

24 February 2022

**Competition Exemptions: Mergers, Exemptions & Digital
Australian Competition & Consumer Commission**

For the attention of:

Mr Tom Whitby, Analyst

By email:

exemptions@accc.gov.au

Tom.Whitby@accc.gov.au

cc: Ms Kathryn Speed

Page Seager Lawyers


Dear Mr Whitby

***Re: authorisation application by 3 Tasmanian Councils (FOGO)
– information in support of application for interim authorisation***

I refer to our recent discussions and correspondence concerning the application for authorisation by the City of Hobart, Glenorchy City Council and Kingborough Council (the **Councils**) in respect of food organics and garden organics (**FOGO**) waste.

I am instructed that the Councils are amenable to your proposal of considering the application for interim authorisation in conjunction with issuing the draft determination.

Nonetheless, as you have requested, please find below further information in support of the Councils' application for interim authorisation. All the material provided is in addition to the information set out in my letter of 17 February 2022.

The reason for urgency

I am advised that the Tasmanian State Government is introducing a waste levy¹ with effect from 1 July 2022.

¹ See <https://nre.tas.gov.au/environmental-management/waste-and-resource-recovery-bill> (viewed 23 February 2022).

As a consequence, councils will be charged \$20 per tonne for all material delivered to waste management centres and landfills, with rebates available for materials that are instead recovered or recycled. A detailed reporting process will apply, likely involving the preparation of balancing reports to assess materials in and out in order to calculate the applicable levy. This reporting process is likely to impose a considerable administrative burden, in addition to the cost of the levy itself.

As a rough estimate, the City of Hobart calculates that implementing transitional arrangements using its own compost facilities would cost around \$5,500 per fortnight. This cost would cover the needs of all the Councils, although of course there would also be administrative costs associated with the reporting process described above. Please note, however, that there are practical difficulties in using the City of Hobart's compost facilities such as increased risks of windblown litter and odour due to the facility operating in an open air environment in relatively close proximity to residents.

Consequently, implementing the final contract as early as possible will minimise these costs (which are of course ultimately borne by rate payers) and reduce the practical difficulties arising from the proposed transitional arrangements.

The timetable

The tender documentation has been ready for some time.

As such, the Councils expect the tender process to proceed in accordance with the following timetable:

- as soon as permitted, the request for tender would be published;
- the tender would be open for 4.5 weeks;
- subject to the number of tenders received and their complexity, the Councils expect it would take 2-3 weeks to select the preferred candidate;
- if the preferred candidate does not propose any contract departures, then the contract would be in a position to be signed as soon as (final) authorisation is granted. If contract departures do form part of the tender response, then an additional 1-2 weeks may be required to negotiate the document.

As such, the Councils expect it would take between 8-10 weeks from the time of publishing the tender to finalise a contract pending ACCC approval.

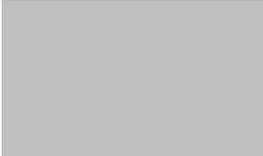
While the Councils' acknowledge that this timetable means that the waste levy will almost certainly apply for a period of time, as the above analysis demonstrates, any shortening of that process will result in cost savings (as well as helping to achieve the environmental benefits which are of course the objective of the levy scheme).

Conclusions

We trust this additional information provides further support for the Councils' request for interim authorisation in order to identify the preferred tenderer, commence the negotiation process with the preferred tenderer and prepare the ensuing contractual documents. Given the above timetable, and in accordance with your proposal, the Councils ask the ACCC to respond to this request in conjunction with issuing its draft determination.

We look forward to hearing from you in due course.

Kind regards,



Alexandra Merrett

Independent Competition Counsel

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