



Australian Competition & Consumer Commission

Our Ref: C2004/30, C2003/1362
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6 July 2004

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«City» «State» «Postcode»

Dear «Title» «LastName»

Authorisation No. A30231 - 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 (the Northern Sydney Councils)

&

Authorisation No. A90886 - Council of Camden, Campbelltown City Council, Liverpool City Council, Wollondilly Shire Council and Wingecarribee Shire Council (the Macarthur Councils)

PRE-DECISION CONFERENCES

Waste Service NSW and the Waste Contractors and Recyclers Association of NSW (the WCRA of NSW) have requested that the Australian Competition & Consumer Commission (the Commission) convene a conference in relation to the draft determination issued by the Commission on 16 June 2004 proposing to grant authorisation A30231.

The draft determination in relation to authorisation A30231 follows an application by 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 (the Northern Sydney Councils) for authorisation in respect of joint tendering for the services of qualified contractors to provide residual waste transfer, processing and disposal services to their respective local government areas. The Commission concluded in its draft determination that overall it was satisfied that the public benefit flowing from the proposed arrangements is likely to outweigh any anti-competitive detriment and proposed to grant authorisation to the application.

The WCRA of NSW has also requested that the Commission convene a conference in relation to the draft determination issued by the Commission on 16 June 2004 proposing to grant authorisation A90886.

The draft determination in relation to authorisation A90886 follows an application by the Council of Camden, Campbelltown City Council, Liverpool City Council, Wollondilly Shire Council and Wingecarribee Shire Council (the Macarthur Councils) for authorisation in respect of collaboratively tendering for the services of qualified contractors to process, market or otherwise dispose of kerbside collected waste materials. The Commission concluded in its draft determination that overall it was satisfied that the public benefit flowing from the proposed arrangements is likely to outweigh any anti-competitive detriment and proposed to grant authorisation to the application.



A copy of the applications and draft determinations can be found on the Commission's website: www.accc.gov.au.

A pre-determination conference provides a valuable opportunity for applicants and interested parties to make oral submissions to the Commission about its draft determinations.

The Commission will hold the two conferences on **Tuesday 27 July 2004**, at the Commission's offices in Sydney – Level 7, 123 Pitt Street, Sydney. The first conference will be held in respect of the Macarthur Councils' draft determination and will commence at 1pm. The second conference will be held in respect of the Northern Sydney Councils' draft determination and will commence at the conclusion of the first conference or at 2pm, whichever is the latter. Deputy Chair of the Commission, Louise Sylvan, will chair the conferences.

Under the *Trade Practices Act 1974* (the Act), the conferences may be attended by the applicant and other interested parties. If you wish to attend either or both conferences, you must notify the Commission of your intention by **cob Monday 19 July 2004**, indicate which conference you plan to attend and briefly indicate why you or your company or organisation has an interest in the matter. Notifications must be in writing and addressed to:

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 1199
DICKSON ACT 2602

You can also notify the Commission by e-mail to: adjudication@acc.gov.au or by facsimile on (02) 6243 1211.

You should provide details of a contact name, telephone number, mailing address and, if possible, a facsimile number or e-mail address so that you can be notified of any late changes to conference arrangements.

If you represent a company or organisation you should also provide a list of attendees and their position titles, and indicate who will be the chief spokesperson.

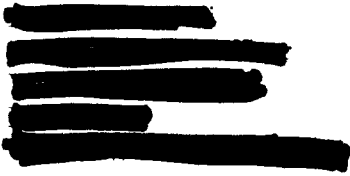
I would also note that, while conference participants may bring outside legal or other professional advisers to assist them, the Act prohibits these advisers from participating in conference discussions.

Attached for your information are procedures usually followed at pre-decision conferences.

If you require any further information in regard to the conferences or wish to clarify whether you may be considered an 'interested person' within the terms of the Act, please call Tania Mayrhofer on (02) 6243 1070.

