

I write to you regarding the proposed Metropolitan Waste and Resource Recovery Group & Ors (recycling sorting) - Application for revocation of authorisation AA1000451 and substitution AA1000581 — interested party consultation process. This submission is on behalf of GSWT.

The following outlines our concerns and matters, as a business, as to why based on historical outcomes, organisation such as MWRRG should not be permitted to manage and control such matters, while maintaining ability to effectively exclude a range of options and business's from the ability to fairly operate and trade within the waste sector in Victoria.

- Recent tendering for the AWT process changed has seen rules amended on the run, allowed new partners without disclosure and does not appear to demonstrate the industry experience and capacity to run such a procurement process fairly and consider all market opportunities evenly, from an economical, environmental and proposed technical solution. The historical performance and activity cannot be permitted to replicate and determine/drive non-competitive market outcomes. Metro is acting as a clearing house for a process and is a completely unnecessary requirement, Councils should be encouraged to engage and act on their own and not have a “middle man” skim onto the pricing, and allow councils to determine what is the best for them, best for local policy and consistent with LGA objectives.
- [REDACTED]  
[REDACTED]  
[REDACTED] All to benefit their own market lead project. It is not reasonable to allow MWRRG to undertake such a process and drive similar outcomes, and their behaviour needs to be active with the entire market, promote best outcomes and consistent outcomes with state policy and commercial expectations.
- The number of councils included under this procurement represents almost all the metro Melbourne councils and most of the Barwon South West councils. The scale of the tender presents a level of market power that will undermine the competitive process and limit potential tenderers to the entrenched and larger market participants already in business and does not allow for innovation, new business and processes which provide a far better economical and environmental outcome. Such a tendering and procurement process does not support state policy of providing best solution in line with circular economy by excluding more environmentally friendly and higher order disposal methods.
- This exception is sought to allow Councils to procure recycling waste services in the shorter term. Every Council is currently in a recycling agreement and are capable of extending that agreement under new local government procurement rules that came into force from July 1. It should be argued that this new legislation largely undermines the justification or need for this “short term” response or any response which does not allow for greater market competition. It should be rejected to encourage investment in industry, fair and equal market access and importantly innovation and better environmental outcomes.
- New legislation has now entered parliament to establish the referenced Waste Authority that will supersede the MWRRG. This proposal seems to unreasonably seek to provide a “not so short term” contract ahead of the even shorter-term establishment of the waste authority. The 3+2+2 contract term sort is inconsistent with the stated “bridging” intent and justification for this exception.

- The recycling material representative of this offer accounts for only 13% of Victorian Recycling, but this ignores the practical market segmentation. This statement is grossly misleading as this procurement is specifically related to household comingled recyclables (a discrete market in its own right). According to Sustainability Victoria current figures available on their web portal, this represents ~ 75% of the volume managed in this segment in Victoria. The recyclable market represents significantly different materials and contracts across the 3 industry categories with MSW (the subject of this approval) representing the most significant volume available, most secure contracts and most valuable supply. This contract represents a market constraint and concentration of market power in this contract that must be restrictive to market competition.

[REDACTED]

[REDACTED]

Clearly the CGF undermined the alternative bidders in that instance and used some councils to subsidise the price of others to achieve that goal. Accordingly, several SE Councils paid above what they might have otherwise paid and, to our understanding, no council could take the lower tendered price. Clearly this CGF manipulated the process to the detriment of some councils and tenderers not included in the selective CGF. According to MWRRG, this methodology was supposedly endorsed by the ACCC mid tender – it would be beneficial to understand how the ACCC justified this clearly unfair market process and/or reviewed its application in the landfill services tender.

- The MWRRG now appear to be seeking to expand a manipulative CGF reach by introducing it, without cause or justification, at the commencement of a process which does not commit 1 tonne to any provider. There is no clarity how widely or under what conditions this CGF is

intended to be applied. Once the CGF is set under this process it sets a minimum market hurdle for any new or alternative service providers even though it is set without reference to any volumes (economies of scale) and does not stipulate as to whether it will average all tenders fairly or selectively as per the Landfill services tender. To date the CGF has not been applied before a tender and without specific justification. The CGF is Cartel behaviour and has been and likely will be used to control the outcome of the tender to the likely detriment of a commercial competitive tender and fair and reasonable evaluations.

- Given the inevitable future of MWRRG as broadly shaping up to be consumed by the new Victorian Waste Authority, ( VWA) and in the transient time, creating an immediate degree of absence of forward structure, executive or confident direction the public are well entitled to expect, we suggest at this stage in the best interest of development new initiatives consistent with policy and new policy all decisions by this outgoing group should be frozen until such a time new policy is implemented and a regulatory authority functional. Additionally, a modern well-functioning society should deplore this unnecessary if not misguided and dysfunctional expenditure under the current apparatus. An 8 month tender period is excessive, an inherent waste of public money and allows too much time for potential collusion and solutions to be developed in absence of solutions already available, giving unfair advantage to those with a prepared and solution ready.