

TRIDENT PLASTICS

4 June 2018

Mr Gavin Jones
Director - Adjudications
Australian Competition and Consumer Commission
Level 17, 2 Lonsdale Street
Melbourne Vic 3000

Dear Mr Jones,

APPLICATION FOR AUTHORISATION AA1000420 (ANCILLARY SERVICE STREAMS) – COUNCIL SOLUTIONS - INTERESTED PARTY CONSULTATION

1. We refer to your letter dated 17 May 2018.
2. Thank you for the opportunity to provide submissions during the consultation process for the proposed application for authorisation by Council Solutions, the Cities of Adelaide, Charles Sturt, Marion and Port Adelaide Enfield Council ("**Participating Councils**").
3. Below are the submissions submitted on behalf of Trident Plastics (SA) Pty Ltd as an interested party.
4. We note this appears to be an alternative application that Authorisation AA1000414 which was released for public consultation by the Commission under cover letter dated 27 March 2018.

BACKGROUND - COMPANY PROFILE

5. SA Plastics Corporation Pty Ltd (now Trident Plastics (SA) Pty Ltd) ("**Trident**") was established in 1995 to manufacture moulded plastic products.
6. Trident is one of the largest plastic custom moulders in South Australia, offering a full suite of services from concept development, product design, prototyping, tool

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and mould making and product manufacture to a diverse range of clients. Trident currently ranks 80 in the top 100 of South Australia's privately owned companies¹ and employs over 100 employees.

7. Since late 2012, Trident has manufactured plastic mobile garbage bins as part of our proprietary range of products. These products are manufactured at our St Clair factory in South Australia; we do not use contractors nor manufacture overseas.
8. Trident sells these products to local government authorities in South Australia, Western Australia, Tasmania, Victoria, New South Wales and Queensland. We also sell our mobile garbage bins to national waste companies, retailers and export our mobile garbage bins to New Zealand.
9. Our range of products currently includes:
 - a. Two-wheeled bins: 80L, 100L, 120L, 140L, 240L and 360L bins;
 - b. Four-wheeled bins: 660L and 1100L bins;
 - c. Kitchen caddies (for recycled food waste): 8L caddies; and
 - d. Spare parts and accessories for these bins including lid pins, wheels and axles.
10. This extensive range enables us to compete for almost all local government tenders relating to the supply of mobile garbage bins.
11. Depending on a local government's specific requirements, we have the capacity to undertake roll out programs using sub-contractors to deliver our bins directly to service eligible (rateable) homes and to collect old and/or redundant mobile garbage bins from those homes at the same time. Typically, however, we sell the bins in bulk and Council's waste management companies will arrange for the delivery of the bins to the service eligible (rateable) homes.
12. Since 2015, we have also installed at our factory in South Australia, such equipment as to enable us to recycle used mobile garbage bins (and other post consumer plastic products as well and reject products generated during our manufacturing processes).
13. The recycling process involves washing, shredding, granulating and pelletising used plastic products. The recycled High Density Polyethylene (HDPE) materials are reused in our manufacturing processes for mobile garbage bins. We have the capacity to process and recycle up to 1000 tonnes of plastic materials each year.
14. Many local government authorities requiring their mobile garbage bins to contain up to 30% recycled HDPE content. From time to time, we offer to buy back used mobile garbage bins from councils for recycling purposes.

MARKET FOR THE MANUFACTURE AND SUPPLY OF MOBILE GARBAGE BINS

15. In addition to Trident, there are a number of Australian companies who manufacture and supply bulk mobile garbage bins to local authorities:
 - a. Sulo MGB Australia (a division of the Pact Group);
 - b. Mastec Australia Pty Ltd; and

¹ In *Daily South Australian 2017 Business Index*, published 21 September 2017

c. Viscount Plastics Australia Pty Ltd.

