



AUST. COMPETITION &
CONSUMER COMMISSION
SYDNEY
11 DEC 2003

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9th December 2003

FILE No.
DOC: 203/46644
MARS/PRISM: 18828

The Commissioner
The Australian Competition and Consumer Commission
GPO Box 3648
SYDNEY NSW 1044

Dear Commissioner

Australian Competition and Consumer Commission

Please find enclosed our submission for authorization under Section 88 of the Trade Practices Act 1974 for the Joint Tender for the Supply of Waste Transfer and Disposal Services to the members of the Northern Sydney regional Organisation of Councils.

A cheque for \$7,500.00 is enclosed as payment accompanying the application.

Thank you for your assistance. For further enquiries please contact Mr Tony Reed of Ryde City Council on 9952 8101.

Yours sincerely

Ross Jones
Executive Director
NSROC

Comprising the Councils of:
Hornsby, Hunter's Hill, Ku-ring-gai, Lane Cove
North Sydney, Ryde and Willoughby



APPLICATION TO

**THE AUSTRALIAN COMPETITION &
CONSUMER COMMISSION**

**FOR AUTHORISATION UNDER
SECTION 88 OF THE
TRADE PRACTICES ACT 1974**

**FOR AN AGREEMENT AFFECTING
COMPETITION.**

Form B

Commonwealth of Australia
Trade Practices Act 1974 --- Sub-section 88(1)

**AGREEMENTS AFFECTING COMPETITION:
 APPLICATION FOR AUTHORISATION**

To the Australian Competition and Consumer Commission:

Application is hereby made under sub-section 88(1) of the *Trade Practices Act 1974* for an authorisation under that sub-section to make a contract or arrangement, or arrive at an understanding, a provision of which would have the purpose, or would have or might have the effect, of substantially lessening competition within the meaning of Section 45 of the Act.

1. (a) Name of Applicant :

The following eight (8) Councils are joint applicants under the auspice of the Northern Sydney Region of Councils (NSROC). Hornsby Shire Council, Hunters Hill Municipal Council, Lane Cove Council, North Sydney Council, the City of Ryde, Willoughby City Council, Mosman Municipal Council and Warringah Council.

(b) Short description of business carried on by applicant :

The Applicants are all Local Councils as defined by the Local Government Act (1993) acting in accordance with the Council's Charter s(8). One of the service functions of the Council is the provision, management and/or operation of waste removal, transfer, processing and disposal.

(c) Address in Australia for service of documents on the applicant:

c/o – Attention: Mr. Anthony Reed, Group Manager – Public Works & Services, Locked Bag Box 2069, North Ryde, NSW, 1670

2. Brief description of contract, arrangement or understanding and, where already made, its date:

It is proposed that the Councils will jointly tender for the services of qualified contractors to provide waste transfer, processing and disposal services to the respective Local Government areas. The Tender will be in the form of a Joint Tender where, dependent upon the Tender evaluation, Councils may decide to independently commission a contractor to service their Local Government area under a separate contract or, a number of Councils may agree to combine their service areas under the one contract, or all eleven (11) Councils may decide to enter into the one contract.

It is assumed that three (3) additional Councils, namely – Ku-ring-gai Municipal Council, Manly Council and Pittwater Council will participate in the Joint Tender process, subject to ACCC authorisation. For the purpose of approval to process the Joint Tender, these three (3) Councils are included as possible participants.

Further details are contained in ATTACHMENT A.

3. Names and addresses (where known) of parties and other persons on whose behalf application is made:

Not Applicable.

4. (a) Grounds for grant of authorisation:

Refer ATTACHMENT A.

(b) Facts and contentions relied upon in support of those grounds:

Refer ATTACHMENT A.

5. This application for authorisation may be expressed to be made also in relation to other contracts, arrangements or understandings or proposed contracts, arrangements or understandings, that are or will be in similar terms to the abovementioned contract, arrangement or understanding.

(a) Is this application to be so expressed?

NO

(b) If so, the following information is to be furnished:

(i) the names of the parties to each other contract, arrangement or understanding:

Not Applicable.

(ii) the names of the parties to each other proposed contract, arrangement or understanding which names are known at the date of this application:

Not Applicable.

6. (a) Does this application deal with a matter relating to a joint venture (See section 4J of the *Trade Practices Act 1974*)

Not Applicable.

(b) If so, are any other applications being made simultaneously with this application in relation to that joint venture

Not Applicable.

(c) If so, by whom or on whose behalf are those other applications being made

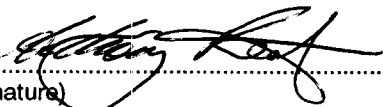
Not Applicable.

7. Name and address of person authorised by the applicant to provide additional information in relation to this application

Mr Anthony Reed, Group Manager – Public Works & Services,
City of Ryde, Locked Bag 2069,
North Ryde, NSW 1670.
Phone No. (02) 9952 8102
Fax (02) 9952 8110
Email: treed@ryde.nsw.gov.au

Dated...10 December 2003.

