

## 6.2.3 Extension of Short-term Recycling Processing Agreement

**Responsible GM:** Peter Benazic  
**Author:** Jacqui Kelly

### Recommendation(s)

That Council delegate authority to the CEO to allow Cardinia Shire to join the extended short-term panel contract managed by Metropolitan Waste and Recourse Recovery Group (including any required and approved extensions) for the processing of kerbside recycling.

### Attachments

1. Previous Council Report August 19 - Approval for Short Term Recycling Processing Contract [6.2.3.1 - 3 pages]
2. Signed Instrument of Approval - BMI N-2-21-10194 - Metro Waste s186 Application [6.2.3.2 - 5 pages]
3. CONFIDENTIAL - MWRRG Letter to Cardinia [6.2.3.3 - 3 pages]

### Executive Summary

In February 2019, Council entered into Contract 2019/2 Services Agreement - Short term Recycling Processing arrangements for Councils with Polytrade Pty Ltd. This has also been allocated the Cardinia Shire Council contract number 20/35. This contract enabled Council to take up recycling processing services when its usual service provider, SKM Recycling, was unable to continue to accept material. This contract was part of a Panel Contract previously tendered by the Metropolitan Waste and Resource and Recovery group (MWRRG) made available to Councils and runs until the 30 June 2021. Council can exit this arrangement with 20 days' notice.

Council has been utilising a Services Agreement whilst it participates in a Collaborative Procurement process underway and managed by the Metropolitan Waste and Resource Recovery Group. It is hoped that this collaborative project will result in more providers and diversity in the sector, and in turn deliver longer term sustainability and better pricing for recycling processing. Unfortunately, this process has been set back while the State Government set their Strategic and Policy objectives through the Recycling Victoria Policy. The preliminary phases of the procurement process have commenced in 2021, with contracts staged in approximately 2022 or 2023, depending on if successful tenderers are established or new providers.

As the current Services Agreement expires 30 June 2021, Council has sought confirmation that we can continue our current services with Polytrade under the joint Services Agreement currently utilised by other Local Governments and that services will be available beyond this date. The MWRRG has advised in writing that Cardinia Shire are welcome to join the contract and that it will be extended on a month-to-month basis from 30 June 2021 to 31 December 2022 to coincide with the availability of new contracts through the Regional collaboration project. This correspondence and agreement has been reviewed and approved by Councils procurement team.

On the 19 May 2021 the Minister for Local Government signed an extended *section 186(5)c of the Local Government Act* allowing Councils party to the above agreement, to remain in contracts with the respectively listed Contracting Party for the provision of recycling collection,

sorting and/or other associated waste processing services from 1 July 2021 to 30 June 2022 (inclusive).

To facilitate this arrangement, Council is required to re-sign its Services Agreement. This new agreement is under the same terms and conditions as the previous agreement, with minimal exceptions being:

- The contract end date will be updated to say “31 December 2021 or such further period by which the parties to the Panel Contract extend that agreement”
- Clarification of the adjustment of the flat rate of \$195 per tonne which was previously accepted to \$200 per tonne
- Clarification of the tonnes that Cardinia Shire usually delivers in a month.

On the 19 May 2021, MWRRG received a request from Polytrade to increase the gate fee under this agreement from \$195 to \$200 per tonne plus GST. This change has been requested to cover the additional cost of disposing of contamination to landfill with the increase in the Landfill Levy that occurs from 1 July 2021. This gate fee increase has been accounted for in the General Garbage Charge and will not impact the charge to residents in the 2021/22 financial year.

It is recommended that CEO sign this document, utilising the resolution of the 19 August 2019.

## **Background**

### **Historical Context**

Problems within the recycling industry arose early in 2018, driven primarily by changes to the environmental policies in China (Green Sword Policy) which restricted their imports of recyclables, and reduced acceptable contamination levels. As a result, our processor, SKM Industries, struggled to appropriately manage their received material, resulting in multiple work orders and warnings from the Victorian Environmental Protection Authority (EPA).

