

## 14.1 EAST WASTE – APPOINTMENT OF INDEPENDENT CHAIRPERSON

---

**REPORT AUTHOR:** General Manager, Governance & Community Affairs  
**GENERAL MANAGER:** Chief Executive Officer  
**CONTACT NUMBER:** 83664549  
**FILE REFERENCE:** S/00045  
**ATTACHMENTS:** A - B

---

### PURPOSE OF REPORT

The purpose of this report is to seek the Council's approval of the appointment of the Independent Chairperson of the Board of the Eastern Waste Management Authority Inc (East Waste) (The Board).

### BACKGROUND

As Elected Members are aware, East Waste is a Regional Subsidiary established under the provisions of Section 43 of the *Local Government Act 1999*.

The Constituent (Member) Councils of East Waste are the Cities of Burnside, Norwood Payneham & St Peters, Prospect, Mitcham, the Campbelltown City Council, Adelaide Hills Council and the Town of Walkerville.

East Waste has a Charter (or Constitution) which requires the establishment of a Board which has an Independent Chairperson.

To this end, pursuant to Clause 21 of the East Waste Charter, the Board is required to have an Independent Person (who shall be the Chairperson), who is appointed jointly by the Absolute Majority of the Constituent Councils for a two (2) year term. The Independent Chairperson cannot be an officer, employee or Elected Member of a Constituent Council, but a person who has expertise in:

- corporate financial management; and/or
- general management; and/or
- waste management; and/or
- transport fleet management; and/or
- public sector governance; and/or
- marketing; and/or
- environmental management.

As Elected Members may recall, Mr Brian Cunningham was appointed as the Independent Chairperson in 2013 and served in the position until 31 August 2019.

Pursuant to Clause 21 of the Charter, Mr Cunningham was eligible for re-appointment as the Independent Chairperson and to this end, sought to be re-appointed for a further two (2) year term.

In this respect, at its meeting held on 5 August 2019, the Council considered a report regarding the re-appointment of Mr Cunningham. Following consideration of the report, the Council resolved not to approve the re-appointment of Mr Cunningham.

As an Absolute Majority of the Constituent Councils did not approve Mr Cunningham's re-appointment, his term as Independent Chairperson concluded on 31 August 2019.

As such, at its meeting held on 26 September 2019, the East Waste Board resolved to commence a recruitment process to identify and select a suitable candidate to refer to the Councils for approval to be appointed as the Independent Chairperson.

To progress the recruitment process, the Board established a Sub-Committee to assist the Board and appointed Stillwell Management Consultants to undertake the recruitment process.

The Sub-Committee comprised of the Chief Executive Officer, Campbelltown City Council, Mr Paul Di Iulio, Chief Executive Officer, City of Norwood Payneham & St Peters, Mr Mario Barone PSM and Councillor Robert Ashby AM, Town of Walkerville and the General Manager of East Waste, Mr Rob Gregory.

A total of 32 candidates applied for the position. Four (4) candidates were shortlisted for interview by the Sub-Committee. The four (4) candidates who were interviewed were:

- Ms Carolyn Mitchell;
- Mr David Whitbread;
- Mr Fraser Bell; and
- Mr Geoff Vogt.

Following the interview process, the Sub-Committee unanimously resolved to recommend to the East Waste Board that Mr Fraser Bell be endorsed as the preferred candidate.

The Board consequently considered this recommendation at its meeting held on 28 November 2019. This recommendation was endorsed by the Board.

The appointment of the preferred candidate has now been referred to the Constituent Councils for consideration and approval.

A copy of a letter dated 3 December 2019, from East Waste which sets out the process and seeks the approval of the appointment of Mr Fraser Bell as the Independent Chairperson of East Waste, is contained in **Attachment A**.

## **FINANCIAL AND BUDGET IMPLICATIONS**

There are no direct financial and budget implications resulting from the appointment of Mr Fraser Bell as the Independent Chairperson of East Waste.

It should be noted that the Board has resolved to retain the current remuneration from the Independent Chairperson at \$22,000 per annum.

## **DISCUSSION**

Mr Bell is a longstanding solicitor with significant experience in commercial law.

Mr Bell has provided legal advice to East Waste over the last 18 months, regarding the SKM contract and new recycling tender process, which resulted from the China Sword issue and the consequent collapse of the recycling industry in Australia.