Signed by/on behalf of the applicant


.....
(Signature)

Anthony Reed

Group Manager -- Public Works & Services, City of Ryde.

ATTACHMENT A

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ANNEXURES

- 1. EOI Assessment Procedure**
- 2. Request for Tenders – Provision of Waste Transfer Processing and Disposal Services for NSROC / SHOROC Member Councils.**

BACKGROUND TO APPLICATION:

All Local Government Councils in New South Wales are responsible for the collection and removal of domestic waste within their Local Government area. With the development of the Metropolitan area of Sydney and the pressure on Local Councils to identify appropriate parcels of land for the disposal of putrescible waste, arrangements evolved where a New South Wales State Government entity, the Waste Disposal Authority, became the principal supplier of waste disposal services in the Metropolitan area of Sydney.

At this point in time, the current entity (Waste Service NSW), operate within a monopoly market in providing waste transfer processing and disposal services to the majority of Councils located within the Greater Metropolitan Area of Sydney.

The principal exception are the Councils of Manly, Mosman, Pittwater and Warringah who jointly operate a licensed facility at Kimbriki.

All other Councils dispose of their putrescible waste and greenwaste at transfer stations located at

- Belrose
- North Ryde
- Artarmon
- Auburn
- Chullora
- Rockdale
- Seven Hills

Or directly to the landfill sites at

- Eastern Creek
- Jack's Gully
- Lucas Heights

As a consequence to the monopolistic nature of the market, most Local Government Councils do not have formal contractual arrangements with Waste Service NSW for the transfer, processing and disposal of domestic waste but operate within an annual gate price arrangement.

On 29 August 2002, the Honorable Dr A J Refshauge, Deputy Premier, Minister for Urban Affairs and Planning, Minister for Aboriginal Affairs and Minister for Housing, announced the approval for the application lodged by Collex Waste

Management Pty. Ltd. for a waste transfer station and railhead facility at Clyde. These facilities are linked with the approved landfill site located at Woodlawn. Once the transfer station and railhead are commissioned an alternative supplier to Waste Service NSW will be available for the transfer and disposal of garbage within the metropolitan area of Sydney.

The Local Government Act and its regulations are very explicit in Part 3 of the Act and the Regulations under section 55 of the Act with respect to the obligations of Councils to tender for works with values in excess of \$100,000. Given the tonnage associated with waste management in the member Councils of NSROC and SHOROC, every Council will be obliged under the requirements of the Local Government Act to tender and award a contract for the transfer and disposal of waste.

As a consequence to these requirements, the NSROC Councils (exclusive of Kuring-gai Council), Mosman Council and Warringah Council advertised and evaluated an Expression of Interest for the supply of waste transfer processing and disposal services to the constituent Councils. The purpose of the Expression of Interest was to assist participating Councils to decide whether they should seek the services nominated in the Expression of Interest in the form of a Joint Tender.

The results of the Expression of Interest process have established that there is significant community benefit as well as a basis for supporting market competition in the supply of these services with offering a Joint Tender to the market.

PREVIOUS APPLICATIONS:

This application is made with reference to two (2) previous applications for authorisation which had already been determined by the ACCC and relate to waste services provided by Local Government. The first was made by Resource NSW on behalf of the Southern Sydney Region of Councils (Authorisation No. A90861 and A30204) and one made by the Inner Sydney Region of Councils (Authorisation No. A90856 and A30205).

In addition to these pre-determined applications, the ACCC is considering a further application lodged by the Macquarie Region of Councils (Application No. A90886).

It is submitted that the application for authorisation being made by the NSROC / SHOROC Councils in this application is of a similar nature to those already determined and under consideration.

EXPRESSION OF INTEREST FOR THE SUPPLY OF WASTE TRANSFER PROCESSING AND DISPOSAL SERVICES:

Process

Following the resolution of member Councils to participate in the Expression of Interest and the processing of the Memorandum of Agreement to participate in the request for Expressions of Interest, NSROC advertised the Expression of Interest in the Daily Telegraph, the Sydney Morning Herald and the Australian newspapers. The Expression of Interest closed at 2:00 pm on Friday, 17 October 2003.

The documents associated with the Expression of Interest were made available at the City of Ryde Customer Service Centre at a cost of \$30.00 and a total of fourteen (14) documents were sold.

The NSROC Board had also determined that, as part of the process of evaluation, a Probity Auditor should be commissioned to work with the Evaluation Panel in respect to the advertising and evaluation of the Expression of Interest. As a consequence to this determination, Mr Mike Butler of Independent Project Services Pty Ltd was commissioned to assist the Evaluation Panel.

The NSROC Board also indicated that the member Councils of SHOROC could be invited to participate in the Expression of Interest on the basis that their involvement would not delay the processing of the Expression of Interest. As a consequence to the NSROC invitation, Warringah Council and Mosman Municipal Council agreed to participate in the Expression of Interest.

Results of the Expression of Interest

The Expression of Interest closed at 2:00 pm on Friday, 17 October 2003 with Expressions required to be lodged in the NSROC Tender Box located at Lane Cove Council.

