



23 July 2019

General Manager, Adjudication Branch  
Australian Competition and Consumer Commission  
23 Marcus Clarke Street  
CANBERRA ACT 2601

**Partner** Dan Pearce  
**Direct Line** (03) 9321 9841  
**Email** dan.pearce@holdingredlich.com  
**Our Ref** 18480010

**By email** adjudication@accc.gov.au

Dear Sirs

**Metropolitan Waste and Resource Recovery Group – Application for Authorisation for Advanced Waste Processing**

We act on behalf of Metropolitan Waste and Resource Recovery Group (**MWRRG**), a Victorian state statutory body established under section 50 of the *Environment Protection Act 1970* (Vic).

MWRRG is responsible for coordinating and facilitating the delivery of waste management and resource recovery across metropolitan Melbourne. In this capacity, MWRRG works with 31 councils across metropolitan Melbourne to minimise waste, maximise resource recovery and reduce litter.

MWRRG is working with councils in the south east of metropolitan Melbourne to collaboratively identify and potentially source Advanced Waste Processing services on a sub-regional scale.

On behalf of itself and the councils listed in the Application, MWRRG is applying for authorisation under subsection 88(1) of the *Competition and Consumer Act 2010* (Cth) (**Act**) in respect of conduct which may otherwise attract the provisions of the Act relating to:

- (a) cartel conduct (Division 1 of Part IV of the Act);
- (b) contracts, arrangements or understanding that restrict dealings or affect competition (section 45(1)(a) and (b) of the Act); and
- (c) concerted practices (section 45(1)(c) of the Act).

In support of this application, we enclose and refer you to:

1. public and confidential versions of MWRRG's Application for Authority (**the Application**);
2. a signed declaration on behalf of MWRRG; and
3. confirmation of the electronic funds transfer made on 22 July 2019 for payment of the application fee, being an amount reduced to \$2,500 in accordance with the approval from the ACCC dated 2 July 2019.

**RESTRICTION OF PUBLICATION OF PART CLAIMED****Request to exclude confidential information from the public register**

We request the details supporting the proposed term of authorisation being sought (on page 4) be excluded from the public register. We make this request on the basis that the information with respect to proposed facilities and investments in technologies for waste in Victoria is commercially sensitive information and may affect the position of the Applicant in the market. This information may also adversely affect any present and future commercial dealings with potential suppliers.

We request the details of proposed bidders (on page 10 and at Annexure B) be excluded from the public register. We make this request on the basis that as the information is commercially sensitive, it may adversely affect the position of both the potential bidders and the Applicant in the market. This information is also considered to be commercially strategic and its interrelationship with the procurement process may have detrimental impact to any present and future commercial dealings with potential suppliers.

We request that the form of the Management Deed (at Annexure C) be excluded from the public register as it contains confidential information, some of which is not directly related to the Application and all of which is commercially sensitive.

We also request that certain details regarding existing landfill arrangements (detailed in this letter below) be redacted by reason of the commercially sensitive nature of this information. This information should be excluded from the public register as publication of the information may adversely affect the landfill service providers' position within the market. This information has been highlighted below.

In accordance with the 'Guide for Excluding Confidential Information from the Public Register for Authorisation (Merger and Non-Merger) and Notification Processes', the words 'Restriction of Publication Claimed' appears in red at the top of the pages over which a restriction of publication is requested. The confidential sections have been highlighted on these pages.

**Interim Authorisation**

MWRRG seeks Interim Authorisation in order to approach the market place and seek Expressions of Interest as the first step of the tender process, with a view to then identifying appropriate suppliers and seeking Outline Solutions and commencing the process of preparing contractual documentation. No documentation would be made public before an Interim Authorisation was in place.

This request is made given the time that is likely to be required to progress the overall tender process; MWRRG considers it necessary to commence the procurement process as soon as possible. Delay to the commencement of this process may compromise the procurement being undertaken in a timely manner. In particular, a number of councils' existing waste and recycling contracts (including for landfill services) are due to expire within 24 months, and it is important that the Request for EOIs is released to the marketplace to allow time to proceed to subsequent stages and not disrupt the continuous provision of waste services to councils' residents.

