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By email connie.wu@acc.gov.au

Dear Ms Wu

Metropolitan Waste and Resource Recovery Group - Recycling Submission by Cleanaway

Thank you for sending through the submission from Cleanaway.

As a preliminary point, we believe that the majority of the submission addresses points best considered in the substantive authorisation process, with only the last section raising issues directly relevant to whether to grant interim authorisation more urgently.

We understand, however, that the Commission has an interest in the potential impact of granting interim authorisation, and accordingly we provide the following responses to the points raised in the submission.

By way of context, we note that since acquiring the assets of SKM, Cleanaway has been contracting with individual councils for recycling sorting services in circumstances where the lack of alternative capacity has left the councils with little room to negotiate. At the same time, Cleanaway has been prepared to bid to provide landfill services where these have been procured collaboratively.

In terms of the more detailed points submitted, we respond as follows.

- 1.1 – the changes in government policy made the original proposal for commitment of volumes over a period of 20 years no longer appropriate. It is hoped that some type of similar arrangement may yet be possible in the longer term, but for immediate purposes, councils must put arrangements in place for the short to medium term to ensure that kerbside recyclables are dealt with. The panel proposed is intended to assist councils to achieve that outcome efficiently, whilst giving suppliers a mechanism which allows them to engage with multiple councils and also provides a greater capacity to plan for the medium term whilst important changes in the sector are implemented. Whilst the term sought in the application for authorisation is up to 7 years, there may be scope for this to be shortened, [REDACTED] particularly if it is apparent that the changes flowing from the policy reform can be implemented more quickly than initially

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anticipated. It is submitted that such a lesser period would further mitigate against the concern raised by Cleanaway, Finally, and in any event, the councils will still have volumes of waste collected each week that will have to be dealt with, so suppliers are unlikely in practice to face complete uncertainty when calculating their pricing.

- 1.2 – the volume of waste from the participating councils will still be significant (in excess of 400,000 tonnes per annum), and suppliers remain free to offer services to the other councils that are not in this procurement (and who will also have an on-going need to dispose of waste collected on an uninterrupted basis). The introduction of a separate bin for glass does not mean that such waste will be “removed from the market”; the glass, even if it is not in a commingled waste bin, will still need to be sorted before being transferred for further processing, and the transition with glass will not occur overnight, but will likely take until 2027. Similarly, the introduction and full impact of a CDS will take some time, and any small reduction in total volumes on account of such containers (much less than the 15% suggested) will likely be more than matched by the revenue that suppliers will derive from the deposit payments they will be able to retain from the containers that continue to be put in the bins that form part of their waste stream; whilst some cans and bottles may be retained by purchasers who deposit them at authorised outlets and claim the 10 cents per container, many such items will still go into the bins for commingled recyclables and make their way to the MRF, where the operator can extract them and claim the 10 cents for itself (some of which it may choose to share with the councils).
- 1.3 – it remains possible that recyclable waste could end up in landfill if the instability of suppliers such as was experienced with SKM returned. The procurement is designed to provide some stability for suppliers, and to avoid the uncertainty that saw previous operators take on unsustainable volumes of waste, much of which was then sent to landfill. The procurement is also expected to encourage lower levels of contamination in recyclables, further reducing the amounts that end up being diverted to landfill.
- 1.4 – if a CGF is used and managed by MWRRG, any charge that may be involved would be minimal (noting the MWRRG is not for profit), and most likely much less than the savings for councils in having the procurement managed by MWRRG. In relation to the assertion regarding contamination, any CGF would apply only to fees for **sorting**, and not to fees for **decontamination**; accordingly, incentives for lower contamination levels would remain in place.
- 2 - as sorting of waste becomes more specialised, there are more instances of certain types of recyclable material being transported out of the local area. It is also the case that suppliers remain free to deal with councils that are not participating in the procurement. On the supplier side, we note that in the absence of a collaborative procurement, 3 large incumbent operators have a significant negotiating advantage when dealing with individual councils, particularly those with smaller populations or more distant from the metropolitan area. Finally, a number of the existing suppliers, and potential new suppliers, have operations in multiple states (or even countries) and so can draw on skills and expertise from a wide range of operations.
- 3 - it is not correct to characterise the councils as having flexibility as to the timing of the procurement. All but one of the metropolitan councils has a contract ending on 30 June 2022 or shortly after, and the majority of the other councils also face such an expiry date. Councils must satisfy their obligation under the Local Government Act to have contestable pricing before entering new arrangements, and this process requires them to engage with suppliers, as

proposed in this procurement. The 8 months proposed includes 6 weeks for suppliers to submit their response before Christmas, a period for the evaluation of the responses and internal approvals by the WRRGs and engagement with councils as to the results, before councils then go through their own internal processes (including co-ordination of meetings of councillors to consider the recommendations of the relevant officers within the council). The total time involved will be at least 6 months, leaving a few weeks before 30 June for councils to enter in to contracts with suppliers. The Invitation to Tender could not be delayed for months whilst a final determination is worked through, if the 30 June date is to be met. Moreover, responding to such an Invitation is not an unduly onerous process for suppliers to undertake (certainly not for large, well-resourced operators such as Cleanaway, which responds to such tenders regularly), and in any event it must be less resource-consuming than responding to separate requests from each council.

Yours sincerely

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