



Ordinary Meeting of Council

SUPPLEMENTARY

AGENDA

MAYORAL MINUTE

22 February 2023

Statement of Ethical Obligations

The Mayor and Councillors are reminded that they remain bound by the Oath/Affirmation of Office made at the start of the council term to undertake their civic duties in the best interests of the people of Queanbeyan-Palerang Regional Council and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the *Local Government Act 1993* or any other Act, to the best of their skill and judgement.

The Mayor and Councillors are also reminded of the requirement for disclosure of conflicts of interest in relation to items listed for consideration on the Agenda or which are considered at this meeting in accordance with the Code of Conduct and Code of Meeting Practice.

On-site Inspections - Nil

7 SUPPLEMENTARY REPORTS

7.1 Hume Materials Recycling Facility Fire and Impacts.....2

LIST OF ATTACHMENTS

Open Attachments

Nil

Closed Attachments

Item 7.1 Hume Materials Recycling Facility Fire and Impacts
Attachment 1 Re.Cycle letter to QPRC (Under Separate Cover)

7.1 Hume Materials Recycling Facility Fire and Impacts (Ref: ; Author:
Hansen/Belcher)

File Reference: 34.1.98

Recommendation

That Council:

1. **Determine, in accordance with Clause 55(3)(i) of the *Local Government Act 1993*, that a satisfactory result would not be achieved by inviting tenders for the services due to the unavailability of competitive tenderers arising from limited recycling capacity in NSW.**
 2. **On the basis that Re.Group agree to 'open book' cost reviews, authorise the General Manager to negotiate a revised monthly contract rate as a variation within the existing contract until such time as a new facility is constructed in the region.**
 3. **Write to the NSW Minister for the Environment and Heritage requesting financial assistance to cover costs arising from this situation.**
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Summary

A catastrophic fire destroyed the Hume Materials Recovery Facility on Boxing Day. Recycling within the ACT will not be possible for several years. This report examines several options to manage the impact of this fire and recommends a course of action to continue diverting recyclables from landfill.

Background

The Hume Materials Recovery Facility (Hume MRF) was destroyed by fire over the Christmas/New Year period. Council, under an existing contract, sends comingled recyclables to the Hume MRF. In 2021/22, Council sent about 4000 tonnes of recyclables to this facility. The annual throughput of the facility is around 60,000 tonnes per annum.

The ACT Government are examining options to expedite delivery of a new recycling facility. Even under an expedited process, it will be a minimum of 18 months before a new facility is constructed. Until a new facility is constructed, processing of recyclables at the Hume MRF or at any other facility within the ACT will not be possible.

Within NSW, capacity at existing MRFs is limited. The *NSW Waste and Sustainable Materials Strategy 2041* identified that a new MRF will be required in regional NSW by 2030. It is assumed that recyclables delivered to the Hume MRF are not factored into this assessment. Without doubt, recycling tonnage generated from within the ACT would not be included. Given the annual tonnages from the Hume MRF, this event has swamped the NSW market and processing in Victoria and South Australia may be required.

To further complicate matters, revenue from material covered by the NSW or ACT Container Deposit Scheme (CDS) would not be claimable in Victoria as they do not yet have a comparable scheme in operation.

Re.Group have claimed 'force majeure' under the existing contract. At this stage, Council staff have reserved their position on this claim. Council staff believe that there is benefit in working

7.1 Hume Materials Recycling Facility Fire and Impacts (Ref: ; Author: Hansen/Belcher) (Continued)

within the existing contract and treating the matter as a variation. Further discussions will be required to finalise this matter.

Report

Irrespective of the contractual position on force majeure, the reality is that Re.Group can no longer operate their facility under the current contract and we must make a decision on how to move forward. There are several options available to Council and these are discussed below.

Option 1 – Enter into a revised arrangement with Re.Group

Re.Group have offered a revised gate fee as detailed in their letter (see attached) up from its current rate of approximately \$115 per tonne (ex GST). Council operations would not change and we would continue to deliver all recyclable material to the Hume MRF. The Re.Group offer includes a monthly price review mechanism to set the price for the following month. No variations would be required to other existing waste collection contracts.

Re.Group would be responsible for managing all aspects of the recycling process after delivery and would distribute recyclables for processing to other facilities they operate in South Australia and Victoria or to third-party processors. All facilities are appropriately licenced.

All CDS revenue would be retained by Re.Group or the third-party processors. In 2021/22, Council received a reimbursement of approximately \$50 per tonne from CDS revenue. Loss of this income will increase the effective gate fee by approximately \$50 per tonne.