Through this process, Mr Bell obtained an insight into the operations and governance of East Waste and in turn, the Board was provided with an opportunity of Mr Bell's strategic, commercial and contractual acumen and operating style.

As a Commercial Lawyer, there is a potential for conflicts of interest to arise. This issue has been discussed with Mr Bell and he has advised that he is acutely aware of the need to avoid any conflicts of interest (as would apply to any Independent Chairperson from the private sector) and has advised that he will not compromise his position as Independent Chairperson by taking on any legal work which would create a conflict of interest. In addition, and separate to conflicts of interest provisions from the *Local Government Act 1999*, Mr Bell has advised that he has strict requirements as part of his professional standards and discipline, which provide for additional protections and assurances in respect to any work which Mr Bell may take on and which may conflict with his position as Independent Chairperson of East Waste. The Board is satisfied with this.

The Sub-Committee and the Board concluded that Mr Bell's style and experience, together with his significant experience, would serve East Waste and in turn its Constituent Councils well. In this respect, Mr Bell would continue to preside over the Board to the standard required and which has been in place over the last six (6) years.

In addition, the Board also recognised that Mr Bell's significant knowledge of the South Australian waste management industry and Local Government, would offer significant benefits.

Subject to the responses which are received from the Constituent Councils, the Board is scheduled to conclude Mr Bell's appointment in early February 2020. A copy of Mr Bell's resume is contained in **Attachment B**.

#### **RECOMMENDATION 1**

That pursuant to Section 90(2) and (3) of the Local Government Act, 1999 the Council orders that the public, with the exception of the Council staff present, be excluded from the meeting on the basis that the Council will receive, discuss and consider:

- (a) information, the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

#### **RECOMMENDATION 2**

That the Council resolves to approve the appointment of Mr Fraser Bell as the Independent Chairperson of the Board of Eastern Waste Management Authority Inc. for a term of two (2) years, commencing from the East Waste Board's formal date of appointment.

#### **RECOMMENDATION 3**

Under Section 91(7) and (9) of the Local Government Act 1999, the Council orders that the report and discussion be kept confidential for a period not exceeding five (5) years and that this order be reviewed every twelve (12) months.

Under Section 91(7) and (9) of the Local Government Act 1999, the Council orders that the minutes be kept confidential until the announcement in respect to the position of Independent Chairperson of the Board of the Eastern Waste Management Authority Inc. is made.

---

Cr Moore left the meeting at 8.51pm.

*Cr Knoblauch moved:*

*That pursuant to Section 90(2) and (3) of the Local Government Act, 1999 the Council orders that the public, with the exception of the Council staff present [Chief Executive Officer, General Manager, Governance & Community Affairs, Acting General Manager, Urban Planning & Environment, General Manager, Urban Services, General Manager, Corporate Services and Administration Officer, Governance & Community Affairs], be excluded from the meeting on the basis that the Council will receive, discuss and consider:*

- (a) information, the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);*

*and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.*

*Seconded by Cr Patterson and carried.*

*Cr Dottore moved:*

*That the Council resolves to approve the appointment of Mr Fraser Bell as the Independent Chairperson of the Board of Eastern Waste Management Authority Inc. for a term of two (2) years, commencing from the East Waste Board's formal date of appointment.*

*Seconded by Cr Knoblauch and carried.*

Cr Moore returned to the meeting at 8.53pm.

*Cr Knoblauch moved:*

*Under Section 91(7) and (9) of the Local Government Act 1999, the Council orders that the report and discussion be kept confidential for a period not exceeding five (5) years and that this order be reviewed every twelve (12) months.*

*Under Section 91(7) and (9) of the Local Government Act 1999, the Council orders that the minutes be kept confidential until the announcement in respect to the position of Independent Chairperson of the Board of the Eastern Waste Management Authority Inc. is made.*

*Seconded by Cr Stock and carried.*

Released

# Attachment A

**Confidential**

## **East Waste Appointment of Independent Chairperson**

Released

---

City of Norwood Payneham & St Peters  
175 The Parade, Norwood SA 5067

Telephone 8366 4555  
Facsimile 8332 6338  
Email [townhall@npsp.sa.gov.au](mailto:townhall@npsp.sa.gov.au)  
Website [www.npsp.sa.gov.au](http://www.npsp.sa.gov.au)



**City of  
Norwood  
Payneham  
& St Peters**



CONFIDENTIAL

3 December 2019

Mr Mario Barone  
 Chief Executive Officer  
 City of Norwood, Payneham & St Peters  
 PO Box 204  
 KENT TOWN SA 5071

Dear Mario,

**RE: Appointment of Independent Chairperson**

The East Waste Chair is an independent role and is appointed for a period of two years as per the requirements of the East Waste Charter.

