



Public Competition Assessment

11 April 2019

Bingo - proposed acquisition of Dial-a-Dump

The ACCC's decision

1. On 28 February 2019, the ACCC announced its decision not to oppose the proposed acquisition by Bingo Industries Limited (**Bingo**) of Dial-a-Dump Industries Pty Ltd (**Dial-a-Dump**) (the **proposed acquisition**) after accepting a section 87B divestiture undertaking.
2. The ACCC considered that the proposed acquisition, taking into account the undertaking, would be unlikely to contravene section 50 of the *Competition and Consumer Act 2010* (the **Act**).
3. Section 50 prohibits acquisitions that would have the effect, or be likely to have the effect, of substantially lessening competition in any market.
4. The ACCC considered the likely competitive effects of the proposed acquisition in the following markets:
 - the supply of building and demolition (**B&D**) waste processing services in the Eastern Suburbs/inner city Sydney and in Western Sydney/Penrith
 - the supply of B&D waste collection services in the Sydney region, and
 - the supply of disposal services (i.e. landfill) for residual non-putrescible (**dry**) waste generated in the Sydney region.
5. Both Bingo and Dial-a-Dump collect and process B&D waste and own non-putrescible landfill sites in the Sydney region. The ACCC's investigation focussed on the loss of actual and potential competition between Bingo and Dial-a-Dump at each level of the supply chain. The ACCC also assessed the impacts of vertical integration, including whether Bingo would be able to prevent competing B&D waste collectors from accessing processing facilities, and B&D waste processors from accessing dry landfill, at competitive prices after the acquisition.
6. Please note that this and other public competition assessments are subject to the following qualifications:

- the ACCC considers each transaction on a case-by-case basis and so the analysis and decision outlined in one assessment will not necessarily reflect the ACCC's view of another transaction, even where that other transaction may involve the same or a related market, and
- as assessments are brief and do not refer to confidential information provided by the parties or other market participants, assessments do not set out all of the issues and information considered by the ACCC, nor all of the analysis and reasons of the ACCC.

The parties and the transaction

The acquirer: Bingo

7. Bingo is a publicly listed waste management company that provides waste collection and processing services in New South Wales and some parts of Victoria. Bingo primarily services B&D and commercial and industrial (C&I) customers. Bingo also manufactures and supplies bins under the TORO brand, supplies soil and sand, and has a small presence in the liquid waste business.
8. Bingo operates 12 B&D waste processing facilities in NSW, 10 of which are in the Sydney region. Bingo is also developing a processing facility and landfill at Patons Lane in Western Sydney, and a processing facility at Silverwater in Western Sydney. Patons Lane is a 60 hectare site with approved recycling throughput of up to 350,000 tonnes per annum (tpa) and approved landfill waste of up to 205,000 tpa. Patons Lane will have total landfill capacity of 4.3 million tonnes with a maximum operational life of approximately 25 years. The site has development approvals in place and is expected to become operational in 2019.¹

The target: Dial-a-Dump

9. Dial-a-Dump is a privately owned company, providing B&D waste collection and processing services in the Sydney region. Dial-a-Dump operates waste processing facilities at Alexandria and at Eastern Creek, which also has a landfill. Eastern Creek has an approved throughput of two million tpa for processing and landfill combined, and approximately 15 years of remaining landfill life.² Dial-a-Dump also processes some of its waste into recycled products and supplies woodchips/mulch, road base and aggregates, and soil and sand.

The transaction

10. Pursuant to an agreement entered into on 21 August 2018, Bingo proposes to acquire, through a subsidiary, 100% of the shares in Alexandria Landfill Pty Ltd, the holding company of Dial-a-Dump, for \$577.5 million. The transaction is conditional on ACCC approval. The proposed acquisition includes an option for Bingo to acquire a further 27 hectares of expansion land adjacent to Dial-a-Dump's Eastern Creek site.³

¹ Bingo ASX announcement, 27 November 2017.

² Bingo ASX announcement, 28 February 2019.

³ Bingo ASX announcement, 21 August 2018.

Review timeline

11. The following table outlines the timeline of key events for the ACCC in this matter.

Table 1: Review timeline

Date	Event
13 September 2018	ACCC commenced review under the Merger Process Guidelines.
11 October 2018	ACCC requested further information from the parties.
16 October 2018	Former provisional decision date of 8 November 2018 delayed to allow the ACCC more time to consider market feedback.
16 October 2018	ACCC received further information from the parties.
16 November 2018	Former provisional decision date of 22 November 2018 delayed to allow the ACCC more time to consider market feedback.
29 November 2018	ACCC published a Statement of Issues outlining preliminary competition concerns
14 December 2018	ACCC requested further information from the parties.
8 January 2019	ACCC published draft 87B undertaking proffered by Bingo and sought industry participants' views on the draft undertaking.
25 January 2019	ACCC received further information from the parties.
13 February 2019	Former provisional decision date of 21 February 2019 delayed to allow the ACCC more time to analyse information received.
28 February 2019	ACCC decision not to oppose, subject to a section 87B undertaking.