The Tenders were opened at 2:20 pm on Friday, 17 October 2003 in the presence of:

- Mr Ross Jones, Executive Director, NSROC
- Ms Lesley Ridley, NSROC
- Mr Tony Reed, Group Manager – Public Works & Services, City of Ryde
- Mr Rob Holliday, Waste Manager, Hornsby Council
- Mr Michael Butler, Independent Project Services.

The following Expressions of Interest were received:

- 1) Rethmann –Australia Environmental Services Pty Ltd
- 2) The Enviroenergy Group – Enviroenergy Developments Australia Pty Ltd
- 3) Waste Services NSW
- 4) Collex
- 5) Thiess Services
- 6) Cleanaway

In addition to the formal Expressions of Interest, a letter dated 14 October 2003 was received at the City of Ryde Council offices from Environmental Waste Technologies indicating they had not been able to respond to the advertised Expression of Interest in the timeframe available but were keen to participate in any future tendering process.

Nature of Expressions of Interest

Rethmann – Australia Environmental Services Pty Ltd

The submission by Rethmann was not an Expression of Interest for the provision of waste transfer processing and disposal services to the NSROC member Councils. It was a letter which confirmed that Rethmann was interested in finding solutions for the provision of services to the NSROC member Councils, however, under the current circumstances of existing infrastructure, Rethmann could not provide a viable solution.

The letter reinforced their position that in order for other players to enter the market to supply the services requested, a level playing field needs to exist for the private sector. This is in contrast to the existing vertically integrated monopoly for transfer and disposal of domestic waste. The letter expressed concern that a contract duration of only ten (10) years clearly disadvantaged those operators that needed to invest substantial sums of money to realise the necessary infrastructure to service the needs of the member Councils.

The Enviroenergy Group – Enviroenergy Developments Australia Pty Ltd

The submission from The Enviroenergy Group is based on the development of a number of mini transfer stations located within the km restriction zones of each Council.

The transfer stations will discharge their waste to an alternate waste technology plant to be constructed at Camellia. The plant proposed is a material recycling and biomass energy facility.

The submission contained comprehensive detail on the technology and was supported by existing facilities located in the United States of America.

Waste Services NSW

The submission from Waste Services NSW incorporated both NSROC and SHOROC member Councils. Their capacity to provide the services is based on their existing network of waste transfer stations delivering to their available landfill sites. In addition, the strategy is based on delivery to an alternate waste technology facility which is programmed to be operational by the 4th Quarter of 2004.

Waste Services NSW presented an Expression of Interest which addressed environmental sustainability aspects with the provision of their Environmental Management Plan along with details of their Environmental Management Team. To some extent the resource recovery aspects of their bid were dependent on the assessment panel's knowledge of the Global Renewables UR-3R Plant currently under construction at the Eastern Creek site.

Collex

The submission from Collex is principally based on the development of the Clyde Transfer Station which would package waste for rail transport to the Woodlawn Bio-reactor. As part of their Expression of Interest, Collex detailed the environmental benefits of Bio-reactor technology and the resource recovery components of the Woodlawn facility.

In addition, Collex also focussed on the mine site rehabilitation program for Woodlawn as well as the wind farming investigations currently in progress for the surrounding buffer zone.

In respect of clean-up waste, Collex cited the use of the Greenacre Transfer Station, the Port Botany Transfer Station and the Horsley Park Waste Management Facility.

The Evaluation Panel noted that the transfer of putrescible, food and greenwaste material was to be transported to the Clyde Transfer Station and, as such, was outside of a number of the restriction requirements for individual member Councils. Apart from a financial impact on Councils, the extra transport scenario resulted in an adverse assessment under the Environmental Sustainability Criteria.

Thiess Services

The submission from Thiess Services is based on the development of a transfer station and an alternate waste technology facility with the preferred site being

nominated at the Kimbriki Recycling and Waste Disposal Centre. As part of the Expression of Interest, Thiess Services have indicated that they would be willing to enter into a public / private alliance contract with the willing NSROC Councils to realise the project.

In support of their submission, Thiess Services cited their inter-State and overseas experience in the development and operation of AWT facilities.

Again, the Evaluation Panel noted that this proposal required collection vehicles to discharge at the transfer station located at Kimbriki which is outside of a number of the km restrictions for individual Councils. Apart from a financial impact on Councils, the extra transport scenario resulted in an adverse assessment under the Environmental Sustainability Criteria.

Cleanaway

The submission from Cleanaway is based on the development of a Cleanaway transfer station at two (2) sites, one at Porters Creek to service the City of Ryde, North Sydney, Lane Cover, Hunters Hill and Kur-ring-gai and a second at Kimbriki to service Hornsby, Willoughby and the SHOROC Councils. The disposal strategy nominates the development of a controlled environment composting facility (CECF), along with alternate waste technology (a gasification plant).

The submission also focusses on the capability of Cleanaway to provide kerbside collection services.

Cleanaway have indicated a planning and construction timeframe of at least 36 months in order to be able to service a contract.

