

24 August 2018

Ms Tessa Cramond
Analyst, Adjudication, Mergers and Authorisation Review Division
Australian Competition and Consumer Commission
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Confidential and Redacted

Re: AA1000414 – Council Solutions – Submission on ACCC Draft Determination

Dear Ms Cramond,

I refer to the ACCC Draft Determination issued 20 July 2018 in relation to an Application by Council Solutions AA1000414 on behalf of the City of Marion, City of Charles Sturt, City of Adelaide and the City of Port Adelaide Enfield.

I note Solo is referred to throughout the Draft Determination and we wish to provide a response to the claims and assertions in the Determination.

Solo Resource Recovery is a 100% Australian owned and operated family company which had its beginnings in 1932 when Joseph John Richards commenced waste operations in Northern New South Wales having won the Murwillumbah Sanitary contract.

Solo is based at Chinderah, NSW on the Joseph Richards original site, together with our engineering division, Rico Recovery Systems Australia, which designs and manufactures the collection vehicles for our waste management services including Council kerbside collection contracts. We employ 650 staff and have operations in NSW, Victoria, South Australia, Queensland and Western Australia.

Innovation over our 86 year history has been the core to our survival in an Industry now predominantly operated by foreign multinational companies. Many small and medium sized family waste companies have gone out of business due to market pressures and concentration or acquired by larger companies (mostly foreign owned).

Solo's Chairman Idwall Richards along with Mr. Steve Guest were responsible for the design, development and implementation into the Australian Waste Industry in 1984 of the one person operated robotic side arm kerbside collection vehicle which revolutionised waste collection in Australia from the traditional Rear Loader collection vehicle system requiring three persons to operate the vehicle.

We also developed the divided collection body for the simultaneous collection of waste and recyclables in a divided 240L Mobile Garbage Bin which further revolutionised the Industry by facilitating the economic collection of recyclables in the same bin as garbage divided by a plastic divider.

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Being both a collection equipment manufacturer and contractor has enabled Solo to grow steadily in an ever increasing competitive and concentrated market.

Notwithstanding the innovation we have introduced to the Waste Industry, our growth has been steady currently servicing 32 Council kerbside collection contracts.

As a family business and operator in Adelaide, we are concerned at some of the assertions made by Council Solutions and supported by the ACCC in its Draft Determination.

Critical Mass: CS suggests that some of the larger operators in Adelaide do not currently hold Council kerbside collection contracts because they are not enticed to tender for the individual Councils due to their size and that they would only be enticed to tender if a mega tender was on offer like the 180,000 tenement tender proposed. By any objective measure, the four individual Councils in question are of significant size (70,000, 60,000, 40,000 and 10,000 tenements respectively), are in the metropolitan area and have their own critical mass. The fact is all the major waste companies in Australia operate in Adelaide, have tendered for individual Council kerbside contracts and in most cases have been the successful contractor to one or more Councils in Adelaide.

We reject the ACCC's assertion that the Proposed Conduct will not significantly impact smaller companies seeking to expand incrementally 'one Council at a time.'

Solo's expansion to other regions in NSW, SA and VIC has stemmed from innovative collection equipment the company has developed through its collection body Engineering Division over many decades. In each case, steady growth was achieved via a single sized contract, comparatively straightforward to manage, with sufficient critical mass to justify a depot and management staff and comparatively low risk due to the contract size and clear tender specification requirements.

Expansion to the Hunter Valley 1993 – Occurred when awarded the Port Stephens Council contract (30,000 tenements) using refined robotic arm bin lifter technology that our company's founder had originally developed in the mid 1980's and subsequently introduced to Port Stephens. New innovative divided bins and trucks for the collection of waste and recycling also developed in-house were subsequently introduced to Council.

Expansion to South Australia 1995 – Occurred when awarded the Marion City Council contract (33,000 tenements) utilising the company's robotic bin lifter and new divided bin collection technology. On the Recycle 2000 (a SA State Government Statutory Authority at the time) index, Marion Council moved from last place to first place for waste diversion from landfill within 12 months of contract commencement.

Expansion to Victoria 1994– Occurred when awarded the Flinders Shire Council contract (36,000 tenements) using the same new innovative divided bins and trucks to differentiate the tender offer.

