

Period of authorisation sought amendment - Authorisation AA1000659-1

Wollongong City Council (WCC) and Shellharbour City Council (SCC) (collectively the Councils) would like to amend the term of authorisation sought for the joint procurement of waste collection services. In the initial application the Councils requested an authorisation with a 17-year term. This term included a 14-year contract term and 3 years for tendering and contract completion.

The Councils have considered the feedback and comments received from the ACCC in regards to the term of authorisation and would like to request an amended term of authorisation, and an interim authorisation to allow the tender process to proceed.

Term

Authorisation is sought for a period of twelve years, comprising:

- 1 year for the procurement conduct;
- a maximum 10-year operating term for contracts entered into between the Councils and service providers (comprised of a 7-year initial term and extension period of up to 3 years); and
- an additional 1 year to allow for potential slippage in the procurement process or contract negotiations.

Justification

Community Impacts

The waste collection services contract provides an essential service to every household within the Council's local government areas and is typically the highest value service contract either Council will enter into. The cost of this service is directly levied to the community through annual Domestic Waste Management Charges, in accordance with the *Local Government Act 1993*. It is therefore imperative that the Councils procure services that provide the best value for money for their respective communities. This is particularly relevant given the current context of substantial cost-of-living pressures being felt by families and households at this time across Australia, including the Shellharbour and Wollongong local government areas.

Considering the last waste collection services contract had a 7-year initial term, if Council were to reduce the term of the contract below the initial 7 years, the increase to the capital recovery rate would need to be passed onto the Community and so see a substantial rise in domestic waste management charges. Waste collection vehicles to be utilised in the Councils' LGAs are designed to have a long operational life (at least 10 years). A sustainable approach is to optimise the utilisation of vehicles and so to avoid having to continually purchase new vehicles. The vehicles typically remain the property of the waste collection contractor throughout and would not be utilised for the Councils' services beyond the contracted term. Each collection vehicle is required to be fitted out with service monitoring technology, cameras, safety equipment and emissions

controls. Shortening the term will cause all costs to be factored into service rates that will be increased.

Cost Implications

The proposed 7-year initial term with optional extension of up to a maximum 3 years will allow the contractor to recoup costs, over the term, on the large capital costs of entering this agreement while not requiring the community to outlay these initial costs in one stage. The largest capital costs for the waste collection contract will include the purchase of up to 30 collection vehicles and the establishment of a depot and office space within either local government area. Attachment 1 models how this capital cost is recovered by the contractor throughout the term of the contract.

A simple consideration of capital amortisation over an initial 5 years would mean that the costs to the Councils and the Community would be 40% more expensive than if the initial term was 7 years. Authorising longer term contracts would align with the ACCC strategy 6.1 “Formulate regulatory decisions that promote the long-term interests of end users and consumers”. As outlined in Attachment 1, varying the term of the contract drastically changes the amount residents are required to pay per annum. A 7-year term would require each household to pay \$31.06 per annum whereas a 5-year term would require a \$43.48 per annum fee. This difference amounts to \$1.4 million in ongoing additional cost to the community.

The cost of tendering is another consideration Councils need to assess when undertaking such a large and complex tender. The tender process for this type of service can take several years and involve specialist consultants to ensure compliance and the best possible outcome for the Councils and Community. Increasing the frequency of tendering will increase the time the Councils are required to be engaged in tendering and increase cost to the Community and the companies who tender for this work.

Tendering Considerations

There are estimated to only be 4 organisations that will be capable of undertaking the services sought by the Councils. In order for a competitive tender, these companies will compare the barriers to entry when considering whether to tender. Where the capital costs, such as establishing a depot or office are considered over a short term, the tenderers may consider that they cannot offer a competitive tender price compared to the incumbent contractor. A longer term is likely to increase competition for the services offered. This approach would align with the ACCC’s purpose to be a “A bold and innovative ACCC driving a competitive, fair, safe and productive economy for Australian consumers”.

The services sought by the Councils are generally domestic waste collection services with some similar collection services offered to suitable businesses across the LGA. Given the size of the business districts and industrial activities across the LGAs, the local council domestic services are only one sector of waste collection operations in the region. Those services are not subject to constrained contract terms and so could become less expensive compared to domestic collection. This would reflect poorly on the Councils’ that are obligated to procure value-for-money services. The specifications and contract conditions will be designed to ensure competitive bids from waste service providers. The Councils are seeking to align their services for the term. Services rates are

set at the outset of the term (allowing for standard rise and fall). Tenderers will need to forecast their tenders for the term. A shorter term will present increased risks for a contractor, to recover all outlays and to tolerate organisational impacts. As demonstrated in Attachment 1 the cost of capital recovery increases as the term of the contract is reduced. This capital recovery cost is ongoing, and reduced term for essential services such as waste collection will have an ongoing impact on the communities which they service.

The Councils have received grant funding from the NSW EPA's newly established joint procurement service. This service seeks to support joint procurement of waste management services for local councils, recognising the very significant undertaking that these procurement processes require. Seeking collection services for a short term is likely undermine the purpose of consolidating procurement processes for improved service outcomes.

By implementing 7-year contract term and requiring the employment of local staff, the successful tenderer ensures substantial job security for its workforce while fostering long-term stability. This commitment not only addresses uncertainties surrounding employment but also underscores a dedication to investing in the local community. Through these measures, employees are encouraged to invest in their professional development, contributing to a skilled and experienced workforce.

The Councils' request that **Attachment 1** be kept confidential due to the commercially sensitive information within.