Evaluation Panel

The Evaluation Panel met on Monday, 20 October 2003, at the City of Ryde Civic Centre to undertake the evaluation of the Expressions of Interest. The Evaluation Panel consisted of the following Officers:

- Mr Tony Reed (Chairperson) Ryde City Council
- Ms Jude Colechin Ryde City Council
- Ms Bo Karaula North Sydney Council
- Mr Rob Holliday Hornsby Council
- Mr Tony Walmsley Warringah Council
- Ms Marcelle Psaila Willoughby Council
- Mr Greg Foster Willoughby Council

The Evaluation Panel was assisted in respect of probity issues by Mr Michael Butler.

As part of the preparation for the evaluation of the Expressions of Interest, the Evaluation Panel developed an Assessment Procedure along with a Code of Conduct which was agreed to and signed off by all participants. A copy of the document is **ATTACHED** as Annexure 1.

Evaluation of Expression of Interest

As detailed in the assessment procedures, the Expressions of Interest were evaluated utilising a weighted attribute matrix. The attributes and the weighting factors are detailed in the table below:

TABLE 1 – EOI Evaluation Criteria

Weighting Factors	
Evaluation Criteria	Weighting Factor (%)
1. Service price	40
2. Rise and fall	5
3. Methodology and operational procedures	20
4. Environmental sustainability	30
5. Long term capacity	5
TOTAL	100

Following analysis of the Expressions of Interest, and assessment of same against each of the above criteria, the Expressions of Interest were ranked as follows:

1. Waste Service NSW
2. Collex
3. Thiess
4. Enviroenergy Group
5. Cleanaway

Conclusions

Analysis of the Expressions of Interest have established that there is likely to be a financial benefit associated with a Joint Tender. The indicative prices received as part of the Expression of Interest are **STRICTLY CONFIDENTIAL**, given that the member Councils will be moving to a tendering process either jointly or separately, for the supply of waste transfer, processing and disposal services. It is more than likely that the tender price will be different to those nominated in the Expressions of Interest as the indicative service price.

A number of the Expressions have clearly indicated that the service price is influenced both by gross tonnages associated with the contract along with the term of the contract. These two elements have the most influence on the final service price.

Based on the service price regimes detailed in the Expressions of Interest, a total NSROC / SHOROC contract is likely to result in a service price advantage over the service price offered to individual Councils. It would appear that significant community benefit may be achieved with the progression of a Joint Tender for the supply of waste transfer, processing and disposal services.

In addition, a number of Expressions of Interest have based their nominations of interest on the fact that a Joint Tender will, to some extent, guarantee sufficient tonnages and contract period timeframe to allow them to develop the necessary infrastructure to service the contract and incorporate a capital recovery component within their pricing mechanism. As long as sufficient tonnages are received, and the contract period results in a 15-20 year period, the price mechanism for the new entrants results in the service price being competitive against the prices likely to be offered by the existing participants within the market.

The Expressions of Interest have provided sufficient detail for the member Councils to now develop support documentation for an application to the Australian Competition and Consumer Commission (ACCC) for approval to progress a Joint Tender. The responses indicated that a Joint Tender process would increase competition for the provision of the services and result in lower costs for participating Councils.

Implications of EOI findings on proposed Joint Tender Contract Period

In advertising and evaluating the Expressions of Interest, a critical element associated with the capability of the market providing the services requested under the Expression of Interest has been identified.

The Expressions of Interest clearly indicate that in order to permit new entrants into the waste transfer processing and disposal market, it is necessary to provide a viable contract to the new entrant in terms of quantum of tonnages and contract period. It is expressed in a number of the bids that a 10 year contract period will result in a non-competitive service price given the need to incorporate within the price a capital recovery component. A number of arguments were presented, strongly advocating a 20 year contract period.

It is proposed that both the submission to the ACCC for authorisation to progress the Joint Tender, and the tender documentation, include a contract period of 15 years with a 5 year option. Based on the information supplied within the Expressions of Interest, such a contract period arrangement should permit the offer of a number of competitive service prices associated with the tender.

PROPOSED CONTRACT:

Form of Contract

The NSROC / SHOROC Joint Tender comprises the following structure:

- Part A – Scope of Waste Transfer, Processing & Disposal Services
- Part B – Conditions of Tender
- Part C – Returnable Schedules
- Part D – General conditions of Contract and Agreement
- Part E – Special Conditions

Within Part A of the tender documentation, background information is contained in respect of past tonnages for putrescible waste, green waste and clean-up waste. This section also identifies the restriction for each Council in respect of location of transfer stations and also highlights the contract management requirements in terms of direct precinct management of the contract by respective Local Government representatives when 2 or more Councils are involved in the contract arrangement.

The returnable schedules (Part C) require for each tenderer to submit prices for individual Councils as well as clusters of Councils and a total NSROC / SHOROC bid. The flexibility of tenderers being able to nominate their own preferred clusters of Councils is retained in the tender documentation.

The tender documentation has been prepared so that a Council can decide whether to participate as a partnering Council in a clustered arrangement with one or more Councils, or accept a single tender bid on an individual Council basis.

