

7 August 2020

By email: darrell.channing@accc.gov.au

Mr Darrell Channing
Director, Adjudication Branch
Australian Competition and Consumer Commission
23 Marcus Clarke Street
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Dear Mr Channing

MWRRG – application for revocation and substitution AA1000503 – response to ACCC request for further information

As you know, we act for the Metropolitan Waste and Resource Recovery Group (**MWRRG**) in respect of the above application for revocation and substitution dated 21 April 2020 (the **application**).

We refer to our previous correspondence in this matter and your letter dated 15 July 2020 requesting further information from MWRRG. This letter responds to the ACCC's request.

Capitalised terms in this letter have the same meaning as in the application.

Confidentiality

Subject to the below, material in this letter that has been **highlighted in red** and preceded by the word "**CONFIDENTIAL:**" contains confidential and commercially sensitive information and must not be disclosed to any third party without MWRRG's prior written consent.

MWRRG:

- acknowledges that there is no restriction on the internal use, including future use, that the ACCC may make of confidential information consistent with the ACCC's statutory functions;
- consents to the disclosure of confidential information to the ACCC's external advisors and consultants on the condition that each such advisor or consultant will be informed of the obligation to treat the information as confidential; and
- acknowledges that the ACCC may disclose confidential information to third parties (in addition to its external advisors and consultants) without MWRRG's consent if compelled by law or in accordance with section 155AAA of the CCA.

Response to ACCC request for further information

- 1 Further details regarding the current arrangements between each of Melbourne City, Port Phillip City, Whittlesea City and Yarra City Councils***

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and their current organic waste processing provider/s. This should include:

(a) an estimate of the costs and council employee time involved in administering the organic waste processing contract

Based on its own time and costs spent on contract administration activities for the South Eastern Organics Group, MWRRG estimates that the time and costs associated with administering an organic waste processing contract for an individual council are approximately [CONFIDENTIAL] and [CONFIDENTIAL] per month, depending on the council employee(s) involved. This estimate does not include time and costs that may be incurred by individual councils in connection with organic waste processing services (e.g., in respect of co-ordinating truck movements, dealing with contamination issues, etc.).

The actual costs spent on contract administration activities will vary between individual councils, for example as a result of differing organisational structures and staff allocations, and differing hourly rates. That said, the time and costs currently spent by the additional councils in administering their respective organic waste processing contracts are significantly greater than those spent by each council that already participates in the South Eastern Organics Group. The authorised conduct to date has allowed the councils of the South Eastern Organics Group to use MWRRG's capabilities, experience and expertise, as well as the shared experience of the group, in their contract management activities (e.g., in relation to the obtaining of specialist advice and strategic planning for various risks). Authorisation in the current matter will allow the additional councils to benefit from the same shared contract administration functions and collective experience in respect of the proposed contingency arrangements.

(b) the identity of the supplier and any sub-contractors involved in the waste processing (for example if the organics contract is part of a wider waste contract but the head waste management company has subcontracted the reception and composting aspect to an unrelated business)

Each of the additional councils currently supplies its organic waste to Suez's Epping Organic Resource Recovery Facility (located at 480 Cooper Street, Epping, Victoria). [CONFIDENTIAL]

(c) the facility/s at which the council's organics waste is processed.

Please see response to question 1(b) above.

2 Further details regarding the proposed arrangements between each of Melbourne City, Port Phillip City, Whittlesea City and Yarra City Councils and the organic waste processing provider/s under the South Eastern

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Organics Group joint tender and the Metropolitan Waste and Recovery Group as the contract administrator. This should include:

(a) the length of time that the councils propose to enter contracts (including any options periods)

As previously noted, the additional councils' intention is to join the South Eastern Organics Group on a contingency basis (e.g., for use in the event that there is a temporary shutdown of their primary, and geographically closer, facilities). For that reason, it is proposed that the additional councils will participate until the expiry of the relevant contractual arrangements in March 2032 (or later if the option to extend the term for a further five years is exercised).

It is not currently known whether, or when, the additional councils may enter into contractual arrangements with Veolia, Cleanaway and/or Sacyr, as any such decisions to do so will be made by the additional councils themselves.

(b) details of the costs and/or council employee time that the Applicants estimate will be saved by using MWRRG's contract administration services

Based on MWRRG's response to question 1(a) above, it is estimated that approximately [CONFIDENTIAL] and [CONFIDENTIAL] per month will be saved per council. These numbers are higher than those estimated in response to question 1(a) above, as the additional councils will also experience further time and cost savings in respect of their current overflow arrangements. See further the response to question 1(a) above regarding the efficiencies associated with the additional councils' participation in the South East Organics Group on a contingency basis.

(c) an estimate of the costs and/or council employee time that will still be involved in tasks related to the organics waste contract (for example, time spent on the MWRRG and councils joint administration panel).

Based on MWRRG's responses to questions 1(a) and 2(b) above, it is estimated that the costs and time associated with tasks related to the collective arrangements will be approximately [CONFIDENTIAL] and [CONFIDENTIAL] per month. Clearly, this is significantly less than those associated with the additional councils' undertaking their contract administration activities separately.

