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Barwick's submission regarding Southern Waste Solutions' application for interim and final authorisation (Authorisation number AA1000667-1)

PUBLIC VERSION

1 Introduction

1.1 B G & J M Barwick Pty Ltd (**Barwick's**) welcomes the opportunity to provide a submission regarding the authorisation application by Copping Refuse Disposal Site Joint Authority, trading as Southern Waste Solutions (**SWS**) for:

a. SWS
b. each of the Clarence City Council, Sorell Council, Tasman Council and Kingborough Council (**Participating Councils**), and
c. the successful tenderer / operator of the proposed Copping Regional Organics Facility (**CRO Facility**) established as a result of the request for tender process contemplated in the application,

to engage in the following conduct:

d. undertake a request for tender process to appoint a contractor to design, build and operate the CRO Facility
e. negotiate and enter into a contract with the successful contractor for the design, building and operation of the CRO Facility, and
f. operate the CRO Facility, including processing all food organic and garden organic (together, **FOGO**) waste produced by Participating Councils' residents.

(the **SWS Application**).

1.2 SWS seeks interim authorisation to complete the request for tender process outlined in paragraph 1.1(d) above, and authorisation for 26 years for designing, building and operating the CRO Facility to allow SWS to realise return on investment.

1.3 Barwick's holds significant concerns about the conduct proposed in the SWS Application (the **proposed conduct**). Further, Barwick's considers SWS has omitted critical information in the SWS Application relevant to the ACCC's assessment, namely Barwick's development of a new organic waste processing facility in southern Tasmania due to begin operations in 2025.

1.4 This submission provides information about:

a. Barwick's (section 2)
b. the current market in Southern Tasmania for organic waste processing services (section 3)
c. Barwick's proposed in-vessel composting facility (section 4)
d. factors Barwick's encourages the ACCC to consider when assessing the SWS Application (section 5)
e. the significant impact to Barwick's if the ACCC grants interim authorisation (section 6), and
f. the inapplicability of other authorisations referred to in the SWS Application (section 7).

1.5 In summary, Barwick's submits the ACCC should dismiss SWS's request for both interim and final authorisation because:

a. the proposed conduct is unlikely to result in a net public benefit and, in fact, is likely to result in net public detriment due to environmental, economic and competition impacts, and delayed achievement of government objectives
b. the proposed conduct may have the likely effect of substantially lessening competition in the organic waste processing market and, potentially, the waste collection market in southern Tasmania, and
c. the granting of an interim authorisation would significantly impact Barwick's ability to progress construction of its new organic waste processing facility.

2 Barwicks

2.1 Barwick's is a Tasmanian family business established in 1977. Barwick's supplies waste processing services and landscaping material to Tasmanian businesses and the public and specialises in producing high-quality landscaping products such as rich organic compost, soil conditioners, mulches, woodchips and soils from organic waste products.

2.2 Barwick's operates facilities throughout southern Tasmania at Boyer, Mornington, Glenorchy, Oatlands and Bridgewater.

2.3 Barwick's is committed to environmentally friendly waste processing, having established an open-air windrow composting facility at Interlaken in late 2012 to process organic waste, and partnered with TyreCycle in 2017 to construct a tyre shredding plant providing a much-needed solution to the hundreds of thousands of tyres usually sent to landfill in Tasmania each year.

3 Current market for organic waste processing in southern Tasmania

Organic waste

3.1 Organic waste comprises:

a. FOGO waste, produced primarily by households and collected by some councils, is a mixture of food organic and garden organic waste:
   i. food organic waste is also produced by hospitality and food service industries and includes fruits, vegetables, foods scraps and meat, and
   ii. garden organic waste is also produced by arborists and includes grass clippings, pruning, leaves, weeds and tree off-cuts, and

b. garden organic (GO) waste, produced primarily by households and collected by some councils. GO waste is identical to garden organic waste identified in paragraph 3.1(a)(ii) above but does not include any food organic waste.

c. commercial organic waste, including:
   i. food processing waste (e.g. poultry farming waste, sludges and processing residuals)
   ii. livestock waste (e.g. meat processing, residual and animal effluent)
   iii. agricultural waste (e.g. cropping residuals)
   iv. aquacultural waste (e.g. fish morts), and
   v. water treatment waste (e.g. biosolids).