12. The total elapsed time from start to finish was approximately five and a half months. The total period, net of time taken by the parties to submit information or documents, was 79 business days.

Market inquiries

13. The ACCC conducted market inquiries with a range of industry participants, including current competitors, potential competitors, customers, industry bodies, regulatory agencies and other interested parties. Submissions were sought in relation to the competition issues and the proposed undertaking.

Statement of Issues

14. On 29 November 2018, the ACCC published a Statement of Issues identifying preliminary concerns that the proposed acquisition may reduce competition in:

- B&D waste processing services in the Sydney region, in particular in the Eastern Suburbs/inner city and in Western Sydney/Penrith
- B&D waste collection services in the Sydney region, and
- non-putrescible (dry) landfill disposal services in the Sydney region.

15. The ACCC also identified preliminary competition concerns regarding the increased vertical integration that would result from the proposed acquisition.

Industry background

16. The waste management industry comprises three main categories of activities:
- collections, which involves collecting and transporting the waste to post-collection facilities for processing or landfilling
 - processing, which involves the sorting, processing and recycling of waste, and the sale of some recycled products, and
 - landfilling, which involves disposal of the waste material that remains after recyclable material has been removed (referred to as residual waste). There are also alternatives to landfill, such as the processing of residual waste for use in waste-to-energy plants.

Types of waste

17. Putrescible waste contains putrescible organics, such as food waste. Non-putrescible waste is primarily non-organic waste that is composed of materials such as bricks, concrete, soil, timber, glass, plastic, rubber, plasterboard, ceramics, metal, paper and cardboard. Non-putrescible waste (also referred to as dry or solid waste) may be recyclable or non-recyclable.
18. The three major streams in the waste industry are:
- B&D waste: produced by the demolition and construction of residential and commercial buildings, civil projects, infrastructure development and household renovations. B&D waste is non-putrescible.
 - C&I waste: mainly generated from commercial buildings and businesses, government facilities, educational institutions and industrial sites. C&I waste is generally comprised of putrescible or non-putrescible materials (which are typically collected separately in different bins).
 - Municipal waste: a mixture of putrescible and non-putrescible waste collected from households through kerb side collection (typically collected in different bin types to segregate the recyclable materials).
19. In this matter, the ACCC's concerns related to B&D waste.
20. The composition of B&D waste varies and may include a mix of light and heavy materials:
- Light B&D waste includes cardboard, paper, plastics and plasterboard.
 - Heavy B&D waste includes bricks, concrete, timber and soils.

Collections services

21. Waste collection services comprise the delivery of bins or skips to customers, and picking up and transporting waste from the point of generation to post-collection facilities. The waste collector charges a fee to the customer for this service.

22. There are differences between how each type of waste is typically collected:
- For C&I waste, collections companies usually provide bins to their customers that are typically hoppers on wheels with a lid or wheelie bins, like those used for household collections.
 - B&D waste is typically collected using a hook lift or Marrell truck. Customers are provided with steel, open-faced skips that are typically more durable than the bins used for C&I waste because B&D waste is generally heavier.
23. B&D waste is typically collected from building and construction sites. Depending on the stage of the project, the types of B&D waste generated may vary:
- Demolition: the principal types of waste generated during the demolition of an existing structure are bricks, concrete, steel and timber. Specialist demolition companies will generally also provide B&D collection services as part of the demolition service.
 - Excavation: during the excavation phase of the project, soils are the principal form of B&D waste generated.
 - Construction: during the construction phase of a project, a mixture of light and heavy B&D waste is generated.

Processing services

24. After a mixed load of B&D waste is collected, it is typically transported to a processing facility.⁴ If a B&D waste collector uses a third party processing facility, it pays a fee to tip its load.
25. The stages of processing include:
- Sorting material into its component parts. Some facilities do not have the machinery to sort material by an automated process and will use equipment such as excavators to sort manually. Even where a facility has equipment to sort the waste, it will often do an initial sort using an excavator to reduce the amount of light waste and soils going through the machinery.
 - Recycling reusable material, for example crushing bricks and concrete, and chipping timber. Some facilities have equipment to do this on site, while others will consolidate the sorted waste before transferring to other facilities that have the necessary equipment. There are a number of material-specific recyclers (i.e. facilities that recycle bricks and concrete only).
26. The types of equipment needed to sort and process heavy B&D waste vary from the equipment used to sort light B&D or general household recyclable waste. Some processing facilities will not accept heavy B&D waste or will discourage B&D collectors from using their facilities (by charging high prices, for example)

⁴ In some cases collected waste is transported directly to a landfill. Segregated waste loads (e.g. where waste has been separated at the source) may be taken directly from the source to a material-specific processor (e.g. a concrete recycler) who processes the waste into a product for resale.

as they do not have the equipment or space to sort the waste into the component parts efficiently.

