

18 June 2021

Mr Gavin Jones  
General Manager  
Competition and Exemptions Branch  
Australian Competition and Consumer Commission  
23 Marcus Clarke Street  
CANBERRA ACT 2601  
By email: [exemptions@accc.gov.au](mailto:exemptions@accc.gov.au)

Partner Dan Pearce

Direct Line [REDACTED]

Email [REDACTED]

Our Ref 19350058

Dear Mr Jones

**Gippsland Waste and Resource Recovery Group – Application for Authorisation – Residual Waste Treatment and Disposal Services**

We act on behalf of Gippsland Waste and Resource Recovery Group (GWRRG), a regional waste and resource recovery body established under section 49C of the *Environment Protection Act 1970* (Vic).

GWRRG is responsible for planning, coordinating and facilitating the delivery of waste management and resource recovery across Gippsland. In this capacity, GWRRG works with six councils across the Gippsland region (**Participating Councils**) to minimise waste, maximise resource recovery and reduce reliance on landfill.

GWRRG is working with the Participating Councils to collaboratively identify and potentially source joint procurement of residual waste treatment and disposal services.

On behalf of itself and the Participating Councils, which are listed in the Application, GWRRG 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 GWRRG's Application for Authorisation (**the Application**);
2. a signed declaration on behalf of GWRRG (included in the Application);
3. Memorandum of Understanding between GWRRG and the Participating Councils (included in the Application); and

4. confirmation of the electronic funds transfer made on 18 June 2021 for payment of the application fee, being an amount reduced to \$2,500 in accordance with the approval from the ACCC dated 17 June 2021.

#### **Request to exclude confidential information from the public register**

We request that the details of the volumes of waste controlled by the Council (on page 7) be excluded from the public register, on the basis that this is commercially sensitive information that is not otherwise publically available.

We request the details of suppliers that are likely to have an interest in developing products derived from residual waste (in Annexure B) be excluded from the public register. We make this request on the basis that the information with respect to these suppliers 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 other potential suppliers.

We request that the form of the Memorandum of Understanding (in 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.

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 documents over which a restriction of publication is requested. The confidential sections have also been highlighted on the relevant pages.

#### **Interim Authorisation**

GWRRG seeks Interim Authorisation in order to progress the tender process, with a view to then identifying appropriate suppliers and commencing the process of preparing contractual documentation. No formal request for tender documentation would be made public before an Interim Authorisation was in place.

This request is made due to the time that is likely to be required to progress the overall tender process. GWRRG considers it necessary to commence the procurement process as soon as possible in order to avoid any delays that may compromise the procurement being undertaken in a timely manner. In these circumstances, Interim Authorisation is important to ensure sufficient time to proceed to subsequent stages of the procurement and not disrupt the continuous provision of waste services to the Participating Councils' residents.

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 tender process to progress in accordance with the planned timeframes for the overall project.

If you require further information with respect to this application, please contact Dan Pearce on

[REDACTED]

Yours faithfully

[REDACTED]

**Holding Redlich**



Contact officer: Simon Bell  
Contact phone: 02 6243 1232

17 June 2021

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Canberra ACT 2601  
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Mr Dan Pearce  
Holding Redlich  
Level 8, 555 Bourke Street  
Melbourne VIC 3000

By email: [REDACTED]

Dear Mr Pearce

**Re: Gippsland Waste and Resource Recovery Group – Fee Waiver Request for an Application for Authorisation (non-merger)**

I refer to your correspondence of 10 June 2021 requesting a full or partial fee waiver for an application for authorisation (non-merger), which is expected to be lodged on behalf of Gippsland Waste and Resource Recovery Group (**GWRRG**).

I understand that GWRRG and a collection of councils in Gippsland intend to apply for authorisation so that they can engage in a collaborative procurement of residual waste processing services. The authorisation lodgement fee as determined by the *Competition and Consumer Regulations 2010* is \$7500.

In support of the request, you submitted that:

- GWRRG is a regional waste and resource recovery body established under section 49C of the *Environment Protection Act 1970* (Vic) responsible for planning, coordinating and facilitating the delivery of waste management and resource recovery across Gippsland.
- The GWRRG is government-funded, meaning any fee paid in respect of the application would divert resources away from GWRRG's public purposes.
- Procurements undertaken by GWRRG are solely on behalf of local councils, and GWRRG delivers value to these councils which would otherwise seek funds through rate payers. A fee waiver, in whole or in part, results in these funds being utilised for other community benefits and functions that would directly benefit rate payers.