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No supplier will be selected, or contract entered into, until a formal determination is provided by the Commission, and the request for Interim Authorisation is only to allow the first stage to be undertaken

in accordance with the planned timeframes for the overall project. If you require further information with respect to this application, please contact Dan Pearce or Stephen Natoli on (03) 9321 9841.

Yours faithfully



**Holding Redlich**



1. 2019 年 12 月 31 日，甲公司“应收账款”科目余额为 100 万元，其中 90 万元为应收乙公司的账款，10 万元为应收丙公司的账款。2020 年 1 月 1 日，甲公司根据合同约定，向乙公司收取货款 50 万元，向丙公司收取货款 10 万元。2020 年 1 月 1 日，甲公司根据合同约定，向乙公司收取货款 50 万元，向丙公司收取货款 10 万元。2020 年 1 月 1 日，甲公司根据合同约定，向乙公司收取货款 50 万元，向丙公司收取货款 10 万元。



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*Janne Peltti*

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CONFIDENTIAL

19 July 2019

## **Metropolitan Waste and Resource Recovery Group**

### **Application for Authorisation – Advanced Waste Processing Services for South East Melbourne Metropolitan Region**

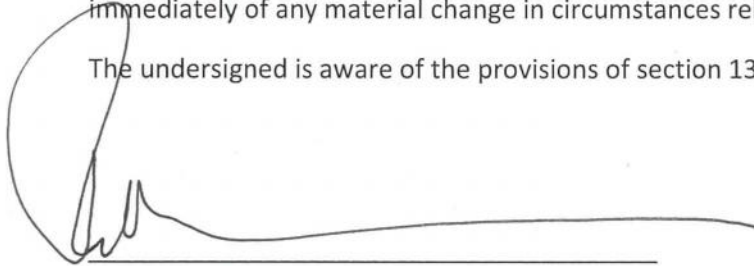
PUBLIC VERSION

### Declaration by Applicant

The undersigned declares that, to the best of his knowledge and belief, the information given in in this Submission is true, correct and complete, that complete copies of documents required have been supplied, that all estimates are identified as such and are his best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertakes to advise the Australian Competition and Consumer Commission immediately of any material change in circumstances relating to the Application.

The undersigned is aware of the provisions of section 137.1 and 149.1 of the *Criminal Code* (Cth)

A handwritten signature in dark ink, appearing to be 'Rob Millard', written over a horizontal line.

Signature of authorised person

Rob Millard

CEO, Metropolitan Waste and Resource Recovery Group

This 19<sup>th</sup> day of July 2019

## 1. Applicant

### 1.1 Name of the Applicant

This application is made by Metropolitan Waste and Resource Recovery Group (**MWRRG**) on behalf of itself and the following councils:

- (a) **City of Bayside**  
76 Royal Avenue  
Sandringham VIC 3191
- (b) **City of Boroondara**  
8 Inglesby Road  
Camberwell VIC 3124
- (c) **Cardinia Shire**  
20 Siding Avenue  
Officer VIC 3809
- (d) **City of Casey**  
Bunjil Place  
2 Patrick Northeast Drive  
Narre Warren VIC 3805
- (e) **City of Frankston**  
30 Davey Street  
Frankston VIC 3199
- (f) **City of Glen Eira**  
Corner Glen Eira and Hawthorn Roads  
Caulfield VIC 3162
- (g) **City of Greater Dandenong**  
Level 2, 225 Lonsdale Street  
Dandenong VIC 3175
- (h) **City of Knox**  
511 Burwood Highway  
Wantirna South VIC 3152
- (i) **City of Manningham**  
699 Doncaster Road  
Doncaster VIC 3108
- (j) **City of Monash**  
293 Springvale Road  
Glen Waverly VIC 3150
- (k) **Mornington Peninsula Shire**  
90 Besgrove Street  
Rosebud VIC 3939
- (l) **City of Whitehorse**  
379-397 Whitehorse Road  
Nunawading VIC 3131

- (m) **Shire of Yarra Ranges**  
15 Anderson Street  
Lilydale VIC 3140
- (n) **City of Stonnington**  
311 Glenferrie Road  
Malvern VIC 3144
- (o) **City of Kingston**  
1230 Nepean Highway  
Cheltenham VIC 3192
- (p) **City of Maroondah**  
304A Maroondah Highway  
Ringwood VIC 3134

(collectively, the **Councils**).