27. After processing has occurred, the recyclable material may be further processed and sold (either by the original processor or by a third party) as recycled products:
 - crushed brick and concrete is sold as road base and aggregate
 - chipped timber is sold as mulch and woodchips
 - metals are taken to scrap metal recyclers, and
 - soils can be sold to landscapers.
28. The term 'transfer station' is often used in the industry to refer to a facility that collects mixed waste and conducts relatively limited processing of that waste before transferring it to other facilities. The ACCC has not used this term as it appears to have somewhat different meanings to different industry participants and has considered these facilities as processing facilities in its assessment.

Landfill disposal services

29. Landfill owners charge a fee for use of their landfill (often referred to as a 'gate fee'), which includes any applicable landfill levy.
30. The NSW Government applies landfill levies that are calculated based on where the waste is generated, rather than where it is disposed.⁵ The levies are currently set at \$141.20 per tonne for waste generated in metropolitan areas and \$81.30 per tonne for waste generated in regional areas.
31. Currently, a large proportion of NSW waste destined for landfill is transported to south east Queensland for disposal. Queensland does not currently charge landfill levies, but the Queensland Government has announced that it will introduce in July 2019 a landfill levy of \$75 per tonne for most waste.⁶ When it commences, the Queensland levy will likely alter the incentives for parties to transport landfill waste from the Sydney region to south east Queensland for disposal.

Areas of overlap

32. Bingo and Dial-a-Dump overlap in the supply of the following services in the Sydney region:
 - B&D waste collection services
 - B&D waste processing services, and
 - non-putrescible landfill disposal services, once Bingo's Patons Lane facility becomes operational.

⁵ <https://www.epa.nsw.gov.au/your-environment/waste/waste-levy/scheduled-waste>

⁶ <https://www.qld.gov.au/environment/pollution/management/waste/recovery/disposal-levy>

33. Post-acquisition, Bingo would be the largest supplier of B&D waste collection services in the Sydney region, with a fleet of trucks significantly larger than the next largest B&D waste collector. It would also be the largest supplier of B&D waste processing services, with a network of 14 processing facilities (including its development sites). The next largest B&D processing competitors own three facilities in the Sydney region, but at least one competitor is expected to open more facilities in the short to medium term.

Other industry participants

34. Different companies operate at the collections, processing and landfill disposal levels of the B&D waste industry in the Sydney region, although some companies operate at more than one level (i.e. are vertically integrated).

Collections services

35. There are a large number of other skip bin companies in the Sydney region which collect B&D waste, but all are smaller than Bingo and Dial-a-Dump. These other skip bin companies include Aussie Skips, Grasshopper, Orange Bins, Just Skip Bins, Brown Brothers and Dump It Bins. Most of the competing skip bin companies do not have their own processing facilities and rely on third party processors to accept their waste.

Processing services

36. At the processing level, competitors to Bingo and Dial-a-Dump include:
- Benedict Recycling - a recycling company that accepts mixed B&D waste at its facilities at Belrose and at Chipping Norton.
 - Brandown – a recycling, landfill and quarry operator with a B&D waste processing facility and landfill at Kemps Creek.
 - Aussie Skips - a waste management company specialising in skip bin hire throughout Sydney. In addition to its skip bin hire service, Aussie Skips operates a B&D processing facility at Strathfield South.
 - KLF Holdings - a waste management company that currently operates two B&D waste processing facilities in Camellia and Asquith. It partners with Just Skip Bins.
 - Breen Resources - operates a B&D waste processing facility and landfill at Kurnell.
37. Cleanaway Waste Management, Veolia Environmental Services, Suez Recycling & Recovery Holdings and Remondis are providers of C&I and/or municipal waste collection services in the Sydney region. They also operate C&I waste processing facilities which may accept some B&D waste.

Landfill disposal services

38. There are also a number of companies which compete with Dial-a-Dump in the supply of landfill disposal services. A list of Sydney's non-putrescible landfills is included under the heading 'Disposal of Sydney non-putrescible residual waste

(landfill)' below. Some of these companies such as Brandown and Breen are vertically integrated between the processing and landfill levels.