Having regard to the above, as a person authorised to assess fee waiver requests for and on behalf of the ACCC, I wish to advise that the application fee to be paid by the councils has been waived in part. An application fee of \$2500 will apply with respect to GWRRG's expected application for authorisation.

This decision is valid for a period of three months. The three month period will expire on 17 September 2021.

Please enclose a copy of this letter with the application for authorisation. The cover letter to the application should mention that a letter from the ACCC regarding a fee waiver is enclosed. The application together with this letter will be placed on the public register at that time.

If the application for authorisation is lodged by the councils after 17 September 2021, a full lodgement fee of \$7500 will apply, unless you make, and the ACCC approves, another fee waiver.

Please contact Simon Bell on (02) 6243 1232 if you have any questions.

Yours sincerely

A grey rectangular box used to redact the signature of the sender.

Sheridan de Kruiff  
Joint General Manager (A/g)  
Competition Exemptions

June 2021

**Gippsland Waste and Resource Recovery Group**  
**Application for Authorisation – Collaborative**  
**Procurement of Residual Waste Treatment and**  
**Disposal Services**

PUBLIC VERSION

## Declaration by Applicant

The undersigned declares that, to the best of his knowledge and belief, the information given in this Application is 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 this Application.

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



**Matthew Duncan Peake**

**Executive Officer, Gippsland Waste and Resource Recovery Group**

This 11 day of June 2021



## 1. Applicant

### 1.1 Name of the Applicant

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

- (a) **Bass Coast Shire Council**  
76 McBride Avenue  
Wonthaggi, Victoria 3995
- (b) **Baw Baw Shire Council**  
33 Young Street,  
Drouin, Victoria 3818
- (c) **East Gippsland Shire Council**  
273 Main Street  
Bairnsdale, Victoria 3875
- (d) **Latrobe City Council**  
141 Commercial Road  
Morwell, Victoria 3840
- (e) **South Gippsland Shire Council**  
9 Smith Street  
Leongatha, Victoria 3953
- (f) **Wellington Shire Council**  
18 Desailly Street  
Sale, Victoria 3850

(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

Tel: [REDACTED]  
[REDACTED]

## 2. Proposed Conduct

### 2.1 Description

It is proposed that the Councils will investigate and potentially jointly procure the provision of services for the treatment and disposal of Residual Waste (the **Services**).

For the purposes of this application, Residual Waste is considered the balance of domestic municipal solid waste, which is not recyclable or organic waste. Examples include materials that would be sent to landfill because they cannot be cost-effectively re-used or otherwise extracted with current technologies, such as:

- (a) textiles (natural and synthetic or a blend) such as worn clothing, upholstery, floor coverings;
- (b) non-recyclable plastics such as toys, kitchenware, tools, broken car parts, small items of furniture;
- (c) packaging that is attached or secured to other materials such as timber or cardboard;
- (d) sanitary items such as nappies;
- (e) engineered or treated timber products such as chipboard or medium density fibreboard; and
- (f) food that is not recycled as organic waste.

The purpose of the Services is to:

- (a) enhance the recovery of resources from waste that would otherwise be sent to landfill; and
- (b) ensure that the Councils will have access to reliable and flexible landfill facilities.

Depending on the nature of the solution procured, it is estimated the percentage of waste that would not go into landfill as a result of the Services would range from 35% diversion to 70% diversion.

Due to the increasing population in the Gippsland region, (and the substantial projected increase in associated waste), and the increasing limitations with the Councils' existing individual landfill sites, GWRRG and the Councils will seek to implement measures to recover resources from waste, and to access landfill facilities for managing the waste that cannot be otherwise processed.

In particular, GWRRG and the Councils seek authorisation for:

- (a) GWRRG, 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 the contractual framework on behalf of the Councils;
- (b) the Councils to enter into contract(s) with the successful supplier(s) (where the Councils will take a flexible approach as to the manner in which the Councils may ultimately contract, but the more likely approach expected is that the Councils will contract separately with the successful supplier(s);
- (c) ongoing administration and management of the resultant contract(s) to be undertaken by the Councils,

(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

GWRRG seeks authorisation for:

- (a) ten months to complete the initial joint procurement process (including the Request for Tender process, selection of invitees to proceed to tender and Council approval to proceed) (**Procurement**); and
- (b) twenty years from the conclusion of the Procurement for the provision of the Services based on the term currently expected for the proposed contracts. Typically, large-scale waste management infrastructure projects, such as Alternative Waste Treatment (**AWT**) facilities require long-term contracts of not less than 20 years in order for participants to receive a return on investment. If the term that is ultimately agreed is a shorter term, GWRRG would accept that any Authorisation granted be automatically shortened accordingly.

