

## **RECYCLING RECEIVAL CONTRACT EXTENSION CQ5010**

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Report Author: Executive Officer Waste Management

Responsible Officer: Mark Varmalis

Ward(s) affected: All (All Wards);

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*The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.*

### **CONFIDENTIALITY**

This item is to be considered at a Council meeting that is open to the public.

The attachment contains private commercial information (trade secrets); and private commercial information that would unreasonably expose a business, commercial or financial undertaking to disadvantage which is considered to be confidential information in accordance with the definition included in Section 3(1) of the *Local Government Act 2020*. It is necessary for the meeting to be closed to the public in accordance with section 66(2)(a) of the *Local Government Act 2020*.

### **SUMMARY**

Yarra Ranges Council has a contract in place with Visy Paper Pty Ltd for the Acceptance and Sorting of Recyclables. This contract was originally in place until 30 September 2021, with a two year extension to 30 September 2023 to align it with the kerbside collection contract.

The change in the recycling market required Council to enter into a Deed of Variation for this contract which allowed Council to vary the contracted rate based on industry changes and needs, but to also secure the contract until the final completion date of the extension period of 30 September 2023.

The State Government provided Yarra Ranges Council with an exemption under the Local Government Act 2020 to continue with the contract until 30 June 2022, at which time Council was required to have its own procurement policy in place which would allow the Council to manage any further contract extensions.

This contract was extended by letter to Visy Paper Pty Ltd until 30 June 2022 to align with the state exemption. The current exemption period will expire on 30 June 2022.

The intent of the Direct Deed of Variation was for this contract to run its course with the final extension period to align it with the kerbside collection contract expiring on 30 September 2023.

This report is to consider a further extension of contract CQ5010 - Sale of Recyclables with Visy Paper Pty Ltd which will take it through to 30 September 2023 to align it with current collection contracts and at which time a new contract for recyclables receipt and kerb side collection services would be established.

## RECOMMENDATION

### *That*

- 1. Council agrees to enter into the extension of contract CQ5010 - Sale of Recyclables, with Visy Paper Pty Ltd through to 30 September 2023.**
- 2. Council delegates authority to the Chief Executive Officer to authorise the contract extension**
- 3. The attachment to this report is to remain confidential indefinitely as it relates to matters specified under section 3(1)(g)(i)(ii) private commercial information, being information provided by a business, commercial or financial undertaking that relates to trade secrets**

## RELATED COUNCIL DECISIONS

Council at its meeting on 12 June 2018 authorised the Chief Executive Officer to enter into contractual variations to CQ5010 - Sale of Recyclables that resulted from the negotiations in response to recycling industry changes. These negotiations resulted in a Deed of Further Variation being developed and signed.

## DISCUSSION

The contractor providing this service has undertaken the provision of this service to the satisfaction of the Contract Supervisors Representative. This service is provided in accordance with the contract specifications to achieve the service requirements of the community. This contract is monitored closely by Council's waste management team, which includes monthly contract meetings.

Contract CQ5010 - Sale of Recyclables with Visy Paper Pty Ltd meets the current requirements of receiving and recycling material from Council's kerbside collection service and is considered to be fully meeting requirements for best value to the community.

### ***Purpose and Background***

During 2018, there were a number of changes that occurred in the waste industry which required significant change as to how Australia managed recyclables. This impacted most councils in Australia, where significant changes needed to occur with contracts associated with recycling receipt and processing.

When considering and developing the Deed of Variation for this contract, with the intent to carry it through to September 2023, it was determined that the best option for the community based on service provision and contract value was to continue this current contract arrangement with Visy Paper Pty Ltd.

Considerations at the time evaluated alternative recycling facilities and markets that were operating in Melbourne. The market price for receipt and sorting of recyclables

was highly competitive and whilst costs have progressively increased since then, the current proposal is still considered to be highly competitive and providing best value to the Yarra Ranges community.

A process has been undertaken to develop a Further Deed of Variation for the contract which outlines the changes required to continue the service. Within this Deed is the intent to extend the contract for the full term of the extensions, which would take the contract through to 30 September 2023. This was partly reliant on the State Government issuing an exemption.

At the time of significant and rapid change in the recycling sector, the State Government responded to the needs of councils by establishing procurement exemptions for recycling services until 30 June 2022. The new *Local Government Act 2020* had been introduced and within the Act was a requirement for councils to establish a procurement policy which specifies the principles, processes and procedures applying to all purchases of goods and services and carrying out of works by the council to promote open and fair competition and provide value for money. Council's Procurement Policy 2021-2025 provides the framework to undertake the extension of contracts beyond the State Government exemption.

Council's Waste Management team have also been working with the Metropolitan Waste Resource Recovery Group (MWRRG) to be part of a regional joint procurement which would not only provide Council with a backup option for recycling receipt but secure Council in a contract beyond the current contract extension periods.

As of 1 July 2022, all Regional Waste Resource Recovery Groups will merge into the new Waste Authority "Recycle Victoria". Resulting from this change, was a directive from the State Government for the MWRRG to cease the joint procurement process, which has now left it to councils to secure future recycling contracts.

Councils contract through the Further Deed of Variation as well as Council's procurement policy, allows for the ability to extend this contract to the original completion date of the extension option which is 30 September 2023.

Extending the contract for this time meets the original intent to ensure Council's collection contracts and recycling receipt contracts align with their completion dates. This will then facilitate establishing new tenders for these services in common alignment and called for at the same time.

Having the collection and receipt contracts aligned helps with future cost planning, as the disposal/processing facilities are known for the period of the collection contract, allowing collection service contractors to calculate and factor in transport distances in their service contract costs.