3.2 Organic waste can be processed to produce compost, fertiliser, mulch and other bi-products.

3.3 For organic waste to be effectively composted, at least 80% of the waste being processed must be FOGO or GO waste to balance carbon/nitrogen ratios and minimise leachate generation. This ratio ensures the ideal conditions to promote aerobic, low methane bacterial processes which in turn generates sufficient temperatures to achieve pasteurisation levels required to satisfy AS4454 of a "mature" compost suitable for unrestricted use.

Suppliers of organic waste processing services

3.4 There are 3 main suppliers of organic waste processing services in Southern Tasmania:

3.5 Barwick's owns and operates, through its wholly-owned subsidiary Pure Soil Living, an organic waste processing facility in Interlaken, Tasmania (the Interlaken Facility).

3.6 Jenkins Hire owns and operates an organic waste processing facility in Plenty, Tasmania.

3.7 The Hobart City Council owns and operates the McRobie's Gully Waste Management Centre in South Hobart, Tasmania, which includes an organic waste processing facility.

3.8 There are also smaller suppliers of organic waste processing services. For example, Barwick's understands [**REDACTED**].

Barwicks

3.9 Barwick's Interlaken Facility composts FOGO, GO and commercial organic waste. It uses an 'open-air windrow composting' method whereby solid organic waste is laid down in longitudinal rows (or windrows), continuously irrigated with a combination of liquid waste and/or water and turned regularly with specialised equipment to ensure adequate oxygenation of the material to support aerobic bacterial health. During the process other organic material, such as aquaculture mortalities (whole fish) can be blended in just prior to a turning event on an as-needed basis at pre-determined rates, to ensure the aerobic bacterial health of the windrow is not adversely compromised.

3.10 The Interlaken Facility has capacity to process 50,000 tonnes of organic waste per annum, however actual amounts of organic waste processed is far less due to levels of demand (for example, in the 12 months to 30 April 2024, Barwick's processed approximately 23,900 tonnes of organic waste at the Interlaken Facility, including 11,700 tonnes of FOGO and GO waste from some southern Tasmania councils' kerbside collections).

3.11 Barwick's charges 'gate fees' to customers for organic waste processing services. Gate fees are the fees charged by a waste processing facility for processing and/or disposal of waste. Barwick's gate fees differ depending on the type of waste and the individual agreements with its customers. Barwick's also charges a separate fee for shredding green and wood-product waste.

3.12 Barwick's produces organic compost, mulches, organic fertilisers, landscape soils, potting mixes, top dressing and broadacre fertiliser from its organic waste processing activities.

Jenkins Hire

3.13 The Jenkins Hire facility offers commercial organic waste processing services using an open-air windrow composting method.

City of Hobart - McRobies Gully Waste Management Centre

3.14 McRobies Gully Waste Management Centre includes an open-air windrow composting facility utilising green waste dropped off to the Centre by the public and food waste provided by restaurants (i.e. not FOGO or GO from kerbside collection).

3.15 Barwick's understands the City of Hobart has committed to ceasing operation of the McRobies Gully landfill by 2030.[1] Barwick's is unsure whether the City of Hobart will cease organic waste processing services as the SWS Applications suggests at paragraph 12.3.

Acquirers of organic waste processing services in Southern Tasmania

3.16 As at the date of submission, Barwick's customers acquiring FOGO organic waste processing services are [**REDACTED**].

Geographic market

3.17 Barwick's supports SWS's submission at paragraph 14.2 of the SWS Application that the relevant area of competition for organic waste processing services is likely to be southern Tasmania. This is largely due to the prohibitive cost of transporting organic waste to organic waste processing facilities in northern Tasmania or to mainland Australia.

[1] Page 21 of the City of Hobart Waste Management Strategy 2015 – 2030.

Market shares of southern Tasmania councils

3.18 As outlined in paragraph 3.3 above, at least 80% FOGO or GO waste is required for effective processing of organic waste. As councils are the primary producers of FOGO and GO waste for processing, it is critical that organic waste processing suppliers have access to FOGO and GO waste produced by councils.

3.19 At paragraph 16.1.2 of the SWS Application, SWS claims that in 2023, Clarence City Council accounted for 15% of certain southern Tasmania region councils[2] FOGO or GO waste collected, and Kingborough Council accounted for approximately 19%. SWS did not explain how it reached these figures. Further, at paragraph 4.3 of the SWS Application, SWS states Sorell Council do not currently have arrangements in place regarding the collection of GO or FOGO.