Market definition

39. The ACCC's starting point for delineating relevant markets to assess the competitive effects of the proposed acquisition involves identifying the products actually or potentially supplied by the parties to the acquisition. The ACCC then considers what other products constitute sufficiently close substitutes to provide a significant source of competitive constraint.
40. Based on available information, the ACCC considered it was likely that:
 - B&D waste collections, processing and landfill disposal services are in separate markets
 - C&I and B&D waste collection and processing services are in separate markets (although C&I collectors and processors could be potential entrants into B&D collections and processing services)
 - landfill for the disposal of B&D waste is in a separate market from landfill for the disposal of putrescible waste
 - the markets for B&D waste processing services are likely to be confined to local areas within the Sydney region, and
 - the market for B&D waste landfill disposal services includes landfills located in the Sydney region and landfill facilities located in south east Queensland.

Functional dimension

41. A key issue in defining the relevant markets was whether competition occurs in separate markets for waste collection, processing and disposal services or whether competition occurs in markets encompassing two or more of these activities in the vertical supply chain.
42. B&D waste collection is a separate activity to B&D waste processing and landfill disposal. While a number of firms that supply B&D waste collection services are vertically integrated (with their own processing and landfill facilities), most B&D waste collectors are not and use third parties for processing and landfill disposal. As firms do not have to be vertically integrated to compete in the supply of B&D waste collection services, the ACCC considered waste collection services to be in a separate market from processing and landfill disposal services.
43. The ACCC also considered that processing and landfill disposal services are in separate markets. The ACCC recognised that there is some scope for substitution between B&D waste processing and landfill disposal. In circumstances where the B&D waste has a relatively low proportion of recyclable material, it may be cheaper for a B&D waste collector to tip a mixed load at a landfill than at a processing facility. That is, in some cases landfill may be an alternative to waste processing. While this is the case, for the most part B&D waste that can be recycled is recycled, as it is much less expensive to do so.

This suggests that B&D waste processing and landfill disposal are in separate markets.

Product dimension

44. Three key issues arose in defining the product dimensions of the relevant markets. Specifically, whether:
 - C&I and B&D waste collection services are in the same market
 - C&I and B&D waste processing services are in the same market, and
 - landfill for the disposal of putrescible waste is in the same market as landfill for the disposal of B&D waste.
45. The ACCC considered that C&I waste collection services are not a commercial alternative for companies requiring the collection of B&D waste. The equipment typically used to collect C&I waste cannot be used to collect B&D waste. As a result, any constraint that providers of C&I waste collection services impose on providers of B&D waste collection services is limited.
46. There is some scope for B&D waste collectors to use C&I waste processing facilities as an alternative to B&D waste processing facilities. However, this is also limited. C&I waste processors may accept light B&D waste, which is similar in composition to dry C&I waste. However, B&D waste collectors will typically not take mixed or heavy B&D waste to C&I processing facilities as generally these facilities will not accept the waste or will charge significantly more than a facility that primarily accepts B&D waste.
47. There are two types of landfill: putrescible and non-putrescible. A landfill that is licensed to receive non-putrescible waste cannot receive putrescible waste; a putrescible landfill is permitted to accept both putrescible and non-putrescible waste. However, sites that can accept putrescible waste typically charge significantly more than sites that only receive non-putrescible waste. The ACCC therefore considered that non-putrescible landfills are likely to be in a separate market to putrescible landfills.

Geographic dimensions

48. The ACCC's starting point to consider the geographic dimensions of the relevant markets was the Sydney region, as Bingo and Dial-a-Dump only overlap in the provision of B&D waste collection and processing services in that region. Patons Lane and Eastern Creek are both in the Sydney region.
49. Competition in the supply of B&D waste processing services is local. For B&D waste collectors, waste processing facilities located in different parts of the Sydney region are not close substitutes. Market feedback indicated that it was not commercially viable for B&D waste collectors to transport waste far. This is particularly the case in inner Sydney where traffic congestion can significantly increase the cost per tonne of transporting waste, especially for small loads. Typically, B&D waste collectors seek to tip waste at a processing facility near the collection site or on the route to their next location. B&D waste processing facilities located in the same locality are the most viable alternatives for B&D waste collectors.