A copy of the Tender documentation is **ATTACHED** as Annexure 2.

Value of Contract

The ultimate value of the Contract will be dependant on the Evaluation Process of the Joint Tender and the individual determination of each participating Council. As detailed previously, the scope of the Tender documentation is flexible in terms of execution of a Contract. The documentation requires the completion of mandatory service arrangement schedules which allow the tenderer to nominate a price per tonne, based on whether a single Council, or a cluster of two (2) or more Councils, or ultimately all eleven (11) Councils enter into the contract.

Clearly, the dollar value of the contract could vary significantly depending on the determination of each Council. The table below summarises the dollar value of the Contracts for Councils based on the current gate price for delivery of the services nominated.

TABLE 2 -**METROPOLITAN NORTHERN COUNCILS
ESTIMATED GARBAGE TONNAGES & CONTRACT VALUE**

Council	Putres. Waste	Green Waste	Clean-Up Waste	Total Waste	Est. Annual Contract Value
Hornsby	35,000	14,000	3,000	52,000	\$ 4,617,870
Hunters Hill	3,000	250	150	3,400	\$330,450
Ku-ring-gai	19,000	18,000	6,000	43,000	\$3,268,240
Lane Cove	5,500	1,500	500	7,500	\$686,335
North Sydney	12,500	900	700	14,100	\$1,374,605
Ryde	30,500	50	2,100	32,650	\$3,258,475
Willoughby	13,500	6,500	1,300	21,300	\$1,858,410
Manly	5,500	0	500	6,000	\$597,025
Mosman	6,000	900	400	7,300	\$597,025
Pittwater	12,500	0	500	13,000	\$1,304,585
Warringah	25,500	0	700	26,200	\$2,635,060
TOTAL	168,500	42,100	15,850	226,450	\$20,623,990

Clearly the dollar value of the contract could vary from between \$1 million per annum to \$20 million per annum. Given the information contained within the Expression of Interest received by NSROC, it has been established that there is likely to be a significant financial advantage with the clustering of Councils in the awarding of a contract. It is anticipated that the final outcome may well be the awarding of 1, 2 or 3 contracts which would result in contract values of between \$7 million and \$20 million per annum.

MARKET DEFINITION:**NSROC / SHOROC Regional Relationship**

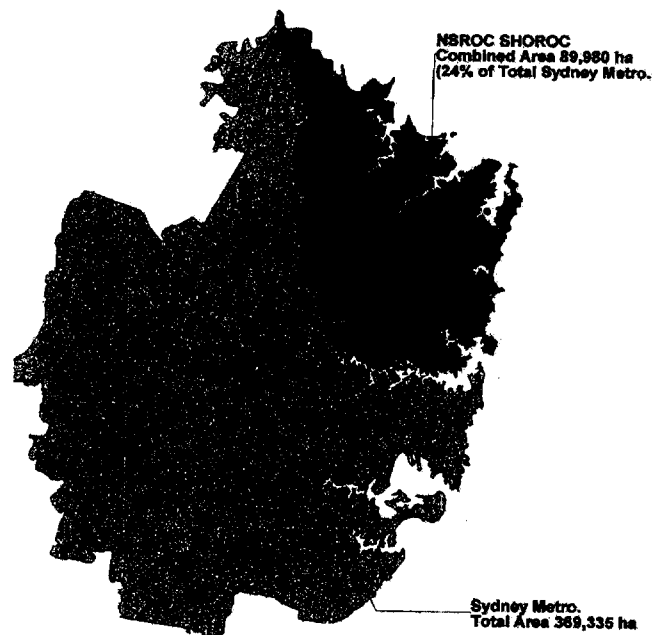
The Northern Sydney Regional Organisation of Councils (NSROC) and the Shoroc Regional Organisation of Councils (SHROC) are a region of Councils formed under Section 355 of the Local Government Act. The seven (7) constituent Councils of NSROC are:

- Hornsby
- Hunter Hill
- Ku-ring-gai
- Lane Cove
- North Sydney
- Ryde
- Willoughby

The four (4) constituent Councils of SHOROC are:

- Manly
- Mosman
- Pittwater
- Warringah

In the context of the Sydney Metropolitan Area (SMA), the two regions represent the north eastern sector of the SMA. In geographical terms, the combined region is 24% of the total SMA (refer map hereunder).



NSROC / SHOROC Market Share

This application for authorisation relates to the provision of services for waste transfer processing and disposal of the following waste types:

- Putrescible waste
- Green waste
- Cleanup waste
- Food waste

The tonnages are predominantly related to waste generated within the residential (domestic) sector, however, some member Councils also provide collection services to a number of small commercial customers.

The overall Sydney Metropolitan market services a population of 3,604,532 persons and covers an area of 3,693 sq. ks.

Based on the data contained within the N.S.W. Waste Avoidance and Resource Recovery Strategy, the estimated gross tonnage of the domestic waste stream for the Sydney Metropolitan area amounts to 1,011,291 tonnes per annum. The table below details the domestic waste stream compositioned by weight.

TABLE 3 – Composition of Domestic Waste Stream.