16. These companies regularly tender for work relating to the supply of mobile garbage bins to South Australian based entities (local government authorities and waste companies operating in South Australia) as well interstate work. We have first had knowledge of this fact through tender briefing sessions and post-tender evaluation processes.
17. A large portion of our customer base comprises local government authorities, secured through supply contracts which typically run for a term of at least 2 to 3 years.
18. It is uncommon for local government authorities to grant supply contracts in excess of 5 years, let alone the 7 year contract currently being proposed, with an option to extend to 10 years.
19. There are a number of ways in which we source local government work.
20. By far the most common form is to tender directly for the right to supply the authorities with mobile garbage bins. These tenders typically award the right to supply mobile garbage bins over a number of years.
21. We are also tender to be a panel member to on local government procurement networks. These networks are run on a national basis. To become a panel member our prices represent a standing offer to supply all local government authorities who are members of the procurement networks.
22. Trident is a panel member of the Local Government Procurement Network and Procurement Australia Network. Local government authorities who participate in these procurement networks are not obligated to source mobile garbage bins from any specific panel member but they have the benefit of doing so without undertaking and managing a full procurement process. Councils will typically use the networks' electronic tendering portals (such as Tender Link or Vendor Panel) to send out and receive requests for quotes. The generic terms and conditions of supply are specified by the procurement networks at the time we tender to be a panel member. Local authorities are at liberty to add such special terms and conditions as they deem appropriate. These requests for quotes are typically for once-off bulk supply of bins.
23. We pay a rebate to the procurement network on the value of sales made through the network which is monitored through our obligation (as a service provide) to report on sales on a monthly and/or quarterly basis. These requests for quotes are typically for once-off bulk supply of bins.
24. From time to time, we also receive direct requests from a Council to supply a quote for the supply of bins.

THE PROPOSAL

25. The current proposal being advanced by the Participating Councils involves a 26% share of greater Adelaide region councils, based on the number of service -eligible (rateable) homes:

Participating Council	Service-Eligible Homes
City of Adelaide	22,435
City of Charles Sturt	55,175
City of Marion	41,376
Port Adelaide Enfield Council	61,026
Total	180,012
<i>All of greater Adelaide Region Councils</i>	<i>686,236</i>

26. The authorisation is sought until 30 June 2031, with the contract proposed to commence from May 2020 for a total of 10 years (7 years + 3 years). This revised authorisation application contemplates a rolling start with all Participating Councils being transitions to any successful service provider by May 2021 when all pre-existing contracts are due to expire.
27. Although not expressly noted, the supply of mobile garbage bins (including the maintenance, fitting of RFID tags etc) is likely to follow this contract cycle to enable the Participating Councils gain the anticipated efficiencies. Having regard to the 3 bin system, this represents sales of over 540,000 bin units in the initial roll-out, plus ongoing maintenance and top ups.
28. To the best of our knowledge, there are presently at least three bin manufacturers who supply mobile garbage bins to the Participating Councils. Trident has a supply contract with Port Adelaide Enfield Council which is expires 1 July 2019, with two (2) further options to renew, each for a term of twelve (12) months each. Other suppliers include Mastec Australia Pty Ltd and Sulo MGB Australia.

CLAIMED BENEFITS ASSOCIATED WITH THE PROPOSAL

29. The Participating Councils have submitted that there are a number of public benefits to this proposal:
- a. Tender cost savings including reduction in the replication of resources and work among the various council members;
 - b. Alignment of specifications, service standards, reporting and bin types;
 - c. Costs savings associated with combined technical, legal, probity advice and contract management;
 - d. Environmental benefits including contributing to the state's waste strategies and targets;
 - e. Lower costs to ratepayers through improved purchasing power.
30. We note that there is a lack of substantiation from the Participating Councils to support the claimed public benefits which may result from the proposal, particularly

on cost saving, environmental benefits and lower costs through improved purchase power. No meaningful empirical data has been supplied to support the various beneficial claims.