## 1.2 Address in Australia for service of documents on the Applicant

Holding Redlich  
Level 8, 555 Bourke Street  
Melbourne, Victoria 3000

Attention: Dan Pearce  
Partner  
Tel: (03) 9321 9841

[dan.pearce@holdingredlich.com](mailto:dan.pearce@holdingredlich.com)

## 2. Proposed Conduct

### 2.1 Description

Due to the increasing population in Melbourne, and the substantial projected increase in associated waste, MWRRG and the Councils are seeking to implement measures to recover resources from residual municipal waste through advanced waste processing, and to reduce the reliance on new landfills and preserve the use of existing landfills for managing waste that cannot be recycled or otherwise recovered.

It is proposed that MWRRG will investigate and potentially procure the provision of advanced waste processing services (the **Services**), which may include the construction and operation of one or more facilities for the recovery of value from residual waste through sorting, combustion, gasification or other processing technologies (**Facility**).

The purpose of the Services is to recover resources from, and to decrease the quantity of, waste that would otherwise be sent to landfill.

In particular, authorisation is sought for:

- (a) MWRRG, on behalf of the Councils, to conduct a collaborative competitive tender process for the Services, to evaluate the responses in collaboration with the Councils, and to negotiate on behalf of the Councils the contractual framework;



- (b) a Special Purpose Vehicle (**SPV**) established by the Councils (as detailed in section 4.5) to enter into contract(s) for the Services with the successful supplier(s);
  - (c) ongoing administration and management of the resulting contracts to be undertaken by the SPV
- (the **Proposed Conduct**).

## 2.2 Relevant provisions of the Act

Authorisation is sought to:

- (a) make a contract or arrangement, or arrive at an understanding, a provision of which would be, or might be, a cartel provision within the meaning of Division 1 of Part IV of the *Competition and Consumer Act 2010 (Cth)* (the **Act**);
- (b) give effect to a provision of a contract, arrangement or understanding that is, or may be, a cartel provision within the meaning of Division 1 of Part IV of the Act;
- (c) make a contract or arrangement, or arrive at an understanding, where a provision of the proposed contract, arrangement or understanding would or might restrict dealings or affect competition within the meaning of section 45(1)(a) and (b) of the Act;
- (d) give effect to a provision of a contract, arrangement or understanding where the provision would or might restrict dealings or affect competition within the meaning of section 45 of the Act; and
- (e) engage in concerted practices which would or might restrict dealings or affect competition within the meaning of section 45(1)(c) of the Act.

## 2.3 Term of authorisation

MWRRG seeks authorisation for:

- (a) thirty months to complete the tender process, negotiate contracts and execute contracts; and
- (b) thirty years for the provision of the Services (including the possible construction and operation of one or more Facilities) for the currently expected term of the proposed contract. This period is based on the information available regarding the terms required to support the investment required for comparable processing facilities in Victoria and other territories

## 3. Confidentiality

The public version of this document excludes information provided to the Australian Competition and Consumer Commission (**ACCC or Commission**) on a confidential basis. Confidential information has been redacted. MWRRG consents to disclosure of confidential information to the ACCC's external advisors on a confidential basis or otherwise in accordance with section 155AAA of the Act.

## 4. Background

This submission is made by MWRRG on behalf of itself and the Councils. The broader context for the proposed approach is discussed in more detail below, but reflects the increased importance of addressing waste quantities in an area with a rapidly growing population, against the backdrop of a changed global market for certain waste streams.

By way of background, by 2046, the population of Melbourne is expected to increase to 7.5 million people, with a significant amount of this population growth taking place in the south and east of the metropolitan region. Consequently, the amount of residual municipal waste generated by the 16 councils in the south eastern region is also expected to increase from the 460,000 tonnes that was sent to landfill in 2016, to around 725,000 tonnes that are likely to be generated in 2046 and would have to go to landfill unless an alternative solution is found. This increase in waste generation within the south eastern region will coincide with the loss of the last remaining existing landfills in this part of the region (which is likely to occur by 2028).

The Victorian Government has established a State wide strategy for tackling the issue, and MWRRG has been tasked with leading, on behalf of all metropolitan councils, the push toward adoption of more advanced processes and technologies (**Advanced Waste Processing**) within the metropolitan Melbourne region.