Material Type	SMA / ERA
Food (organic – Compostable)	30.86%
Vegetation (Organic – Other)	32.17%
Potentially Recyclable	26.35%
Ferrous	1.84%
Glass	3.14%
Nonferrous	0.27%
Paper and paper products	11.56%
Plastics 1 & 2 – PET, HDPE, Recyclable	1.06%
Other Recyclable Materials	8.48%
General Waste (Total)	14.75%
Mixed Waste	5.54%
Earth Based	4.67%
Special / Hazardous	0.62%
Other Plastics	3.92%

The estimated combined tonnages for the NSROC / SHOROC Councils for domestic waste to landfill in 2003-2004 amounts to 184,350 tonnes. In terms of the total Sydney Metropolitan area market, this represents 18.23% of the market volume.

Existing Market Infrastructure

As previously discussed, the existing market infrastructure is predominantly owned and operated by the NSW State Government Enterprise, Waste Service NSW, in regard to the transfer, processing and disposal of waste in the Sydney Metropolitan Area. The map below details the transfer stations and landfill sites available in the Sydney market.

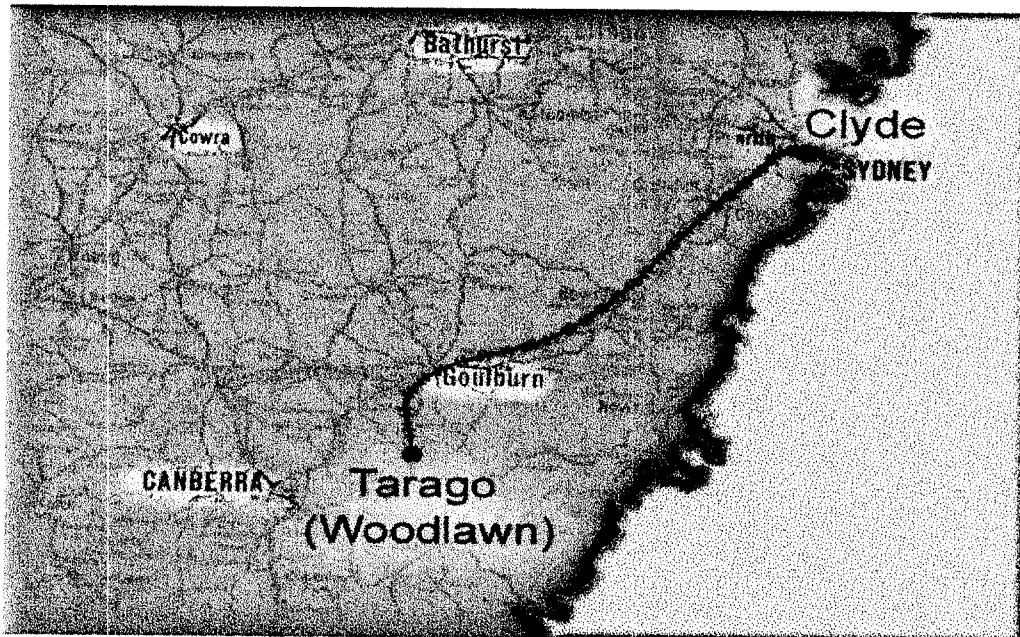
TABLE 4 - Mixed Waste Gate Price

Year	Base Charge	Percentage Increase	Waste Levy	TOTAL
1998-99	\$47.90	3.44%	\$17.00	\$64.90
1999-00	\$51.10	6.68%	\$17.00	\$68.10
2000-01	\$58.40	14.29%	\$17.00	\$77.10
2001-02	\$76.60	31.16%	\$17.00	\$93.60
2002-03	\$79.80	4.18%	\$18.00	\$97.80
2003-04	\$81.28	1.85%	\$19.80	\$101.08

Allowing for the initial impact of GST, the average increase in the gate price over the last six (6) years amounts to 8.66% per annum, whilst over the previous three (3) years, the average increase amounts to 12.73%.

In November 2000, planning approval was granted to Collex Waste Management for the development of a new putrescible landfill site at Woodlawn, which is 35km south of Goulburn. The site is an old mining site and is ideally suited for the purpose of landfill, incorporating modern bioreactor technology. Refer to map and aerial photograph below.

MAP 2 – Location of Woodlawn Bioreactor Site.



PHOTOGRAPH 1 – Woodlawn Bioreactor Site



A critical link in the infrastructure network is the transfer station and transport nodel planned for Clyde. Planning Approval was granted by the Minister in August 2002. With the approval of this facility, notice was given that a new competitor would be entering the marketplace once work was completed and the facility made operational. This fact may have influenced the small increase in the gate price by Waste Service NSW in 2003-2004.

Possible Future Market Infrastructure

A positive aspect of the market information gleaned from the Expression of Interest was the fact that a number of suppliers nominated possible service solutions based on alternative waste technologies.