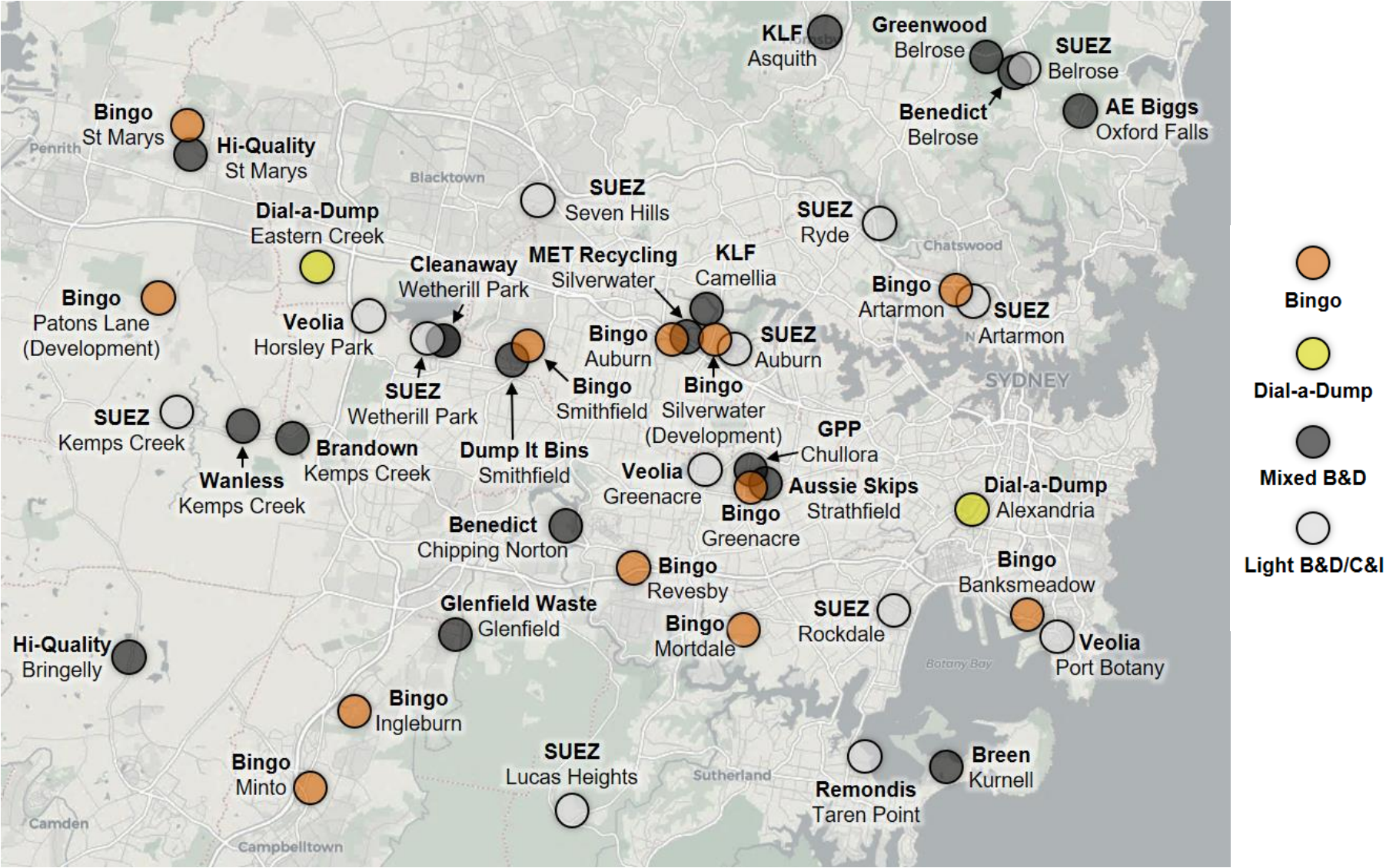
50. The ACCC found that B&D waste processors dispose of residual waste in landfills located in the Sydney region as well as landfills located in south east Queensland. While transporting B&D landfill waste to south east Queensland is more costly, processors who dispose of B&D landfill waste in south east Queensland avoid the NSW Government landfill levies. The ACCC noted that the Queensland Government plans to impose a landfill levy of around half the NSW levy in July 2019. While this will increase the cost to dispose of B&D waste in south east Queensland, the ACCC formed the view that this will still remain a commercial option for B&D processors in the Sydney region. As a result, the ACCC concluded the relevant market for B&D waste landfill disposal services includes landfills located in the Sydney region and landfills located in south east Queensland.

