

28 October 2021

Ms Connie Wu
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Australian Competition and Consumer Commission
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General Counsel Dan Pearce
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By email connie.wu@acc.gov.au

Dear Ms Wu

**Metropolitan Waste and Resource Recovery Group - Recycling
Submission by SUEZ Recycling and Recovery**

Thank you for sending through the submission from Suez Recycling & Recovery (Suez).

As a preliminary point, we believe that the submission from Suez does not raise issues that go to the essence of whether to grant interim authorisation, in that the points made could be considered as part of the process of considering the substantive authorisation. As set out in our request for an interim authorisation, we do not believe that granting interim authorisation to allow for the simple release of an Invitation to Tender will affect the market or its participants adversely.

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

The key point made appears to be that Suez would require a longer term to justify its investing in the establishment of a new MRF facility. In response, we note that there is no restriction that would “preclude” Suez from offering to participate, or any aim of “limiting the number of processors in the market”. The procurement will be an open invitation, and is designed to attract new entrants by providing greater certainty than disparate negotiations with individual councils as their contracts come up for expiry.

We also make the following more specific points regarding the circumstances. First, the proposed panel is intended as an interim solution to assist councils in accessing services efficiently in light of contract expiries, and through a period of regulatory change; a variety of changes are expected to be implemented through to 2027, and the panel will allow for effective delivery of services across this period. Secondly, Suez’ request for a longer period appears to ignore the fact that there is no guaranteed volume of waste, which would presumably also be relevant to an investment decision. Thirdly, changes in the composition and mix of waste expected over the period mean there should be scope for new types of facilities that are more specialised or advanced than another MRF of a type and

size similar to existing facilities; volumes in the order of 20,000-50,000 tonnes may provide a suitable base for such a new entrant, and even a more traditional type of MRF would only require 50,000-100,000 tonnes, a fraction of the total waste expected to be involved. Fourthly, the position of Suez is not affected by the adoption of a collaborative procurement as proposed; Suez would face the same threshold issues if the councils went to the market individually (and indeed Suez would likely have less certainty as to the volumes of waste available and length of terms in that scenario). Finally, we note that Suez is due to be acquired by Veolia (subject to approval from the Commission's merger branch), and so there is considerable uncertainty as to its future direction and interest in providing the services being sought in this procurement.

Yours sincerely

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