*21.1.2 one independent person(who shall be the Chair) appointed jointly by Absolute Majority of the Constituent Councils for a two year term (and at the expiration of the term is eligible for re-appointment) who is not an officer, employee or elected member of a Constituent Council, but who has expertise in:*

- (a) corporate financial management and/or*
- (b) general management and/or*
- (c) waste management and/or*
- (d) transport fleet management and/or*
- (e) public sector governance*
- (f) marketing and/or*
- (g) economics and/or*
- (h) environmental management.*

Mr Brian Cunningham has most recently held the role since 2013 through until 31 August 2019. Following the conclusion of Mr Cunningham's appointment, the East Waste Board commenced a process to identify a suitable applicant to undertake the role for at least the next two years. From a pool of 32 applicants, four were interviewed and ultimately led to the Board at the 28 November 2019 meeting, resolving in confidence:

***Moved Cr Ashby that the Board:***

- 1. Supports and endorses the recommendation of the East Waste Independent Chairperson Appointment Committee, to appoint Mr Fraser Bell to the role of East Waste Independent Chairperson in accordance with the requirements outlined in the East Waste Charter.*
- 2. Instructs the General Manager to formally write to each Member Council seeking their endorsement in appointing Mr Fraser Bell to the role of East Waste Independent Chairperson.*
- 3. Reconfirms the remuneration for the role is to remain at \$22,000 per annum.*

***Seconded Mr Barone***

***Carried***



As you will recall, Mr Bell has provided legal advice to East Waste over the past 18 months through navigating the SKM contract and recycling tender process, which has provided him with an insight into East Waste's operational framework and also provided the Board opportunity to appreciate his strategic and waste skills, knowledge and operating style. This relationship has provided mutual interest and confidence.

As a commercial practicing lawyer, there is potential for Conflicts of Interest (Col) to arise. However Mr Bell advised the Independent Chairperson Appointment Committee that should he be successful, he is acutely aware of the need to avoid Cols and as such he will not compromise his role at East Waste by taking on any work that would create a conflict (real or perceived). Separate to the Local Government provisions, Mr Bell has strict requirements as part of his professional standards and discipline, which will provide additional protections and assurances. The Board were satisfied and comfortable with this.

Through the recruitment process, the Committee, along with the Board, highly regarded Mr Bell and felt that with his style and experience, he could continue the harmonious nature at board-level that East Waste has become accustomed to and be successful in the role. Furthermore, the Board also recognised that Mr Bell's knowledge of the South Australian waste industry and local government sectors would offer the greatest value and be able to advance East Waste from the strong position established under Mr Brian Cunningham's tenure. Consequently, Mr Bell was endorsed as the East Waste's Board preferred Independent Chairperson.

***Further to this and consistent with the requirements of Clause 21.1.2 of the East Waste Charter, I am now seeking the approval of the City of Norwood, Payneham & St Peters to appoint Mr Fraser Bell as Independent Chairperson of East Waste for a two (2) year term, commencing in 2020.***

I recognise that due to the timing of meetings around Christmas, the opportunity to present this to your Council is limited, but I would appreciate this item being presented as early as possible so we are able to engage Mr Bell (pending Member Council support and final Board ratification) in late January or early February, in time for Board requirements in February 2020. As the matter involves disclosure of the personal affairs of a living person we request that the report presented to your Council is done so in confidence and the report and minutes remain confidential until an official announcement is made by East Waste.

Please do not hesitate to contact me on mobile, 0417 466 929, or email [robg@eastwaste.com](mailto:robg@eastwaste.com), if you have any questions.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Rob Gregory'.