3.20 Barwick's understands from the Waste Collection Bookings page on the Sorell Council website that residents of Sorell Council have the option to book kerbside GO waste collection.[3] Therefore, Barwick's consideration of market share of FOGO and GO waste assumes Sorell Council collects GO waste.

3.21 Barwick's considers populations of southern Tasmania councils is an appropriate method for estimating share of FOGO and GO waste collected. Based on 2021 ABS Census data, Barwick's estimates Clarence City Council accounts for 25% of all FOGO and GO waste collected from councils in southern Tasmania, Kingborough Council accounts for approximately 17% and Sorell Council accounts for approximately 7%. Therefore, Barwick's estimates the Participating Councils are responsible for 49% of FOGO and GO waste collected from councils in southern Tasmania (see **Attachment A**).

3.22 If all councils in southern Tasmania offer FOGO and green waste collection services to residents in future, Barwick's estimates Participating Councils will be responsible for approximately 42% of FOGO and GO waste collected from councils in southern Tasmania.

[2] Excluding Southern Midlands Council, Derwent Valley Council and Central Highlands Council.
[3] The Waste Management page of the Sorell Council website also states Sorell Council plans to introduce FOGO when a new composting facility is built.

4 Boyer Facility

4.1 In 2021, Barwick's applied for a grant to build and operate an in-vessel composting facility at Boyer in southern Tasmania (the **Boyer Facility**).

4.2 In June 2022, Barwick's received $3 million in seed funding from each of the Tasmanian Government and Federal Government under the Food Waste for Healthy Soils Fund ($6 million seed funding total). Barwick's expects the Boyer Facility to require up to $16 million in capital expenditure (including $6 million in grant funding).

4.3 Since being awarded the seed funding, Barwick's has worked diligently to gain the necessary approvals to start construction of the Boyer Facility. As at the date of this submission, Barwick's has:

a. completed detailed engineering plans for the Boyer Facility
b. engaged extensively with, and submitted plans to, the Environmental Protection Authority Tasmania
c. commenced commercial commitment on construction regarding the provision and fit-out of plant and equipment
d. submitted plans to the Derwent Valley Council for Development Approval in December 2023 and amended in January 2024 (Development Approval consultation period commenced on 8 May 2024 with submissions due on or before 5 June 2024)
e. engaged with a licensed Quantity Surveyor regarding an initial estimate of costs, and
f. commenced preparing the construction contract for tender process.

4.4 As at the date of submission, Barwick's expects the next steps of the development of the Boyer Facility to be:

a. June 2024:
    i. Commence negotiation of key contracts with councils and commercial organic waste producers
    ii. Seek finance from lending institutions for construction of the Boyer Facility
    iii. Continue efforts in value engineering to reduce construction costs further, with final costing on construction expected by late June
b. August 2024:
    i. Derwent Valley Council decision regarding Development Approval
    ii. Commence request for tender process for construction of the Boyer Facility
c. October 2024:
    i. Final decision on project go-ahead, contingent on securing finance and long-term waste supply agreements

ii. Construction contract awarded and construction of Boyer Facility commences, and

d. June 2025: Construction complete and Boyer Facility begins commissioning and ramp-up to full scale operations.

4.5 The timeframes referred to in paragraph 4.4 above have been revised due to the SWS Application likely impacting Barwick's ability to secure finance (see paragraph 5.3 below). Barwick's was previously expecting to have the Boyer Facility operational from April 2025.

4.6 The Boyer Facility will process each of the FOGO and GO waste categories outlined in paragraph 5.4 of the SWS Application, as well as commercial organic waste.

4.7 The Boyer Facility will utilise an in-vessel composting method[4] which is a more efficient and environmentally friendly method of composting than open-air windrow composting and is one of the composting methods proposed in paragraph 9.9 of the SWS Application. A comparison of open-air windrow composting and in-vessel composting is set out in Table 1 below.