Option 1 Implications	
Positives	<ul style="list-style-type: none"> • Community confidence in recycling process and effectiveness maintained • Recycling continues to be processed and not diverted to landfill • Waste diversion targets are not affected • No change to Council operations
Negatives	<ul style="list-style-type: none"> • Significant increase in costs • Significant increase in greenhouse emissions arising from transport • Loss of CDS revenue
Likelihood of successful implementation and operation	<ul style="list-style-type: none"> • High
Risks	<ul style="list-style-type: none"> • Re.Group have proposed a monthly review of prices. Prices may increase to reflect higher processing gate fees charged to Re.Group, lower CDS revenue received by Re.Group or higher transport costs.
Financial impacts	<ul style="list-style-type: none"> • Approximately \$1,000,000 increase in recycling costs per annum until the situation is resolved. • No proposed change to Domestic Waste Management charges or Business Waste Management charges • No proposed change to domestic-source commingled recyclables delivered to Council waste facilities • Increase in costs to be covered by existing waste fund reserves. Deferral and/or cancelling some future works

7.1 Hume Materials Recycling Facility Fire and Impacts (Ref: ; Author: Hansen/Belcher) (Continued)

Option 1 Implications	
	<p>and/or programs will be considered in future waste management strategies to manage the cost impacts.</p> <ul style="list-style-type: none"> Depending on the duration of this situation, future increases in waste management charges cannot be ruled out at this stage.
Is this a realistic proposition?	<ul style="list-style-type: none"> Yes

Option 2 – Undertake a new Request for Tender process

Cancellation of the existing contract is possible, however, specialist legal advice would be required to determine what, if any, costs would be payable by Council or the contractor.

Council would need to undertake a Request for Tender process to secure a new contractor. Any procurement activity at this time would be in direct competition with the efforts of the ACT and Re.Group to manage ACT waste. We would be trying to buy capacity at the same facilities these parties are approaching. Although we may be able to offer a longer contract, the volume of material being offered by the ACT would likely be more attractive.

Recent procurement of recycling processing by nearby Councils has not achieved rates as low as our original contracted rate. It is likely that any offer made would be similar to that currently being offered by Re.Group. Given the capacity issues discussed previously, there is no guarantee that we would receive a complying Tender submission.

While the procurement activity is being undertaken, recyclable material would need to be landfilled as there is no viable stockpiling site. Stockpiling also reduces the value of materials due to degradation by rain and sunlight. Alternatively, Option 1 could be taken up until a new contract is executed.

Option 2 Implications	
Positives	<ul style="list-style-type: none"> Can demonstrate value for money to ratepayers
Negatives	<ul style="list-style-type: none"> Unable to stockpile material until contract executed Material received prior to contract execution would either need to be landfilled or sent to a third-party processor Lack of local processors means that transport costs will be high Potential legal costs arising from contract cancellation
Likelihood of successful implementation and operation	<ul style="list-style-type: none"> Low
Risks	<ul style="list-style-type: none"> Legal action could arise from cancellation Procurement risks Potential for no Tenders to be received Transport costs are unable to be determined until a facility is chosen
Financial impacts	<ul style="list-style-type: none"> Financial impacts are not quantifiable until after a tender process Future processing rates are likely to be higher than existing contract rates
Is this a realistic proposition?	<ul style="list-style-type: none"> No

7.1 Hume Materials Recycling Facility Fire and Impacts (Ref: ; Author: Hansen/Belcher) (Continued)

Option 3 – Set up and operate a local MRF

Cancellation of the existing contract is possible, however, specialist legal advice would be required to determine what, if any, costs would be payable by Council or the contractor.

Council could establish a standalone facility to service our materials and potentially those of other NSW Councils. An appropriate location would need to be found and purchased and the facility would then need to go through development approval and construction. This is likely to take several years.

While the new facility is being set up, recyclable material would need to be landfilled as there is no viable stockpiling site. Stockpiling also reduces the value of materials due to degradation by rain and sunlight. Alternatively, Option 1 could be taken up until a new facility is built.

To operate a facility, Council would need to employ a number of additional staff and also make arrangements to on-sell the separated materials. We would need to enter into agreements with the Container Deposit Scheme Coordinator and comply with conditions imposed by the Coordinator. While not impossible, rapidly establishing a new facility is extremely risky for ratepayers.

Option 3 Implications	
Positives	<ul style="list-style-type: none"> • Council retains control of materials • Recycling continues to be processed and not diverted to landfill • Waste diversion targets are not affected
Negatives	<ul style="list-style-type: none"> • Significant increase in costs • Significant procurement activity required • Would require additional staff and resources • Unable to stockpile material until facility set up • Material received prior to facility establishment would either need to be landfilled or sent to a third-party processor
Likelihood of successful implementation and operation	<ul style="list-style-type: none"> • Extremely low
Risks	<ul style="list-style-type: none"> • Lack of knowledge to maximise sale of separated material • Significant environmental and safety risks to be managed • Significant regulatory requirements to operate a CDS eligible facility • Finding and establishing a suitable site
Financial impacts	<ul style="list-style-type: none"> • Costing a new facility will require specialist expertise. As such, the financial impacts cannot be determined at this time • It is expected that costs to set up and operate a facility would be extremely high and likely require an internal gate fee in excess of the current Re.Group offer • Existing reserves will be insufficient to fund this and changes to waste management charges will be required
Is this a realistic proposition?	<ul style="list-style-type: none"> • No

7.1 Hume Materials Recycling Facility Fire and Impacts (Ref: ; Author: Hansen/Belcher) (Continued)

Option 4 – Divert recyclables to landfill until a new facility is constructed

Although unpalatable, diversion to landfill is a viable option. Doing so would be significantly cheaper than Option 1 but would not be an environmentally responsible decision. Once done, it will require a large effort to gain community trust and collaboration when a new facility is constructed.