In October 2018, Local Government Victoria (LGV) funded MWRRG to conduct an open tender process to provide short term recycling processing services for its 31 Metropolitan councils and to guarantee that contracts with panel providers were in place by October 2018 for a two-year term (Panel Contract).

Three Respondents tendered a submission to the open tender for the Panel Contract: Polytrade Pty Ltd (Polytrade), SKM Industries Pty Ltd (SKM) and Re.Group Pty Ltd (Re.Group). Polytrade Pty Ltd is currently the only processor being utilised under this panel arrangement (SKM is no longer operating and Re.Group are located in the ACT, approximately 700 km from Melbourne, and are currently only a back up option should Victoria's capacity to process reduce beyond a manageable amount).

In February of 2019 SKM was issued cease works notices by the Victorian EPA for environmental non-compliance regarding the fire and health risks of stockpiled material on their Laverton and Coolaroo sites impacting the service for 11 weeks. During this shut down period Cardinia Shire Council had no option but to send kerbside recycling material to landfill resulting in an increased cost to Council, loss of community confidence and major environmental concerns.

At the end of July 2019 SKM were again unable to meet requirements set by the EPA and ceased accepting material, forcing Council to once again divert recycling to landfill. SKM Corporations have since been placed into liquidation leaving Council, and 20 other Victorian Local Governments, with no long-term recycling processor.

Due to a limited market, In July 2019 the Minister for Local Government signed a *section 186(5)c of the Local Government Act* allowing Victorian Councils to enter into contracts with the respectively listed Contracting Party for the provision of recycling collection, sorting and/or other associated waste processing services from 1 July 2019 to 30 June 2021 (inclusive). This essentially provided a blanket exemption for recycling processing contracts having to go out to market during this period.

### **Current Situation**

The procurement process to find a long-term solution to recycling processing in Victoria is currently underway but has been delayed by several factors including, but not limited to, those associated with the COVID-19 pandemic.

MWRRG completed an Amendment and Restatement Deed (Deed) with Polytrade in 2020 to extend the current arrangement to 31 December 2021 and then month-by-month for a further 12 months if required. Please note that other councils currently utilising this Deed have requested that the month-by-month extension occurs. In addition, MWRRG will seek to extend the agreement beyond 31 December 2022 should participating councils need to do so.

The Deed has also confirmed a fixed price per tonne regardless of the contamination level (excluding gross contamination or hazardous contamination). This is beneficial due to the increase in contamination in kerbside recycling bins after recent global events.

On 21 May 2021 MWRRG received a request from Polytrade to increase the gate fee from \$195 to \$200 per tonne (plus GST) to cover the additional cost of disposing of contamination to landfill with the increase in the Landfill Levy that occurs from 1 July 2021.

Polytrade have provided the following information to justify the increase:

- The Vic landfill levy which increases by \$40.00 per tonne from 1st July 2021. As a government charge beyond the control of MRF operators, Polytrade takes the view that this cost needs to be passed onto the Councils whose waste is incurring the levy.
- The Polytrade MRF operates at a contamination rate of 13%. Therefore, for every tonne of comingled delivered by Councils, Polytrade will incur an additional landfill fee of \$5.20 per tonne as a consequence of the increased landfill levy (ie: 13% x \$40.00 increase).
- The proposal is to increase the gate fee by a flat \$5.00 plus GST per tonne to cover the increased cost. The 13% contamination factor is a realistic figure for municipal kerbside recycling, supported by our statistical data.
- The intention is to vary the gate fee from the 1st July.

Based on current tonnes of recycling sent to processing it is estimated this increase will increase the cost to Cardinia Shire Council by approximately \$50,000 over the course of the 2021/22 financial year. This gate fee increase has been accounted for in the General Garbage Charge and will not impact the charge to residents in the 2021/22 financial year. Although it is an unwelcome development, it is not unexpected given the current market situation in Australia.

Cardinia Shire's current Services Agreement with Polytrade expires 30 June 2021, Council has sought and received confirmation that current services with Polytrade can continue under the joint Services Agreement currently utilised by other Local Governments, that the exemption

under *section 186(5)c of the Local Government Act* still applies and that services will be available beyond this date.

