

FILE No:

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Hurstville
City Council



ROCKDALE
CITY COUNCIL
On Historic Botany Bay

Our Ref: 06/805:GD:gd

17 October, 2006

Ms Sue Philp
The Director
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
DICKSON
ACT 2602

Dear Madam,

Re:- Application for Authorisation
Proposed Joint Regional Waste Contract
St. George (Sydney) Region of Councils

Please find enclosed an application on behalf of the St. George Region of Council's (Hurstville City Council, Kogarah Municipal Council, and Rockdale City Council), for Authorisation under the provisions of Section 88 of the Trade Practices Act 1974 to proceed to Tender for the procurement of the Regions' waste collection services.

The submission includes:-

- Form B of the Application;
- Attachment 1;
- Cheques totalling \$7,500 as payment for the application.

Should you have any further queries, please contact Garry Dickens, Manager – Environmental Services, Hurstville City Council on telephone 02 9330 6170 , Facsimile 02 9330 6223

Yours faithfully

Victor Lampe
Director, Service
Delivery
Hurstville City Council

Tony Pavlovic
Acting Director,
Development and Health
Kogarah Municipal Council

Greg Smith
Director, City Works
Rockdale City Council

Form B

A91019

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

**AGREEMENTS AFFECTING COMPETITION:
APPLICATION FOR AUTHORISATION**

To the Australian Competition and Consumer Commission:-

1. APPLICATION

Application is hereby made under sub-section 88(1) of the *Trade Practices Act 1974* for an authorization under that sub-section:-

To 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.

2. DETAILS OF APPLICANTS

2.1 Name of Applicants

The St. George Region of Councils:-

- Hurstville City Council;
- Kogarah Council; and,
- Rockdale City Council.

2.2 Description of Business Carried out by the Applicant

The Applicants are all Local Councils as defined by the Local Government Act (1993) acting in accordance with the Council's Charters. One of the service functions of the Council is the provision, management and, or operation of waste and resource recovery (recycling) collection services.

2.3 Address in Australia for Service of Documents on the Applicants

c/- Hurstville City Council, PO Box 205 Hurstville NSW 1481

3. DESCRIPTION OF CONTRACT, ARRANGEMENT OR UNDERSTANDING

3.1 Nature of Contract, Arrangement or Understanding

It is intended that the Councils will jointly tender and contract for the provision of all waste and resource recovery (recycling) collection services covering the local government areas of all three (3) applicants.

3.2 Names and Addresses of Other Parties to the Contract, Arrangement or Understanding

None

3.3 Names and Addresses of Parties and Other Persons on whose Behalf Application is Made

None

4. GROUNDS FOR THE GRANTING OF THIS AUTHORIZATION

4.1 Grounds for the Granting of this Authorization

Refer to Attachment 1

4.2 Facts and Contentions Relied Upon in Support of those Grounds

Refer to Attachment 1

4.3 Relationship to other Contracts, Arrangements or Understandings

This application for authorization may be expressed to be made also in relation to other contracts, arrangements or understanding or proposed contracts, arrangements or understandings, that are or will be in similar terms to the above mentioned contract, arrangement or understanding

1. Is this application to be so expressed?

No

2. If so, the following information is to be furnished:-

a) the name of the parties to each other contract, arrangement or understanding:-

Not Applicable

b) the name of the parties to each other contract, arrangement or understanding which names are known at the date of this application:-

Not Applicable

5. JOINT VENTURES

5.1 Matters Relating to Joint Ventures

1. Does this application deal with a matter relating to a joint venture (see Section 4J of the *Trade Practices Act 1974*)

No

2. If so, are any other applications being made simultaneously with this application in relation to a Joint Venture?

Not Applicable


3. If so, by whom or on whose behalf are those other applications being made

Not Applicable

6. PROVISION OF ADDITIONAL INFORMATION

Name and address of person authorized by the applicant to provide additional information in relation to the application:-

Garry Dickens
Manager – Environmental Services
Hurstville City Council
PO Box 205
HURSTVILLE
BC NSW 1481
Telephone 02 9330 6170