**ROB GREGORY**  
**GENERAL MANAGER**

# Attachment B

**Confidential**

## **East Waste Appointment of Independent Chairperson**

Released

---

City of Norwood Payneham & St Peters  
175 The Parade, Norwood SA 5067

Telephone 8366 4555  
Facsimile 8332 6338  
Email [townhall@npsp.sa.gov.au](mailto:townhall@npsp.sa.gov.au)  
Website [www.npsp.sa.gov.au](http://www.npsp.sa.gov.au)



**City of  
Norwood  
Payneham  
& St Peters**



# THOMSON GEER

LAWYERS

ADVICE | TRANSACTIONS | DISPUTES

Domestic & Cross Border



## Fraser Bell

Partner

BEcon/LLB(Hons)

+61 8 8236 1225

+61 419 816 464

fbell@tglaw.com.au

### Areas of expertise

- Waste Management
- Pollution Law
- Climate Change Law
- EPA Prosecutions
- Renewable Energy Law
- Planning and Development

Fraser leads the group focusing on all aspects of environmental and planning law including waste management, climate change, and contaminated land.

He has extensive experience in the industrial and commercial property industry and regularly advises on environmental aspects of property acquisitions and disposals. He also advises on major development projects, construction financing, management of property portfolios, and leasing.

Fraser focuses on providing pragmatic, solution-oriented, commercial advice on all transactions with an environmental aspect. He delivers commercially based outcomes to the environmental challenges his clients face in transactional work, Environment Protection Authority (EPA) compliance, and obtaining development approvals.

Fraser invests his time to gain an understanding of his client's business and industry sector so he can 'graft' environmental solutions onto existing business frameworks.

Fraser has advised members of the waste industry for over 25 years. He is a former President of the SA Branch of the WMAA (now WMRR) and a former Board member of the national body. Fraser regularly advises companies and local councils in connection with waste management issues. He was the Chair of the organising committee of the WMRR State Conference in 2018.

Fraser advises on complex soil contamination issues in the planning and development setting.

### Recognition and recommendations

- Fraser has been recognised in *Doyle's Guide* (2015 – 2018) as a recommended lawyer in the South Australian planning and environment legal market.
- Fraser has also been recognised by his peers as one of the *Best Lawyers in Australia* in the area of Agriculture & Rural Affairs (2018 & 2019).

[www.tglaw.com.au](http://www.tglaw.com.au)

Thomson Geer

@ThomsonGeer

### Relevant experience

- Acting for 7 local councils in relation to the 'China Sword' issue, the ban on sending paper and plastic to China which is forcing up recycling costs. This is a national problem with Councils reaching out to State Governments for funding to cover the gap and provide a solution.
- Advising local government subsidiaries in the waste sector on contractual issues including EPA compliance matters.
- Advising the property and environmental departments of a multinational food and beverage company on a national manufacturing portfolio.
- Advising the receivers and managers of a manufacturing facility on a negotiation of a 10 year EPA licence (the first to be granted by the regulator).
- Representing wine labels and grape growers in a Parliamentary enquiry into the management of regulated groundwater resources and the impact of plantation timber on resource management issues.
- Advising New Zealand wind farm companies on the regulatory regimes for the establishment of wind farms in Australia.
- Advising the current owners of historically contaminated utility sites in SA, Victoria, NSW and Queensland concerning risk management strategies for future land development options.
- Advising waste management and waste transfer companies regarding significant commercial issues relating to disposal, recycling and "take or pay" strategies.
- Advising a national energy company on innovative waste and the strategy for developing fuel replacement options for a major industrial facility.
- Acting for SA Water in connection with EPA prosecutions.
- Advising local councils on procurement processes relating to waste management contracts for 'green' and 'yellow' bins.

### Memberships and Associations

- Chair of Bellberry Ltd
- Member of the South Australian Wine Industry Association Environment Committee (Chair for 5 years)
- Member of the Property Council of Australia Sustainable Development Committee (SA Branch)
- Executive Committee Member of the SA Branch of the Waste Management Association of Australia (now WMRR) (President 2002 – 2003)
- Chair – Adelaide Unicare
- Member – AICD Council SA/NT
- Former Board Member of Jeffries Garden Soils (4 years)
- Former Board Member of Ballast Stone Estate Wines (4 years)