### **Policy Implications**

This work and direction aligns with the general vision of the Waste and Resource Recovery Strategy (2017-2026), and some of its top priorities:

- increased resource recovery with a particular focus on hard waste service, food within garbage waste, additional kerbside programs and e-waste
- continuing to drive value for money within services
- supporting local community to be responsible and accountable for their waste generation and disposal practices

### **Relevance to Council Plan**

#### **3.3 Our Environment - Enhanced natural environment**

3.3.3 Promote practices that result in the reduction per household of the amount of waste going to landfill, particularly food waste.

### **Climate Emergency Consideration**

The appropriate management and diversion of waste from landfill can assist in reducing the human impact on climate change. This contract will assist in several ways:

- continuing to divert waste away from landfill by offering and servicing recycling bins across the Shire.
- continuing to support group procurement opportunities to establish and take advantage of efficiencies in the resource recovery sector.

### **Consultation/Communication**

Updates on recycling industry issues and impacts to Council and ratepayers are made on a regular basis. We liaise regularly with the relevant State Government authorities and our Local Government counterparts on the state of the industry and group procurement arrangements.

The Metropolitan Waste and Resource Recovery Group, who are the owners of the arrangement we seek participation in, have provided updated communication on contract arrangements and hold regular stakeholder meetings to maintain contract requirements.

Legal advice regarding options for Council have been obtained from Maddocks Lawyers who will continue to support any contractual alterations.

### **Financial and Resource Implications**

Recycling and Landfill services are fully funded through the Garbage Charge.

The contracted rate applied to this contract is \$195 per tonne of recycling. This rate is the same as the previous 12 months and as such as been budgeted for in the 2021/22 garbage charge.

Cardinia Shire currently processes over 10,000 tonnes of recyclable material from the kerbside system each year. Current invoicing indicates that processing this material costs approximately \$180,000 per month (~900 tonnes/month). This provides a good indication of the cost of this service for the foreseeable future.

### **Conclusion**

Delays in the State Government led procurement of recycling processing services for Victoria has resulted in a required extension to the current short-term arrangements.

Joining the State-wide panel agreement will bring Cardinia Shire into line with other Local Government areas under the same agreement and guarantee processing capacity and a negotiated price per tonne for the short to medium term until a long term arrangement can be put in place. In order to continue to process recycling effectively, a new arrangement must be entered into. Entering this agreement facilitated by the Metropolitan Waste and Resource Recovery Group (MWRRG) will allow Cardinia Shire to continue to send material to our current operator, Polytrade Pty Ltd, providing a seamless transition.

It is recommended that the Chief Executive Officer be delegated the authority to finalise any further negotiations and execute the relevant contract documentation for contract number 20/35 as required.



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Cardinia

### Short Term Recycling Processing Contract

File reference: INT1961822

Responsible GM: Peter Benazic

Author: Jacqui Kelly

#### Recommendation(s)

That Council delegate authority to the CEO to enter into a short-term contract (up to 2yrs) for the processing of kerbside recycling.

#### Attachments

- Section 186 signed by Minister for Local Government and Minister for Energy, Environment and Climate Change

#### Executive summary

Problems within the recycling industry arose early in 2018, driven primarily by changes to the environmental policies in China which restricted imports of recyclables, and reduced acceptable contamination levels. As a result, our processor, SKM Industries, has struggled to appropriately manage their received material, resulting in multiple work orders and warnings from the Victorian Environmental Protection Authority (EPA).

In February of 2019 SKM was issued cease works notices by the Victorian EPA for environmental non-compliance regarding the fire and health risks of stockpiled material on their Laverton and Coolaroo sites impacting our service for 11 weeks. During this shut down period Cardinia Shire Council had no option but to send our kerbside recyclable material to landfill resulting in an increased cost to Council and major environmental concerns.

At the end of July SKM were again unable to meet requirements set by the EPA and ceased accepting material, forcing Council to divert recycling to landfill. SKM Corporations have since been put into liquidation leaving Council again with no recycling processor.