Signed by – on behalf of the Applicants
Dated 17th October, 2006

APPLICATION
FOR
AUTHORISATION

from the
ACCC

PROPOSAL TO TENDER
FOR
WASTE COLLECTION
SERVICES

ST.GEORGE (SYDNEY) REGION
OF
COUNCILS



Hurstville
City Council



KOGARAH
- a better lifestyle -



ROCKDALE
CITY COUNCIL
On Historic Botany Bay



ATTACHMENT 1

PREFACE

This attachment provides supporting information to the application made by the Region of St. George (Sydney) Councils, namely, Hurstville City Council, Kogarah Municipal Council and Rockdale City Council, for authorisation to the Australian Competition and Consumer Commission under the requirements of the Trade Practices Act.

This Attachment provides the Commission with details of the profiles of each Council's waste service, and goes on to confirm the purpose of the initiative and justify why the Commission should authorize and approve the application.

EXECUTIVE SUMMARY

The St. George Region of Councils, Rockdale City Council Kogarah Municipal Council, and Hurstville City Council, has collectively agreed to participate in a program to explore the benefits that may arise from a Regional Contract for waste collection services jointly for the three (3) Councils.

The Region of St. George (Sydney) Councils seek:-

- a) Interim authorisation to Tender;
- b) Final authorisation to Contract for the provision of all waste and resource recovery (recycling) collection services from all residential premises and participating business premises within the combined local government areas of Hurstville City Council, Kogarah Municipal Council and Rockdale City Council;
- c) An adequate timeframe from the Commission for the Councils to complete the procurement process. Subject to the Commission's concurrence, the Councils consider that a period of two (2) years from the date of this application would be sufficient in terms of this request.

This application to the ACCC presents the Region of St. George Councils with an opportunity to provide significant financial, social and environmental benefits to the communities of their respective local government areas.

- reduction in collection costs due to the increased number of services collected;
- efficiencies of vehicle servicing runs across boundaries;
- optimising fleet productivity;
- fleet productivity savings (reducing the number of collection vehicles);
- joint education programmes;
- consistency of collection patterns and starting times; and,
- maintaining a high level of service quality.

Additionally, a joint approach would provide an excellent opportunity to put together what has worked best for each Council in their individual collection contracts as well as maximise the economies of scale that could be gained in terms of such an approach.

The aim of a collective approach would be to have one (1) service provider to supply all waste and resource recovery (recycling) collection services to all residential premises within the region. However, individual contracts would result, with each Council being responsible for managing their individual Contract.

One of the underpinning objectives of the NSW Waste and Resource Recovery Act, 2001 (WARR Act) is to increase diversion from landfill to 66% of the total domestic waste stream by 2014. The way in which waste services are delivered will need to be changed if this target is to be achieved. Due the development of innovative alternate technologies there will be opportunities to provide enhanced recovery services to meet these

objectives. A joint Contractual arrangement has the potential to provide a number of benefits in this regard.

The success of the recent regional recycling and waste disposal tenders undertaken by the Southern Sydney Regional Organisation of Councils (SSROC), and subsequent contractual arrangements authorised by the ACCC, have clearly indicated the range and type of benefits which can flow to the residents of the St. George Region as a result of such initiatives.

SECTION 1 - INTRODUCTION

1.1 COUNCIL & SERVICES PROFILES

a) The St. George Councils

The St. George Region of Councils are three (3) of a total of eleven (11) member Councils that constitute the SSROC.

With a combined population of approximately 229,350 persons and a total number of residential properties of approximately 85,580, a joint waste contract would make the region the largest contract in NSW, and the fifth largest in Australia.

The region comprises an area of approximately 74 square kilometres, and is bounded by the Sydney International Airport and the M5 Motorway to the north, Botany Bay to the east, and the Georges and Cook Rivers to the south and west. The region has a number of similarities in terms of its single dwellings, multi unit residential dwellings, and commercial and industrial land uses.

The following table – ‘TABLE 1 – ST. GEORGE COUNCILS – COUNCIL PROFILES’ outlines collection data for each Council (estimates as at June 30, 2006).

