



**Melbourne Waste and Resource Recovery Group & Ors –
Application for authorisation AA1000449
Interim authorisation decision
29 August 2019**

Decision

1. The Australian Competition and Consumer Commission (the **ACCC**) has granted interim authorisation in respect of application for authorisation AA1000449, lodged by the Melbourne Waste and Resource Recovery Group (**MWRRG**), on behalf of itself and a group of 31 councils located in metropolitan Melbourne, on 2 August 2019.
2. Interim authorisation is granted to the Applicants to commence the tender and contract negotiation process for the joint procurement of services for receiving residual waste and related ancillary services (**landfill services**).
3. Interim authorisation commences immediately and remains in place until it is revoked or the date the ACCC's final determination comes into effect.

The application for authorisation

4. The Applicants are:
 - Metropolitan Waste and Resource Recovery Group – a Victorian statutory body corporate responsible for municipal solid waste management and planning in Victoria
 - The Victorian councils of: Banyule City, Bayside City, Boroondara City, Brimbank City, Cardinia Shire, Casey City, City of Greater Dandenong, City of Greater Geelong, Darebin City, Frankston City, Glen Eira City, Hobsons Bay City, Hume City, Kingston City, Knox City, Manningham City, Maribyrnong City, Maroondah City, Melbourne City, Melton Shire, Monash City, Moonee Valley City, Moreland City, Mornington Peninsula Shire, Nillumbik Shire, Port Phillip City, Stonnington City, Whitehorse City, Whittlesea City Yarra City, Yarra Ranges Shire.
5. The Applicants seek authorisation for 10 years to jointly procure services for receiving residual waste and related ancillary services. In particular, they seek authorisation for:
 - MWRRG to conduct a collaborative competitive tender process for the procurement of landfill services
 - negotiating and executing the contractual framework for the supply of landfill services to participating councils and
 - ongoing administration and management of the resulting contracts(the **Proposed Conduct**).
6. The Applicants note that given the geographic spread of participating councils and waste facilities, no single service provider will capture the total volume of residual waste under the proposed joint procurement.

The authorisation process

7. Authorisation provides protection from legal action for conduct that may otherwise breach the competition provisions of the *Competition and Consumer Act 2010* (Cth) (the **Act**). Broadly, the ACCC may grant authorisation if it is satisfied that the benefit to the public from the conduct outweighs any public detriment, including from a lessening of competition. The ACCC conducts a public consultation process to assist it to determine whether a proposed arrangement results in a net public benefit.

Interim authorisation

8. Section 91 of the Act allows the ACCC, where it considers it appropriate, to grant interim authorisation. This allows the parties to engage in the Proposed Conduct while the ACCC is considering the substantive application.
9. The Applicants requested interim authorisation on the basis that it:
 - Interim authorisation will ensure the joint procurement process can commence in September 2019, which will allow the commencement of new contracts by March 2021.
 - Interim authorisation is not sought for the execution of contracts and therefore will not result in any public detriment and is highly unlikely to alter the competitive dynamics of relevant markets.

Consultation

10. The ACCC invited submissions from a range of potentially interested parties including major including waste management companies, industry associations, and government bodies, being contacted.¹ The ACCC has to date not received any public submissions in relation to this application.
11. Further information in relation to the application for authorisation, including any public submissions received by the ACCC as this matter progresses, may be obtained from the ACCC's website www.accc.gov.au/authorisations.

Reasons for decision

12. The ACCC considers it unlikely that interim authorisation will materially alter the competitive dynamics in any relevant markets; interim authorisation is granted only for the commencement of the tender and contract negotiation process, and not the execution of any contracts. If the ACCC ultimately does not grant authorisation there is nothing that would prevent the market from returning to its current state.
13. The ACCC considers that interim authorisation will allow the Applicants to commence the tender and contract negotiation process, which will accommodate the lead times involved in the joint procurement process (in the event that the ACCC grants authorisation to the substantive application).

Reconsideration of interim authorisation

14. The ACCC may review the interim authorisation at any time. The ACCC's decision in relation to the interim authorisation should not be taken to be indicative of whether or not the final authorisation will be granted.

¹ A list of the parties consulted and the public submissions received is available from the ACCC's public register www.accc.gov.au/authorisationsregister.