4 Barwick's has published a description of in-vessel composting on its website.

Table 1

Factor	Open Air Windrow Composting	In-Vessel Composting (IVC)
Efficiency	Approximately 15 weeks for full composting process to complete	Approximately 28 days for full composting process to complete
Leachate	Potential for leachate leaving the site in an uncontrolled manner	IVC is a closed system with all leachate captured and re-used in the process
Odour emissions	Air emissions from the compost are not treated for odour	IVC treats air emissions prior to discharge, removing odour using a scrubber and biofilter
Anaerobic / aerobic conditions	Potential for anaerobic (methane producing) conditions due to periodic aeration via turning	Aerobic conditions are maintained during composting through the continuous injection of air flow
Pasteurisation	Temperature gradients vary widely in the compost with potential for incomplete pasteurisation	Higher, more consistent temperatures achieved during composting creating complete pasteurisation
Scavenging animals	Composting material is available to scavenging animals	Composting material is not available to scavenging animals as stored internally
Contamination	Contamination (shredded plastics, etc.) can become windblown or water-borne and leave the site in an uncontrolled manner	Contamination cannot escape the vessel or storage areas within the building
Weather events	High rainfall weather events can cause operations to temporarily cease and/or reduce capacity to add liquid waste. Waste generated during these periods must be treated elsewhere.	IVC runs 24/7 and is not impacted by weather events
Nitrogen	Nitrogen (ammonia) is released into the atmosphere creating potential odour issues	Nitrogen is harvested from the airflow via a scrubber to create Ammonium Sulphate (liquid fertiliser) which is a value-add bi-product

4.8 The Boyer Facility will have a starting capacity of processing 26,000 tonnes of organic waste per annum (noting at least 80% of waste processed must be FOGO or GO waste to ensure effective composting), with the ability to increase the capacity to 42,000 tonnes in 2026. Therefore, the Boyer Facility requires at least 20,800 tonnes of FOGO and/or GO waste to run efficiently from 2025.

4.9 Barwick's will charge gate fees to customers seeking organic waste processing services at the Boyer Facility.

4.10 The Boyer Facility will produce the same products as the Interlaken Facility, being organic compost, mulches, organic fertilisers, landscape soils, potting mixes, top dressing and broadacre fertiliser.

4.11 Barwick's will continue to operate the Interlaken Facility, with the focus of the Interlaken Facility being meeting unpredicted demand of commercial organic waste (for example, mass fish kills from aquaculture customers) or additional demand from the Boyer Facility (for example, due to maintenance or other circumstances reducing the capacity of the Boyer Facility for short periods of time).

5 Factors relevant to ACCC assessment

5.1 If the ACCC authorises the proposed conduct, Barwick's is concerned the likely future with the conduct will result in net public detriment and will substantially lessen competition. The environmental detriment, economic detriment, lessening of competition and limited achievement of policy objectives that Barwick's considers will flow as a result of the proposed conduct stems from the impact of the proposed conduct on the operation of the Boyer Facility and Interlaken Facility.

Impact of proposed conduct on Boyer Facility and Interlaken Facility

5.2 If the proposed conduct is authorised, it is likely Barwick's will be required to abandon its plans to build and operate the Boyer Facility for the following reasons:

a. **Access to necessary materials:** Participating Councils' FOGO and GO waste will be unavailable to organic waste processors other than the CRO Facility for the foreseeable future. Therefore, Barwick's will not have access to compete for 49% of the current FOGO and GO waste produced by councils in southern Tasmania. At least 80% of organic waste must comprise FOGO and GO waste for effective composting and, for the foreseeable future, primary producers of FOGO and GO waste are households (and, therefore, councils). Therefore, the likelihood of Barwick's receiving sufficient volumes of FOGO and GO waste to allow for effective composting at the Boyer Facility is low.

b. **Access to necessary finance:** Southern Tasmania councils have indicated reluctance to enter into long-term contracts (5 years or more) with Barwick's in circumstances where the CRO Facility will meet demand of Participating

Councils and may have capacity to process organic waste from non-Participating Councils and other organic waste producers. Lack of long-term contracts, including from Participating Councils, will likely result in Barwick's being unable to access finance or unable to access finance on acceptable terms and, therefore, being unable to build the Boyer Facility.

5.3 Additionally, in the likely future with the proposed conduct, Barwick's would undertake a review of the operational viability of the Interlaken Facility given the likely reduction in volumes of FOGO and GO waste received. Barwick's would consider closing the Interlaken facility if fixed operating costs are unable to be offset due to lower volumes of FOGO and GO waste. Closing the Interlaken Facility could impact Tasmania's overall ability to handle high seasonal loads for events such as mass fish kills from the aquaculture industry.