31. In relation to the specific claim that the proposal will lead to better alignment of specifications, service standards and bin types, we note that all the Australian based manufacturers listed in paragraph 15 above manufacture bins which comply with AS 4123 -2008 '*Mobile Waste Containers - Containers with two wheels and a capacity up to 400L for lifting devices*'. In our experience, Councils typically only specify that the bins need to comply with these Australian Standards in its tenders, with no other bin specification, other unique requirements other than the stamping of Council's logos/instructions on the bins and the application of RFID chips.
32. Most manufacturers also manufacture component parts which are interchangeable with their competitors to remain viable and competitive. We therefore submit that the Proposal will have no material impact on specifications, service standards relating to the quality of the bins or bin types supplied.

POTENTIAL ADVERSE IMPACTS ON TRIDENT AS A RESULT OF THE PROPOSAL

33. The authorisation, if granted, has the potential to have adverse impact on Trident in that it lessens competition in the market for mobile garbage bins.
34. The market to supply and maintain bins is currently competitive. At present, we have at least 3 companies supplying to these relevant councils (Trident, Sulo and Mastec). One is based on New South Wales and is part of a multinational group and two are privately owned companies based in South Australia.
35. If the status quo is maintained without the authorisation, each party has the opportunity to win work (albeit smaller volumes from each individual council) on a more frequent basis.
36. The authorisation, if granted:
 - a. Would lock away over a quarter of the Adelaide metropolitan market to bin manufacturers for a term ranging from 7 to 10 years. We submit that being locked out of the market for this extended period will mostly disadvantage small to medium sized businesses, and will adversely impact these businesses' ongoing viability. In the long term, this may reduce the number of skilled manufacturers, job losses and thereby leading to reduced competition and increased costs to ratepayers.
 - b. Would favour larger multi-national manufacturers over smaller to medium sized manufacturers, who may elect not to tender for as they may not have the production capacity to service a contract of the proposed size. Plastic injection moulding machines and associated tools costs millions of dollars to acquire and have a finite capacity to produce a certain number of parts per hour. At present multiple, smaller tenders with varying start and end dates ensure that there is a constant flow of lower and manageable volume.

To service a contract of this size of the proposal may require large capital investments to increase production capacity (if all bin units are procured at one time - up to 540,036 bins on a three-bin system for all service eligible homes). The proposal also has the potential to put significant pressure on

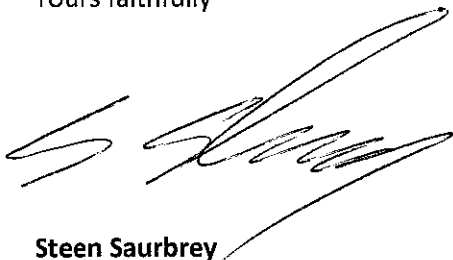
manufacturers to maintain plant and equipment for the duration of the lifecycle of the contract (up to 10 years) otherwise face exposure for breach of contract and potential damages. The proposal inherently favours larger manufacturers who enjoy easier access to capital.

- c. Would likely require service providers to supply guarantees, particularly bank guarantees, to secure performance of the contractual obligations. Again, this is more likely to prejudice small to medium sized manufacturers whose limited cash flow would be tied up for the duration of the contract term.
- d. Will not, in our submission, lead to the costs savings and efficiencies noted in the Authorisation application. We note that each Participating Council is likely to have a different commencement date under the new tender (rolling starts have been noted in the Authorisation Application as being between May 2020 to May 2021 to enable Participating Councils to see out existing contracts). This would mean that each Participating Council may be on a different contract reporting cycle and rate review cycle (both typically tied to the anniversary of the commencement date). Over a contractual lifecycle of 10 years, this is a substantial and significant administrative burden and cost on service suppliers.

CONCLUSIONS

- 37. The Participating Councils need to provide more than bare and unsupported assertions that there will be a benefit to the public that will outweigh the detriment caused by the anti-competitive conduct. In the absence of any rigorous analysis, supported by robust data, we submit that the Commission should refuse to grant the authorisation.

Yours faithfully



Steen Saurbrey
Managing Director