

# MinterEllison

12 April 2019

**BY EMAIL** david.hatfield@acc.gov.au

**Attention Mr David Hatfield**  
Director  
Adjudication  
Australia Competition and Consumer Commission

Dear Mr Hatfield

## **Logan City Council & Ors application for authorisation AA1000437 – Response to request for information**

We refer to the above application for authorisation (**Application**) and your correspondence dated 27 March 2019 requesting a response to the issues raised in the public submissions and additional information in relation to the Application.

Our responses to the issues raised are set out below.

### **Inclusion of Commercial and Industrial waste**

The Councils do not currently, nor do they have any plans to, use their legislative powers to oblige commercial property owners to have their waste collection service provided by a Council. All Councils offer waste collection services to commercial properties. However, commercial property owners are free to have their waste collection performed by a private company if they prefer to do so. The only commercial and industrial waste that comes into the Councils' possession is:

1. collected from commercial properties where the property owner has chosen to use a Council as its provider; or
2. received at Councils' waste facilities by commercial operators that have chosen to dispose of their waste at a Council facility.

### **Length of time and volumes of waste**

The Councils consider there to be numerous likely benefits in offering longer term contract periods for waste management infrastructure with waste volumes contributed by several Councils, including:

1. presenting a more attractive opportunity to the market by providing longer term security and investment profiles;
2. as the opportunity is more attractive, potentially increasing competition among suppliers which should result in better value for money for Councils and their communities; and
3. enabling a range of investment and partnership profiles, which broadens the opportunities for suppliers and may reduce elements of risk to both Councils and contractors.



The Shoalhaven City Council contract cited in your correspondence has a contract term for 20 years but with the option of a 5-year extension. The mechanical heat treatment technology used at that resource recovery facility provides pre-treatment for residual waste allowing additional recyclables to be extracted for further processing and producing a refuse derived fuel which can be used to generate heat and power via an energy from waste facility. Shoalhaven City Council has acknowledged that the refuse derived fuel produced will not be used for energy production (see <https://getinvolved.shoalhaven.nsw.gov.au/rrf/faqs#question41566>). The Councils understand, from the information publicly available, that the refuse derived fuel and any other reject materials will be sent to landfill.

In contrast, the Councils are seeking responses from the market that address a wide range of material streams and prioritise diversion from landfill. Responses received could include small low-cost solutions dealing with one material stream and large integrated solutions that provide a range of infrastructure to treat several waste streams. The Councils consider it important to provide flexibility and to enable the market to provide solutions to all options, including facilities that are generally designed to last 25 years and beyond.

The Councils believe the benefits of working together in partnership, with the collective vision for waste management are compelling. Those benefits are what have compelled the Councils to continue with this process despite the complexities. Specifically:

1. the economies of scale offered by combined procurement and operation of an integrated waste management contract;
2. the efficiency of joint service delivery (transfer to gate);
3. the attractiveness of a larger project to the market; and
4. the sharing of risk.

Combining the tonnage of the Councils' waste presents a substantial and more attractive offer to the market. It is likely that any prospective private sector partner for large-scale facilities would give preference to longer contracts where there is a critical volume of waste. The Councils consider that individually the waste tonnage would not be as attractive to the market and therefore unlikely to secure comparable efficiency savings.

Should you have any queries in relation to this response or the Application, please contact Paul Muscat on 07 5553 9485.

Yours faithfully

**MINTER ELLISON – GOLD COAST**



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