TABLE 1 – ST. GEORGE COUNCILS – COUNCIL PROFILES

<u>COUNCIL</u>	<u>POPULATION</u>	<u>TOTAL NUMBER OF RESIDENCES SERVED</u>
HURSTVILLE	76,700	29,100
KOGARAH	56,350	20,780
ROCKDALE	96,300	35,700
TOTAL	229,350	85,580

b) Hurstville City Council

Located approximately 15 kilometres south of the Sydney CBD, the Hurstville City Council Local Government Area (LGA) has an area of approximately 26.40 kilometres. The City embraces wholly or partly the suburbs of Allawah, Beverly Hills, Carlton, Hurstville, Kingsgrove, Lugarno, Mortdale, Oatley, Peakhurst, Penshurst and Riverwood.

The area is bounded by the Illawarra Railway Line and Georges and Cooks Rivers to the south and west, the M5 Motorway to the north and the suburbs of Bexley and Bexley North to the east.

The Hurstville City Council Local Government Area (LGA) contains approximately 21,050 detached single dwelling houses, and approximately 8,050 multi unit dwellings (MUD's). The latter are predominantly located in three (3) storey 'walk-up home units' although in recent years a number of higher density high rise and mixed use (ie, commercial and residential) have been constructed.

In addition to these 29,100 residences, Council also provides a commercial waste and recycling services to approximately 820 premises. These premises receive approximately 2,020 waste services and 135 recycling services respectively. The number of residences, and the domestic and commercial services referred to in this paragraph are approximates only and will change over the duration of the Contract.

The LGA contains approximately 250 kilometres of regional and local roads and 14.5 kilometres of State roads.

The area has a growth rate of approximately 1% per annum with the population increasing by 11% from 1991 to 2001.

The Hurstville CBD contains the major concentration of commercial office and retail space in the region and is the preferred location for small and medium sized businesses in the financial, insurance, medical and real estate sectors; as well as Government departments and community services. There are light industrial areas in both Kingsgrove and the Mortdale and Penshurst areas. There are approximately 3,250 business premises within the LGA.

c) Kogarah Municipal Council

Kogarah is a Municipality within the district of St. George. It is situated 15 kilometres south of the Sydney CBD and covers 19.5 square kilometres. Located a short distance southwest of Sydney's Kingsford-Smith airport, its north, west and eastern boundaries border the local government areas of Rockdale and Hurstville, whilst the Georges River provides its southern boundary.

The Kogarah LGA comprises sixteen (16) suburbs – Allawah, Beverley Park, Blakehurst, Carlton, Carrs Park, Connells Point, Hurstville, Hurstville Grove, Kogarah, Kogarah Bay, Kyle Bay, Mortdale, Penshurst, Oatley, Sans Souci and South Hurstville.

The area contains approximately 13,500 detached single dwelling houses, and approximately 7,280 multi unit dwellings. The latter are predominantly located in three (3) storey 'walk-up home units'.

In addition to these 20,780 residences, Council also provides a commercial waste and recycling services to approximately 700 premises. These premises receive approximately 1,280 waste services and 750 recycling services respectively. There are approximately 2,000 business premises within the LGA. The number of residences, and the domestic and commercial services referred to in this paragraph are approximates only and will change over the duration of the Contract.

The municipality contains approximately 169 kilometres of regional and local roads and 11 kilometres of State roads. The area has a growth rate of approximately 5.4% per annum with the population increasing by 2,700 from 1996 to 2001.

Kogarah is a centre for educational, medical, financial and banking facilities. The St. George Hospital, St. George Bank and schools and colleges, including the St. George TAFE, St. George Girls High and Georges River College are all located within the Kogarah LGA.

d) Rockdale City Council

The City of Rockdale is located on the shores of Botany Bay, 12 kilometres south of the Sydney CBD and covers an area of 29.8 square kilometres bounded by Botany Bay to the east, within the Sydney Kingsford-Smith airport lands to the north, Georges River to the south and the suburb of Kingsgrove to the west.