Options are now available for council to enter into short term contracts with other providers to process portions of collected materials.

#### Background

Cardinia Shire Council entered into a contract with SKM in 2011 to process all recycling collected from kerbside and public place bins. This contract would have expired in September 2020.

On the 1st of January 2018 China's General Administration of Customs implemented the National Sword Policy restricting the import of recycled materials. This policy has severely disrupted recycling markets worldwide with significant impacts in Victoria. Since this policy was enacted our processor, SKM, has struggled to appropriately manage their material, resulting in multiple work orders and warnings from the Victorian Environmental Protection Authority (EPA).

Cardinia Shire officers have been and will continue to work with 61 other Victorian Councils in regional clusters on a group procurement process to invite new players into the recycling processing market in



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# Cardinia

Victoria. This process is being facilitated by the Metropolitan Waste and Resource Recovery Group (MWRRG). Once this contract is established we will have an option to move to a long term solution with our other Local Government Counterparts. It is expected that the availability of these new services are still over twelve to eighteen months away.

On the 27th of June 2019 the Minister for Local Government along with the Minister for Energy, Environment and Climate Change signed a state-wide exemption for all Victorian Councils under Section 186 of the Local Government Act 1989. This exemption allows Councils to extend current recycling collection and/or processing contracts or enter into new contracts up until June 2021 without having to go through a time consuming public tender process.

On Friday 26th July 2019, for the second time in six months, SKM ceased accepting material from all of its Victorian customers, including Cardinia Shire and 31 other councils. This resulted in Cardinia Shire Council sending collected recyclables to landfill. On Friday 2nd August 2019 Council was notified that SKM Corporate was put into liquidation.

An alternative recycling processor, Polytrade, have limited additional capacity (50 tonnes per day) for additional clients and have offered to receive and process a proportion of kerbside recyclables with Cardinia Shire and our neighbour the City of Casey, sharing the available capacity. Available immediately, this agreement may include 13 tonnes per day from Cardinia Shire as an initial amount, and 37 tonnes from City of Casey, based on annual tonnages produced.

Polytrade has indicated an intention to upgrade its Hallam processing facility within 4-6 weeks to a full materials recovery facility (MRF). It has been indicated that this will enable Polytrade to receive the remaining recycling tonnes from both Cardinia Shire Council and City of Casey.

Based on the procurement exemption and SKM no longer receiving Councils kerbside material, it is recommended that Council will be best served by an initial short term agreement with Polytrade ending June 2021.

It is recommended that the Chief executive Officer be delegated authority to finalise and enter in contract negotiations for this short term recycling processing contract.

Alternately Cardinia Shires recycling will continue going to landfill until additional facilities are opened in Victoria through the new joint procurement process.

### Policy implications

This work and direction aligns with the general vision of the Waste and Resource Recovery Strategy (2017-2026), and some of its top priorities:

- increased resource recovery with a particular focus on hard waste service, food within garbage waste, additional kerbside programs and e-waste
- continuing to drive value for money within services
- supporting local community to be responsible and accountable for their waste generation and disposal practices





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### **Relevance to Council Plan**

This work helps deliver the following actions

3 Our Environment

3.3 Enhanced natural environment

3.3.4 Promote practices that result in the reduction per household of the amount of waste going to landfill, particularly food waste.

### **Consultation/communication**

Updates on Recycling industry issues, and its impacts to Council and ratepayers have been made on Councils website and Social Media platforms. Extensive media coverage of this issue also helped explain the wider issue to the community.

Legal advice regarding options for Council have been obtained from Maddocks Lawyers who will continue to support any contractual alterations.

### **Financial and resource implications**

The current proposed processing rate by Polytrade is higher the contractual rate with SKM, however appears to be in line with other rates across the industry with providers maintaining an operational business.

Although this is an additional cost to the previous operation, this is still a saving to Council compared to the alternate landfill rate.

With regards to the annual waste fees, taking into consideration contingencies, paying a rate more typical of the industry trend will see an increase in the expected annual cost of approximately \$440,000 for 2019/20. Based on projected figures, the annual cost relating to this service is approximately \$1.4million.