Yours sincerely

Gavin Jones
Acting Director
Adjudication Branch



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Campbelltown City Council
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Liverpool City Council
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General Manager
Hunters Hill Municipal Council
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HUNTERS HILL NSW 2110

General Manager
Lane Cove Council
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LANE COVE NSW 1595

General Manager
North Sydney Council
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NORTH SYDNEY NSW 2059

General Manager
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CHATSWOOD NSW 2057

General Manager
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General Manager
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General Manager
Ku-ring-gai Council
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PYMBLE NSW 2073

General Manager
The City of Ryde
Locked Bag 2069
NORTH RYDE NSW 1670

AN OUTLINE OF THE PROCEDURES
USUALLY FOLLOWED AT PRE-DETERMINATION CONFERENCES

The Commission tries to conduct such conferences as informally, flexibly and speedily as possible. Where necessary a conference may be adjourned and reconvened at a later time.

An interested party attending a conference may have the assistance of outside legal or other professional advisers. Although such persons may attend the conference to assist; they are not entitled to participate in the discussion.

The conference will serve a useful purpose in that it gives the Commission and all interested parties the opportunity to meet face-to-face to discuss the operation and effect of the applicant's conduct and the Commission's draft determination. The applicant and/or interested persons has/have the opportunity to persuade the Commission to accept their view. The Commission benefits from direct contact with the parties, and its perceptions of public benefit and competition are tested in a forum of interested parties where points are often quickly and forcefully made.

1. Preliminary procedures

- (a) When you arrive at the conference you will find that a seating plan may be available. You should identify yourself to the Commission staff before the conference begins and indicate clearly if you expect messages to be left for you during the conference. Further, please complete the attendance book when arriving at the conference. This assists Commission staff to identify attendees for the purpose of recording the discussion.
- (b) The Chair (a Commissioner) will open the conference by welcoming those present and outlining the requirements of the Trade Practices Act and the manner in which the conference will be conducted. An agenda may be circulated.
- (c) If you intend to present a written comment (and you are encouraged to do so), it is helpful if the Commission receives it before the conference date. It can then be copied and distributed at the conference. In this way, both the Commission and other parties present are assisted, and your submission also forms part of the conference record. If you cannot complete the written submission earlier, it is helpful if you come to the conference with extra copies which can be distributed.
- (d) If you intend to present a submission at the conference and you wish it (or certain details in it) to remain confidential, you should make your confidentiality request to the Chair at the time of presenting the document, and you should state in general terms the reason for your request. The Chair may request other parties present to leave the conference for a short period, so that you may be given the opportunity, if necessary to expand on your reasons.

If your request for the document (or parts of it) to remain confidential is denied you may ask for the document (or parts of it) to be returned to you. Any material returned to you will ordinarily not be taken into consideration by the Commission in making its final decision (unless, of course, it was supplied from another source).

Any document you present without making any request for confidentiality will be placed on the Commission's public register, and the information it contains may be used by the Commission in making its decision. Where confidentiality is granted, the confidential information may also be taken into account, although such material will not be placed on the public register.

2. General procedures

- (a) The conference has been convened to discuss the draft determination, to canvass points of view and to assist the Commission's weighing of issues and its interpretation of the information given to it.
- (b) The procedure is discretionary. The Chair controls the order of discussion, and may take particular topics separately, so that all the discussion, on any given topic may be heard at the one time.
- (c) The conference is not a court, and there is no right of cross-examination. You may request the Chair to ask questions of other parties present, but the Chair retains the discretion as to whether your questions will be put. The Chair, of course, may also directly question the parties at the conference, and they have discretion whether or not to answer.
- (d) Commission staff present will make a record of the discussion. This will be in minute form, not a verbatim record. The conference record is placed on the public register, and all who attend the conference will receive a copy.
- (e) When the Chair believes that all present have been given a reasonable opportunity to express their views, he/she may terminate the conference.
- (f) The Chair (and any other Commissioner at the conference) cannot give a final decision at the close of the conference. Each Commissioner is only a representative of the Commission and is required to report back to the Commission, which will make the final decision.

3. Other matters

- (a) Following the pre-determination conference, the Commission will review its draft determination in the light of discussion and further submissions made at the conference (or within a set period of time after the conference), and will publish its final determination as soon as possible thereafter.
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