5.4 The effects of the proposed conduct on the Boyer Facility and Interlaken Facility would be exacerbated if a company that offers waste collection services was successful in winning the tender to build and operate the CRO Facility. Veolia and Cleanaway offer waste collection services to councils and are shortlisted for inclusion in SWS's proposed request for tender process. In circumstances where Veolia or Cleanaway is the successful tenderer and SWS increases capacity and/or allows the operator of the CRO Facility to process organic waste at the CRO Facility, it is very likely the operator of the CRO Facility will use the CRO Facility for processing FOGO and GO waste it collects rather than acquire waste processing services from Barwick's. This would further reduce the customers and volume of FOGO and GO waste Barwick's was able to effectively compete for.

Environmental detriment

5.5 Section 19 of the SWS Application outlines the environmental benefits SWS claims will be realised from the proposed conduct. Barwick's agrees in-vessel composting will deliver environmental benefits including:

a. production of quality compost and related products
b. reduced methane emissions
c. reduced environmental impacts and landfills, such as air and water pollution
d. greater access to reliable high-quality alternatives to fossil fuel-based fertilisers in Tasmania reducing greenhouse gas emissions, and
e. residents in local communities will experience improved environmental and health outcomes from a lower waste accumulation.

5.6 However, Barwick's submits these environmental benefits will be realised to a greater extent and more immediately in the likely future without the proposed conduct due to the much greater capacity of the Boyer Facility and the likelihood of the Boyer Facility operating well before the CRO Facility.

Capacities of the CRO Facility and the Boyer Facility

5.7 The SWS Application states the CRO Facility will have capacity to process approximately:

a. 16,000 tonnes of organic waste from 2026, and
b. 26,000 tonnes of organic waste from 2049.[5]

5.8 In the likely future without the proposed conduct, the Boyer Facility will have capacity to process approximately:

a. 26,000 tonnes of organic waste from June 2025, and
b. 42,000 tonnes of organic waste from 2026.

5.9 In the likely future with the proposed conduct, Barwick's considers the amount of organic waste that could be processed in southern Tasmania will be severely limited because:

a. the Boyer Facility will likely not operate
b. Participating Councils' organic waste will be fully contracted for the foreseeable future (representing between 42% and 49% of FOGO and GO waste available for processing), resulting in prohibitively high barriers to entry to the market for organic waste processing services in southern Tasmania, and
c. Barwick's may close the Interlaken Facility if it cannot access sufficient FOGO and GO waste.

5.10 Given each of the factors outlined in paragraph 5.9 above, in the likely future with the proposed conduct, the CRO Facility will operate and no other facility will offer in-vessel composting or equally environmentally friendly organic waste processing services. Therefore, a maximum of 16,000 tonnes of organic waste could be processed using in-vessel composting or other equally environmentally friendly organic waste processing methods from 2026 (at the earliest). A maximum of 26,000 tonnes of organic waste could be processed using these methods from 2049. It is also possible these figures represent the total amount of organic waste that will be able to be processed in southern Tasmania if Barwick's is required to close the Interlaken Facility.

[5] Paragraph 7.3.6 of the SWS Application states "*SWS may accept a proposal by the Contractor to develop the CRO Facility to have more capacity than required by the Participating Councils, initially or in the future, provided there is a sufficient business case for the required investment*." Barwick's submits the ACCC should base its assessment of the proposed conduct on the capacity SWS has planned for, not on potential capacity which has not been considered in any meaningful way.

5.11 In the likely future without the conduct, the Boyer Facility will operate, meaning up to 42,000 tonnes of organic waste could be processed using in-vessel composting from 2026. There would also be lower barriers entry with potential competitors having the option to compete for all councils' FOGO and GO waste, and a higher likelihood of the Interlaken Facility continuing to operate unpredicted demand for organic waste processing services is met.

Delay in realising environmental benefits

5.12 Barwick's considers SWS's plan to have the CRO Facility operating in 2026 to be very optimistic given the Boyer Facility design and development approval process has been ongoing for 2.5 years with a further year of construction required. Even if SWS meets the planned timeframes, the CRO Facility could process up to 26,000 tonnes of organic waste in 2049, compared to up to 42,000 tonnes the Boyer Facility could process by 2026. Therefore, in the likely future with the proposed conduct, there will not only be less environmental benefit due to the differing capacities, there will also be significant delay in realising such benefit.

Community education

5.13 Paragraph 5.3 of the SWS Applications states the Participating Councils would develop a plan for education, communication and instruction on the use of a FOGO system. Barwick's will undertake similar community education activities but will target the activities at a wider audience than just the Participating Councils.