In all cases the expansion into other regions was underpinned by the development and implementation of innovative collection technology developed in-house over many years. It was not easy and the inference that small to medium waste firms can easily expand into other regions is simplistic, incorrect and strongly refuted as evidence by Solo's attempt to enter the Perth market in recent years.

[REDACTED]

[REDACTED]



Market Concentration: CS asserts that because Solo currently services three of the four participating Councils, that this represents a concentration in the market 'and has been occurring without the Proposed Conduct'. Solo specialises in waste collection, does not own infrastructure facilities such as landfills, recycling organics processing facilities and has won each contract it holds via a public competitive tender process on the merits of its collection expertise and price. Unlike many larger companies, it has not acquired other waste businesses to reduce the competition with a view to dominating the market.

The flippant assertions by Council Solutions in its application apparently supported by the ACCC about the apparent ease with which companies can scale up for a large contract or start up operations in other parts of the Country indicate a gross lack of comprehension as to how a business and the waste industry works.

The proposed tender for 180,000 tenements would be one of the largest in Australia. The capital outlays required including bin supply of up to 540,000 bins, establishment of depot(s), bank guarantee, startup costs and working capital is approximately \$55-60M. Prospective tenderers must have financial facilities in place before submitting a tender and the outlays involved between when a tender is awarded and income is first received from the respective Council after commencement is significant.

Despite our 86 year history in the Industry, unsurpassed track record of bringing innovation to Councils including to our Adelaide Council Customers and enviable track record of not losing one day's work due to Industrial Disputes in our entire history, Solo would not have the financial capacity to tender for the proposed contract.

Even though Solo services three of the four Councils, these contracts were won at different times so at the time of tender for each contract, we had confidence in our financial position before tendering for the next respective contract. Tendering for all four Councils at the same time is an entirely different proposition and raises the risk profile and capital investment required beyond the reach of a company like Solo and even some of the large companies. It is also our experience that the larger Council contracts attract fewer tenders because of the risk profile, capital requirements and increased risk of Industrial disputes and service disruption which go hand in hand with large contracts.

We disagree with the ACCC's assertion 'that all the councils are likely to be contestable over the longer term.' It is our experience that Council/Regional Subsidiary Groups such as East Waste and individual Councils that carry out their own waste collection (e.g. Onkarpalinga) have not and do not invite public tenders for their waste collection services. Basic research of comparative interstate operations would reveal the same findings.

It is disappointing the emphasis and assumptions in the ACCC's Determination, particularly those regarding how our business might manage in the event the Application is approved, and additionally the ACCC's apparent acceptance that the waste industry in Adelaide and elsewhere is likely to only be served by a handful of large established companies in the future. The fact is that will happen if the ACCC let it happen by approving mega tender applications like the one before it, even though the application has presented no evidence, other than commentary, to prove that it will provide a net public benefit.

Solo is a very small company compared to our competitors most of which are foreign owned multinationals and employ between 5,000 and 160,000 staff. We have survived through dedication, innovation and cost efficient personalised service and encourage competition rather than try and dominate it through acquisition.

If the ACCC gets the settings right, other small and medium sized waste companies in Adelaide and interstate will expand their operations over time and new participants will also enter the market resulting in more competition, innovation and cost effective waste services for Councils and Ratepayers.

Solo has established its position in the Adelaide market through competitive tendering, first class customer



service, innovation and most of all a willingness to work with our Councils to meet their individual objectives.

However we accept Council Contracts have a finite life and are subject to regular competitive tendering which in our opinion is why the Australian and Adelaide waste industry in particular leads the world in kerbside collection innovation, productivity and cost efficiency. Adelaide is the most competitive collection, processing and landfill disposal market in Australia. It also leads the nation for waste diversion from landfill.

We urge the ACCC to take this opportunity to provide the settings so that all experienced waste providers have the opportunity to tender for waste services in Adelaide now and well into the future. The Proposed Conduct, if approved by the ACCC, will be a major deterrent to broad participation and will have everlasting negative consequences for the Adelaide waste industry including a reduced number of competitors and competition due to the small number of individual Councils that will remain available for competitive tender.

Solo takes great pride in the contribution we have made to the waste industry as a whole throughout Australia. It is in light of our history and vision for an open competitive market available to all participants that we strongly reject the simplistic and unproven case put forward by and Council Solutions and therefore oppose the Councils Solutions application.

Yours faithfully

Robert Richards
Managing Director
Solo Resource Recovery