



Ref: C2003/1362
Contact Officer: Tania Mayrhofer
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**Australian
Competition &
Consumer
Commission**

3 September 2004

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Dear «Title» «LastName»

**Application for authorisation A90886 lodged by the Councils of Camden,
Campbelltown, Liverpool, Wollondilly and Wingecarribee**

I refer to the draft determination issued by the Australian Competition and Consumer Commission (the ACCC) on 16 June 2004 in respect of the above application for authorisation. A copy of the draft determination is available on the ACCC's website: www.accc.gov.au.

On 30 August 2004, the Councils of Camden, Campbelltown, Liverpool, Wingecarribee and Wollondilly (the Macarthur Region Councils) sought to amend their application for authorisation. In amending the application, the Macarthur Region Councils are seeking to extend the contract term from 10 years to up to 20 years. The basis for this amendment is outlined in the enclosed submission.

The Macarthur Region Councils also advised the ACCC that the Liverpool City Council has withdrawn from the project and will no longer take part in the authorisation process or the resultant tender and contractual arrangements.

Before the ACCC makes a final decision regarding the application, you are invited to make a further submission to the ACCC in respect of the above amendments. The processes for providing submissions are provided below.

Submissions to the ACCC should be made in writing. Unless confidentiality is requested, they will be publicly available and placed on a public register for that purpose. If you wish to include information in a submission which is of a confidential nature, it should be clearly marked as such and a claim for confidentiality for the material should also be submitted. You will be informed of the outcome of that claim and, if it is refused, the relevant material will be returned to you if you wish. Material for which confidentiality is granted will not be publicly available, but may be taken into account by the ACCC in making a final decision regarding the application. Guidelines for seeking confidentiality are attached.



If you wish to lodge a submission, would you please address it to:

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

Alternatively, submissions may be faxed to (02) 6243 1211 or emailed to adjudication@accc.gov.au

We request that submissions reach the ACCC no later than close of business on **Monday 27 September 2004**. If you have any queries or if you wish to discuss any aspect of this application further, please contact Tania Mayrhofer on (02) 6243 1070.

Yours sincerely

Scott Gregson
Director
Adjudication Branch

GUIDELINES FOR CONFIDENTIALITY CLAIMS

The process whereby the Commission assesses applications for authorisation or notification is very public, transparent and consultative. The *Trade Practices Act 1974* (the Act) requires the Commission to maintain a public register in respect of authorisation and notification applications.

Applicants and interested parties can request that a submission, or part of a submission, be excluded from the public register.

The Commission is required under the Act to exclude from the public register upon request details of:

- (i) secret formulae or process;
- (ii) the cash consideration offered for the acquisition of shares in the capital of a body corporate or assets of a person; or
- (iii) the current manufacturing, producing or marketing costs of goods or services.

However, even if a document does not meet these technical requirements, the Commission may still grant confidentiality where, in the Commission's view, it is desirable to do so.

The Commission also has the discretion, under s89 of the Act, to exclude material from the public register if it is satisfied that it is desirable to do so, either by reason of the confidential nature of the material or for any other reason. The Commission expects that a party claiming confidentiality on these grounds will present a case for its treatment in this manner.

Under Regulation 24 of the *Trade Practices Regulations*, when a request for confidentiality is made to the Commission:

(a) where the request is that a whole document be excluded, the words "**Restriction of Publication Claimed**" should appear in red writing near the top of each page; and

(b) where the request is that part of a document be excluded, the words "**Restriction of Publication of Part Claimed**" should appear in red near the top of the first page of each document, and the part for which confidentiality is claimed should also be marked in red. A submission of more than 5 pages should also include a description of the whereabouts of the parts for which confidentiality is claimed.

Applicants, as a matter of course, should remove headers claiming "confidential communication" from all Emails and otherwise, unless they have a particular piece of information that they justify to the Commission deserves exclusion from the public register. If confidentiality is not requested but a header cannot be removed, it should be clearly stated at the beginning of the communication that confidentiality is not requested.

If the Commission denies a confidentiality request, the requesting party may ask that the material be returned. As a matter of practice, the Commission will specify a period (usually 14 days) in which they can request the return of such material. Upon response, the Commission will return the original material and destroy all associated copies. The Commission will not consider this material when reaching its decision.

If the Commission does not receive a response within the specified period, the original material will be placed on the public register.

Information or documents granted confidentiality may be used by the Commission pursuant to its powers generally under the *Trade Practices Act*.

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