

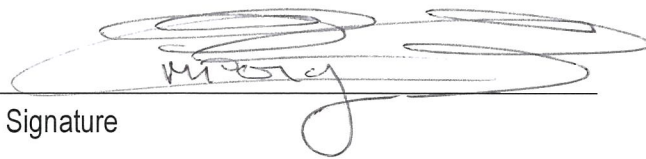
# MINUTES

## Certification of Confirmation

## Ordinary Meeting of Council

**19 December 2022**

I, Cr Mel Congerton, hereby certify that the minutes from the Special Meeting of Council held on 19 December 2022 pages (1) to (13) were confirmed at the Ordinary Meeting of Council held on 23 February 2023.



Signature

Cr Mel Congerton  
Presiding Member



## **EMRC Council Members**

Cr Mel Congerton	Chairman	City of Swan
Cr Dylan O'Connor	Deputy Chairman	City of Kalamunda
Cr Kathryn Hamilton	EMRC Member	Town of Bassendean
Cr Hilary MacWilliam	EMRC Member	Town of Bassendean
Cr Steven Ostaszewskyj	EMRC Member	City of Bayswater
Cr Michelle Sutherland	EMRC Member	City of Bayswater
Cr Margaret Thomas	EMRC Member	City of Kalamunda
Cr John Daw	EMRC Member	Shire of Mundaring
Cr Doug Jeans	EMRC Member	Shire of Mundaring
Cr Charlie Zannino	EMRC Member	City of Swan

## **EMRC Council Deputies**

Cr Emily Wilding	EMRC Deputy Member	Town of Bassendean
Cr Giorgia Johnson	EMRC Deputy Member	City of Bayswater
Cr Janelle Sewell	EMRC Deputy Member	City of Kalamunda
Cr Jo Cicchini	EMRC Deputy Member	Shire of Mundaring
Vacant	EMRC Deputy Member	City of Swan



## Special Meeting of Council 19 December 2022

An ordinary Meeting of Council was held at the EMRC Administration Office, 1<sup>st</sup> Floor, 226 Great Eastern Highway, Ascot WA 6104 on **Thursday 19 December 2022**. The meeting commenced at **6:00pm**.

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## 1 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Chairman opened the meeting at 6:00pm.

### 1.1 ACKNOWLEDGEMENT OF COUNTRY

The Chairman acknowledged the traditional custodians of the land on which we meet today and paid respects to elders past, present and future.

## 2 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

### Councillor Attendance

Cr Mel Congerton	EMRC Chairman	City of Swan
Cr Kathryn Hamilton	EMRC Member	Town of Bassendean
Cr Hilary MacWilliam	EMRC Member	Town of Bassendean
Cr Giorgia Johnson <i>(deputised for Cr Ostaszewskyj via Microsoft Teams)</i>	EMRC Deputy Member	City of Bayswater
Cr Michelle Sutherland	EMRC Member	City of Bayswater
Cr John Daw	EMRC Member	Shire of Mundaring
Cr Jo Cicchini <i>(deputised for Cr Jeans)</i>	EMRC Deputy Member	Shire of Mundaring
Cr Charlie Zannino	EMRC Member	City of Swan

### EMRC Apologies

Cr Dylan O'Connor	EMRC Deputy Chairman	City of Kalamunda
Cr Margaret Thomas	EMRC Member	City of Kalamunda
Cr Doug Jeans	EMRC Member	Shire of Mundaring
Cr Janelle Sewell	EMRC Deputy Member	City of Kalamunda

### Leave of Absence (Previously Approved)

Cr Ostaszewskyj is on approved Leave of Absence from 17 December 2022 to 9 January 2023 inclusive.