There are a number of viable technologies which could be introduced into the Sydney market. The main technology types are:

- Enclosed Composting
- Anaerobic Digestion
- Pyrolysis / Gasification
- Vermicomposting

The submissions incorporating new infrastructure in the EOI process identified the basic requirement of a large dollar value contract with a reasonable contract period (minimum 15 years) to enable competitors within the market to invest significantly in infrastructure and then recover their capital during the term of the contract. It is argued that by the NSROC and SHOROC Councils processing a Joint Tender the subsequent result may lead to greater competition within the waste industry.

EFFECTS ON COMPETITION

The applicants, as listed, in Form B of this application understand that there is some potential argument that the arrangements referred to in the Joint Tender may cause the participating Councils to infringe Section 45(2)(a)(ii) of the Trade Practices Act. It is submitted that, should the Councils determine the letting of contracts on a regional or sub-regional basis, such a decision would increase competition by giving suppliers the opportunity to enter the market.

Timing

As discussed previously in this attachment, Waste Service NSW is the primary service provider for the transfer, processing and disposal of waste available to the metropolitan Councils of Sydney. This situation will change in the near future with the commissioning of the Clyde Waste Transfer Station and transport node which will provide the linkage to the Woodlawn bioreactor site.

This facility will be operated by Collex Waste Management who have advised that, given final planning approval to proceed with the infrastructure, the construction timeframe through to final commissioning will be seven (7) months (August-September 2004). At this stage, a second major player will be available to the market.

Again, in order to encourage further alternate suppliers to the market, the Expression of Interest process has established that it is necessary for the alternate suppliers to organise site opportunities for alternate waste technology plants, process development approval instruments and construct the necessary infrastructure. These alternate suppliers may be able to offer more strategically located sites in respect of the north-eastern precinct of the Sydney Metropolitan area than the current landfill sites managed by Waste Service NSW and Collex.

The submissions for the EOI have indicated that a timeframe of twenty-four (24) to thirty-six (36) months is required to deliver the necessary infrastructure for new entrants to the market. The possibility exists where short term arrangement may be introduced, utilising Waste Service NSW or Collex infrastructure, whilst the long term infrastructure to be used in the contract is being constructed and commissioned.

If these competing service providers are not given sufficient time they will be disadvantaged in the tender process. In order to bid for the tender, it will be necessary for these alternate suppliers to demonstrate that they have some form of, in principle, agreement (subject to them being awarded the contract) to occupy a site and develop the necessary infrastructure. In order to afford these possible candidates for the tender the opportunity to develop their proposals and negotiate access to the specific sites, it is intended that the tender period will be for a nine (9) month period.

The table below summarises the likely timetable for the proposed Joint Tender process.

TABLE 5 – Timetable for the Proposed Joint Tender Process

Task	Duration	Timing	Responsibility
Application to ACCC	Nil	December 2004	NSROC
Determination by ACCC	4 months	December 2003 – March 2004	ACCC
Advertise Tender	9 months	March 2004 – January 2005	NSROC
Close Tender	Nil	February 2005	NSROC
Assess Tender	2 months	February 2005	NSROC
Award Contract	Nil	April 2005	NSROC

The applicants acknowledge that the ACCC must operate under a regulatory framework in respect of their analysis and determination of this application. It is noted, however, that previous advice from the ACCC has indicated that a draft determination will normally be provided by the Commission within four (4) months of receipt of the application. If there is no request for a conference by an interested party, or any submissions opposing the draft, the ACCC will then normally proceed to publish its final determination.

Critical Mass

The responses from the Expression of Interest have clearly announced that, in order for new entrants to enter the market utilising AWT technology, a critical mass of waste in terms of tonnes per annum is mandatory in order to justify such an investment.

Based on the work undertaken by Tony Wright of Wright Corporate Strategy Pty Ltd, commissioned by Resource NSW, a supply of 50,000 tonnes per years is considered the minimum supply to support the development and operation of an AWT. In many instances, it is not until such a facility can obtain greater than 100,000 tonnes per year over a ten (10) or more years' period, that the supplier can offer a gate fee comparable with today's landfill gate fee.

Clearly, in order to increase market competition in this area, both a critical mass of waste and an extended contact period, is mandatory.

Entry of Competitors into the Market

As detailed previously in this attachment, the combined tonnages associated with a Joint Tender awarded by NSROC / SHOROC amounts to in the order of 225,000 tonnes. Based on the work by Tony Wright, the awarding of sub-regional contracts may well allow for one (1) or two (2) new entrants into the market.

PUBLIC BENEFITS

Financial

With the entry of Collex Waste Management into the market with their facility at Clyde linking to the Woodlawn bioreactor, Councils are required to tender for the provision of waste transfer processing and disposal services under Section 55 of the Local Government Act.

The cost of preparation of tender documentation, advertising and evaluation are estimated at in excess of \$50,000 for such a tender. If Councils are authorised to prepare and process a Joint Tender arrangement, these costs will be shared across the participating Councils. In respect of this application, an immediate saving (should all eleven (11) Councils participate in the Joint Tender process) of at least \$500,000 will eventuate by the processing of the Joint Tender.