Economic detriment

5.14 Barwick's submits there are limited, if any, economic benefits flowing from the proposed conduct.

5.15 In the likely future with the proposed conduct, non-Participating Councils and producers of commercial organic waste in southern Tasmania will have no access, or very limited access, to in-vessel composting or equally environmentally friendly organic waste processing services given the limited capacity of the CRO Facility and the high likelihood the Boyer Facility will not operate. Therefore, economic benefits to the wider southern Tasmania community will not be realised. Such economic benefits would be realised in the future without the proposed conduct as the Boyer Facility will operate and will have a greater capacity.

5.16 Further, Participating Councils have other options to achieve positive economic outcomes for their residents, such as reducing transaction costs by applying to the ACCC for authorisation to collectively negotiate for the acquisition of organic waste processing services. Building the CRO Facility is not necessary to achieve positive economic outcomes for residents.

Lessening of competition

Organic waste processing market in southern Tasmania

5.17 Barwick's considers there may be a substantial lessening of competition in the organic waste processing market in southern Tasmania in the likely future with the proposed conduct because:

a. SWS will likely be the only supplier of in-vessel composting or equally environmentally friendly organic waste processing services in southern Tasmania. Although there will be unmet demand in the likely future with the proposed conduct, without access to up to 49% of the FOGO and GO waste available from councils (a critical input in organic waste processing), it is unviable for Barwick's to build the Boyer Facility or for another potential competitor to enter the market.
b. SWS will likely have market power and, therefore, could limit the capacity of the CRO Facility and/or implement high gate fees for non-Participating Council customers without competitive constraint.
c. Non-Participating Councils and producers of commercial organic waste will not be able to compete or, at best, will only be able to compete for very limited capacity, to acquire in-vessel composting or equally environmentally friendly organic waste processing services.
d. In circumstances where Veolia or Cleanaway is the successful tenderer, competition will be lessened even further because, where capacity allows, it is likely the waste collection service provider would preference the CRO Facility for processing of organic waste rather than acquire organic waste processing services from another supplier.

5.18 In the likely future without the proposed conduct, Barwick's submits competition in the organic waste processing market in southern Tasmania will be greater than in the likely future with the proposed conduct because:

a. all councils that collect FOGO and GO waste and commercial organic waste producers will compete to acquire organic waste processing services
b. greater capacity of the Boyer Facility means a higher volume of FOGO and GO waste is required to operate efficiently, acting as countervailing power, and
c. barriers to entry will be lower given the greater opportunity for potential competitors to compete for organic waste from councils.

Waste collection market in southern Tasmania

5.19 Barwick's considers there may be also substantial lessening of competition in the southern Tasmania waste collection market in the likely future with the proposed conduct (where Veolia, Cleanaway or another waste collection services provider is the successful contractor).

5.20 As outlined in paragraph 7.3.4 of the SWS Application, if the CRO Facility has extra capacity after processing the Participating Councils' organic waste, SWS will permit the operator of the CRO Facility to accept and process organic waste. If the operator offers waste collection services in southern Tasmania, it will likely preference processing of organic waste collected from its own customers. Therefore, only one provider of organic waste collection services will be able to offer potential access to in-vessel composting or equally environmentally friendly organic waste processing services.

5.21 As councils and producers of commercial organic waste seek to meet their own and Government environmental objectives, this is likely to be a deciding factor for councils in determining which waste collection service to use.

5.22 In the likely future without the proposed conduct, Barwick's submits competition in the waste collection market in southern Tasmania will be greater than in the likely future without the proposed conduct because all waste services providers will have the opportunity to acquire, and can offer to their customers, in-vessel composting or equally environmentally friendly waste processing services.

Achievement of policy objectives

5.23 Section 22 of the SWS Application states the proposed conduct is consistent with and will directly support policy goals at both the Commonwealth and Tasmanian level, including under the National Waste Policy Action Plan 2019 and the Tasmanian Draft Waste Action Plan 2019.

5.24 The policy objectives will be supported more immediately and to a greater extent in the likely future without the proposed conduct due to the greater capacity of the Boyer Facility and greater opportunity for non-Participating Councils and producers of commercial organic waste to acquire in-vessel composting or equally environmentally friendly organic waste processing services.

Creation of additional jobs

5.25 Section 23 of the SWS Application states up to 22 jobs will be directly created during the construction phase of the CRO Facility, with at least 8 additional ongoing jobs created in the operation of the CRO Facility

5.26 The economic and social benefits of job creation will also be realised in the likely future without the proposed conduct. Barwick's estimates 7 full time equivalent personnel are required over the next 12 months to complete the design and build of the Boyer Facility. Barwick's estimates a further 2 to 3 full time equivalent personnel will be required to operate the Boyer Facility.