### Visitors

Mr Neil Douglas	Partner	McLeods Lawyers
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### EMRC Officers

Mr Marcus Geisler	Chief Executive Officer
Mr Hua Jer Liew	Chief Financial Officer
Mr Brad Lacey	Chief Operating Officer
Mr Douglas Bruce	Chief Project Officer
Mrs Wendy Harris	Chief Sustainability Officer
Mrs Lee Loughnan	Personal Assistant to Chief Financial Officer (Minutes)

**EMRC Observers**

Ms Kasa Nakhonthat	A/Manager Financial Services
Ms Izabella Krzysko	Manager Procurement & Governance
Mr Stephen Fitzpatrick	Waste Resource Recovery Specialist
Ms Theresa Eckstein	Executive Assistant to Chief Executive Officer
Mr Chris Snook	Information Services Support Officer

**3 DISCLOSURE OF INTERESTS**

Nil

**4 ANNOUNCEMENTS BY THE CHAIRMAN OR PRESIDING MEMBER WITHOUT DISCUSSION**

Nil

**5 PUBLIC QUESTION TIME**

Nil

**6 ANNOUNCEMENT OF CONFIDENTIAL MATTERS FOR WHICH MEETINGS MAY BE CLOSED TO THE PUBLIC**

NOTE: Section 5.23(2) of the *Local Government Act 1995*, details a number of matters upon which Council may discuss and make decisions without members of the public being present. These matters include: matters affecting employees; personal affairs of any person; contractual matters; legal advice; commercial-in-confidence matters; security matters; among others.

The following confidential reports are covered in Section 8 of this agenda.

- Air Pollution Control Residue Disposal Agreement
- Request for Tender – RFT 2021-002 - EMRC Permanent FOGO Processing Facility

**7 REPORTS OF EMPLOYEES**

7.1 REQUEST FOR TENDER – RFT 2022-005 - PROVISION OF TRANSPORT SERVICES FROM HAZELMERE RESOURCE RECOVERY PARK

## 7.1 REQUEST FOR TENDER RFT 2022 – 005 – PROVISION OF TRANSPORT SERVICES

D2022/23322

### PURPOSE OF REPORT

The purpose of this report is to advise Council of the results of Tender RFT 2022 - 005 Provision of Transport Services and recommend acceptance of the Tender from Appala Holdings Pty Ltd T/A Wastetrans WA for services related to the transportation of municipal solid waste (MSW) and commercial and industrial (C&I) waste from the Bayswater Transfer Station to the Red Hill Waste Management Facility (RHWMF).

### KEY POINT(S)

- The EMRC has a commercial arrangement with Cleanaway to accept commercial, industrial and municipal waste at the Bayswater Transfer Station (BTS) and subsequently transport it to RHWMF for appropriate landfilling while Cleanaway is re-constructing the Welshpool transfer station affected by fires. The Agreement commenced on 1 July 2022, expiring on 30 June 2023.
- Hazelmere Resource Recovery Park (HRRP) Waste Transfer Station will facilitate the consolidation of participating member Council's kerb collected MSW and subsequent transportation to the East Rockingham Waste to Energy facility that is anticipated to be operational in April 2023.
- A request for tender for the provision of transport services was advertised via Tenderlink, local libraries and the West Australian on 15 October 2022.
- The tender closed on 4 November 2022, with two (2) submissions received in total.
- A business decision was made to not award the portions relating to the transportation of MSW to East Rockingham and the transportation of FOGO material. These portions will be re-tendered for separately.

### RECOMMENDATION(S)

That:

1. Council award Tender RFT 2022-005 Provision of Transportation Services for the transportation of C&I and MSW waste from the Bayswater Transfer Station to the Red Hill Waste Management Facility based on a fixed schedule of rates (subject to annual CPI adjustments) for six months with two optional six month extensions at the sole discretion of the EMRC to Appala Holdings Pty Ltd T/A Wastetrans WA for an estimated total cost of \$351,360.00 for six months (ex GST) for the separable portion relating to the transportation of C&I and MSW waste from the Bayswater Transfer Station to the RHWMF.
2. The CEO be authorised on behalf of the EMRC to enter into a contract with Appala Holdings Pty Ltd T/A Wastetrans WA in accordance with their submitted tender, subject to any minor variations that may be agreed upon between the EMRC and Appala Holdings Pty Ltd T/A Wastetrans WA.