The rationale for the time period proposed above (specifically the contract term) with respect to the Services is to promote competitive tender submissions that allow service providers to realise a return on any capital investments undertaken with respect to the Services. GWRRG and the Councils expect that service providers will make capital investments in the form of processing infrastructure, and may upgrade existing waste and resource recovery facilities and/or construct new facilities (including more flexible and reliable landfill facilities).

### 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 removed and replaced with the word '**CONFIDENTIAL**'. GWRRG 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 GWRRG 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 growing population, against the backdrop of changed markets and community expectations.

#### 4.1 GWRRG

GWRRG is a regional waste and resource recovery body established under section 49C of the *Environment Protection Act 1970* (Vic) (the **EP Act**).

GWRRG is responsible for planning, coordinating and facilitating the delivery of waste management and resource recovery across the Gippsland region. In this capacity, GWRRG works with the Councils to minimise waste, maximise resource recovery and reduce litter.

More specifically, GWRRG's objectives are set out in section 49G of the EP Act, and include:

- (a) facilitating efficient procurement of waste and resource recovery infrastructure and services through collective procurement;
- (b) undertaking waste and resource recovery infrastructure planning;
- (c) integrating regional and local knowledge into State-wide waste and resource recovery market development strategies;
- (d) educating businesses and communities to reduce waste going to landfill by using waste and resource recovery infrastructure and services efficiently; and
- (e) ensuring that the regional waste and resource recovery implementation plans required to be prepared under section 50B of the EP Act, are informed by local government, business and community, and are used to inform State-wide waste and resource recovery planning and programs.

In 2020, the Victorian Government released the "Waste and recycling legislation and governance options paper" (**Options Paper**). The Options Paper outlines the Victorian Government's proposal to introduce a new Waste Act and a new waste authority that is intended to perform the functions of the seven existing Waste and Resource Recovery Groups (**WRRGs**) throughout Victoria. Nonetheless, the Options Paper makes it clear that existing local connections and partnerships with councils, which are currently facilitated by the WRRGs, are to be maintained by the proposed new waste authority. Therefore, it is requested that any authorisation of the collaborative procurement referred to in this application be granted so as to extend to any new waste authority or other successor entity of GWRRG.

#### 4.2 The Councils

The Councils are responsible for providing community services and facilities, and making and enforcing local rules and regulations.

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 for Residual Waste which may benefit their communities.

Five out of the six Gippsland councils own landfills that service ratepayers while Baw Baw Shire Council fully contracts out landfill services. Wellington and Bass Coast Shire Council contract out the operation of their respective landfills while East Gippsland Shire, Latrobe City and South Gippsland Shire undertake landfill operation in-house.

The objective of the Councils is to pursue four opportunities as follows.



- For all the Councils, testing the potential for the introduction of alternative waste treatment solutions thereby reducing reliance on landfills;
- For all the Councils, improved contingency landfill services to reduce the risk of service failure through unforeseen and emergency event such as floods and bushfires or instances where a facility does not have EPA approval to accept waste;
- Specifically for Baw Baw Shire, the provision of landfill services; and
- For the other five Councils, identification of potentially improved landfill solutions outside Gippsland than currently offered by the limited scale regional facilities.

The below table shows the amount and source of residual waste received by each of the region's landfills in the 2019/20 year. The waste listed in the table as being received by transfer stations primarily comes from residents who do not have a kerbside collection service (or have the occasional large item such as mattresses), and some small businesses that have occasional small loads of waste.