Option 4 Implications	
Positives	<ul style="list-style-type: none"> • Significant cost savings due to lower disposal fee for landfilling in comparison to Option 1 • Net decrease in transport fees in comparison to Option 1 • Reduced greenhouse emissions related to transport in comparison to Option 1
Negatives	<ul style="list-style-type: none"> • Catastrophic loss of community faith in recycling • Major effort will be required to regain community trust and cooperation when processing recommences • Reduced waste diversion and greater use of resources • Increased greenhouse emissions related to landfilling • Accelerated consumption of landfill capacity • Loss of CDS revenue • Will require variation to existing waste collection contract
Likelihood of successful implementation and operation	<ul style="list-style-type: none"> • High
Risks	<ul style="list-style-type: none"> • Community pressure to reverse decision • Negative publicity
Financial impacts	<ul style="list-style-type: none"> • Additional costs for transport to landfill • Additional handling costs at Council facilities • Significantly lower gate fee • Net savings of approximately \$800,000 per year in comparison to Option 1
Is this a realistic proposition?	<ul style="list-style-type: none"> • Yes

Recommended Option

Option 2 or 3 are not realistic options given the long lead time to set them up, large unresolved risks and uncertainty about costs. Both options also require Council to determine interim arrangements. This would effectively require choosing between Option 1 and Option 4.

Given the environmental impacts and impacts to community, Option 4 is not supported.

It is recommended that Council endorse Option 1. Although the increase in costs is significant, this option represents the 'least worst' option.

Risk mitigation

A principal concern of staff is the lack of transparency related to costs and profit that may be made at ratepayer expense. It is recommended that an 'open book' review mechanism is included in the variation. This will require Re.Group to demonstrate actual costs incurred and

7.1 Hume Materials Recycling Facility Fire and Impacts (Ref: ; Author: Hansen/Belcher) (Continued)

ensure that they are “sharing the pain”. This could also explore potential reimbursement of costs in the event that Re.Group receive substantial insurance payouts that cover their losses.

Re.Group have committed to the ‘good faith’ provisions of the existing contract and no inference of wrong-doing by Re.Group should be made about dealings to date.

Further actions

This event has exposed the fragility of the waste sector and the impacts of market consolidation. As a result of factors well beyond the control of ratepayers and Council, our ratepayers will be required to fund significantly higher recycling costs with no improved recycling outcome. It is recommended that the Mayor write to the NSW Minister for Environment and Heritage seeking emergency funding to cover these additional costs.

Risk/Policy/Legislation Considerations

A request of this magnitude would usually require re-tendering to ensure that Council is receiving value for money. Due to the extenuating circumstances and the matters outlined above, it is highly unlikely that Council will receive a satisfactory outcome if it were to re-tender these services. Under clause 55(3)(i), Council may resolve to exempt itself from going to tender for a contract where, because of extenuating circumstances, or the unavailability of competitive or reliable tenderers, a satisfactory result would not be achieved by inviting tenders. It is the position of Council staff that it is highly likely that inviting tenders would not achieve a satisfactory result.

Financial, Budget and Resource Implications

Costs arising from Option 1 can be funded from existing waste management reserves, however, some future programs will need to be delayed or abandoned and these will be assessed once the impacts of this event become clearer.

No changes, beyond the normal annual increases laid out in the QPRC Waste Strategy, to existing waste management charges are proposed at this time. Any changes to waste management charges or waste management activities will be assessed as part of the next waste management strategy.

Links to QPRC/Regional Strategic Plans

The recommendations contained in this report are consistent with Strategic Objective 4.2 of the QPRC Community Strategic Plan 2042.

Conclusion

The current position is difficult. At a time of rapidly escalating costs for ratepayers, Council has suffered a catastrophic event that has effectively wiped out regional processing and frustrated its existing recycling processing contract. The event has flooded the existing processing market at a time of limited capacity and has flow on effects for the national recycling market.

Of the four options presented, Option 1 is recommended as the ‘least worst’. It is recommended that the General Manager be authorised to agree suitable arrangements with Re.Group on ‘open book’ pricing reviews and further to agree the monthly contract price within the existing contractual arrangements.

Attachments

Attachment 1 Re.Cycle letter to QPRC (*Under Separate Cover*) - **CONFIDENTIAL**