The LGA comprises, wholly or partly, the suburbs of Arncliffe, Banksia, Bardwell Park, Bardwell Valley, Bexley, Bexley North, Brighton-le-Sands, Carlton, Dolls Point, Kingsgrove, Kogarah, Kyeemagh, Monterey, Ramsgate, Ramsgate Beach, Rockdale, Sandringham, Sans Souci and Turrella.

The area is highly urbanised with a major transport corridor to Sydney (Kingsford-Smith Airport), Sydney CBD, and Port Botany. It is located near the junction of the three (3) main railway lines including the M5 Freeway and Sydney's orbital ring road running right through the City.

The built-up area comprises a mix of 95% residential and 5% commercial and industrial development. The City has medium-sized light industries with a trend towards those that benefit from close proximity to the airport.

There are approximately 18,000 business premises within the Rockdale LGA.

With a population of approximately 95,300 persons, approximately 45% of residents come from non-English speaking backgrounds. The main languages other than English spoken are Arabic, Chinese, Greek, Italian, Macedonian and Spanish.

The LGA contains approximately 21,500 detached single dwelling houses, and approximately 13,200 multi unit dwellings. The multi unit dwellings are a combination of the traditional three (3) storey 'walk-up home units' and, the higher density high rise dwellings, with an increasing proportion of mixed use (commercial and residential) buildings.

The number of residences, and the number of services referred to above are approximates only and will change over the duration of the Contract.

The City of Rockdale contains approximately 246 kilometres of regional and local roads and 32 kilometres of State roads.

The City has a growth rate of approximately 0.94% per annum with the population increasing by 8,495 from 1991 to 2001.

1.2 CURRENT COLLECTION CONTRACTUAL ARRANGEMENTS

All three (3) Councils currently provide waste and recycling collection services by contractors, the details of which are listed below:-

Hurstville City Council

Contractor – Cleanaway Municipal Services;

10 year Contract

Expiry Date – May, 2010.

Kogarah Municipal Council

Contractor – Cleanaway Municipal Services;

10 years Contract

Expiry Date – November, 2009.

Rockdale City Council

Contractor – Collex Waste Management;

10 year Contract

Expiry Date – February, 2008.

1.3 SUMMARY OF CURRENT COLLECTION SERVICES

a) Current Servicing Arrangement

The Councils operate a series of collection arrangements that are similar in nature and the major service components are summarised in the following Tables. There are variations to these servicing arrangements due to difficult to access sites, special purpose arrangements (infirm households), and the capacity of on-site waste storage requirements.

Hurstville City Council

SERVICE	SINGLE DWELLINGS	MULTI UNIT DWELLINGS
Waste	1 x 120 Litre MGB – Weekly	1 x 120 Litre MGB – 2 per Week
Recycling	1 x 240 Litre MGB – Fortnightly	1 x 240 Litre MGB – Weekly
Green Waste	1 x 240 Litre MGB – Fortnightly	No Service
Clean Up	2m ³ Bundled – 2 per Annum	2m ³ Bundled – 2 per Annum

Kogarah Municipal Council

SERVICE	SINGLE DWELLINGS	MULTI UNIT DWELLINGS
Waste	1 x 120 Litre MGB – Weekly	1 x 240 litre MGB – Weekly per 2 Units
Recycling	1 x 240 Litre MGB – Fortnightly	1 x 240 litre MGB – Weekly per 2 Units
Green Waste	1 x 240 Litre MGB – Fortnightly	1 x 240 litre MGB – Upon request – Fortnightly
Clean Up	2m ³ Bundled – 4 per Annum	2m ³ Bundled – 4 per Annum

Rockdale City Council

SERVICE	SINGLE DWELLINGS	MULTI UNIT DWELLINGS
Waste	1 x 120 Litre MGB – Weekly	1 x 240 Litre MGB – 2 per Week
Recycling	1 x 240 Litre MGB – Fortnightly	1 x 240 Litre MGB – Weekly
Green Waste	Tri-annual bundled pick-up	Tri-annual bundled pick-up
Clean Up	Bundled – 3 per Annum	Bundled – 3 per Annum

b) Current Tonnages

Tonnages for the period 1/1/2005 to 31/12/2005 are outlined in the following Table.