Council	Controlled through Services provided by Councils	
	Kerbside (tonnes)	Transfer Station (tonnes)
<b>Bass Coast Shire Council</b> <i>Grantville landfill</i>	CONFIDENTIAL	CONFIDENTIAL
<b>Baw Baw Shire Council</b> <i>Contract with external provider</i>	CONFIDENTIAL	CONFIDENTIAL
<b>East Gippsland Shire Council</b> <i>Lakes Entrance, Cann River and Bairnsdale Landfills</i>	CONFIDENTIAL	CONFIDENTIAL
<b>Latrobe City Council</b> <i>Hyland Highway Landfill</i>	CONFIDENTIAL	CONFIDENTIAL
<b>South Gippsland Shire Council</b> <i>Koonwarra Landfill</i>	CONFIDENTIAL	CONFIDENTIAL
<b>Wellington Shire Council</b> <i>Kilmany and Maffra landfills</i>	CONFIDENTIAL	CONFIDENTIAL
<b>TOTALS</b>	CONFIDENTIAL	CONFIDENTIAL

### 4.3 Rationale

#### 1. Increased waste and changing markets

By way of background, by 2031, the population of Gippsland is expected to increase from 280,000 people to 320,000 people. With this, the amount of residual waste is also expected to increase

from 126,000 tonnes of waste per annum to 130,000 tonnes of waste per annum, which will result in additional waste going to local landfills each year unless an alternative solution is found.

Landfills utilised by the Councils are limited in scale, and in the case of the Baw Baw Shire Council long term access to a facility is currently not guaranteed. Each of these landfill facilities are relatively expensive to maintain and develop, especially on a per capita per tonne basis.

Alternative waste management options, such as waste to energy facilities, offer a positive alternative to landfills. However, volumes of waste that are beyond any one council are required to trigger investment in such technologies. Therefore, a pre-requisite for facility viability is the aggregation of material to maintain enough feedstock.

If alternative waste management is not pursued, it is likely that the demands on existing landfills will increase, resulting in an increase in the overall number or size of landfills, and an increase in the cost of landfills based on access becoming increasingly difficult. Further, negative environmental and social impacts will also follow, including the generation of greenhouse gas emissions and liquid waste water, odour and litter pollution creation, and traffic congestion. It can be expected that the Councils will eventually need to access facilities outside the region due to reducing affordability and capacity of regional facilities.

In relation to the Residual Waste that is left over after the removal of recyclable materials and organic waste, recent years have seen increased community concerns regarding the limits of landfill at the same time as significant advances in new technologies for the treatment of Residual Waste. Australia has seen commitments to alternative waste processing facilities in Western Australia, and Victoria has a policy to explore the viability of at least one such facility in the metropolitan area.

Given the significant environmental and economic benefits derived from this technology, it is expected that alternative waste processing will play an increasing role in waste management solutions into the future.

## 2. Government response

The National Waste Policy (**National Policy**) was established in light of the challenges in the waste sector and focusses on, amongst other things, waste avoidance, including by encouraging material recovery and diversion of waste from landfill.

The Victorian Government has established a coordinated State-wide strategy for tackling the issue of increasing waste quantities and the need to decrease reliance on landfills, the Statewide Waste and Resource Recovery Infrastructure Plan (the **Statewide Plan**). The purpose of the Statewide Plan is to develop a coordinated approach to waste and resource recovery infrastructure that (amongst other things):

- (a) manages the expected mix and volumes of waste;
- (b) protects the community and the environment;
- (c) supports a viable resource recovery industry;
- (d) reduces the amount of valuable materials going to landfill; and
- (e) minimises long term costs to households, the industry and the government.



To facilitate this coordinated approach to waste and resource recovery, GWRRG has been tasked with leading, on behalf of the Councils, the investigation, development and implementation of waste and resource recovery infrastructure within the Gippsland region.

In accordance with its obligations outlined above, the GWRRG established the Gippsland Waste and Resource Recovery Implementation Plan (the **Gippsland Plan**), which identifies the needs, challenges and opportunities for waste and resource recovery services over the next ten years.

### **3. Collaborative procurement to assist in meeting these issues**

Collaborative procurement has been the primary mechanism used (including within Victoria and interstate) to move away from landfill as a means of dealing with Residual Waste and encouraging innovation in processing. On its own, a single regional council is substantially reliant on landfill for waste disposal, as the volumes of waste generated are not great enough to encourage investment in more advanced solutions.

It is likely that costs associated with the construction and management of landfills will continue to rise steadily unless a step change, such as the proposed collaborative procurement, is initiated. Given the current situation of high costs across comparatively small rate bases, increasing pressure on individual council budgets is inevitable and likely to be substantial.