### ***Options considered***

As part of the review process, the following options were considered:

1. Adoption of the extension period under the current contract and preparation of a new tender for future collections to commence on 1 October 2023. This option requires Council approval and a formal letter of extension to the current

contractor. This option is considered to provide the best value proposal for the community.

2. Undertake a quick turn around to get quotes for a short 15 month contract arrangement. Based on the value of the contract, this would require a full public tender which would take approximately 6 months, with concerns of increased costs being incurred for a short term service arrangement.

### ***Recommended option and justification***

It is recommended that Council accept Option 1 as the preferred proposal for recycling receipt.

It is considered that there is no better alternatives for Council at this stage, and based on current markets the price is considered competitive and provides best value to the Council and the community. This service is essential to maximising recovery of recyclable material from the community.

Extending the contract under this option secures the processing of recyclable material generated by the Yarra Ranges community, aligns with the existing extension options under the contract and also keeps it aligned to the kerbside collection contract expiry dates. It also provides the best value to the community based on the current markets and will allow time for the development of a full tender process to be undertaken to the open market later this year for commencement in October 2023 for all waste collection and receipt services.

## **FINANCIAL ANALYSIS**

The cost of this contract extension is based on the current contract rates as contracted within the Further Deed of Variation agreed to and signed in 2018.

As stated previously, this service currently identifies as best value to the community.

The cost of this service is covered under the existing and proposed waste management budget and forms part of the waste service charge identified separately on Council's rates notice for rateable properties.

Further financial information can be found in the confidential financial attachment.

## **APPLICABLE PLANS AND POLICIES**

Council's Waste Management Plan 2016-2026 sets out objectives for managing waste and recyclables across the municipality.

Council's Environment Strategy 2015-2025 sets out objectives for reducing the impact of activities associated with Council and the community on the environment.

Council's procurement Policy 2021 – 2025 sets out the ability for being able to undertake this extension based on being in the public's interest and still obtaining value for money.

## RELEVANT LAW

Section 9(2)(a) of the Local Government Act 2020 states: “Council decisions are to be made and actions taken in accordance with the relevant law”.

Councils Procurement Policy is established under Section 108 of the Local Government Act 2020 provides for the following:

- Extension of contracts while Council is at market - Allows Council to extend an existing contract where the procurement process to replace the contract has commenced, and where the Tender Process or negotiations will take or are taking longer than expected.
- This exemption may be used when the establishment of an interim arrangement with an alternative supplier is considered not to be in the public interest, as it may be cost prohibitive and/or present a risk in the delivery of critical public services to the municipality. The term for this arrangement may vary to align with the time extension required to conduct the tender process and to allow for transition to a new supplier where applicable.

The policy also states that “In addition to the listed exemptions, the CEO or relevant director (in accordance with financial delegations) may grant an exemption from seeking responses via a competitive procurement process, such as tenders or multiple quotations, when it can be demonstrated that:

- it is in the public interest.
- Council is still obtaining Value for Money in the process adopted; and
- the process is defensible and able to withstand internal and external scrutiny – one which achieves both accountability and transparency.

It is considered that the proposal to extend contract CQ5010 - Sale of Recyclables, with Visy Paper Pty Ltd through to 30 September 2023 meets the above requirements.

## SUSTAINABILITY IMPLICATIONS

### *Economic*

Through past negotiations with service providers involved with recycling, and market knowledge of costs incurred for recycling material collected through the kerbside service, it is known that the arrangement that Council has with Visy Recycling is providing best value to the community. It is considered that undertaking a short term tendering process would not achieve better outcomes, and potentially could place Council at risk financially through lack of market competition or material placement withing a facility.

There are only three recycling receival companies in Melbourne, and whilst Council has a contract with a company that has the capacity to take material from the Yarra Ranges community, it is considered that there is a need maintain this arrangement

until all waste collection and receival services are aligned to progress through a new tender process.

### ***Social***

The community has expectations that Council will facilitate recycling of materials through the waste stream wherever possible. This service aligns with community values associated with recycling.

### ***Environmental***

Continuation of services under this variation will ensure continued recycling of kerbside recycling material, reducing impact on the environment through alternate methods of disposal such as disposal to landfill.

## **COMMUNITY ENGAGEMENT**

Council has recently undertaken community engagement in the development of Council's draft Community Waste and Resource Recovery Plan. Community feedback has been strong on the values of recycling and reducing disposal of waste to landfill.

The particular considerations relating to the extension of contract CQ5010 - Sale of Recyclables with Visy Paper Pty Ltd is aligned with consultation and feedback from the community relating to provision of waste services, with this specific consideration being to operationally support a contract for services being provided to the community.

This decision is proposed based on terms, conditions and clauses within the relevant contracts which are confidential in nature. Therefore no specific community consultation has been undertaken in relation to this proposal.

## **COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT**

The waste management team has been working with the Metropolitan Waste Resource Recovery Group (MWRRG) as well as neighbouring & metro councils to determine the best options for joint procurement for recycling receival and was included in a proposed joint regional tender which would have been in place by 1 July 2022 (if we needed to use it).

However, as the regional waste management groups are all being formed into a new Waste Authority, this procurement has been put on hold until the new authority can be established.

This will continue to be investigated as part of the next steps for tender preparation.

## **RISK ASSESSMENT**

By undertaking the extension of this contract, it secures Council's ability to continue to send recyclables to a recycling facility for processing.

As the Regional Joint Recycling Procurement was stopped by the State Government, there are no other short term contract options for Council to connect with for this material until a new tender can be prepared, which is being schedule for this year to commence as of 1 October 2023.

## **CONFLICTS OF INTEREST**

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

## **ATTACHMENTS TO THE REPORT**

1. Financial Summary Document