Given the 2019/20 waste charges have been set, the full waste program will need to be reviewed to identify any program cost savings.

These costs will be monitored throughout the year and variations will be dependent on contamination and tonnages experienced.

The expenditure experienced will be considered when establishing the Waste charges for the 2020/21 financial year.

### **Conclusion**

The Recycling industry issues experienced across the country and internationally, which affected commodity prices, has significantly impacted Councils contractor for recycling processing, SKM, resulting in their liquidation.

In order to resume recycling, a new contract must be entered with an alternate operator. It is recommended that the Chief Executive Officer be delegated the authority to finalise any further arising negotiations and execute the relevant contract documentation as required.



**Local Government Act 1989****APPROVAL OF ARRANGEMENTS UNDER SECTION 186**

1. I, Shaun Leane, Minister for Local Government, approve the arrangements set out in clause 2 of this Instrument for the purposes of section 186(5)(c) of the **Local Government Act 1989**.
2. A council listed in Column 1 of the table in the Schedule to this Instrument may enter into a contract with a provider listed in Column 2 for the services specified in Column 3, provided that:
  - (a) the contract is entered into:
    - (i) on or before 30 June 2021; or
    - (ii) between 1 July 2021 to 31 December 2021, provided that the Council has not yet adopted a Procurement Policy under section 108 of the **Local Government Act 2020**; and
  - (b) the services under the contract are provided between 1 July 2021 and 30 June 2022.

Dated: 19 May 2021

Responsible Minister:



**The Hon Shaun Leane MP**  
Minister for Local Government  
Minister for Suburban Development  
Minister for Veterans

## SCHEDULE

Item	Column 1 Council	Column 2 Provider	Column 3 Services
1	Yarra City Council	Polytrade Pty Ltd (ABN 26 068 669 349)	Processing for commingled recycling
2	Brimbank City Council	Cleanaway Recycling Pty Ltd (ABN 15 001 299 056)	Processing for commingled recycling
3	Casey City Council	Cleanaway Recycling Pty Ltd (ABN 15 001 299 056)	Processing for commingled recycling
4	Hume City Council	Cleanaway Recycling Pty Ltd (ABN 15 001 299 056)	Processing for commingled recycling
5	Kingston City Council	Cleanaway Recycling Pty Ltd (ABN 15 001 299 056)	Processing for commingled recycling
6	Melbourne City Council	Cleanaway Recycling Pty Ltd (ABN 15 001 299 056)	Processing for commingled recycling
7	Moonee Valley City Council	Cleanaway Recycling Pty Ltd (ABN 15 001 299 056)	Processing for commingled recycling
8	Nilumbik Shire Council	Cleanaway Recycling Pty Ltd (ABN 15 001 299 056)	Processing for commingled recycling
9	Banyule City Council	The Trustee for Southern Paper Converters Trust trading as Visy Recycling (ABN 49 984 541 896)	Processing for commingled recycling
10	Melton City Council	The Trustee for Southern Paper Converters Trust trading as Visy Recycling (ABN 49 984 541 896)	Processing for commingled recycling
11	Cardinia Shire Council	Polytrade Pty Ltd (ABN 26 068 669 349)	Processing for commingled recycling
12	Frankston City Council	Polytrade Pty Ltd (ABN 26 068 669 349)	Collection and processing for commingled recycling
13	Glen Eira City Council	Polytrade Pty Ltd (ABN 26 068 669 349)	Processing for commingled recycling