### 4.1 Concurrent joint procurement for Landfill Services

The first initiative in the Victorian Government's strategy is to improve the processing and resource recovery from municipal kerbside residual waste. "Residual waste" refers to household waste that has not been separated in to a separate recycling bin or separately collected as green waste, and which is typically transported to landfill. It excludes commercial or industrial waste.

In addition to the joint procurement of the Services, MWRRG proposes to conduct a concurrent process for the joint procurement of residual waste services (**Landfill Services**) by local councils in metropolitan Melbourne and adjacent areas. That joint procurement may include the collection of residual waste and ancillary services, such as the provision of transfer stations to receive and transport waste to landfill or Advanced Waste Processing facilities.

Joint procurement of the Services will provide a means for councils to transition from Landfill Services to Advanced Waste Processing if they choose to do so. The proposed contract term in respect of Landfill Services will allow councils to transition from landfill to Advanced Waste Processing from around 2025 to 2029, when Advanced Waste Processing facilities are likely to commence operations. In that regard, the proposed joint procurement for Landfill Services is intended to act as a "bridging" arrangement between existing MWRRG-administered contracts in relation to residual waste, and future Advanced Waste Processing service contracts. The operation of Advanced Waste Processing and landfill facilities are also potentially complementary, with Advanced Waste Processing sites requiring landfill sites as a potential contingency, as well as for the disposal of any residues from Advanced Waste Processing solutions.

MWRRG will lodge a separate application for authorisation in respect of the joint Landfill Services procurement.

### 4.2 MWRRG

MWRRG is a Victorian state statutory body established under section 50 of the *Environment Protection Act 1970* (Vic).

MWRRG is responsible for the strategic planning of waste management and resource recovery across metropolitan Melbourne. In this capacity, MWRRG works with 31 councils across metropolitan Melbourne to minimise waste, maximise resource recovery and reduce litter.

In this matter, MWRRG proposes to act on behalf of the Councils and facilitate the procurement, negotiating and contract process in relation to the Services. It is proposed that MWRRG will approach the market place by Requests for Expressions of Interest and then, if it is agreed to proceed, progress subsequent stages (as described in more detail in sections 5.1) with a view to selecting a supplier or suppliers of the Services.

#### 4.3 The Councils

The Councils are responsible for providing community services and facilities, and making and enforcing local rules and regulations, in the south eastern region of metropolitan Melbourne.

The Councils have responsibility for management of waste in their respective local government areas, and have a general commitment to minimising disposal of waste to landfill. The Councils wish to explore alternative waste treatment solutions which may benefit their communities, including advanced recovery technologies that are likely to require a regional approach in order to be viable.

The structure and distribution of local government within the metropolitan region effectively means that even with the predicted growth in residual municipal waste by 2046, none of the region's councils (if acting individually) would be able to offer enough waste to be attractive to private companies seeking to invest in the delivery of Advanced Waste Processing services for local government.

#### 4.4 Project

MWRRG and the Councils propose to collaboratively investigate and potentially procure the provision of the Services.

Advanced Waste Processing services are sophisticated solutions and technologies that recover more resources from waste, as compared with landfill or basic recycling sorting. The collaborative procurement of these services will ensure that a sufficient quantity of waste is aggregated to support the investment required from the private sector.

Experience overseas has shown that Advanced Waste Processing is an effective solution to recover the materials in waste. The parties will draw on overseas success and seek to recover resources, including electricity, heat, gas, liquid fuel and solid fuel.

The Services may be delivered in a number of ways, and various possible scenarios are:

- (a) **Option 1 – Combustion** – combustion of waste materials at controlled high temperature, with energy recovery in the form of heat, and metals recovery from the bottom ash.
- (b) **Option 2 – Mechanical Biological Treatment (MBT)** – mechanical separation of materials such as metals together with biological treatment of separated organic material (with the biological treatment producing energy).
- (c) **Option 3 – MBT plus Combustion** – following MBT, a refuse derived fuel produced from that process is combusted to recover energy.
- (d) **Option 4 – MBT plus Gasification** - following MBT, a refuse derived fuel is produced from the mechanical process and gasified to recover energy.