Competition analysis

B&D waste processing services

51. The ACCC assessed whether the proposed acquisition would be likely to substantially lessen competition in the market(s) for the supply of B&D waste processing services and whether this would be likely to result in increased B&D waste processing prices, in particular in:
- the Eastern Suburbs/inner city of Sydney, where Bingo's Banksmeadow facility currently competes closely with Dial-a-Dump's Alexandria facility, and
 - in Western Sydney/Penrith, where Bingo's St Marys facility and its proposed Patons Lane processing facilities compete and are likely to compete with Dial-a-Dump's Eastern Creek facility.
52. The ACCC also examined whether the proposed acquisition would increase Bingo's ability to impose exclusive processing contracts on customers, by removing an alternative processing option for those customers.
53. The ACCC considered that Bingo and Dial-a-Dump were likely to be each other's closest competitor in the Eastern Suburbs/inner city. The next closest mixed B&D waste processor is Aussie Skips at Strathfield South, which is significantly further away.
54. In addition to firms that process mixed B&D waste, the ACCC also had some regard to processors of C&I waste such as Suez, Cleanaway, Veolia and Remondis (shown in light grey on the map below). These processors may be an option for lighter loads of B&D waste that are similar in composition to C&I waste. However, as noted above in the discussion of market definition, market feedback indicated that these facilities are not a good alternative for most loads collected by B&D waste collectors as their facilities are generally not capable of processing heavy B&D waste and do not charge competitive rates for a typical mixed B&D waste load. The ACCC therefore considered that Suez, Veolia, Cleanaway and Remondis were not likely to impose a significant competitive constraint on Bingo post-acquisition.

Figure 1: B&D waste processing facilities in Sydney



55. Available information indicated that the likelihood of new entry or expansion in B&D waste processing in the Eastern Suburbs/inner city of Sydney was particularly low due to a scarcity of available land.
56. The ACCC also considered whether the removal of Dial-a-Dump Alexandria as an independent rival to Bingo Banksmeadow would increase Bingo's ability to impose exclusivity or minimum volume conditions on its waste processing customers. The ACCC was concerned that Bingo may restrict access to its processing facilities in areas where there are no alternative processors unless customers also agreed to use its facilities in other areas where there are alternative processors. This may have the effect of reducing volumes available to alternative processors, increasing their operating costs and reducing their ability to compete.
57. To address competition concerns in relation to B&D waste processing in Sydney's Eastern Suburbs and the inner city, the ACCC accepted an undertaking from Bingo that requires Bingo to divest its Banksmeadow waste processing facility. Further information about the undertaking is set out below.
58. In comparison to the Eastern Suburbs/inner city, the ACCC's review indicated that there were alternative processing options in Western Sydney that were likely to impose constraint on Bingo post-acquisition. The ACCC considered there was also potential for entry or expansion in this part of Sydney. For example, Benedict Industries proposes to open new processing sites at Girraween⁷ and Penrith.⁸

Disposal of Sydney non-putrescible residual waste (landfill)

59. The ACCC considered whether the proposed acquisition would be likely to lead to higher prices for disposal of non-putrescible residual waste generated in the Sydney region by removing future competition between Bingo's Patons Lane landfill (expected to be operational in 2019) and Dial-a-Dump's Eastern Creek landfill.
60. The ACCC also considered whether combining an already large waste collector and processor (Bingo) with a large landfill operator (Dial-a-Dump) would give rise to competition concerns in B&D waste processing. It considered whether Bingo would be able to prevent or hinder competing B&D waste processors from accessing landfill disposal services at competitive prices due to its ownership of a significant share of non-putrescible landfill capacity in the Sydney region.
61. The Statement of Issues noted that the ACCC's preliminary view was that Bingo's market share of Sydney non-putrescible landfill post-acquisition (including Patons Lane) would be in the order of:
 - between 15 and 25% of annual capacity, and
 - around half of current total remaining capacity.⁹

⁷ <https://www.benedict.com.au/locations/girraween/>

⁸ http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7733

⁹ The Statement of Issues (SOI) noted that these figures should be treated as a rough estimate only. See paragraph 97 of the SOI for more information.

62. The ACCC also considered the estimated market shares of Sydney landfill operators based on current and expected annual throughput.
63. The following table lists the non-putrescible landfills in Sydney that the ACCC identified.

Table 2: Non-putrescible landfills in the Sydney region

Owner/operator	Location (area)
Dial-a-Dump	Eastern Creek (West)
Bingo	Patons Lane (West) – <i>Proposed new facility</i>
Suez	Kemps Creek (West)
Veolia	Horsley Park (West)
Cleanaway	Erskine Park (West)
Brandown	Kemps Creek (West)
Glenfield Waste Services	Glenfield (West)
Breen Holdings	Kurnell (South)
Blacktown Waste Services	Marsden Park (West)
Penrith Waste Services	Mulgoa (West)
Wanless Recycling	Kemps Creek (West)
Kimbriki Environmental Enterprises	Terrey Hills (North)
Greenwood Landfill & Waste Recovery Facility	St Ives (North)

Alternatives to Bingo’s landfill

64. As part of its review, the ACCC examined a number of possible alternatives to Bingo’s landfills, specifically:
- other landfills in the Sydney region (see Table 2 above)
 - south east Queensland landfills
 - regional NSW/ACT landfills, and
 - alternative technologies such as refuse derived fuel (**RDF**), process engineered fuel (**PEF**) and energy from waste (**EfW**).
65. While individually these alternatives may not have provided a sufficient level of constraint, the ACCC considered that collectively they were likely to constrain Bingo post-acquisition.