COUNCIL	Waste	Clean Up	Recycling	Green Wast	TOTAL
Hurstville	15,316	1,993	8,568	6,578	32,455
Kogarah	10,688	1,755	6,362	4,489	23,294
Rockdale	23,622	4,230	9,865	693	38,410
TOTAL	49,626	7,978	24,795	11,760	94,159

SECTION 2 - INTERPRETATION

For the purposes of this application, specific words or phrases will have the following meaning:-

ACCC means the Australian Competition and Consumer Commission and is referred to as the Commission;

Clean Up means a component of domestic waste mainly comprising of dry hard and includes white goods, E-waste, and other hard waste materials, but excludes clinical and related waste and hazardous waste;

Councils means the St. George Region of Councils, namely Hurstville City Council, Kogarah Municipal Council and Rockdale City Council;

Conduct means the ability to tender and contract the Service;

Commercial Waste means inert, solid or industrial waste generated by businesses and industries (including shopping centres, restaurants, offices, warehousing and logistics, manufacturing, repair workshops, all retail outlets, hotels, clubs, etc) and institutions (such as schools, hospitals, universities, nursing homes and government offices), excluding construction and demolition, municipal solid waste, clinical and related waste and hazardous waste;

Domestic Waste Stream means a component of the municipal waste stream generated from households or residential premises and includes all household waste presented for collection by Council or its Contractor, and includes the combined putrescible waste, , clean up, recycling and green waste streams, and is the sum of all domestic waste collection services;

Diversion Rate means the proportion of the domestic waste stream that is diverted from disposal by recycling, reprocessing or reuse.

Garden Organics or Green Waste means organic material generated from gardens and lawns and includes putrescible garden organics (grass clippings), bob-woody garden organics, woody garden organics, trees and limbs and stumps and rootballs, but excludes food waste;

LGA means Local Government Area as defined within the Local Government Act (1993) NSW;

MGB (Mobile Garbage Bin) means a container of 120, 140 or 240 litre capacity with wheels and a securely attached lid hinged at the back;

Multi Unit Dwellings (MUD's) means a rateable property that consists of three or more sole occupancy units located on one parcel of land, and includes but is not limited to home units, flats, boarding houses, tenements, and other premises comprising one or more multiple units or buildings;

Putrescible Waste means the component of the waste stream liable to become putrid, and has the ability to break down in a landfill to create landfill gases and leachate;

Recyclables or Recyclable Material means material having properties that enable subsequent reprocessing into other products and, or materials for reuse;

Service Provider means an entity able to accept and dispose of residual waste;

Waste means those materials that are generally disposed of at solid waste or inert landfills, but does not include materials such as medical and hazardous wastes that are prohibited at solid waste and inert landfills;

Waste Collection Services means the Service, ie, a system of services comprising of the gathering and transporting of waste, organic material and recyclables that is provided by the Councils;

SECTION 3 – DESCRIPTION OF THE PROPOSAL ('CONDUCT')

3.1 Overview

One of the services which local councils must operate, as required under the NSW Local Government Act 1993, is a domestic waste service for residents in their local government area. Councils collect the waste created by households, using a kerbside collection domestic waste service.

Six years into the new millennium minimising waste has become a priority. All levels of Australian government – federal, state and local are committed to reducing waste.

Sydney has an ever-increasing waste problem and in the year 2000, over six (6) million tonnes of waste were sent to landfill. This practice is not sustainable and the NSW Waste Avoidance and Resource Recovery (WARR) Act 2001 and the WARR Strategy 2003 aimed to address this issue by promoting waste avoidance, reuse and recycling by specifically encouraging the use of renewable and recoverable materials, in preference to those materials which are not recovered or not made from renewable resources.

Local Government, in particular is faced with ever increasing responsibilities in relation to the issues of environmental protection and waste management. As the level of government closest to the community, local councils' need to respond to the challenge of implementing better management processes to conserving resources, and the blending of economic, social, and environmental goals, into the everyday activities of the community.

