

Our ref: R90/0561-13 Out-33746

17 November 2021

Mr Daniel McCracken-Hewson
General Manager
Australian Competition and Consumer Commission
23 Marcus Clarke Street
CANBERRA ACT 2601

Email: mergersru@acc.gov.au

Dear Mr McCracken-Hewson

Veolia proposed acquisition of Suez - proposed s87B undertakings

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing all NSW general purpose councils and related entities. We appreciate the opportunity to review the information provided detailing the divestiture offer associated with the Veolia proposed acquisition of Suez.

On 10 March 2021 LGNSW responded to the initial consultation around the proposed acquisition and expressed strong opposition as both Veolia and Suez provide waste and recycling services to councils and their communities in NSW. We expressed concern that the proposed acquisition would create a near monopoly in many markets and create further difficulties and limitations for new competition in the marketplace. There are already numerous barriers to entry and competition, including significant infrastructure costs for waste processors.

Following a review of the details contained in the market enquiries letter of 5 November 2021 and accompanying supporting documentation, LGNSW notes that the ACCC is currently reviewing Veolia's proposed acquisition of the remaining shares in Suez. Veolia has offered three court enforceable undertakings to the ACCC to resolve the preliminary competition concerns resulting from the proposed acquisition.

LGNSW acknowledges that the proposed undertakings seek to address the concerns that we previously raised, and that importantly the undertaking to divest certain Suez putrescible waste processing assets in Sydney to Cleanaway or another ACCC approved purchaser will potentially positively contribute to the longevity and sustainability of competition in the Sydney waste and recycling marketplace.

However, LGNSW takes the opportunity to reaffirm our position that the proposed acquisition, despite the divestiture offer, could still lead to significant impacts for NSW councils through a possible reduction in competition and/or increasing future costs resulting from diminished opportunities for competition in the market.

We ask the ACCC to consider the financial burden that NSW communities would bear should waste and recycling processing costs increase because of a lack of competition. The NSW Independent Pricing and Regulatory Tribunal (IPART) has already identified market concentration in the provision of waste services in NSW as a problem that needs to be

addressed. IPART is currently reviewing the NSW Domestic Waste Management Charge and any upward pressure on processing costs coupled with the outcome of this ongoing review could place further limitations on council's capacity to deliver high quality waste and recycling services over the long term.

LGNSW does not have the expertise required to fully assess Veolia's offer nor provide a detailed alternative to the proposed divestiture offer. We defer to the ACCC to ensure that the formal assessment of this acquisition proposal considers the vital role that councils across NSW play in delivering affordable waste and recycling services to their communities and ensure that the decisions and outcomes from this acquisition proposal are favourable to the local government sector and the communities they serve.

If you would like further information on LGNSW's position, please contact Alison Thompson, Senior Policy Officer – Waste on 02 9242 4056 or alison.thompson@lgnsw.org.au

Yours sincerely

A handwritten signature in black ink, appearing to be 'SP' with a flourish.

Scott Phillips
Chief Executive