### SOURCE OF REPORT

Chief Operating Officer

### BACKGROUND

- 1 The EMRC has an agreement with Cleanaway to provide a disposal facility for Cleanaway's waste collection trucks to dispose of C&I and MSW waste while Cleanaway undertake the construction of the Welshpool transfer station facility affected by fires. The EMRC transports the collected waste to the RHWMF for appropriate landfilling.

- 2 The EMRC recovers the transport expenditures from the income of the commercial arrangement with Cleanaway (no capital required from the EMRC).
- 3 Appala Holdings Pty Ltd T/A Wastetrans WA have previously been engaged by the EMRC for transportation services from HRRP. However, as the cost to date to the EMRC has exceeded the tender threshold under the *Local Government Act 1995*, a request for tender process has been undertaken.

## REPORT

- 4 A request for quote process was undertaken on 15 February 2022 for the transportation of C&I waste and MSW from the Bayswater Transfer Station to the RHWMF for a total contract value amount of \$210,000 (ex GST). The contract was awarded to Appala Holdings Pty Ltd T/A Wastetrans WA for a period of five months.
- 5 Following this, a subsequent request for quote process was carried out on 12 July 2022 to ascertain if there are any other suppliers for transportation of C&I waste and MSW from the Bayswater Transfer Station to the RHWMF. Appala Holdings Pty Ltd T/A Wastetrans WA won the bid and this resulted in the contractor being awarded a subsequent contract for a total contract value amount of \$210,000 (ex GST) over a period of five months with the expectation that the EMRC would finalise a request for tender process for the transport service.
- 6 Therefore, a tender process was commenced to meet the requirements in accordance with the tender rules under the *Local Government (Functions & General) Regulations 1996* as the current spend exceeds the tender threshold amount.
- 7 The EMRC developed a Request for Tender (RFT) for the provision of transport services comprised of the following separable portions:
  - Collect C&I & MSW waste from Bayswater Transfer Station and transport it to the RHWMF. The contract term is six months with two six months optional extensions at the sole discretion of the Principal.
  - Collect MSW and C&I Waste from the HRRP Waste Transfer Station (WTS) and transport to the East Rockingham WtE and to the RHWMF as and when required. The contract term is two years with two one year optional extensions at the sole discretion of the Principal.
  - Collect FOGO from Hazelmere Resource Recovery Park (HRRP) Waste Transfer Station (WTS) and transport to RHWMF. The contract term is two years with two one year optional extensions at the sole discretion of the Principal
- 8 The RFT was advertised via Tenderlink, local Libraries, and the West Australian on 14 October 2022, and the closing date for submissions was 4 November 2022 with offers submitted by the following companies:
  - Appala Holdings Pty Ltd T/A Wastetrans WA; and
  - GMG Haulage.
- 9 After the compliance check conducted by EMRC Procurement, GMG Haulage was classified as a non-compliant submission as they did not meet the requirements in respect of the RFT Compliance Criteria and were therefore excluded from further evaluation.

10 An evaluation panel of EMRC officers assessed and scored the submission on the following qualitative criteria:

Assessment Criteria	Weighting
(a) Resource Planning	30%
(b) Relevant Experience	5%
(c) Workplace Health and Safety Management (WHS)	10%
(d) Methodology	15%

11 Price was weighted at 40% of the evaluation.

12 The estimated expenditure is \$351,360.00 (ex GST) based on the estimated waste volumes available for transportation and tendered price submitted by Appala Holdings Pty Ltd T/A Wastetrans for the transportation of C&I and MSW waste from the Bayswater Transfer Station to the RHWMF over a six month period.

13 The submission from Appala Holdings Pty Ltd Pty Ltd T/A Wastetrans for the transportation of C&I and MSW waste from the Bayswater Transfer Station to the RHWMF based on a fixed schedule of rates is recommended for acceptance as the preferred tenderer.

