

---

**From:** Stephen Fitzpatrick [REDACTED]  
**Sent:** Monday, 9 May 2022 6:35 PM  
**To:** Kolacz, Miriam  
**Cc:** Black, Susie; Cameron, Lucy; Hill, Alison; Ng, Andrew; Staltari, Danielle  
**Subject:** RE: ACCC - request for further information [SEC=OFFICIAL] [ACCC-ACCCANDAER.FID3007910]

Hi Miriam

Our response to the further queries is shown in **red** below:

Two further queries have arisen in relation to the EMRC & Ors application, which we would request that the Applicants please respond to by **Monday 9 May 2022**.

We refer to the following statement in the **Applicants' response** to our information request (dated 14 April 2022): *'Consistent branding of bins and collection vehicles will mean that the residents in these three Council areas will get the same messaging about the different bin systems, recycling, resource recovery and how to do the right thing that will drive higher quality source separation of wastes and lower contamination in the different bins, and deliver environmental benefits from the reduction in waste going to landfill. At present, there are three different collection contractors, three lots of branding and potentially three lots of waste education messaging.'*

Please explain what you mean by 'consistent branding of bins', including: how are bins currently 'branded', how would they be branded 'consistently' under the EMRC's service, and how would this result in the benefits claimed

**By consistent branding we mean that the bins will have consistent labelling to inform and encourage residents to dispose of their waste correctly and the collection vehicles will have the same livery and messages related to waste disposal, recycling and resource recovery, EMRC contact information etc. This provides a consistent message to residents, with one message and certainty as to what is required from the residents in the disposal of their waste, and not potentially a disparate mix of messages from three different waste collection contractors. There are differences in bin branding and bin content allowed between the 3 councils now as they have 3 different contractors, as well as considerable variation in bulk waste collection and street litter information. For example, the three Participant Councils have different messaging for their residents in terms of what is allowed in the yellow top recycling bin which is a result of the three contractors using different Materials Recycling Facilities. Under the proposed Conduct, the EMRC will contract with one of the Materials Recycling facilities resulting in consistent messaging to households about their disposal behaviour which is important in educating residents. Standardising the branding for all three council areas will assist with reducing confusion around what materials can be put in each of their bins or in their bulk waste collection and play an important role in minimising contamination that reduces the value of recoverable resources and results in recyclables or organics being landfilled.**

1. We refer to the following statement in the **SUEZ submission** (dated 19 November 2021): *'If EMRC wishes to compete in the municipal waste collections market, SUEZ considers it should follow the same competitive tendering process as all other competitors in the market. This would require public notice of a "major trading undertaking" under the Local Government Act 1995 (WA) and Local*

*Government (Functions and General) Regulations 1996 (WA), then complying with the procurement processes set out in Part 4 of the Regulations, by:*

- *tendering on local government waste collection services as they are released to the market; or*
- *applying to be pre-qualified on the Western Australian Local Government (WALGA) Preferred Supplier Panel PSP707 for waste collection services – which is how EMRC operates for waste disposal services.'*

In light of this statement, could you please provide a response to the following questions:

- a) Are the Participating Councils exempt from the requirement under section 3.57 of the *Local Government Act 1995 (WA)* to invite tenders for the provision of goods or services in relation to the Regional Waste Collection Service ('RWCS')? If so, please explain the basis for the exemption. **The relevant exemption from tendering is provided under the Local Government (Functions and General) Regulations 1996, regulation 11 (2) (e) which states:**
- (2) **Tenders do not have to be publicly invited according to the requirements of this Division if —Under sub-regulation (e);**
  - (e) **the goods or services are to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government.**
- b) Do the Applicants consider the RWCS to be a “major trading undertaking” under section 3.59 of the *Local Government Act 1995 (WA)*? If so, please confirm whether the Applicants have already undertaken or intend to undertake the steps set out in section 3.59 in relation to developing and consulting on a business plan for the RWCS? If not, please explain that basis for this position. **The Applicants do consider the RWCS to be a “major trading undertaking” under section 3.59 of the Local Government Act 1995 (WA) and we have prepared to take the appropriate steps set out in section 3.59 of the Act.**

Regards

Steve



**Stephen Fitzpatrick | Waste & Resources Recovery Specialist**

Eastern Metropolitan Regional Council  
226 Great Eastern Highway, Ascot WA 6104  
PO Box 234, Belmont WA 6984

EMRC: 08 9424 2222 | Direct: [REDACTED] | Mobile: [REDACTED]

[www.emrc.org.au](http://www.emrc.org.au) | [www.perthseasternregion.com.au](http://www.perthseasternregion.com.au) | [www.rgang.org.au](http://www.rgang.org.au)

[Subscribe to EMRC's e-newsletter](#)

Please consider the environment before printing this email

As part of our commitment to the environment, resource efficiency and cost reduction, the EMRC is progressively eliminating use of paper in favour of electronic document distribution