However, when several councils aggregate kerbside waste volumes, economies of scale are improved, and avenues for capital investment, including in Advanced Waste Treatment technologies, are opened up. Further, to the extent to which there remains a need for landfill facilities, a collaborative procurement should allow for a more reliable and co-ordinated solution for the Gippsland region, which overcomes the existing patchwork of existing small facilities for each Council and the lack of resilience which has been exposed when the region is confronted with emergency events. The joint procurement arrangements are intended to encourage resource sharing and efficiencies, and to support the current “best value principles” for the Councils set out in section 208B of the *Local Government Act 1989 (Vic)* (**LG Act**) and “the overarching governance principles” that will apply from July 2021 under section 9 of the *Local Government Act 2020*. In accordance with the best value principles, the Councils must (amongst other things) meet certain quality and cost standards, and achieve continuous improvement in the provision of municipal services, and may seek partnerships with other councils and/or the State government in order to do so.

Similarly, the overarching governance principles require Councils to pursue innovation and continuous improvement, promote the economic, social and environmental sustainability of the municipal district (including mitigation and planning for climate change risks) and, in order to do so, collaboration with other Councils and Governments and statutory bodies is to be sought. Collaborative procurement of the Services will allow the Councils to comply with these obligations, including through the sharing of costs and respective experience and expertise in waste and resource recovery in the Gippsland region.

The focus of the joint procurement is to explore options aimed at delivering triple bottom line benefits for the Gippsland and broader community.

#### **4.4 The Services**

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



The councils are seeking two separate types of service for collaborative management of residual waste.

#### 1. Alternative Waste Treatment (AWT)

As an alternative to landfill, the Councils are seeking opportunities to treat Residual Waste and recover as much value as possible. It is expected that the types of AWT Solutions may include:

- Waste to Energy, where the Residual Waste is processed (for example, via incineration) to create energy (such as heat) which is estimated to result in the potential for an 80% reduction in Residual Waste going to landfill;
- Treatment through dirty materials recovery facilities or via mechanical and biological treatment, which has the potential to recover up to 65% of material from the Residual Waste that can be utilised; and
- Other types of treatment of material using emerging technologies, such as gasification or autoclaving.

#### 2. Disposal in Landfill

The Councils are seeking opportunities for landfilling services to deliver two distinct outcomes.

- Regular landfill services

While primarily focussed on providing Baw Baw Shire with a continued landfill service in the collaborative tender, this outcome also has the potential to offer all participating councils options for more attractive alternatives to the continuation of owning and operating comparatively small and expensive regional landfills.

- Provision of contingency landfill services

Management of Gippsland Residual Waste largely relies on uninterrupted access to council landfill assets, with few contingency options to address potential consequences of emergency and unforeseen events. With significant time constraints being experienced during the planning and approval process for new landfill cells, combined with a restrictive construction period due to Gippsland's climate, there is a risk that the region could experience periods where local landfill capacity is unavailable. In addition, the region has a history of frequent emergency events that have the potential to either temporarily close a facility or reduce its planned life by the receipt of excess material arising from such an event.

The councils are therefore seeking opportunities to secure additional landfill services to mitigate this risk through collaborative procurement. The collaborative procurement of the Services will ensure that a sufficient quantity of waste is aggregated to support the investment required from the private sector, which is currently not practical under the traditional contract models used by the Councils.

## 5. Proposed Conduct

### 5.1 Tender process

The Councils and GWRRG have formed a collaborative alliance through a Memorandum of Understanding (see Annexure C) to jointly investigate and explore the procurement of the Services and prospective service providers.

The Councils and GWRRG propose to collaborate in respect of certain aspects of the procurement process and encourage proposals from a broad variety of service providers.

Activities that are proposed to be conducted jointly between the Councils and GWRRG include the following:

- (a) development of a Request for Tender and advertising for the Services;
- (b) evaluation of proposals submitted by prospective service providers, and the preparation of recommendations to assist in evaluating proposals received;
- (c) evaluation of, and contribution to, the costs of conducting the joint procurement;
- (d) joint negotiations, including joint arrangements between the Councils; and
- (e) forming groups or committees between the Councils for the ongoing management of agreements with respect to the Services.

To facilitate these joint activities, a group of representatives from each of the Councils, as well as GWRRG, will be established (the **Working Group**). The Working Group will prepare and publish a Request for Tender with input from the Councils, who will have separately determined their own service requirements. The GWRRG will employ a project lead and supporting personnel, who will co-ordinate certain aspects of the procurement process (including the preparation of tender documentation), and act as the primary contact for administrative aspects of the joint procurement process.