**STRATEGIC/POLICY IMPLICATIONS**

14 Key Result Area 1 – Environmental Sustainability

- 1.1 To provide sustainable waste disposal operations
- 1.2 To improve regional waste management

**FINANCIAL IMPLICATIONS**

15 Nil

**SUSTAINABILITY IMPLICATIONS**

16 Efficient and compliant transport of waste is part of the EMRC’s sustainability policies.

**RISK MANAGEMENT**

Risk – Loss of revenue for short term contract with Cleanaway.		
Consequence	Likelihood	Rating
Catastrophic	Almost certain	High
Action/Strategy		
➤ Council to authorise the CEO to enter into a contract with the recommended tenderer(s), the subject of this report.		



**MEMBER COUNCIL IMPLICATIONS**

Member Council	Implication Details
Town of Bassendean	} Nil
City of Bayswater	
City of Kalamunda	
Shire of Mundaring	
City of Swan	

**ATTACHMENT(S)**

Supplier Company Details (D2022/23400)

**VOTING REQUIREMENT**

Simple Majority

**RECOMMENDATION(S)**

That:

1. Council award Tender RFT 2022-005 Provision of Transportation Services for the transportation of C&I and MSW waste from the Bayswater Transfer Station to the Red Hill Waste Management Facility based on a fixed schedule of rates (subject to annual CPI adjustments) for six months with two optional six month extensions at the sole discretion of the EMRC to Appala Holdings Pty Ltd T/A Wastetrans WA for an estimated total cost of \$351,360.00 for six (6) months (ex GST) for the separable portion relating to the transportation of C&I and MSW waste from the Bayswater Transfer Station to the RHWMF.
2. The CEO be authorised on behalf of the EMRC to enter into a contract with Appala Holdings Pty Ltd T/A Wastetrans WA in accordance with their submitted tender, subject to any minor variations that may be agreed upon between the EMRC and Appala Holdings Pty Ltd T/A Wastetrans WA.

**COUNCIL RESOLUTION(S)**

MOVED CR MACWILLIAM                      SECONDED CR ZANNINO

THAT:

1. COUNCIL AWARD TENDER RFT 2022-005 PROVISION OF TRANSPORTATION SERVICES FOR THE TRANSPORTATION OF C&I AND MSW WASTE FROM THE BAYSWATER TRANSFER STATION TO THE RED HILL WASTE MANAGEMENT FACILITY BASED ON A FIXED SCHEDULE OF RATES (SUBJECT TO ANNUAL CPI ADJUSTMENTS) FOR SIX MONTHS WITH TWO OPTIONAL SIX MONTH EXTENSIONS AT THE SOLE DISCRETION OF THE EMRC TO APPALA HOLDINGS PTY LTD T/A WASTETRANS WA FOR AN ESTIMATED TOTAL COST OF \$351,360.00 FOR SIX (6) MONTHS (EX GST) FOR THE SEPARABLE PORTION RELATING TO THE TRANSPORTATION OF C&I AND MSW WASTE FROM THE BAYSWATER TRANSFER STATION TO THE RHWMF.
2. THE CEO BE AUTHORISED ON BEHALF OF THE EMRC TO ENTER INTO A CONTRACT WITH APPALA HOLDINGS PTY LTD T/A WASTETRANS WA IN ACCORDANCE WITH THEIR SUBMITTED TENDER, SUBJECT TO ANY MINOR VARIATIONS THAT MAY BE AGREED UPON BETWEEN THE EMRC AND APPALA HOLDINGS PTY LTD T/A WASTETRANS WA.

