

## Information

### Notifying Partying

**1. Provide details of notifying party, including:**

**1.1. Name:**

The National Association of Charitable Recycling Organisations Limited (t/a **Charitable Recycling Australia**) on behalf of its members listed in response to section 15 and other NSW members who may join the collective bargaining process in the future (**Charities**)

(together, the **Notifying Parties**).

**Address (registered office):** 4 Archbold Road, Minchinbury NSW 2770

**Telephone Number:** [REDACTED]

**ACN:** 93 688 798 776

**1.2. Contact person:** Omer Soker

**Position:** Chief Executive Officer

**Phone:** [REDACTED]

**Email:** [REDACTED]

**1.3. A description of business activities**

Charitable Recycling Australia represents the charity sector and assists its members to maximise their recycling operation through advocacy, capacity-building, and education. It enables charities to maximise their financial returns from their recycling and retail operators in order to uphold their charitable mission and purpose.

**1.4. Email address for service:** [REDACTED]

### Details of notified conduct

**2. Indicate whether the notified conduct is for:**

2.1. The notification is for collective bargaining (s. 93AB) without collective boycott.

**3. Provide details of the notified conduct including:**

**3.1. a description of the notified conduct:**

The Notifying Parties intend to engage in a joint tender for the collection and disposal of general waste and commingled recycling under a weight-based billing (**WBB**) system.

The Charities have a strong preference for a single service provider. Tenderers will not be considered for parts or subregions and, if required, will need to manage their own subcontractor arrangements.

The intended outcome of the tender process is for each Charity to form separate contracts with the successful tenderer (**Tenderer**). These contracts will contain near identical terms for the performance of WBB waste services. It is anticipated that each Charity will appoint a contract manager for their individual sites and contracts.

**3.2. any relevant documents detailing the terms of the notified conduct:**

A copy of the documents have been provided as a confidential attachment to this notification application

**3.3. the rationale for the notified conduct**

The notified conduct will enable the Notifying Parties to pool their resources together to achieve the following aims and objectives:

- (a) establish Weight Based Billing (invoicing) per bin across all levy paying sites (in order to realise the NSW EPA Community Exemption for Charities) and specifically to ensure that pricing for disposal of waste to landfill from these sites, is and remains, levy exempt;
- (b) achieve and maintain a high standard of performance in provisions of services;
- (c) enable sites to manage their site-specific waste management needs while also offering the benefits of a large-scale, multi-site service;
- (d) regularly assess the performance of the contractor and to gain continual improvement to work practices;
- (e) promote the health, safety and welfare of all persons engaged in the services; and
- (f) increase the type, quality and amount of resources recovered.

**3.4. any time period relevant to the notified conduct:**

The contract term will comprise a term of 3 years with two options to extend term for 1 year. This option rests with the Charities.

The following timetable provides an indicative timeline for the tender process:

Action	Time/Date
Request for Tender issued	19 February 2021
Closing Date	19 March 2021
Meetings with shortlisted supplier(s) at Head Office	26 March 2021
Contract Commencement Date	1 August 2021
Services Commencement Date	1 August 2021

**4. Provide documents submitted to the notifying party's board or prepared by or for the notifying party's senior management for purposes of assessing or making a decision in relation to the notified conduct and any minutes or record of the decision made.**

4.1. On 9 March 2020, Charitable Recycling Australia held a member meeting about a joint NSW Weight Based Billing Tender. Following this meeting, the Charities voluntarily committed their involvement in the joint tender.

4.2. The tender process, coordinated by the Charitable Recycling Organisation and assisted by Mike Ritchie & Associates Pty Ltd (MRA Consulting Group), is modelled on NSW Model Waste and Recycling Collection Contracts (NSW EPA). They have been amended judiciously for the Charitable Recycling Australia tender. Major deviations from the model contract have been highlighted.

**5. Provide the names and/or a description of the persons or classes of persons who may be directly impacted by the notified conduct (including targets in collective bargaining or boycott conduct) and detail how or why they might be impacted.**

5.1. Members of Charitable Recycling Australia will have the opportunity to benefit from the notified conduct.

5.2. Waste management providers who are likely to be interested in the tender and therefore impacted are list in section 12. The 'target' of the notified conduct is any waste management provider who can provide the services in the tender document and submit a tender response.