6 Interim authorisation

6.1 Granting interim authorisation to conduct the request for tender process to appoint a contractor to design, build and operate the CRO Facility will have a significant impact on Barwick's ability to progress its plans to build the Boyer Facility.

6.2 In discussions with customers, Barwick's has encountered reluctance from councils to commit to contracts longer than 1 year for FOGO and GO waste processing services. Barwick's considers it very unlikely it will receive finance from lending institutions on acceptable terms (e.g. reasonable interest rates), if at all, without securing contracts with councils for terms of 5 years or more.

6.3 If the ACCC grants interim authorisation, Barwick's considers the likelihood of securing contracts of the required length very low, meaning plans for the Boyer Facility will, at best, be significantly delayed (resulting in delays of the public benefits outlined above) and, at worst, be disbanded.

6.4 Further, Barwick's considers the reasons provided on page 3 of the SWS Application for why interim authorisation is required to be uncompelling as there would be no material impact to SWS by delaying the request for tender process by 2 months (i.e. until the expected date of final determination).

7 Authorisations referred to in SWS Application

7.1 Section 26 of the SWS Application states *"local government bodies regularly seek authorisation from the ACCC to collectively procure waste related services"* and paragraph 26.2 includes examples of authorisations granted by the ACCC which SWS states have *"elements similar, in many ways, to the proposed conduct set out in this application"*.

7.2 Barwick's submits the proposed conduct set out in the authorisations referred to in paragraph 26.2 of the SWS Application (noting SWS likely meant to refer to authorisation number AA1000604 in paragraph 26.2.3) is wholly different to the proposed conduct the subject of the SWS Application.

7.3 Each of the authorisations listed in section 26 of the SWS Application permit the applicants to collectively bargain for or jointly procure organic waste processing services and manage ongoing contracts. The proposed conduct outlined in the SWS Application is not simply negotiating, entering into or managing contracts for the supply of organic waste processing services. Rather, it includes building and operating an organic waste processing facility and then providing exclusive access at its discretion to the Participating Councils. Therefore, Barwick's submits these previous authorisations hold limited relevance to the ACCC's assessment of the SWS Application.

8 Conclusion

8.1 SWS has failed to demonstrate the proposed conduct would result in, or be likely to result in, a net public benefit. In fact, a net public benefit will be realised more immediately and to a greater extent in the future without the proposed conduct by Barwick's constructing and operating the Boyer Facility.

8.2 SWS has also failed to demonstrate the proposed conduct, nor the parts of the proposed conduct which might breach only the non-per se provisions of the Act, will not result in a substantial lessening of competition. Barwick's submits the proposed conduct, in full or only in relation to those relevant parts, may result in a substantial lessening of competition in the organic waste processing market and, potentially, the waste collection market in southern Tasmania.

8.3 Barwick's submits the ACCC should dismiss the application for interim and final authorisation.

8.4 Barwick's would welcome discussion with the ACCC should further information assist the ACCC's assessment of the SWS Application. Please contact Rod Henham, Project Manager of Barwick's Boyer In-Vessel Composting Facility, at [**REDACTED**].

Yours sincerely

[**REDACTED**].

Tyronn Barwick

Managing Director

Barwick's

Attachment A: FOGO and GO waste collection by southern Tasmania councils

Council	Participating Council	Currently offers FOGO and/or GO waste collection to residents	2021 population per ABS Census data (%)	Share of current FOGO and GO waste collection
Clarence City	Yes	Yes (GO only)	61,531 (21.3%)	25%
Kingborough	Yes	Yes	40,082 (13.9%)	17%
Sorell	Yes	Yes (GO only)	16,734 (5.8%)	7%
Tasman	Yes	No	2,593 (0.9%)	
Brighton	No	Yes	18,995 (6.6%)	8%
Central Highlands	No	No	2,520 (0.9%)	
Derwent Valley	No	No	10,942 (3.8%)	
Glamorgan-Spring Bay	No	No	5,012 (1.7%)	
Glenorchy	No	Yes	50,411 (17.5%)	21%
Hobart	No	Yes	55,077 (19.1%)	23%
Huon Valley	No	No	18,259 (6.3%)	
Southern Midlands	No	No	6,662 (2.3%)	