON FINANCIAL BENEFITS
Exiting East Waste and moving to a contractor provided service

<p>Strengths</p> <ul style="list-style-type: none"> ▪ Contract detailing service requirements – can control service levels in accordance with contract ▪ Set and known cost of service (subject to CPI adjustments) ▪ Expertise across multiple contracts ▪ Regional service provision ▪ Bulk services and contacts within the field ▪ Cost effective service provision ▪ GPS enabled trucks with staff access ability 	<p>Weakness</p> <ul style="list-style-type: none"> ▪ Limited by contract ▪ Subject to contract disputes and alterations ▪ Unknown service area with a new provider, resulting in service disruptions ▪ Loss of “in house” knowledge of service area ▪ Open to risk and liability if contract is not managed appropriately ▪ No control of company direction ▪ Open to marketplace in the future – long term uncertainty ▪ Less emphasis on long term planning and regional approach ▪ Additional costs for new and expanding services ▪ Operating costs will be a focus, which could lead to poor performance and increased complaints ▪ Transition period from EW to Contractor e.g. wind down of EW service and care factor to ramping up of contractor service levels from poor to good
<p>Opportunities</p> <ul style="list-style-type: none"> ▪ Education service provisions available ▪ Additional services and expertise in related fields ▪ New and emerging technologies and innovations ▪ Strategic alliances, partnerships may exist ▪ Support and sponsorship for local events ▪ Identify service improvements ▪ New initiatives and marketing/promotion ideas 	<p>Threats</p> <ul style="list-style-type: none"> ▪ Unsustainably low cost service – contract may not be honoured ▪ Key staff leaving ▪ Structural changes within the organisation ▪ Costs of exiting East Waste may outweigh any benefit of moving to a Contractor provided service ▪ Liability to East Waste for contracts and purchases made while Council was a Member