



**Eastern Metropolitan Regional Council & Ors - application for authorisation
AA1000587 – interested party consultation**

Submission from The Waste and Recycling Industry Association of WA (WRIWA)

The Waste and Recycling Industry Association of WA (WRIWA) has two broad objectives:

1. to achieve best practice environmental outcomes from collection, processing, recycling and disposal of waste; and
2. to ensure markets are fair and transparent, ensuring competition occurs on a level playing field that drives value for customers and a fair return on investment for members.

WRIWA represents the owners of the waste collection and material recycling facilities in WA, and includes major international, national and State-based companies. For a complete list of our members please see: <https://www.wriwa.com>

WRIWA is opposed to the granting of this application.

The applicant EMRC wishes to establish a Regional Waste Collection Service and enter into a service agreement with each of three councils. The Regional Waste Collection Service would provision to each council of the following services:

- domestic kerbside collection of mixed general waste, co-mingled dry recyclables and Food Organics Garden Organics (as well as incidental commercial waste collection for small businesses equivalent to domestic kerbside collection services)
- bin maintenance, repair and replacement
- bulk waste collection service (mixed or specific) for larger household waste that cannot be disposed of within normal household bins
- event waste management
- street litter and illegal dumping management, and
- customer service.

This is an application by a **Local Government Entity** (ABN 89 631 866 056 Australian Business Registry) to establish a waste and recycling collection service and to provide that service to other councils in direct competition with the private sector.

WRIWA considers the proposal represents:

- An anticompetitive agreement (s.45) “...engage with one or more persons in a concerted practice that has the purpose, or has or is likely to have the effect, of substantially lessening competition.” (pg2 ACCC Guidelines on concerted practices)

The proposal will preclude our members from competing for work and exclude them from work they are currently performing.

- Cartel conduct, (s.45 AD)

The parties to this proposal will exclude competition from the market and negotiations will no longer be transparent.

- Exclusive dealings (s.47) ACCC Exclusive Dealings “exclusive dealing occurs when one person trading with another imposes some restrictions on the other’s freedom to choose with whom, in what, or where they deal”

The proposal will prevent the member councils from negotiation with the market, and our members would be excluded from tendering for the work.

EMRC argues in its submission that:

- the establishment of a Regional Waste Collection Service will provide a benefit not derived from the provision of services by private enterprise broadly in the areas of economic and environmental benefit.
- the Regional Waste Collection Service should be considered as it uniquely can provide these benefits.

WRIWA rejects this proposition:

Economic Benefit

WRIWA has long argued that the current contract model, used by councils to outsource waste and recycling services, is inequitable, outdated and inevitably raises the costs to both councils and private enterprise.

The WA Government's *Waste Avoidance & Resource Recovery Strategy Action Plan 2030* points to the necessity for consideration of Best Practice Contracting. The WA Department of Water and Environmental Regulation and the WA Waste Authority will be prioritising this issue in 2022.

WRIWA will be leading the WA industry response which is intended to reduce costs for both councils and private enterprise. Some of these costs are identified in the EMRC submission, such as short contracts which raise costs. WRIWA will be arguing for longer contracting periods which not only lower councils' costs of tendering but also reduce private sector costs. Overall, improvements in contract conditions result in overall cost savings but require both parties to work together.

Most of the proposed 'Cost saving and regional efficiencies' listed on page 21 of the EMRC submission could be achieved by better coordination among the member councils without the necessity for internal direct provision of waste services.

Environmental Benefits

WRIWA rejects the assertion that the current contractual arrangements for waste collection within EMRC members' local government areas are deficient in terms of environmental protection.

WRIWA members have led the way in environmental management of waste and recycling in WA with our members investing extensively in upgrading and providing new best practice environmental facilities. In 2021 Cleanaway completed the construction of Australia's most efficient and environmentally compliant Material Recovery Facility. The MRF leads any other in Australia in terms of the efficiency of its resources recovery which is 99.5% for both fibre and plastics recovery and has a state of the art fire prevention and detection system.

GOorganics has established a state of the art compost processing facility for Food Organics and Garden Organics, which provides product meeting national standards.

WRIWA urges the Australian Consumer and Competition Commission to reject this proposal which we believe to be anti competitive and will disenfranchise our members.

Michael Bobrowicz
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WRIWA