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3 For each of the North Western Organics Group, Eastern Organics Group and the Melbourne metropolitan councils outside both these two groups and the South Eastern Organics Group, please provide:

(a) the amount of organic waste processed in 2019

The amount of organic waste processed in 2019 by each of the North Western Organics Group, the Eastern Organics Group and the metropolitan Melbourne councils outside both these two groups and the South Eastern Organics Group (being Boroondara City Council and Stonnington City Council) is set out in the table below.

The volumes provided in respect of Boroondara City Council and Stonnington City Council represent MWRRG's best estimates (based on its understanding of the amounts of organic waste generally processed in similarly-sized municipalities), as those councils are not part of any MWRRG organics groups and MWRRG is not privy to any internal information from those councils.

MWRRG notes again that the additional councils' intention is to join the South Eastern Organics group on a contingency basis only. Organic waste volumes from the additional councils will continue to be processed by Suez in the ordinary course, and it is only in the event that Suez's facility is unable to do so that the additional councils will divert their volumes to the South Eastern Organics Group's service providers. For that reason, the additional councils' participation in the South Eastern Organics Group does not immediately change the extent to which their respective volumes, and the volumes set out below, are committed or allocated to particular service providers.

Group / Council	Organic waste processed (2019) (approx. tonnes)
North Western Organics Group	[CONFIDENTIAL]
Eastern Organics Group	[CONFIDENTIAL]
Boroondara City Council	[CONFIDENTIAL]
Stonnington City Council	[CONFIDENTIAL]

(b) MWRRG's projections of organic waste expected to be processed over the five years from 2020 (inclusive)

The projected volumes of organic waste to be processed by each group or council are set out in the table below. These volumes are estimates only, which may be subject to change (i.e., based on population growth and any unforeseen COVID-19 related impacts).

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As above, the projected volumes for Boroondara City Council and Stonnington City Council are MWRRG's best estimates as MWRRG is not privy to any internal information from those councils.

Group / Council	Projected organic waste volumes (approx.) (2020 – 2025)
North Western Organics Group	[CONFIDENTIAL]
Eastern Organics Group	[CONFIDENTIAL]
Boroondara City Council	[CONFIDENTIAL]
Stonnington City Council	[CONFIDENTIAL]

(c) the identity of the supplier and any sub-contractors involved in the waste processing

The organic waste service providers for each group or council are set out in the table below. These service providers may have further subcontractor arrangements in place to use on an ad hoc basis, which may change from time to time according to market conditions and other arrangements the relevant contractor has in place, and which remain confidential to those councils.

Group / Council	Organic waste services provider
North Western Organics Group	Veolia Bulla Resource Recovery Facility
Eastern Organics Group	Bio Gro Dandenong Facility
Boroondara City Council and Stonnington City Council	[CONFIDENTIAL]

(d) the facility/s at which the organics waste is processed, the approximate amounts currently being processed, the date the facility was built, the date and type of upgrades made to the facility, and the expected lifetime remaining of the facility.

Further details in respect of each service provider's relevant facilities are set out in the table below.

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In respect of estimated volumes currently being processed, please refer to MWRRG's response to question 3(a) above.

Group / Council and facility	Date built and upgrades	Expected lifetime
North Western Organics Group <i>Veolia Bulla Organic Facility</i> <i>600 Sunbury Road, Bulla</i>	Construction of the Bulla Organic Facility was completed in 2013. A sorting line was installed in August 2017 to assist with increasing contamination problems in the organic volumes received.	The facility may continue to be used as long as it meets operational needs, which may require maintenance works and/or upgrades from time to time.
Eastern Organics Group <i>Bio Gro Dandenong Facility</i> <i>80-82 Ordish Road, Dandenong South</i>	Construction of Bio Gro's Dandenong Facility was completed in early 2011. [CONFIDENTIAL]	As above, the facility may continue to be used as long as it meets operational needs, which may require maintenance works and/or upgrades.
Boroondara City Council and Stonnington City Council	[CONFIDENTIAL]	[CONFIDENTIAL]
[CONFIDENTIAL]		

4 *The volume of organic waste processed in Melbourne outside of council waste contracts (i.e., privately supplied waste).*

In addition to organic waste collected from councils, organic waste is also available to service providers from industrial and/or commercial sources. For instance, **[CONFIDENTIAL]**

Industrial and/or commercial sources of organic waste are, and will remain, available to third party service providers. Given such arrangements are private, there is nothing to prevent third party service providers from approaching or tendering for private suppliers of organic waste (which can be contrasted to public council arrangements), who are free to decide how to tender their services and operate their facilities.

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information**

While MWRRG is not privy to any data regarding volumes of commercial or privately-supplied waste in metropolitan Melbourne, there is likely to be greater scope for organic waste from alternative sources to be contestable as the circular economy program develops.

Should the ACCC have any questions or require any further information, please do not hesitate to contact us.

Kind regards



Alistair Newton
Partner