3.2 The Proposal

The Councils of Hurstville, Kogarah and Rockdale have their waste and recycling collection contracts ending in 2010, 2009, 2008 respectively. The Councils seek to commence a joint collection contract following the expiration of the current agreement.

This proposal envisages practical improvements in the following areas of the proposed combined services:-

1. Collection Efficiencies

- streamlining collection systems and patterns;
- improvements to route design incorporating 'cross boundary' collections;
- consistency in starting times;
- optimising fleet efficiencies and a reduction in the total number of collection vehicles;
- greater ability to introduce new services (eg E-waste programs) due to combining the resources of the three Councils, and,
- the ability to optimise servicing arrangements to suite the needs of specific developments.

2. Education

- cost savings and economies of scale through joint education programs and initiatives;
- the ability to provide more thorough education programs to the region's schools by combining the resources of all three Councils;
- commonality and consistency of material; and,
- a reduction in costs due to resource sharing.

3. Bins

- cost savings in the procurement of bins due to increased purchasing power;
- consistency in bin type and size over the region; and,
- ability to offer a number of bin alternatives due to the increase in service levels, particularly in relation to specific types of developments.

4. Commercial Services

- streamlining collection systems and patterns;
- ability to increase market share due to combining the resources of all three Councils;
- ability to provide commercial recycling services at more competitive rates through economies of scale gained in having one service provider; and,
- a reduction in litter and illegal dumping through increasing the number of services and service levels

5. Waste Volumes

- increased tonnages will reduce waste disposal costs due to product demand;
- increase in market for the processing of waste product; and,
- greater potential to increase diversion from landfill.

Additionally, a joint tender would provide an excellent opportunity to put together what has worked best for each Council in their individual collection contracts as well as look at the economies of scale that could be gained in terms of a collective approach. The Councils would ensure that measures are put into any new Contractual arrangement that would maintain the high level of service already experienced by residents of Hurstville, Kogarah and Rockdale.

It is also considered that in developing any joint regional arrangement, it would be in our collective best interests to look at what successes (or failures) other local authorities throughout the country have had in the practical application (as well as trials) of not only organics collection and processing services, but also other waste technologies. To this end a pilot study is to be undertaken to investigate the issues that may arise as a result of this initiative.

SECTION 4 – INTERIM AUTHORISATION

The Councils request an interim authorisation to:-

- Allow the Councils to prepare documentation to invite Tenders from interested parties wishing to provide waste collection services;
- Evaluate Tender submissions;
- Prepare Tender recommendations to the Councils' executives;
- For Councils' executives to endorse the recommendations of the Tender panel and seek to enter into contractual arrangements pending the determination of the Commission.

This request is made on the basis that:-

1. No contracts will be entered into until a Determination is made.
2. Such an Interim Authorisation will not prevent the market being able to return to substantially its pre-interim authorisation state, as no binding agreements will be entered into by member councils to parties submitting tenders.

SECTION 5 **AUTHORISATION REQUESTED FOR THE COUNCILS** **TO** **CONTRACT COLLECTIVELY** **FOR** **THE PROVISION OF WASTE COLLECTION SERVICES**

The Councils request authorisation to contract the Service, for the following reasons:-

5.1 Legal Requirement

The Councils may be in breach of Section 45 of the Trade Practices Act if they proceed to tender and subsequently contract the Service, collectively, unless authorisation is sought from and given by the ACCC.

5.2 Savings in Costs to the Communities of the Councils

The Councils believe that a collective approach is seen as the most appropriate way of conferring equitable benefits to the communities of all member councils.

By combining the collection services of the St. George Council's potential benefits could be achieved in the following areas:-

- Reduction in collection costs due to the increased number of services collected (eg, Hurstville approximately 29,100 services to the St George region approximately 85,600 services);
- Economies of scale;
- Efficiencies of vehicle servicing runs across boundaries;
- Fleet productivity savings;

- Joint education programs;
- Introduction of new services, with the ability to trial new programs over the three Councils;
- Consistency of collection patterns and starting times; and,
- Maintaining a high level of service quality.

