

18 November 2019

By email: jaimemartin@accc.gov.au

Contact

Alistair Newton
Email: [REDACTED]

Ms Jaime Martin
Assistant Director, Adjudication
Australian Competition and Consumer Commission
Level 17, 2 Lonsdale Street
MELBOURNE VIC 3000

Dear Ms Martin

Goulburn Valley Waste and Resource Recovery Group – response to request for further information

As you know, we act for the Goulburn Valley Waste and Resource Recovery Group (**GVWRRG**) in respect of its application for authorisation for the joint procurement of waste and resource recovery services dated 1 October 2019 (the **Application**).

We refer to our telephone discussion with the Australian Competition and Consumer Commission (**ACCC**) on 29 October 2019 and your email dated 31 October 2019 requesting further information in relation to the Application. This letter responds to the ACCC's request.

Capitalised terms in this letter have the same meaning as in the Application.

- At section 2.1 of the application the Applicants outline that one of the waste and resource recovery streams that they propose to jointly procure is 'domestic kerbside recyclables acceptance and sorting'. At pages 11-12 of the application, this is defined as de-contamination of recyclable material, sorting into material groups, and consolidation of material before they are re-processed.***

Can you please clarify whether recyclables 'acceptance and sorting services' includes recyclable processing services. In your response, please consider whether the current wording in the application accurately captures the recyclables services that the Applicants seek to jointly procure.

Recyclables "acceptance and sorting" services do not include services for the re-processing of recyclable materials. While the recycling services industry broadly involves the collection, sorting, consolidation and re-processing of recyclable materials, the services provided under Participating Councils' current recyclables acceptance and sorting contracts do not include the re-processing of those

materials. Under the current contracts, recyclable materials are simply collected and transported to facilities for de-contamination and sorting into different material groups. Service Providers then re-sell the recyclable materials to separate end-markets under their own, private agreements with re-processing facilities.

Accordingly, the contracts resulting from the joint procurement will not cover recycling re-processing services – that is, recycling re-processing services are not intended to be covered by the Application.

- 2** *Please provide further detail about the nature of proposed commercial arrangements between the participating councils and service providers in respect of collection, processing and/or disposal of specific material streams (namely, the last bullet point at section 2.1 of the application). In your response, please clarify whether the proposed conduct has any impact on existing services currently offered by service providers direct to commercial businesses.*

The current arrangements for the collection, processing and/or disposal of specific material streams relate solely to materials that are disposed of, aggregated at and collected from council-operated RRCs (such as e-waste, clothing and textiles, mattresses, etc.). The Participating Councils typically seek quotes for these services individually at the end of each financial year and then enter into short-term arrangements with relevant Service Providers.

The proposed joint procurement process provides an opportunity to collaboratively procure these services under more structured, formal contracts. For example, while the current contracts for these services are predominantly for yearly terms, GVWRRG and the Participating Councils will investigate the potential to enter into longer-term contracts. Formalised commercial arrangements will benefit both Participating Councils (by delivering transaction cost savings) and Service Providers (which will benefit from efficiencies and economies of scale associated with the collection of aggregated material volumes). Participating Councils and Service Providers will retain the ability to opt-out of any proposed commercial arrangement that does not provide it with adequate benefits.

The proposed conduct will not have any impact on existing services provided by Service Providers – either to the Participating Councils or commercial businesses. All current contracts between Service Providers and Participating Councils will remain in place until the end of their term and no new contracts will come into effect until those current contracts have expired. Further, GVWRRG does not anticipate that the proposed joint procurement process will have any impact on services provided by Service Providers to commercial businesses. Service Providers' arrangements with commercial businesses (if any) are entirely separate to their arrangements with Participating Councils, and will remain separate to any commercial arrangements entered into as a result of the joint procurement process.

3 *Please provide revised figures for the total population and geographic area covered by the participating councils, which include the two local councils in southern NSW.*