This saving will be a direct saving to the general public. Under the Local Government Act – Rating Provisions, Councils are permitted to charge the full cost of supply of waste management services within the domestic waste charge. This charge is exempt from the NSW State Government *Pegging Limit* on Local Government Rates. A saving within the waste management expenditure of Councils is effectively a direct saving to the general community in respect of their rate payments.

In addition to the saving associated with the preparation of the tender and letting of the contract or contracts, a more significant financial benefit is likely to be generated from savings on the current gate price. The submissions on the Expression of Interest clearly indicate that a number of market suppliers are prepared to bid contract prices (based on a critical mass of waste and an extended contract period), which are price competitive with the current gate price.

Even if the tender realises only 50% of savings indicate within the submissions for the Expression of Interest, such a result would effectively realise a 10% saving over the current gate price. Based on current tonnages, this would amount to in the order of a \$2 million per annum saving to the ratepayers of NSROC / SHOROC participating Councils.

The proposed contract or contracts will provide a formal mechanism for co-ordination of waste management practices between the participating Councils. This will lead to service delivery efficiencies which will again be reflected in real dollar savings for each Council.

Increasing Competition

As detailed at length previously in this attachment, the processing of a Joint Tender by the NSROC / SHOROC participating Councils will create the opportunity for increased competition within the waste disposal market.

Environmental

A number of environmental benefits may be generated by the processing of this Joint Tender. Certainly, should the awarding of the contract permit the introduction of a locally based AWT within the northern precinct of Sydney, significant environmental benefit will be generated as a result of the resource recovery elements of this technology and the subsequent reduction of waste tonnages to landfill.

In addition, a locally based facility will also result in a reduction in the transport of waste either by road or rail and, as such, will generate a reduction in the discharge of greenhouse gases.

The existing facilities operated by Waste Service NSW, especially the landfill sites, have a limited life of between eight (8) and fifteen (15) years. It is understood that the Jack's Gully landfill will cease operation within two (2) years. As a consequence to need to extend the life of the available landfills, Waste Service NSW will need to introduce resource recovery elements within future development proposals at these sites.

Should Waste Services be successful with the contract, given the critical mass of waste and the contract period, Waste Service NSW will be able to invest in appropriate technology to service the contract and, at the same time, generate environmental benefits.

The Woodlawn bioreactor incorporates a whole series of environmental benefits relating to site remediation and utilisation of the buffer zone for wind generated electricity. The bioreactor itself creates green energy as a result of the operation of the landfill.

GLOSSARY OF KEY TERMS

<i>“Alternative Waste Technology (AWT)”</i>	Waste processing technologies that provide an alternative to landfill disposal. Automated systems for the separation of mixed solid waste into its components streams, with the objective of producing higher value material and energy products. AWT can also refer to technologies that process organic wastes only.
<i>“Bioreactor Landfill”</i>	A fully sealed landfill utilising modern technology to capture landfill gas to be used to power electricity turbines.
<i>“Clean-Up Waste”</i>	Disposal of household domestic waste that is set aside for kerbside collection. Items included would be broken and discarded furniture, appliances and fittings, fence palings, waste materials but shall not include chemicals, putrescible matter, trade waste, stones, concrete, motor vehicle bodies or engine blocks, tyres, large quantities of building materials.
<i>“Cluster”</i>	A grouping of 2 or more Member Councils that are serviced by the one Contract.
<i>“Dry Recyclable Material (DRM)”</i>	Paper, cardboard and containers separated from organic and other mixed waste at the kerbside and having some value when processed to market specifications.
<i>“Food Waste”</i>	Waste generated from the preparation and consumption of food exclusive of grease, oil, fat and meat waste.
<i>“Green Waste”</i>	Putrescible green waste (grass clippings); non-woody garden waste, woody garden organics; trees and limbs; and stumps and rootballs separated from inorganic and non-biodegradable materials at the kerbside.
<i>“Northern Sydney Region of Councils”</i>	A region of Councils form under Section 355 of the Local Government Act including Hornsby, Hunters Hill, Ku-ring-gai, Lane Cove, North Sydney, Ryde and Willoughby Councils.

<i>“Putrescible”</i>	Any materials that cannot be separated into the DRM or garden organics streams or materials are mixed together in such a way as to be impractical to separate by residents.
<i>“Resource Recovery”</i>	Recover of resources from waste by recycling, composting or generating energy from waste. AWT could be defined as a combination of resource recovery systems.
<i>“SHOROC”</i>	A region of Councils formed under Section 355 of the Local Government Act consisting of Manly, Mosman, Pittwater and Warringah Councils.
<i>“Sydney Metropolitan Area (SMA)”</i>	The greater metropolitan area of Sydney consisting of Local Government areas north to and including Hornsby, south to and including Sutherland, west to and including Penrith Council and east to the Pacific Ocean.
<i>“Transfer Station”</i>	The waste handling facility used to transfer waste from collection vehicles to a bulk haul vehicle in order to achieve long-distance transportation efficiency. It may also be used to sort and redirect waste with the potential to recycle prior to disposal.

1. EOI ASSESSMENT PROCEDURE