A joint tender would provide an excellent opportunity to put together what has worked best for each Council in their individual collection contracts as well as look at the economies of scale that could be gained in terms of a collective approach.

The Councils would ensure that measures are put into any new contractual arrangement that would maintain the high level of service already experienced by residents of Hurstville, Kogarah and Rockdale.

5.3 Changing Community Environment

The NSW government recently introduced an initiative entitled the 'Waste Avoidance and Resource Recovery Strategy'. Its purpose is to develop a framework to support the implementation of state-wide, regional and local programmes to avoid waste and recover resources.

The Councils are supportive of this approach and believe that the most effective way of managing waste collection activities is through a set of collective arrangements at a subregional level.

The State government recognises this approach in their consultation paper entitled 'Action plan for Local Government', released under the Strategy. This is exemplified in the following statement – *'Although most Council's in the Sydney Metropolitan Area (SMA) and Extended Regional Area (ERA) provide a range of recovery services, opportunities exist to improve the range and intensity of these services to increase the quantity and quality of resource recovery. Councils could also facilitate the development of the resource recovery and processing sector by marshalling critical mass through collective tendering'*.

SECTION 6 – GROUNDS FOR AUTHORISATION

6.1 BACKGROUND INFORMATION

This section provides both background information in support of the application as well as detailed argument on how and why the public benefit justifies authorisation, and the ways in which anti-competitive detriment may be minimised, and competition increased.

6.2 SUPPORTING INFORMATION

The following subsection identifies key aspects of the conduct that is requested by the Councils. It details:-

- who will BENEFIT from this action;
- how the conduct will operate in practice;
- the reason for the timeframe which is sought; and,
- the ISSUES which could change the detail of the conduct.

ISSUE	RESPONSE
Beneficiaries to the Conduct	Beneficiaries will be:- <ul style="list-style-type: none"> - The Councils and the communities served by the Councils; - Waste industry businesses willing and able to tender for this contract;
Distribution of Benefits	Benefits are likely to be distributed through:- <ul style="list-style-type: none"> - Reduction in waste collection costs to the Councils; - Resultant pegging of disposal charges to users of the Councils' waste service; - An expanding market for the processing of waste product
How the Conduct is Intended to Operate in Practice	One Tender process with three (3) separate Contracts operating under one cross-boundary set of services
Authorisation Period Sought for Contract Duration	The Councils request that the authorisation period be given for up to a ten (10) year Contract from the date of the commencement of services. It is anticipated that, should ACCC authorisation be given to proceed, the participating councils would commence contracted services from February 2008.
Appropriateness of the Authorisation Period Sought	There is an intention for the Councils to modify their waste services over a period of time, to align with the objectives of the State government's strategy for waste, where:- <ul style="list-style-type: none"> - interim arrangements will be established to align the Councils along a common strategic pathway for waste management; - the Councils will be able to assess the merits of the different types of collection activities which are already, or will become, available as a result of tender offers submitted; - the Councils will be able to engage with their communities, over the ten (10) year period of the Service, to develop a waste management approach which will provide ecologically sustainable outcomes over the longer term; and, - delivery of a long-term strategy to deliver economic, environmental and social benefits to the Councils in the provision of waste collection services.
Market Information.	The Councils occupy a relatively small component of a large market system. They operate a range of waste services to meet the needs of their communities.

6.3 THE COMMUNITY (PUBLIC) BENEFIT

This application is presented on the basis that the public benefit of this proposed conduct will outweigh the anti-competitive detriment that may be derived from such action.

This subsection identifies the objectives of public benefit which need to be addressed; provides evidence of experience received by the Councils that these objectives can be achieved; and establishes the benefits which can be gained from such actions.