Although the final form of the Services is still to be determined, it is likely that in any scenario some type of new Facility would be constructed and operated by the private sector in co-ordination with local government.

There is currently no such facility in Victoria, and the construction of one or more new Facilities would entail significant capital investment, and require certainty of quantity and continuity of supply of waste to attract the requisite technical and financial resources.

The contract models traditionally used by councils for contracting waste services, particularly at the level of an individual council, will not be practical to establish Facilities with sufficient scale, and attract the upfront investment that is required from the private sector.

The equipment required to operate a Facility with the capacity to deliver the desired outcomes is likely to include:

- (a) electro-magnetic equipment to separate the metal from other waste;
- (b) detectors to separate waste of different size and density;
- (c) compacting equipment;
- (d) conveyors and other transporting mechanisms;
- (e) biological treatment plant;
- (f) gasification plant;
- (g) combustion or incineration plant; and
- (h) flue gas treatment plant.

#### **4.5 Special Purpose Vehicle**

The Councils are considering potentially procuring this project through a new special purpose vehicle (**SPV**). The intention would be for the SPV to enter into final contracts with the selected supplier(s). The use of an SPV would allow suppliers to deal with one entity (rather than contract with a multiplicity of councils), and for Councils which decide to participate in the SPV to manage arrangements between themselves pursuant to a separate shareholder agreement. Alternatively, Councils which choose not to be members of the SPV may still participate in the procurement by entering into contacts with the SPV under which they agree to contribute waste from their municipality.

If this procurement structure was adopted, then the SPV would coordinate the requirements of each Council to begin a competitive tender process and negotiate contracts for the supply of the Services. Each Council will retain a discretion, during the early stages of the procurement, to decide whether or not:

- (a) to be a participant in the SPV;
- (b) to enter into a service delivery contract with the SPV; or
- (c) to separately select and contract with alternative suppliers if it wishes.

## 5. Proposed Conduct

### 5.1 Tender process

In order to procure the provision of the Services (including the possible construction and operation of one or more Facilities), the following steps are proposed to be taken by MWRRG on behalf of the Councils:

1. MWRRG will issue a Request for Expressions of Interest (**EOI**) to the marketplace to identify interested potential suppliers;
2. MWRRG in consultation with the participating Councils will consider the result of the EOI and then may issue to selected potential suppliers an Invitation to submit an Outline Solution;
3. MWRRG will consider the Outline Solutions provided and then may issue to shortlisted potential suppliers an Invitation to submit a Detailed Solution; and
4. MWRRG will consider the Detailed Solutions received and then may issue to final shortlisted potential suppliers a final Request for Tender, incorporating contractual documents to provide the Services (which is likely to involve the construction and operation of one or more Facilities).

The tender process will be designed to encourage the provision of more than one Facility, ideally with each Facility being delivered and operated by a different supplier. Such an arrangement would help provide the Councils with contingency options to cover periods of scheduled maintenance and breakdowns at any one plant.

At the EOI stage respondents will be requested to provide submissions which deal with the stated criteria at the level of the south east region, or for any other group of participating councils that the respondent believes is appropriate.

The EOIs will be evaluated by MWRRG in liaison with representatives of the participating Councils and a decision made as to whether to proceed to further stages in the tender process. No formal legal arrangement would be entered into until a Final Authorisation is granted.

MWRRG proposes that, if it is decided to proceed past the EOI stage, that the subsequent stages would be conducted as a competitive tender, seeking a supplier or suppliers to provide the services that are identified as best fitting the Councils' needs and, if appropriate, the construction and operation of one or more Facilities. The key terms that will be negotiated by MWRRG with the chosen suppliers are likely to include terms regarding:

- (a) the rate that will be paid by the supplier per unit for various streams of waste delivered to the supplier;
- (b) the quantities of waste required by the supplier;
- (c) the basis for construction and operation of one or more Facilities and the manner of financing the same.

### 5.2 Rationale

MWRRG's analysis of the market dynamics for certain types of Advanced Waste Processing services is that the scale of investment likely to be required to undertake certain types of Services will necessitate aggregation of waste on a sub-regional level. The south east of metropolitan Melbourne has been identified as the first such sub-region, and the Councils represent the majority of the local government participants in that region.



