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10 September 2018

Mr Gavin Jones
Director
Australian Competition and Consumer Commission
GPO Box 520
MELBOURNE VIC 3001

Dear Mr Jones,

Council Solutions Application for Authorisation AA1000420 – Pre-decision conference feedback.

The City of Charles Sturt was pleased to speak in support of the Council Solutions application for the joint procurement via Council Solutions (a wholly owned regional subsidiary of Councils) for Kerbside Collection services at the conference hearing on Monday, 27 August 2018.

As we highlighted in our presentation, we believe there are many benefits that joint procurement can bring to our respective communities. In working with the partner councils on this project, some of these benefits have already been demonstrated such as savings through our joint pre-tender processes involving joint specification development, and the sharing of professional services and advice. We believe that there is much more to be gained on behalf of our communities through the post-tender and operational phases. We welcome the ACCC's Draft Determination assessment and strongly agree that the public benefit of this project will outweigh any perceived public detriment.

Some of these benefits have already accrued through our joint pre-tender processes, but more is to be gained on behalf of our communities through the post-tender and operational phases. We welcome the ACCC's Draft Determination assessment and strongly agree that the public benefit of this project will outweigh any perceived public detriment.

Following on from the conference we would like to take this opportunity to provide some clarification on a number of perceived issues and misconceptions raised by industry during the conference.

Financial stability of Council Solutions

During the course of the conference, industry questioned the financial stability of Council Solutions and its ability to manage the Kerbside Collection contract given that it is not planning on collecting a set percentage, management fee.

These concerns seem to reflect a lack of understanding by industry about how a regional authority (as constituted under the Local Government Act S42) such as Council Solutions operates, including its governance structure.

As a regional authority, Council Solutions is owned by the constituent councils and is managed by a Board of Directors made up of the CEO's from each member council, as well as an independent Chair. It is governed by a Charter which outlines the objectives and aims of the authority, as well as the financial obligations of the constituent councils. Under the Charter, constituent councils remain liable to contribute to the debts and liabilities incurred by the Authority.

The assertion by industry that Council Solutions will not be able to manage the Kerbside Collection contract due to lack of financial stability is simply not true and is, by inference, saying that the council's themselves do not have the financial capability to support the contract. Participating councils allocate resources, including funds, as and when required to perform the duties of Council Solutions.

Financial Benefits

One of the arguments raised by industry was that collaborative procurement does not provide any financial benefits and, in their opinion, comes at a higher cost to councils. This has certainly not been our experience, and it should be noted that we have achieved significant financial benefits, as well as non-financial benefits, through past collaborative approaches.

Some specific examples include:

- Bituminous Road Works (annual spend of \$29.35m)
 - Significant savings on the contract rate compared to previous contracts.
 - Substantial carbon emissions savings - in 2017/18 a total of 720 tonnes Co2-e was saved, equating to 289 cars been taken off the road.
 - Innovation in the use of recyclable content in asphalt - through the scale of the contract, the contractor was willing to devote effort toward R&D initiatives that flowed from the arrangement with council providing a suitable 'test bed'.

- Temporary Labour Hire (annual spend of \$14.94m)
 - Saving on the contract rate compared to previous.
 - Job role specific personal protection equipment supplied by contractor rather than council, therefore reducing costs and duplication.
- Legal Services
 - Reduced hourly rate.
 - Volume discount.
 - Value-add sessions provided to participating councils to build knowledge and expertise.
- Cleaning Contract
 - A significant reduction in contract rate compared to previous contract.
 - Introduction of innovative technologies for cleaning of public toilets and high-rise car parks.

All of these savings have a direct impact on council's budget, which has helped us to maintain sustainability in services while keeping rate rises as low as possible. In 2018/19 we were able to achieve an average rate raise of 1.4% (far below CPI).

Uncertainty of disposal/processing locations

Another issue consistently raised by industry at the conference related to the northern and southern centroids and their concerns around not knowing the exact location of processing depots.

While it is common practice to know where material is going to be processed before tendering for kerbside waste collection services, it should be noted that this is not always the case. It is also not uncommon for collection locations to change mid contract (usually as a result of different contract timings). It is for these reasons that it is standard practice to include a clause to calculate additional payments to a contractor for the delivery of material to an alternative facility. These clauses typically apply where the distance travelled is greater than 10% difference from an agreed location.

These clauses provide protection to potential contractors and remove the risks associated with pricing where delivery points are uncertain or may change during the term of a contract. What these clauses demonstrate is that industry is well versed in dealing with a level of uncertainty and potential changes to nominated disposal facilities.

The nominated centroids as outlined in the Council Solutions application have been chosen as they are well known, established, waste disposal and processing sites within the Adelaide metropolitan area. While it is not guaranteed that the final locations for the delivery of material will be within the nominated centroids, it is quite likely that they will. This is something that the established players in the South Australian waste industry would be aware of.

In addition, given the collection component of the total waste management cost is more significant than any of the disposal costs, allowing the disposal location to be pre-determined and, consequently, drive the larger collection cost is counter intuitive (although easier) and does not necessarily lead to the most efficient outcome for councils, or their communities.

Cross boundary collections

Some industry representatives claimed that the only way cross boundary collections could occur is to fit all trucks with technology to allow for the weighing of individual bins. Again, this is simply not true.

While this would be the most accurate way to ensure that disposal costs are appropriately billed to the participating council, it is not the only way. There are a number of simple formulas (based on well-known and understood data) that could be applied to trucks that move across boundaries to undertake collection. These formulas would provide a mechanism to ensure that disposal costs are fairly split between the participating councils. This is something the participating councils have discussed at length, and are comfortable that this would not be a barrier to cross boundary collection as suggested at the conference.

Additionally, it must also be noted that participating councils are responsible for the disposal/processing costs and, therefore, the mixing of council material in a single load does not present a risk to potential tenders for the Kerbside Collection service.

Contamination and diversion rates

The assertion by industry that higher levels of contamination and lower landfill diversion rates are linked to the size of the contract is misleading. We maintain that contamination and landfill diversion rates are more strongly influenced by socio-economic factors than the size of a council. A consistent education message (best achieved by a collective approach) can achieve 'cut through' given its not coloured by different messages bleeding across from one contracted area or council to another. This can cause confusion, leading to apathy among residents.

In closing I would like to reiterate that joint procurement of services is not uncommon for councils in South Australia or across the country. Local examples include Joint Kerbside Collection Service procured by the City of Charles Sturt and the City of Tea Tree Gully in 2010 (current contract) and East Waste providing Kerbside Collection Services to seven constituent councils. In 2016/17, Council Solutions provided procurement arrangements for a variety of services to the value of \$63.5m to six constituent councils. For the examples above, each are Regional Authorities under the Local Government Act 1999.

Once again, I would like to take this opportunity to express our strong agreement with the ACCC's Draft Determination that this collaborative approach will provide a public benefit that will likely outweigh any claimed public detriment.

I look forward to receiving the ACCC's final determination.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Paul Sutton', with a stylized flourish at the end.

Paul Sutton
Chief Executive Officer