**Market information and concentration**

**6. Describe the products and/or services, and the geographic areas, supplied by the notifying parties. Identify all products and services in which two or more parties to the notified conduct overlap (compete with each other) or have a vertical relationship (e.g. supplier-customer).**

6.1. The services to be provided by the Tenderer include the collection and disposal of waste and recycling from charity sites. The services include the following responsibilities:

- (a) undertake waste and recycling services at times and locations as set out in the contract and by the contract manager;
- (b) provide weight based billing invoices and reports in accordance with schedules;
- (c) collect within 12 hours if a collection service is missed;
- (d) provide bins to sites;
- (e) provide recycling training to site staff;
- (f) initiate innovations to improve recycling and reduce costs;
- (g) report in accordance with the reporting requirements; and
- (h) provide the services in accordance with the contract.

6.2. The tender scope includes collection and disposal from three categories of sites:

- (a) sites within the section 88 levy Paying Area of NSW;
- (b) sites within the non-levy paying area of NSW (rural areas); and
- (c) sites being opened during the life of the contract for which generic services costs are sought.

6.3. The geographical extent of the market is New South Wales. Of the 265 sites, 154 are based in Metropolitan Levy Areas, 48 in Regional Levy Areas and 63 in Non-Levy Areas. The Metropolitan Levy and Regional Levy Areas comprises of Sydney metropolitan area, the Illawarra and the Hunter regions, the central and north coast local government areas to the Queensland border, as well as the Blue Mountains, Wingecarribee and Wollondilly local government areas. Non-levy areas cover the rest of New South Wales.

**7. Describe the relevant industry or industries. Where relevant, describe the sales process, the supply chains of any products or services involved, and the manufacturing process.**

The relevant industry or industries relevant to the notified conduct are:

- (a) Waste Management. This industry comprises private companies and local government entities that provide waste bin collection services for retail premises, and operate the facilities that process the waste arising from these premises; and
- (b) The Charitable Reuse and Recycling Sector. This sector comprises all charitable enterprises that collect quality used items from households or businesses and then sell these through a retail outlets in Australia.

**8. In respect of the overlapping products and/or services identified, provide estimated market shares for each of the parties where readily available.**

There are no available metrics of market shares of charity bins in Australia, or data on which the parties could reliably estimate their market services.

The table below summarises the number of sites per charity:

Charity	Number of sites
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Vinnies	193
Salvos	21
Save the Children	19
Lifeline MacArthur	6
NOFFS	4
Lifeline Direct	8
Anglicare	4
<b>Total Sites</b>	<b>255</b>

In terms of market share of sites in NSW that could be serviced by a waste and recycling collection company in a similar capacity, the listed charity sites comprise 0.5% of the total small retail sector in NSW. This is based on data from the Office of the NSW Small Business Commissioner (OSBC) on total retail businesses.

**9. In assessing a notification, the ACCC takes into account competition faced by the parties to the proposed conduct. Describe the factors that would limit or prevent any ability for the parties involved to raise prices, reduce quality or choice, reduce innovation, or coordinate rather than compete vigorously. For example, describe:**

**9.1. existing competitors**

A large majority of charity bins will be processed exclusively by the Tenderer. It is estimated that 100% of the listed charity sites will be collected under this contract. However, the Notifying Parties anticipate that no competitive restraints in the waste collection and disposal industry in general are expected as a result of the proposed collective bargaining.

For comparison it is common for large nationally operating retail companies to tender for a single contract to collect from multiple stores, for examples Coles has over 800 sites, Woolworths has 1024 sites. The impact of this tender on market competition is less than that of a single large retail operator.

A sufficient market is available for waste service providers to secure services for receiving, processing and disposing of waste, particularly solid waste (non-putrescible). This includes residential streams, and commercial & industrial and construction & demolition sectors within New South Wales.

There are estimated to be over 20 collectors in NSW who could tender for this work.

**9.2. likely entry by new competitors**

The Notifying Parties consider the proposed conduct will not have an impact on the number of competitors for the collection and disposal of general waste and recycling. It is anticipated that tenders or quotations for from councils within NSW or within the commercial & industrial and construction & demolition sectors will become available during the tender process and the contract term.

**9.3. any countervailing power of customers and/or suppliers**

Any prospective waste service provider can consider the tender requirements and whether they wish to submit a response.