Each Council accepts the need for innovative waste management solutions and the attendant requirement for aggregated quantities of waste beyond those that any one council could bring to the opportunity. The Councils wish to explore the options for long term solutions to dispose of waste and to act in accordance with the Victorian Government's resource recovery and waste strategy. Although it is expected that if the construction of one or more Facilities is to be included in the solution offered, then a total quantity of waste from much of the south eastern sub-region will be a requirement of potential suppliers, the EOI will be open to responses in respect of groups of councils less than the total number of councils in the south eastern sub-region.

The Councils are proposing to enter into a Management Deed, in the form of Annexure C in relation to their participation in the tender process, which you will note contemplates the necessary authorisation from the Commission before any substantive steps are taken to approach the marketplace.

### 5.3 Parties potentially impacted

The proposed joint procurement may affect existing providers of waste and resource recovery services to the Councils, including existing landfill service providers. However, implementation of Victorian Government policy in respect of the diversion of waste from landfill is likely to impact such suppliers in any event irrespective of the proposed approach to the procurement of Advanced Waste Processing Services.

A list of the current service providers is set out at Annexure A.

Further, the Request for EOI will be extended to all current providers of landfill services to the participating Councils and there will be scope for such suppliers to offer to supply for areas less than the entire sub-region.

It is also expected that the potential scale of services will attract the interest of national and international service providers.

Finally, the procurement may necessitate some alteration to existing local government **collection** contracts, to accommodate the transfer of residual waste collected at the kerbside to interim transfer stations and/or directly to new Facilities. As noted in section 4.1 above, MWRRG proposes to conduct a concurrent process for the joint procurement of Landfill Services. However, it is expected that joint procurement will not result in any decrease to the collection services required or to otherwise adversely affect the providers of those services.

## 6. Market

The relevant market is the market for the processing and disposal of waste materials. Whilst councils typically have a preference that any waste processing facility be located within relative proximity to its centre of activity, so as to minimise the distance travelled from the kerbside of residents, in the circumstances here it is entirely possible that subsequent stages of processing may be performed at a Facility(s) located out of the Melbourne metropolitan area. Indeed, a Facility of the scale that may be possible under this initiative may attract certain types of waste from places in regional Victoria and possibly even from interstate. As a consequence, an additional outcome of the procurement may include expansion of the metropolitan region's network of transfer facilities via which residual waste is transferred to advanced waste processing Facilities. In particular, collection vehicles which currently travel directly from kerbside collection to a landfill site may instead travel to a transfer station where the waste is aggregated before being transported in a larger quantity to a Facility.

The relevant type of waste is municipal waste that cannot be avoided or otherwise readily recycled, and which is currently sent straight to landfill. The market for the collection and recovery of **commercial and industrial** waste, as distinct from municipal waste, will remain independent, and able to be serviced by existing suppliers. With tonnage at least as large as municipal waste, this provides an important area of competition for waste service providers. Further, the Councils do not have power to compel commercial or industrial property owners to have their waste collection services provided by Councils, thereby leaving this waste independent.

The project here also focuses only on the **processing** of residual municipal waste; the arrangements for the **collection** of such waste, and the collection of recyclables, will remain unchanged (apart for a possibly changed drop off point as detailed above), and managed by each council as it determines.

The quantity of waste available from the Councils is likely to be such that the project would be significant on an international level. Quantities in the hundreds of thousands of tonnes per year could justify a Facility of such a scale that its construction would attract interest nationally, and indeed from overseas operators. Accordingly, participants in any tender undertaken are likely to include for example

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The procurement also offers the prospect of solutions being proposed by consortia where smaller, local and regional operators enter into arrangements to deliver aspects of the solution that major players would naturally seek to sub-contract. For example, a regional collection business may seek to provide aggregation and bulk haulage services for residual municipal waste that may include preliminary sorting and processing; before delivering the balance of that waste to a Facility, where more significant treatment (for example energy recovery) is undertaken by a separate operation. Accordingly, the relevant market is not necessarily limited to only large international providers, or to local low cost operators.

Finally, the current market for disposal of residual municipal waste essentially comprises operators of landfill sites. Landfill faces inherent constraints, and the existing major operators in the Melbourne metropolitan area are limited to 3 commercial operators and 1 council operator.