The Working Group will then be responsible for receiving and evaluating proposals submitted by service providers in response to the Request for Tender. The Working Group's consideration of these proposals will be documented in a report (**Joint Report**), to be circulated amongst the Councils that have opted into the joint process. The Joint Report may contain the recommendations of the Working Group regarding preferred bidders (based on the criteria in the tender) and will be used by the Councils in determining each Council's decision to proceed to formal contract with the service provider(s).

GWRRG will facilitate a collaborative procurement process for the Councils, including through the following:

- (a) co-ordinating and leading meetings between representatives of the Councils and/or any potential service providers;
- (b) developing and advertising the Request for Tender, as well as legal, peer review and probity services as needed by the Councils;
- (c) applying for funding to defray the costs incurred by the Councils in the joint procurement process;
- (d) assisting the Councils in the evaluation of proposals received from prospective service providers;
- (e) preparing a draft Joint Report for use by the Councils in decision making; and
- (f) assisting the Councils to develop a management model for contracts.

Once the proposals received under the Request for Tender are evaluated, and the Joint Report (including any relevant recommendations) has been submitted to the relevant Councils, should



the Councils wish to proceed to formal contract, GWRRG may assume the role of contract negotiator in collaboration with the relevant Council representative.

The proposed joint arrangements will be voluntary for each of the Councils. A Council that does not opt-in to the Proposed Conduct may choose to proceed independently and continue to individually procure its own waste and resource recovery services.

Councils that opt-in to the joint procurement arrangements will not be required to accept the proposals recommended by the Working Group in the Joint Report, or to enter into any arrangements with service providers that submit bids in the joint process. Such Councils will also be free to withdraw from the joint procurement arrangements at any time following consideration of the Joint Report.

It is also proposed that service providers in the bidding process may bid for:

- (a) the provision of services to each participating Council; and
- (b) the provision of services to a cluster of the participating Councils (more than 2) determined by geographic proximity, volume or any other relevant factors.

If proposals are received for the provision of services to multiple participating Councils, those Councils may choose to jointly evaluate those proposals, with the assistance of GWRRG, and to jointly negotiate with the relevant service providers with a view to entering joint arrangements between them for the services.

Following the joint tender process, it is proposed that each participating Council will enter into an arrangement with the successful service provider(s). Those Councils will be responsible for managing arrangements with contracted service providers on an ongoing basis. GWRRG will not play a role in the ongoing administration or management of waste and resource recovery contracts on behalf of the participating Councils, however, it may assist in facilitating contract management meetings to ensure best outcomes for the services procured.

## **5.2 Parties potentially impacted**

The proposed joint procurement may affect existing providers of Residual Waste processing and disposal services to the Councils, but these service providers will not be precluded from participating in the joint procurement. A list of the current service providers and their details is set out in Annexure A. As discussed in more detail below, it is in fact hoped that the proposed procurement will provide opportunities for a number of the local businesses currently providing services to find increased opportunities in an environment of aggregated waste quantities, either directly or in partnership with other suppliers.

## **6. Market**

The identification of the market here benefits from consideration of developments in the broader Victorian market for waste services. Whilst this project involves councils in the Gippsland area, there are important initiatives occurring more broadly in Victoria and indeed Australia. In particular, the Victorian Government and other groups of councils have recognised the need to invest in new technologies to process Residual Waste.

Accordingly, there are a range of initiatives taking place in Victoria which involve the aggregation of volumes of municipal waste in order to attract investment in new facilities. Without such aggregation, it is likely that existing landfills will have to cope with increasing volumes of material.

Potential suppliers are therefore likely to approach the Gippsland initiative in light of the broader environment, and so be drawn from beyond the Gippsland geographic area.

That said, there should still be scope for local suppliers to participate in the procurement. Those suppliers, including incumbent providers, can tender to service a sub-set of the Councils or their needs (for example, landfill only, without Residual Waste processing).

Further, it is likely that local providers of processing and disposal services will be well placed to partner with other providers where an existing presence “on the ground” will frequently be required to support an aggregated offering at a later stage in the waste cycle. An advantage of a collaborative procurement where there is transparency of available volumes is that it can facilitate the establishment of such partnerships, where all parties can develop their business plans on the basis of a larger opportunity being available at a point in time (rather than seeking to cobble together economic efficiencies as individual councils offer up their waste in an ad hoc manner).