**9.4. any other relevant factors.**

Weight-based billing has benefits to charity retailers, as it will enable them to be re-imbursed the costs of the NSW waste levy with least administrative overhead. Existing waste collection vehicles are unlikely to have the required National Measurement Institute certified scales installed. The purpose of this combined tender is to encourage the required capital investment. A small tender for a few sites or one charity alone will not provide sufficient incentive for the capital investment.

## Public benefit

### 10. Describe the benefits to the public that are likely to result from the notified conduct. Provide information, data, documents or other evidence relevant to the ACCC's assessment of the public benefits.

The Notifying Parties have a strong preference for a single service provider. The significant public benefits are listed as follows:

#### 10.1. *Cost efficiency*

The joint tender creates an opportunity for cost savings for the Charities. This is through:

- (a) sharing transaction costs associated with negotiation and contracting; and
- (b) creating an economy of scale by coordinating weight-based billing across numerous sites. It is expected that there will be an efficiency saving of at least 5% on current costs, excluding CPI and other levy increases.
- (c) enabling charities to claim the exemption from the NSW Waste Levy, as per the explanation in section 10.3

Funds made available from cost savings will be allocated to work that benefits the Australian community in line with each charity's purpose.

#### 10.2. *Environmental Benefits*

Charitable recycling organisations currently divert over 643,000 tonnes of waste away from landfill each year through reuse, recycling, and resource recovery. This joint tender:

- (a) will support the viability of recycling waste which might have otherwise gone to landfill; and
- (b) reduce emissions from the transportation of waste as a result of coordination between Charities.

The arrangement and tender process is supported by the NSW EPA with the EPA providing advice and information.

#### 10.3. *Community Service levy exemption*

The joint tender provides increased access to the charitable levy exemptions contained in the *Protection of the Environment Operations (Waste) Regulation 2014* and administered by the Environmental Protection authority (EPA) NSW.

Traditionally, Australian waste collectors charge customers based on bin size and number of bin lifts (volume of waste) for most front lift and rear lift truck waste services. This is referred to as lift-based billing. Under the lift-based billing system, there is no price signal to customers to reduce waste because the fee per bin lift is the same regardless of whether the bin is empty, half full or full.

Weight-based billing is an alternate billing system where waste collectors charge customers based on the weight of waste in each bin plus a service fee for attending the bin. WBB produces higher accuracy in data reporting and billing and allows customers to better track their waste generation over time. Weight-based billing assist Charitable Recycling Australia's members in applying for a levy exemption.

Charitable Recycling Australia has negotiated with the NSW EPA, on behalf of its members, that waste collected via National Measurement Institute (NMI) approved on-board truck scales and invoiced/reported separately to the charity, will be exempt waste for the purposes of Item 7 of section 88 of the Protection of the Environment Operations Act.

This exemption will decrease the cost of waste services to participating charities, providing value to Charitable Recycling Australia membership and provide recognition of the environmental benefits of charitable recycling.

**Public detriment (including likely competitive effects)**

**11. Describe any detriments to the public that are likely to result from the notified conduct, including those likely to result from any lessening of competition. Provide information, data, documents, or other evidence relevant to the ACCC’s assessment of the detriments.**

There is unlikely to be any meaningful lessening of competition for the reasons set out below:

- (a) The contract would represent less than 0.5% of available waste collection from comparable sites in NSW. Other existing contracts in NSW will not be affected by this contract.
- (b) The notified conduct is likely to encourage more competition from suppliers than if each Charity contracted separately. This is because a wider variety of companies will be interested in a statewide contracts and will ensure competitive bids for regional areas.
- (c) The notification does not include any collective boycott

The relevant market for the assessment of any effect on competition is in the market for the provision of receipt, handling and processing waste from charity sites within NSW.