<b>Item</b>	<b>Column 1 Council</b>	<b>Column 2 Provider</b>	<b>Column 3 Services</b>
14	Knox City Council	Polytrade Pty Ltd (ABN 26 068 669 349)	Processing for commingled recycling
15	Hobsons Bay City Council	Australian Paper Recovery Pty Ltd (ABN 98 100 624 842)	Processing for commingled recycling
16	Whittlesea City Council	Cleanaway Recycling Pty Ltd (ABN 15 001 299 056)	Processing for commingled recycling
17	Maroondah City Council	Polytrade Pty Ltd (ABN 26 068 669 349)	Processing for commingled recycling
18	Warrnambool City Council	Wheelie Waste Pty Ltd (ABN 68 058 653 802)	Processing for commingled recycling
19	Borough of Queenscliffe	Cleanaway Recycling Pty Ltd (ABN 15 001 299 056)	Processing for commingled recycling
20	Greater Geelong City Council	Cleanaway Recycling Pty Ltd (ABN 15 001 299 056)	Processing for commingled recycling
21	Surf Coast Shire Council	Cleanaway Recycling Pty Ltd (ABN 15 001 299 056)	Processing for commingled recycling
22	Ararat Rural City Council	Wheelie Waste Pty Ltd (ABN 68 058 653 802)	Collection and processing for commingled recycling and collection for residual waste
23	West Wimmera Shire Council	Greta Group Pty Ltd trading as Wimmera Mallee Waste (ABN 50 088 111 353)	Collection and processing for commingled recycling and collection for residual waste
24	Ballarat City Council	Australian Paper Recovery Pty Ltd (ABN 98 100 624 842)	Processing for commingled recycling
25	Golden Plains Shire Council	Cleanaway Recycling Pty Ltd (ABN 15 001 299 056)	Processing for commingled recycling
26	Hepburn Shire Council	Wheelie Waste Pty Ltd (ABN 68 058 653 802)	Collection and processing for commingled recycling and collection for residual waste
27	Hindmarsh Shire Council	Greta Group Pty Ltd trading as Wimmera Mallee Waste (ABN 50 088 111 353)	Collection and processing for commingled recycling and collection for residual waste

<b>Item</b>	<b>Column 1 Council</b>	<b>Column 2 Provider</b>	<b>Column 3 Services</b>
28	Horsham Rural City Council	Wheelie Waste Pty Ltd (ABN 68 058 653 802)	Processing for commingled recycling
29	Moorabool Shire Council	Cleanaway Recycling Pty Ltd (ABN 15 001 299 056)	Processing for commingled recycling
30	Northern Grampians Shire Council	Wheelie Waste Pty Ltd (ABN 68 058 653 802)	Collection and processing for commingled recycling and collection for residual waste
31	Pyrenees Shire Council	Australian Paper Recovery Pty Ltd (ABN 98 100 624 842)	Collection and processing for commingled recycling and collection for residual waste
32	Campaspe Shire Council	Veolia Environmental Services (Australia) Pty Ltd (ABN 20 051 316 584)	Processing for commingled recycling
33	Greater Shepparton City Council	Veolia Environmental Services (Australia) Pty Ltd (ABN 20 051 316 584)	Processing for commingled recycling
34	Moira Shire Council	Veolia Environmental Services (Australia) Pty Ltd (ABN 20 051 316 584)	Processing for commingled recycling from kerbside collection services.
35	Moira Shire Council	Cleanaway Recycling Pty Ltd (ABN 15 001 299 056)	Processing for commingled recycling from bulk bins and skips (i.e. transfer stations and public camping areas)
36	Benalla Rural City Council	J.J. Richards & Sons Pty Ltd (ABN 40 000 805 425)	Processing for commingled recycling
37	Alpine Shire Council	Cleanaway Recycling Pty Ltd (ABN 15 001 299 056)	Collection and processing for commingled recycling
38	Mansfield Shire Council	Cleanaway Recycling Pty Ltd (ABN 15 001 299 056)	Processing for commingled recycling
39	Wangaratta Rural City Council	J.J. Richards & Sons Pty Ltd (ABN 40 000 805 425)	Processing for commingled recycling
40	Ganawarra Shire Council	Veolia Environmental Services (Australia) Pty Ltd (ABN 20 051 316 584)	Collection and processing for commingled recycling and collection for residual and green waste

<b>Item</b>	<b>Column 1 Council</b>	<b>Column 2 Provider</b>	<b>Column 3 Services</b>
41	Swan Hill Rural City Council	Cleanaway Recycling Pty Ltd (ABN 15 001 299 056)	Collection and processing for commingled recycling and collection for residual waste and green waste and management of landfills