**CARRIED UNANIMOUSLY**



**Eastern Metropolitan Regional Council**  
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 PO Box 234, Belmont WA 6984  
 T (08) 9424 2222  
 E mail@emrc.org.au  
[www.emrc.org.au](http://www.emrc.org.au)

### COMPANY DIRECTOR DETAILS FORM

COMPANY PARTICULARS	
Company Name in Full:	Appala Holdings Pty Ltd
ABN / ACN:	81 265 759 040
Address of Registered Office:	2 Brook Street, Perth WA 6004
Principal Place of Business:	25 Mooney Street, Bayswater
Information on previous company names (if applicable):	Appala Holdings Pty Ltd previously operated the Perth Bin Hire business, until it's sale in May 2021.
DIRECTOR PARTICULARS	
Title:	Mr
Full Forename(s):	Jack
Surname:	Kailis
Former Name(s):	
Country / State of Residence:	Western Australia
Nationality:	Australian
Date of Birth:	14 August 1958
Date of Appointment:	4 August 1994
Telephone:	0418 913 820
Email:	jack@wastetranswa.com.au
LIST OF CONTRACTORS	
Contractor 1:	
Contractor 2:	
Contractor 3:	
Contractor 4:	
Contractor 5:	
Contractor 6:	
Contractor 7:	
Director's Signature:	
Date:	4 November 2022

Please complete and return this form with your tender submission

## **8 CONFIDENTIAL MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC**

### **RECOMMENDATION (Closing Meeting to the Public)**

That with the exception of ....., the meeting be closed to members of the public in accordance with Section 5.23(2) of the *Local Government Act 1995* for the purpose of dealing with matters of a confidential nature.

### **COUNCIL RESOLUTION**

MOVED CR CICCHINI    SECONDED CR DAW

THAT WITH THE EXCEPTION OF THE CHIEF EXECUTIVE OFFICER, CHIEF FINANCIAL OFFICER, CHIEF OPERATING OFFICER, CHIEF PROJECT OFFICER, CHIEF SUSTAINABILITY OFFICER, A/MANAGER FINANCIAL SERVICES, MANAGER PROCUREMENT AND GOVERNANCE, INFORMATION SERVICES SUPPORT OFFICER, EXECUTIVE ASSISTANT TO THE CHIEF EXECUTIVE OFFICER, PERSONAL ASSISTANT TO THE CHIEF FINANCIAL OFFICER AND PARTNER (MCLEODS LAWYERS) THE MEETING BE CLOSED TO MEMBERS OF THE PUBLIC IN ACCORDANCE WITH SECTION 5.23 (2) OF THE *LOCAL GOVERNMENT ACT 1995* FOR THE PURPOSE OF DEALING WITH MATTERS OF A CONFIDENTIAL NATURE.

**CARRIED UNANIMOUSLY**

The doors of the meeting were closed at 6:03pm.

Cr Johnson confirmed that she was in a secure room via Microsoft Teams.

The Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Chief Project Officer, Chief Sustainability Officer, A/Manager Financial Services, Manager Procurement and Governance, Information Services Support Officer, Executive Assistant to the Chief Executive Officer, Personal Assistant to the Chief Financial Officer and Partner (McLeods Lawyers) remained in Council Chambers.

### **8.1 AIR POLLUTION CONTROL RESIDUE DISPOSAL AGREEMENT (D2022/18466)**

This item is recommended to be confidential because it contains matters of a commercial-in-confidence nature.

See Confidential Item circulated with the Agenda under Separate Cover.

### **8.2 REQUEST FOR TENDER – RFT 2021-002 - PERMANENT FOGO PROCESSING FACILITY (D2022/18185)**

This item is recommended to be confidential because it contains matters of a commercial-in-confidence nature.

See Confidential Item circulated with the Agenda under Separate Cover.

**RECOMMENDATION [Meeting re-opened to the Public]**

That the meeting be re-opened, the members of the public be invited to return to the meeting and the resolutions passed behind closed doors be recorded.

**COUNCIL RESOLUTION(S)**

MOVED CR DAW

SECONDED CR CICCHINI

THAT THE MEETING BE RE-OPENED, THE MEMBERS OF THE PUBLIC BE INVITED TO RETURN TO THE MEETING AND THE RECOMMENDATIONS PASSED BEHIND CLOSED DOORS BE RECORDED.

**CARRIED UNANIMOUSLY**

The doors of the meeting were re-opened at 6:19pm.