**Contact details of relevant market participants**

**12. Identify and/or provide names and, where possible, contact details (phone number and email address) for likely interested parties, such as actual or potential competitors, customers and suppliers, trade or industry associations and regulators.**

It is anticipated that the relevant parties are waste service providers with commercial waste collection businesses operating in NSW, including but not limited to the following:

Company	Contact number	Contact email
Bingo (generic)	[REDACTED]	<a href="mailto:enquiries@bingoindustries.com.au">enquiries@bingoindustries.com.au</a>
JJ Richards (generic)	[REDACTED]	<a href="mailto:enquiries@jjswaste.com.au">enquiries@jjswaste.com.au</a>
JR Richards	[REDACTED]	<a href="mailto:info@jrrichards.com.au">info@jrrichards.com.au</a>
Veolia (generic)	[REDACTED]	Form online only
Cleanaway (generic)	[REDACTED]	Form online only
Remondis (generic)	[REDACTED]	<a href="mailto:info@remondis.com.au">info@remondis.com.au</a>
Grasshopper	[REDACTED]	Form online only
SWS (generic)	[REDACTED]	<a href="mailto:info@sydneywaste.com">info@sydneywaste.com</a>
Wanless (generic)	[REDACTED]	<a href="mailto:sales@wanless.com.au">sales@wanless.com.au</a>
WMRR	[REDACTED]	<a href="mailto:info@wmrr.asn.au">info@wmrr.asn.au</a>
WCRA	[REDACTED]	<a href="mailto:memberservices@wcra.com.au">memberservices@wcra.com.au</a>

**Any other information**

- 13. Provide any other information you consider relevant to the ACCC's assessment of the notified conduct.**

Not applicable.

**Section 2 – Additional information for collective bargaining (with or without a collective boycott) conduct only**

14. **Confirm that the notifying party is not a trade union, an officer of a trade union or acting at the direction of a trade union.**

It is confirmed that the notifying party is not a trade union, an officer of a trade union or acting at the direction of a trade union.

15. **Provide details (name, phone number, email address) of the persons who are current members of the group (contracting parties) on whose behalf the notification is lodged. If relevant, identify the classes of persons who may become contracting parties in the future and on whose behalf the notification is lodged.**

This application is lodged on behalf of NSW Charitable Recycling Australian members who have committed to submitting a joint tender, listed below:

**Full business name:** Anglicare

**Contact:** Ian Moore

**Phone:**

**Email:** [REDACTED]

**Full Business Name:** Lifeline Direct

**Contact:** Shiralee Tilling

**Phone:**

**Email:** [REDACTED]

**Full Business Name:** Lifeline Macarthur

**Contact:** Sandra Cartwright

**Phone:**

**Email:** [REDACTED]

**Full Business Name:** St Vincent de Paul Society NSW

**Contact:** Paul Maskew

**Phone:**

**Email:** [REDACTED]

**Full Business Name:** St Vincent de Paul Society ACT

**Contact:** Elizabeth Heath

**Phone:**

**Email:** [REDACTED]

**Full Business Name:** Save the Children

**Contact:** Ferhat Altinay

**Phone:**

**Email:** [REDACTED]

**Full Business Name:** Ted Noffs Foundation

**Contact:** Nicole Honeysett

**Phone:**

**Email:** [REDACTED]

**Full Business Name:** The Salvation Army

**Contact:** Martin Nordstrom

**Phone:**

**Email:** [REDACTED]



It is also lodged on behalf of any other potential or future NSW Charitable Recycling Australian member, should they seek to participate in the notified conduct.

**16. Confirm each contracting party:**

**16.1. reasonably expects to make one or more contracts with the targets for the supply or acquisition of the relevant goods or services and**

Each contracting party intends to make one or more contracts with the target for the supply of relevant goods and services.

**16.2. the value of each contract will not exceed A\$3 million (or any other amount prescribed by regulation) in any 12 month period.**

The contracting parties confirm that the value of each contract will not exceed this figure within any 12 month period.

**16.3. Provide details of the basis for that expectation.**

These estimations are based on current contract amounts less expected contract savings.

**17. If the contracting parties propose to engage in a collective boycott with respect to the targets, provide details of:**

The notified conduct is for collective bargaining without collective boycott.

### Section 3 – Declaration by Notifying Party

Authorised persons of the notifying party must complete the following declaration.

The undersigned declare that, to the best of their knowledge and belief, the information given in response to the questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and their best estimates of the underlying facts, and that all opinions expressed are sincere.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of section 137.1 and 149.1 of the *Criminal Code* (Cth).



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Signature of authorised person

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Chief Executive Officer

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Omer Soker

This 28th of January 2021

*Note: If the notifying party is a corporation, state the position occupied in the corporation by the person signing. If signed by a solicitor on behalf of the Notifying Party, this fact must be stated.*