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Further, an Advanced Waste Processing solution will broaden the market from landfill only, and allow for new participants with alternative solutions for processing and disposal of waste.

## 7. Counterfactual

If Authorisation of the Proposed Conduct is not provided, it is likely that more innovative, and larger scale, approaches to the provision of Advanced Waste Processing services will not be viable. In particular, there is a minimum quantity of certain waste streams that would be necessary for the construction of a Facility to be feasible.

Such a minimum quantity is 150,000 tonnes of municipal solid waste per annum, and is beyond the capacity of any one council to provide. Accordingly, council by council procurement of such services will necessarily not engender responses which extend to such a solution. A solution which includes a Facility with gasification or combustion capability is estimated to have the highest impact in reducing landfill, recovering residual waste, reducing carbon emissions, and increasing power production.

Whilst it is possible that certain less impactful scenarios of Advanced Waste Processing could be undertaken at the level of an individual council, any such option would likely be viewed as so

suboptimal that the project may not proceed in any significant way in that form. Even if it did, it is likely that there would be significantly higher transaction costs, which would need to be passed on to residents, and the lost opportunity for high technology solutions with the attendant benefits identified in the next section.

In particular, it is likely that reliance on landfill facilities will not decrease as it otherwise would with Advanced Waste Processing, and the transition away from increasing landfill use accordingly delayed or constrained.

## 8. Public Benefit

Carrying out the Proposed Conduct is expected to allow for an enhanced procurement, and the provision of more innovative and effective Advanced Waste Processing solutions. The resulting public benefits should include the following.

### 8.1 Procurement process benefits

- (a) **Long-term certainty for the Councils with respect to services to manage residual waste** – the Councils gain long term certainty of the services to manage residual waste and will have a choice in how they manage and recover resources from residual waste. The alternative, of relying solely on landfill, will face increasing challenges given constraints on new landfill options.
- (b) **Cost benefits and increased efficiencies in conducting collaborative procurement** – the costs that would be incurred by each party in the procurement of the relevant services would be reduced significantly by conducting collaborative procurement, as each party would otherwise be solely responsible for the costs associated with the tender process, negotiating contracts and management of the service delivery. Efficiencies across all councils would also be increased by reducing the replication of work through the alignment of service requirements and streamlining councils' interests through a single tender process. For example, instead of each Council undertaking to prepare their own tender documents, MWRRG will undertake this task on behalf of all participating councils.
- (c) **Expertise of MWRRG** - the opportunity for MWRRG's involvement allows for its considerable expertise on technical issues associated with waste management and procurement of solutions to be enjoyed by each Council, rather than individual Councils seeking such expertise elsewhere.

### 8.2 Environmental benefits

- (a) **A healthier environment and enhanced liveability** – sending less waste (including organic waste) to landfill, will reduce the generation and emission of greenhouse gases and odours, be less attractive to vermin, produce less contaminated water and reduce local traffic movements and congestion.
- (b) **Increased efficiencies in waste processing and disposal** – aggregating waste processing across participating Councils will assist suppliers in maintaining efficient scale. This will also incentivise investment in new waste processing technology and facilities, which will lead to further environmental benefits. With respect to waste disposal, increased processing efficiencies will decrease the amount of waste that would otherwise be disposed of throughout participating Councils.

- (c) **Recovery of valuable resources from the waste** – cost effective recovery of the biodegradable materials to create composts, hard recyclables such as metals for recycling or recovering the energy from the residual waste to generate heat/electricity.
- (d) **Energy can be sold** – the energy produced from the waste can be sold and so decrease the demand on fossil fuel reliant sources of energy.
- (e) **Choice of appropriate location** – the opportunity to select an optimal location and site(s) most suited to one or more Facilities avoids the alternative of existing landfills becoming overwhelmed.
- (f) **Decreased transport of waste** – a Facility should decrease the amount of waste that would otherwise have to be transported to landfill sites.
- (g) **Encourage other waste away from the landfill** - in offering solutions that allow for the growth in the supply of municipal waste over time (**Contract Waste**), service providers may offer solutions of greater capacity than is required to treat Contract Waste alone and of themselves may seek to enter into short to medium term contracts for non-Contract Waste from other councils or alternative sources. Thus council-led solutions for residual municipal waste may stimulate greater diversion of other waste from landfill.