Other Sydney landfills

66. The ACCC noted that some other non-putrescible landfills in Sydney would compete with Bingo post-acquisition. For example, Suez has a large landfill at Kemps Creek in Western Sydney.

67. The ACCC did not consider that all of the non-putrescible landfills identified at **Table 2** above were likely to be a significant constraint on Bingo post-acquisition because:
- some of the larger landfills are expected to reach total remaining capacity within the next few years and are likely to close, and
 - others are small (especially in terms of remaining capacity), and are essentially council-run landfills and/or charge considerably more than Dial-a-Dump for B&D waste.
68. It is unlikely that new landfills will be developed in the Sydney region due to the difficulty and expense in obtaining a suitable site and the necessary regulatory approvals
69. The ACCC considered that there is potential for expansion by some competing landfill operators extending the remaining lifespan of their facilities.
70. The ACCC noted that some competing Sydney landfill operators appear to be currently only accepting very limited volumes of waste. While this is the case, they have the scope to increase the volume of waste they accept (particularly if, as expected, Sydney gate fees increase following the introduction of the Queensland levy). The ACCC considered that the prospect of these landfills increasing their throughput will constrain the merged firm to some degree.

Landfills in south east Queensland

71. The ACCC noted that a significant proportion of Sydney's residual B&D waste is being transported and disposed of in south east Queensland landfills, as the additional transportation costs are outweighed by the difference in gate fees (including the NSW landfill levy). The incentive to send waste to Queensland for disposal is likely to continue while the total cost of disposal in Queensland (including transport costs and any levies) is lower than the total cost of disposal in Sydney.
72. The Queensland Government has announced that it will introduce a landfill levy of \$75 per tonne from July 2019. This may reduce the volume of Sydney waste being sent to south east Queensland.
73. This is likely to have the effect of increasing Sydney landfill gate fees. Landfill operators in south east Queensland and the companies who transport waste from Sydney to Queensland may also have an incentive to reduce their fees in order to maintain revenues. If this occurs, the incentive to send waste to south east Queensland would be likely to remain.
74. The ACCC therefore considered that landfills in south east Queensland would be likely to continue to impose competitive constraint on the price that Sydney dry landfills can charge, provided there are no additional regulatory changes that limit the viability of transporting waste to Queensland.
75. The introduction of the Queensland levy (and resulting increases in landfill gate fees) may also provide an incentive for increased recycling of B&D waste generated in the Sydney region.

Regional NSW/ACT landfills

76. Regional landfills in the NSW and ACT appeared to provide limited constraint on Sydney landfill gate prices due to the applicability of the Sydney metropolitan landfill levy (which follows waste within NSW). The ACCC's inquiries indicated that gate fees in some regional areas were the same or higher than in the Sydney region. Unlike the Queensland option, gate fees in regional NSW may not be sufficiently low to offset the increased costs of transporting B&D waste out of the Sydney region.
77. However, there is potential for regional alternatives to provide more constraint in the future. For example, the introduction of the Queensland levy could lead to more landfill capacity being developed in regional NSW. In this regard, the ACCC considered that there is a higher likelihood of new landfills being established in regional NSW than in the Sydney region.

Alternative technologies

78. The ACCC understands that RDF/PEF plants convert waste into fuel. RDF/PEF may be either used locally (although options are currently very limited) or exported to countries where waste incineration is more common. The term EfW is generally used to refer to plants that actually convert the RDF/PEF or other waste material into energy (e.g. by incineration).
79. The ACCC's inquiries indicated that new technologies that provide an alternative to landfill disposal are still in their infancy in Australia. They are unlikely to provide a strong competitive constraint in the short term as the input volumes are relatively small, and there are limitations on the types of waste that are suitable for processing into fuel as the material must be of high calorific value.
80. Reliance on these technologies as an alternative to landfill disposal is likely to continue to grow, as it has in overseas jurisdictions, although most available information indicates that progress will be slow. The ACCC considered it likely that additional RDF/PEF facilities will be developed in the Sydney region in the medium term to long term.