The possible solutions and their providers are still evolving, as the technologies develop, and potential markets grow. Increasing environmental controls at landfill facilities, projected landfill costs and changing energy needs are creating greater interest, particularly in thermal energy from waste solutions. Equally, processes that employ other techniques, such as sterilisation via pressure and subsequent removal of materials of value, or an even less sophisticated sorting of mixed waste using magnets at the start of the waste treatment, may be feasible.

The potential solutions observed in existing markets include:

- (a) Autoclaving (pressurised sterilization) followed by recycling of solids and anaerobic digestion of the organics solid and liquid material to produce energy from combustion of methane and use of resultant digestate as a soil conditioner.
- (b) High temperature incineration to produce heat and energy, recover metals and supply inert bottom ash to supplement roadmaking material.
- (c) Gasification (combustion with low oxygen) to produce syngas, which is combusted to generate heat and energy, with the resultant slag solid fraction used in a number of civil applications.
- (d) Pyrolysis (combustion in the absence of oxygen) to produce syngas, which is combusted to generate heat and energy, with the resultant liquid and solid fraction used in a number fuel and chemical replacement and agriculture applications.
- (e) Mechanical and Biological Treatment is employed to remove the recyclable fraction with the organics fraction being dried or composted.

The likely providers of such solutions include the businesses listed in Annexure B. These parties are also likely to be interested parties, stakeholders and market participants.

In summary, the aggregation of waste volumes should attract new entrants, and additional sources of private investment, whilst the transparent process should allow for local and regional suppliers to identify opportunities as part of a larger picture, and potentially with new partners.

Importantly, the larger market for **commercial and industrial** waste remains separate from the proposed procurement, as do the markets for bulk haulage, organic waste, recyclable materials, waste from other regional areas of Victoria, the metropolitan area of Melbourne, and other states.



## 7. Counterfactual

If the proposed form of procurement does not proceed, the most likely counterfactual is that the Councils could individually develop their own tenders and negotiate for the supply of the relevant services. In terms of the **landfill** component of the services, if each Council goes it alone, it is unlikely that **any** improvement would be possible, as the nature of landfill facilities is such that there is a natural inertia against moving from one site in the council area to another site of similar scale in the same council area. Any step change in landfill is only likely to be achieved by the aggregation of demand from a cluster of councils.

Such a council-by-council approach would likely diminish the substantial public benefits sought by the collaborative procurement.

Indeed, the waste sector is at a critical juncture, with existing infrastructure and systems straining to cope with increasing volumes of waste, and significantly changed markets. If the Gippsland region ends up with a “business as usual” outcome, there is a real likelihood of substantial disruption to existing waste services as organisations become unviable. Collaborative procurement, and aggregation of waste volumes, has been shown to assist in responding to these challenges.

More specifically, GWRRG considers that the alternate approach, of not proceeding with the Proposed Conduct, would result in:

- (a) higher transaction costs as each Council would have to evaluate and negotiate large parts of the proposals by service providers themselves, which would result in these costs ultimately being borne by residents and ratepayers of the communities in each municipality;
- (b) fewer service providers responding to tenders for the relevant services, given the reduced certainty of obtaining contracts for multiple councils;
- (c) reduced economic efficiencies through the smaller scale of potential contracts;
- (d) reduced opportunities to obtain expertise in evaluating and negotiating such tenders through the collaboration of GWRRG and the various Councils;
- (e) decreased investment in facilities and equipment which would be capable of enhanced processing of waste and recovery of resources, and an associated increase in the volume of waste going to landfill.

## 8. Public Benefit

Carrying out the joint procurement is expected to allow for an enhanced procurement and result in various public benefits, including as follows.

### 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 and dispose of Residual Waste and will have a choice in how they manage and recover resources from waste. The alternative, of increasing reliance on landfill, will face increasing challenges given constraints on new or expanded landfills in the region.