Recording of the resolutions passed behind closed doors, namely:

8.1 AIR POLLUTION CONTROL RESIDUE DISPOSAL AGREEMENT (D2022/18466)

**COUNCIL RESOLUTION(S)**

MOVED CR DAW

SECONDED CR ZANNINO

THAT:

1. COUNCIL ENDORSES THE DRAFT BUSINESS PLAN FOR A MAJOR UNDERTAKING, FORMING ATTACHMENT 2 TO THIS REPORT.
2. PUBLIC NOTICE BE GIVEN IN ACCORDANCE WITH S.3.59(4) OF THE *LOCAL GOVERNMENT ACT 1995*, TO SEEK PUBLIC CONSULTATION FOR A PERIOD NOT LESS THAN 6 WEEKS OF THE EMRC PROPOSAL TO COMMENCE THE MAJOR UNDERTAKING.
3. COUNCIL DIRECTS THE CHIEF EXECUTIVE OFFICER TO PREPARE A REPORT TO COUNCIL FOLLOWING PUBLIC CONSULTATION, FOR COUNCIL TO CONSIDER ANY SUBMISSIONS MADE SUCH THAT IT MAY DECIDE TO PROCEED WITH THE UNDERTAKING.
4. COUNCIL ENDORSES THE DRAFT AIR POLLUTION CONTROL RESIDUE DISPOSAL AGREEMENT, FORMING ATTACHMENT 3 TO THIS REPORT, SUBJECT TO MINOR VARIATIONS.
5. COUNCIL ENDORSES THE DRAFT FINANCIER DIRECT DEED, FORMING ATTACHMENT 5 TO THIS REPORT, SUBJECT TO MINOR VARIATIONS.
6. COUNCIL, BY ABSOLUTE MAJORITY IN ACCORDANCE WITH S.5.42(1) OF THE *LOCAL GOVERNMENT ACT 1995*, DELEGATES AUTHORITY TO THE CHIEF EXECUTIVE OFFICER TO NEGOTIATE AND ENTER INTO THE AIR POLLUTION CONTROL RESIDUE DISPOSAL AGREEMENT AND FINANCIAL DIRECT DEED, SUBJECT TO MINOR VARIATIONS AND THE SATISFACTION OF THE REQUIREMENTS OF S.3.59 OF THE *LOCAL GOVERNMENT ACT 1995*.
7. COUNCIL AUTHORISES THE CHAIRMAN AND THE CHIEF EXECUTIVE OFFICER TO EXECUTE THE FINAL AIR POLLUTION CONTROL RESIDUE DISPOSAL AGREEMENT AND FINANCIAL DIRECT DEED UNDER EMRC'S COMMON SEAL.
8. THE REPORT AND ATTACHMENTS REMAIN CONFIDENTIAL AND IS CERTIFIED BY THE EMRC CHAIRMAN AND CHIEF EXECUTIVE OFFICER.

**CARRIED UNANIMOUSLY**

8.2 REQUEST FOR TENDER – RFT 2021-002 – EMRC PERMANENT FOGO PROCESSING FACILITY (D2022/18185)

**COUNCIL RESOLUTION(S)**

MOVED CR ZANNINO

SECONDED CR DAW

THAT:

1. THE CURRENT TENDER PROCESS FOR A PERMANENT FOGO PROCESSING FACILITY (RFT 2021-002) BE CANCELLED AND THE PREFERRED TENDERER, SACYR ENVIRONMENT AUSTRALIA PTY LTD (SACYR) BE ADVISED ACCORDINGLY.
2. ALL TENDERERS BE NOTIFIED OF THE TENDER CANCELLATION.
3. COUNCIL CONTINUE WITH THE IMPLEMENTATION OF A PERMANENT FOGO PROCESSING FACILITY IN THE NEAR FUTURE.
4. THE REPORT REMAINS CONFIDENTIAL AND BE CERTIFIED BY THE CHAIRMAN AND CEO.

**CARRIED UNANIMOUSLY**

**9 DECLARATION OF CLOSURE OF MEETING**

The Chairman declared the meeting closed at 6:20pm.