

22 May 2018

David Jones  
General Manager, Adjudication  
Merger and Authorisation Review Division  
Australian Competition & Consumer Commission

**Via email:** [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au); **CC:** [john.rouw@acc.gov.au](mailto:john.rouw@acc.gov.au); [tessa.cramond@acc.gov.au](mailto:tessa.cramond@acc.gov.au)

Dear Mr. Jones,

**RESPONSE TO CONFIDENTIAL SUBMISSION LODGED BY WRASA, DATED 23 APRIL 2018**

Council Solutions notes the confidential submission provided to the ACCC regarding AA1000414 provided to Council Solutions on Friday, 18 May 2018.

In reviewing the submission, Council Solutions notes the points raised have been addressed in our responses to previous submissions provided by the ACCC. As such, Council Solutions directs the ACCC to the original application and the submissions from Council Solutions dated 17 May 2018 and 18 May 2018.

Council Solutions is disappointed at submissions from interested parties that seek to apply specific conclusions of the ACCC in the Final Determination to A91520 (i.e. rather than the facts on which those conclusions were based), directly to the Proposed Conduction under AA1000414. Council Solutions notes the role of the ACCC in considering an application for authorisation is to satisfy itself that the conduct proposed:

- Would not have the effect, or would not be likely to have the effect, of substantially lessening competition; or
- Would result, or be likely to result, in a benefit to the public, and that benefit would outweigh the detriment to the public that would result, or be likely to result, from the proposed conduct.

The submissions mentioned above appear to be seeking to replace this legal test with an enquiry into how the Proposed Conduct in AA1000414 does or does not differ from A91520. As outlined in the previous submissions mentioned above, Council Solutions has demonstrated that the Proposed Conduct in AA1000414 is clearly and substantially different to A91520.

In any event, Council Solutions once again respectfully submits that the Proposed Conduct in AA1000414 should be considered on its own merits, and not solely by reference to a comparison with an earlier authorisation application. Similarly, it should not solely be considered in reference to conduct that is the subject of applications AA1000419 and AA1000420 where the respective markets are clearly different.

Please do not hesitate to contact me if there are any queries regarding this.

Kind Regards,



Contract Management Officer  
Council Solutions