### 8.3 Increase in competition

The innovative nature of the Service and scale of the service provider contract is likely to attract interest from service providers who would not have entered the market previously, and create more competition between potential service providers. An involved Council can only provide smaller waste quantities which would not attract certain suppliers.

### 8.4 Investment in the State

- (a) **Substantial infrastructure investment in Victoria** – a Facility is likely to attract \$300-650 million in infrastructure investment.
- (b) **Creation of jobs** – the construction of a Facility is projected to create 300-400 during the construction stage and 100 ongoing jobs once in operation.
- (c) **Related investment** - it is expected that construction of a Facility will encourage related investment in adjacent businesses in the region. The State Government's overall strategy for waste, together with expected continuing population growth, should provide opportunities for a breadth of innovation and ancillary services and businesses to accumulate around a Facility and its related activities.

### 8.5 Achievement of government objectives

- (a) **Emissions reduction target** – reduction of greenhouse gases will contribute to the Victorian Government's emissions reduction target.
- (b) **Resource recovery goal** – increased use of resources will assist in achieving the Victorian Government's goal of resource recovery including under the State-wide Waste and Resource Recovery Infrastructure Plan, and consistent with the *Environmental Protection Act 1970*.
- (c) **Sustainable City goal** – reduced reliance on landfill will contribute to a more resilient city, consistent with Plan Melbourne.

- (d) **Resource use** – resource recovery will assist in achieving consistency with circular economy principles, as set out in the National Waste Policy.

## 9. Public Detriment

It is submitted that there should be no public detriment associated with any Facility, and any potential detriment would nevertheless be outweighed by the benefit to the public set out above.

A potential detriment of the proposed collaborative procurement may be perceived to be a decrease in competition as suppliers which may have offered services to each Council individually would be restricted to supplying the participating Councils in an aggregated entity. In practice, however, no one Council would be able to undertake a procurement that prompted the construction of a Facility (with the ensuing benefits), as a minimum quantity of waste is required to make the project viable. Accordingly, the aggregation of council demand should not give rise to any detriment to the public.

The tender process will also still allow for suppliers to submit for smaller areas, so there will remain scope for smaller suppliers to secure certain streams of work, and to also ensure that larger suppliers must remain competitive in their pricing.

The tender process will also be competitive and conducted in accordance with best practice probity standards, including transparency and audit requirements. Selected suppliers will not be in any way restricted from offering services to other councils.

The Councils in this matter are a not an insignificant proportion of the total number of metropolitan councils, but it is likely that there would still remain at least two more procurements of similar services in metropolitan Melbourne. And the broader market for Advanced Waste Processing Services and Facilities throughout Australia and internationally continues to grow.

## 10. Conclusion

For the reasons set out above, MWRRG submits that the substantial public benefit of the Proposed Conduct significantly outweighs any public detriment, and that its application for authorisation should therefore be granted.



## **Annexure A**

### **Existing Service Providers**

#### **1. Cleanaway Pty Ltd**

Level 4, 441 St Kilda Road  
MELBOURNE VIC 3004  
Contact: Melinda Lizza  
Phone: 03 9552 1700  
E-mail: melinda.lizza@cleanaway.com.au

#### **2. Hanson Wollert Landfill Services Pty Ltd**

Ground Floor, 601 Doncaster Road  
DONCASTER VIC 3108  
Contact: Daniel Fyfe  
Phone: 03 9274 3700  
E-mail: daniel.fyfe@hanson.com.au

#### **3. SUEZ Recycling & Recovery Pty Ltd**

64-84 Waterview Close  
DANDENONG SOUTH VIC 3175  
Contact: Nat Bryant  
Phone: 03 9795 2001  
E-mail: nathaniel.bryant@suez.com

#### **4. Wyndham City Council**

45 Princes Highway  
Werribee VIC 3030  
Contact: Simon Clay  
Phone: 03 9742 0777  
e-mail: simon.clay@wyndham.vic.gov.au

**PUBLIC VERSION – RESTRICTION OF PUBLICATION  
OF PART CLAIMED**

**Annexure B**  
**Potential Tenderers**

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**Annexure C  
Management Deed**