Conclusions on landfill

81. The ACCC concluded that the loss of potential future competition between Bingo's Patons Lane facility and Dial-a-Dump's Eastern Creek facility was not likely to amount to a substantial lessening of competition, due to:
 - the relatively small size of the Patons Lane facility (at least in terms of annual capacity), and
 - the collective constraint from the range of alternatives to Bingo's landfills identified above, in particular other Sydney landfills and south east Queensland landfills. Although each of the alternatives to Bingo's landfills identified above has limitations, the ACCC formed the view that collectively they were likely to provide a sufficient competitive constraint on the merged firm.
82. Although the proposed acquisition would combine an already large waste collector and processor (Bingo) with a large landfill operator (Dial-a-Dump), the

ACCC considered that it was unlikely that Bingo would be able to prevent competing B&D waste processors from accessing dry landfill at competitive prices because:

- based on available information, it appeared unlikely that Bingo would have sufficient share of the available supply of landfill waste disposal services (taking into account the range of options discussed above) to be able to effectively foreclose access to competing B&D processors, and
- some of Bingo's key B&D waste processing competitors are also vertically integrated between the processing and landfill disposal services levels, which will afford these competitors some protection from any foreclosure strategy by Bingo.

B&D waste collections services in Sydney

83. Bingo and Dial-a-Dump are currently the two largest B&D waste collections companies in the Sydney region. Information received by the ACCC indicated that Bingo and Dial-a-Dump supply between 25 to 30% of B&D waste collection services in the Sydney region.
84. While a large proportion of the remaining market is comprised of very small collections companies, the ACCC found that there was a sufficient number of rival collectors that do currently impose a constraint on Bingo and Dial-a-Dump. Data and information available to the ACCC showed that these rivals have been able to win customers from Bingo and Dial-a-Dump on a regular basis. Information available to the ACCC also indicated that large customers are able to separate out their contracts with B&D waste collectors to enable them to sponsor the expansion of smaller collection companies.
85. The ACCC found that barriers to entry and expansion for B&D waste collectors do not appear high, provided they are able to tip waste at processing facilities at competitive rates, as the cost of trucks and skips is not prohibitive and there is a market for second-hand vehicles. The ACCC is also aware of a number of competitors that have recently expanded their collections businesses.
86. The ACCC examined whether rival collectors would have sufficient alternative options for B&D waste processing services post-acquisition. The ACCC was concerned that the competitive constraint currently imposed by rival collectors and the threat of new entry was likely to be reduced if rivals' processing costs increased, or if they had to travel further to access alternative processing facilities outside the Eastern Suburbs/inner city. Travelling further would increase transportation costs and time, as well as reducing the number of customers a truck can service in a day.
87. The divestiture undertaking given by Bingo addressed these competition concerns, as the undertaking will assist in ensuring that there will be alternative options for rival collectors. Further information about the undertaking is set out below.

Undertaking

88. The ACCC accepted a divestiture undertaking from Bingo to remedy competition concerns in respect of B&D waste processing and collection services in Sydney's Eastern Suburbs and inner city.
89. A brief summary of the undertaking is set out below:
- **Divestiture package** – the Banksmeadow waste processing facility, including all assets and equipment on site, and the transfer of relevant employees.
 - **Sale or lease of the land** – the approved purchaser of the facility may either purchase or enter into a long term lease of the land on which the waste processing facility is located, as determined by agreement between Bingo and the approved purchaser.
 - **Purchaser approval** – the ACCC must approve the proposed purchaser.
 - **Tipping option** – in certain circumstances, Bingo must enter into an agreement (to be approved by the ACCC) to allow the purchaser to tip waste at Bingo's landfills for a minimum of seven and a half years.
 - **Independent Lease Manager** – if the purchaser leases the land from Bingo, Bingo must appoint an ACCC approved independent lease manager to manage the lease independently of Bingo.
 - **Independent management and auditing** – Bingo must appoint an ACCC approved independent manager to manage the facility from the completion date of the proposed acquisition until Banksmeadow is divested to the approved purchaser. Bingo must also appoint an ACCC approved independent auditor to monitor Bingo's compliance with the undertaking.
90. The ACCC considered that the divestiture of Bingo's Banksmeadow facility was capable of resolving competition concerns in relation to both B&D waste processing and collection services by:
- maintaining competition between the Banksmeadow and Alexandria waste processing facilities that would otherwise be lost as a result of the proposed acquisition, and
 - providing an alternative to Bingo's Alexandria waste processing facility if Bingo attempted to impose exclusive waste processing arrangements on customers.
91. A copy of the undertaking is available on the ACCC mergers register and undertakings register.

Conclusion

92. Based on the above analysis, the ACCC concluded that the proposed acquisition of Dial-a-Dump by Bingo, taking into account the undertaking, would not have the effect, or would not be likely to have the effect, of substantially lessening competition in any market.