- (b) **Standardisation of documents and services and cost benefits in conducting collaborative procurement** – the costs that would otherwise be incurred by each party in the procurement of the 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 each Council's interests through a single tender process. For instance, instead of each Council preparing its own tender documents, GWRRG will undertake this task on behalf of all participating Councils.
- (c) **Expertise of GWRRG** - the opportunity for GWRRG'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 to landfill will reduce greenhouse gases, be less attractive to vermin, produce less contaminated water and reduce local traffic movements and congestion.
- (b) **Recovery of resources** – the recovery of resources from waste would result in less pressure on existing (and new) landfills, which could predominately be used to manage waste that cannot be avoided or recycled.
- (c) **Landfill**– concentration of waste into regional landfills will provide opportunity to cost effectively recover landfill gasses for energy production.
- (d) **Increased efficiencies in waste processing and disposal** – aggregating waste processing across participating Councils will assist suppliers in maintaining efficiencies. 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 volume of waste that would otherwise be disposed of throughout the participating Councils, and improved landfill facilities will avoid the fragility and inefficiencies of old, small and unreliable council-specific landfills.

## 8.3 Increase in competition

The joint procurement process will enhance competition for waste and resource recovery services in the Gippsland region, as the combination of volumes and services by the Councils will incentivise additional service providers to bid and compete to provide the Services. An individual council on its own can only provide smaller waste quantities which would not attract the same level and type of service providers.

## 8.4 Community

- (a) **Service delivery improvements** – the joint procurement is likely to facilitate improvements to waste and resource recovery services in the region through increased investment in services and facilities. This is also likely to provide innovations to services, as private service providers are better equipped to introduce technological improvements than some of the Councils.

- (b) **Efficiency** – the joint procurement will lead to efficiency improvements and reduce transport costs by allowing service providers to potentially service multiple locations through combined programs.
- (c) **Improved waste management and recovery rates** – this will benefit the environment and public health in the affected communities by reducing the amount of waste that is sent to landfill, increasing the rates of recovery for recoverable waste.
- (d) **Creation of jobs** – the joint procurement will maintain existing and lead to new local employment opportunities, including employment opportunities for disadvantaged sectors of the community, which will also lead to improved social outcomes. The likely move to more processing in the region should create jobs at the facilities that may be constructed, both during construction and when operating.

#### 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) **Viable resource recovery industry** – waste avoidance and increased use of resources will assist in achieving the goals set by the State and Federal Governments for a viable resource recovery industry in accordance with the National Policy and the Statewide Plan, and GWRRG's objectives under the EP Act.
- (c) **Gippsland Plan** – increased use of resources will assist in improving the waste and resource recovery system in Gippsland and reducing dependence on landfills in accordance with the Gippsland Plan.

### 9. Public Detriment

GWRRG submits that the Proposed Conduct will not result in any discernible public detriments for the reasons set out below, and in any event, any potential detriment would nevertheless be outweighed by the benefit to the public set out above.

A potential perceived detriment of the proposed collaborative procurement may be a decrease in competition as suppliers which may have offered services to each Council individually would be restricted to supplying the Councils in an aggregated manner.

However, the tender process here will still allow for suppliers to submit for smaller areas, so there will remain scope for smaller suppliers to secure certain work for a particular area, 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 Working Group will have regard to objective criteria in evaluating proposals by service providers. GWRRG has engaged an independent probity auditor in this regard to oversee the joint procurement process. The probity auditor will also be tasked with reporting to the Working Group regarding compliance with certain protocols that are designed to support the objective evaluation of service provider proposals.

Service providers will remain free to compete for other waste and resource recovery services to customers other than the Councils. The Proposed Conduct only affects a maximum of six local councils in Victoria out of a total of 79, and it is possible that not all of the Gippsland Councils will



opt-in to the joint procurement process. In addition, service providers will be able to bid for separate Councils.

Finally, the participation of each Council is voluntary. The Councils may choose to not opt-in to the joint procurement process, or withdraw following the conclusion of the process. Councils may, after consideration of the Joint Report, or other issues arising from the joint procurement process, elect to determine their own arrangements with service providers separately.

## **10. Conclusion**

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

## Annexure A Current Landfill Service Providers

Council	Landfill Operator	Contract Term
Bass Coast SC	Ace Environmental Services	2027
Baw Baw SC	SUEZ Recycling & Recovery Pty Ltd	2021
East Gippsland SC	East Gippsland SC	Indefinite
Latrobe City	Latrobe City	Indefinite
South Gippsland SC	South Gippsland Shire	Indefinite
Wellington SC	Towards Zero	2022

**Annexure B Potential Suppliers**

**CONFIDENTIAL**



**Annexure C Memorandum of Understanding**

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