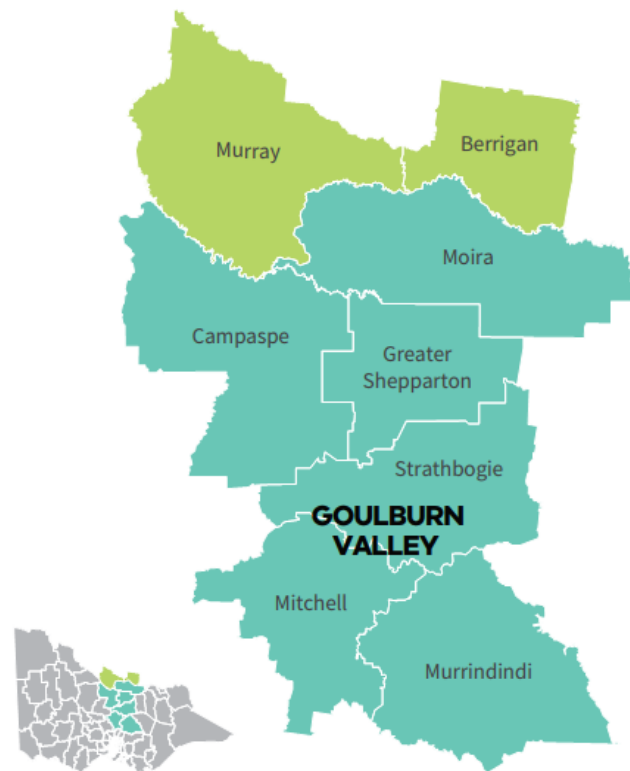
The Murray River Shire has a population of approximately 11,680 and covers a total area of approximately 11,865 square kilometres. Berrigan Shire has a population of approximately 8,462 and covers a total area of approximately 2,066 square kilometres.

Accordingly, when added to the figures provided in section 5.2 of the Application for the Participating Councils in the Goulburn Valley region, the total population of all Participating Councils is approximately 215,142 people and the geographic area covered by them is approximately 34,931 square kilometres.

4 *Please provide a new map (as currently appears on page 14 of the application) which also shows the location of the two NSW local councils.*

The geographic location of each of the Participating Councils is depicted in **Figure 1** below.

Figure 1 – Map of Participating Councils



5 Please provide further detail about:**(a) the likely timeframe of the first joint tender process for recyclables acceptance and sorting services**

GVWRRG is now awaiting the finalisation of the Victorian Government Department of Environment, Land, Water and Planning's (DELWP) *Circular Economy Policy (Policy)*, which is expected to be released in late 2019. The Policy is intended to build on Victoria's existing waste and resource recovery initiatives, respond to global recycling market challenges, and examine new ways for Victorian businesses and communities to reduce waste.

The first joint tender process for recyclables acceptance and sorting services is likely to be shaped by the Policy, which will be focused on reforms to domestic kerbside collection processes. Greater consistency in service configuration and accepted recyclable materials, along with the introduction of greater price transparency and risk sharing measures in contractual arrangements, are likely to be required under those reforms.

The DELWP has requested that GVWRRG refrain from commencing the joint tender process until the Policy has been finalised. In this context, GVWRRG currently anticipates that the joint tender process will commence prior to June 2020, in order for the relevant recyclables acceptance and sorting contracts to be finalised by July 2021.

(b) the proposed Working Group pilot

As set out in section 2.1 of the Application, a Working Group comprised of GVWRRG and two representatives from each Participating Council will be established to help facilitate the collaborative tender process. Given that services for the collection, processing and/or disposal of specific material streams (e.g., e-waste, mattresses, etc.) have not been tendered collaboratively in the past, GVWRRG proposes to conduct a Working Group pilot in respect of those services.

The purpose of the pilot is to review the current services provided to Participating Councils in respect of specific material streams and determine how best to conduct joint tenders for those services that will result in maximum benefits to both Participating Councils and Service Providers. The pilot Working Group will be smaller, and is likely to comprise one representative each from two Participating Councils, one member from the main Working Group, and one procurement officer.

It is anticipated that the pilot will first consider the collection of mattresses and soft furnishings (given that there are currently a number of short-term agreements in place with various Service Providers, and no contractual timeframes hindering the commencement of a joint tender for those services). That pilot is likely to commence once the first joint

tender process for recyclables acceptance and sorting services has been completed, and new contracts have been finalised.

(c) ***to the extent possible, the likely order of subsequent joint tenders for the remaining waste and resource recovery services.***

The likely order of subsequent joint tenders has not yet been finalised, and is unlikely to be finalised until the Working Group has met and determined which of the remaining waste and resource recovery services should be prioritised. However, GVWRRG expects that the joint tenders for services in respect of specific material streams will be conducted next after the tender for recyclables acceptance and sorting services. In particular, it is likely that mattress and soft furnishing collections, green waste mulching, tyre collections and scrap steel collections will be considered first. Joint tenders for the procurement of kerbside collection services, organics acceptance services and landfill disposal services are likely to be undertaken at a later date (with a view to concluding contracts for those services by June 2022).

Should the ACCC have any further queries in relation to this letter or any aspect of the proposed conduct, please contact us.

Yours sincerely



Alistair Newton
Partner