The Objective	The Evidence	The Benefit
Councils have a regulatory requirement to act on behalf of the communities they represent for the collection and disposal of domestic waste	The Councils initiative for implementing a set of contracts for the provision of its waste collection services is structured to act in the best interests of the community in delivering beneficial economic social and environmental outcomes for the region	Review of the Councils proposal should be measured in reference to this underlying objective
The fostering of business efficiency could be achieved by obtaining certainty through a collective pricing structure	The recent SSROC regional waste disposal and recycling tenders:- <ul style="list-style-type: none"> - produced very competitive pricing structures for the disposal of product tendered; - offered financial benefits for councils to improve community performance through the introduction of a wide ranging education program; - introduced new facilities which greatly reduced the transport costs of disposal to the Councils participating in this contract 	<ul style="list-style-type: none"> - Reduction in waste collection costs to the Councils and their communities; - To pass on these benefits to ratepayers -the 'Public' – eg through lower domestic waste charges; - Consistency in service levels and patterns over all three (3) Councils.
Promotion of cost savings	The SSROC Member Councils participating in the recent regional recycling contract, have indicated likely operational cost savings in excess of \$2.5m per annum, flowing from:- <ul style="list-style-type: none"> - Significant transport savings - Reduced gate fee costs - Shared educational costs - Wider range of product for disposal at lower cost - Transaction cost sharing for procurement of services 	<ul style="list-style-type: none"> - Economies of scale created by having one Contractor providing all of regions services - Significant transport savings - Reduced waste disposal costs - Shared educational costs - Wider range of product for disposal at lower cost - Greater potential to increase diversion will also mean significant cost savings - Transaction cost sharing for procurement of services
Improvement in the quality of and safety of services	The introduction of quality management systems and improvements to OH & S have significantly improved safety at all levels. Technological developments have also increased efficiencies and improved the quality of waste collection services.	<ul style="list-style-type: none"> - Streamlining and consistency of services; - Consistency in collection times and patterns; - A systems approach underpinned by the principle of Total Quality Management (TQM).

6.4 MINIMISATION OF ANTI-COMPETITIVE DETRIMENT

Issue	The Benefit
Promotion of competition	A tender process offering the Councils waste collection services to the market will open up competition to more than one service provider and promote competition within an industry sector dominated by a small number of service providers.
Promotion of equitable dealings in the market	The form of procurement will be intended to provide an opportunity for the maximum number of service providers to compete for this tender
The framing of the conduct to minimise restrictions to competition	The duration of this period – of ten (10) years - for which authorisation is sought, is not likely to restrict competition. This is because re-tendering of services prior to end of the ten (10) year term will allow competitors in the market to present further competitive bids to the Councils

6.5 THE COUNTERFACTUAL ARGUMENT

It is possible that member councils could continue to operate their waste services and the disposal of waste on an individual council-by-council basis.

However the implications of this approach are likely to be as follows:-

1. Unit cost of service would continue to rise
2. Collection inefficiencies would remain and would continue to be sub-optimal and produce greater levels of carbon dioxide emissions than would be the case with a combined service
3. Less opportunity for a greater volume of waste to be aggregated and presented for reprocessing

SECTION 7 – CONCLUSION

The Councils of the St. George Region believe that in undertaking the initiative to explore the benefits arising from a joint contractual arrangement for the provision of all of the regions waste and recycling collection services, a unique and positive opportunity is offered to our communities, particularly in relation to reducing collection costs and optimising service efficiencies.

Waste Contracts and the provision of waste management services represent a significant cost to our communities, particularly in light of the recent trends of increased services, increases in waste disposal costs, and the regulatory constraints imposed on local Councils to increase diversion from landfill.

The Councils contend that in addition to the above, there are a number of similarities in terms of the type and mix of residential development, proximity of location, infrastructure and demographics that underpin and enhance a proposal of this magnitude to succeed.

The Councils are firmly of the belief that the economies of scale that can be gained through the initiatives outlined herein will significantly reduce the waste management costs of each Council and the communities to which they serve. It is also considered that there are no real impediments to this proposal and for the reasons outlined in this application the Councils maintain that the benefits of such a proposal will far outweigh any anti-competitive detriment associated with this endeavour.

Accordingly, the authorisation of the Commission is sought for the Councils to proceed to Tender.