

Our ref: PRH 0405926/003 SYK
Your ref: A30244 & A30245
Public Register No. C2006/1839

17 January 2007

Ms Louise Hird
Australian Competition and Consumer Commission
Level 35, 360 Elizabeth Street
MELBOURNE VIC 3000

By email: Louise.Hird@accc.gov.au

Dear Ms Hird

Municipal Association of Victoria: Applications for Authorisation Lists of Councils

- 1 We refer to our previous correspondence to you on 16 January 2007 concerning the councils who have agreed to participate in the tender process.
- 2 We confirm that Schedule 1 to the submission attached to the applications for authorisation dated 29 September 2006 contained a list of councils provided to us by our client as being those councils that wished to participate in the applications. However, this was not a binding commitment that they would also agree to participate in the Department of Infrastructure's tender process.
- 3 As of today's date:
 - 3.1 19 councils have indicated to MAV that they seek to participate in the applications for authorisations. These councils are:
 - 3.1.1 Bayside City Council;
 - 3.1.2 Boroondara City Council;
 - 3.1.3 Brimbank City Council;
 - 3.1.4 Cardinia City Council;

Please notify us if this communication has been sent to you by mistake. If it has been, any client legal privilege is not waived or lost and you are not entitled to use it in any way.

- 3.1.5 Casey City Council;
- 3.1.6 Darebin City Council;
- 3.1.7 Glen Eira City Council¹;
- 3.1.8 Hobsons Bay City Council;
- 3.1.9 Hume City Council²;
- 3.1.10 Kingston City Council;
- 3.1.11 Knox City Council;
- 3.1.12 Maribyrnong City Council;
- 3.1.13 Maroondah City Council;
- 3.1.14 Melton Shire Council;
- 3.1.15 Mornington Peninsula Shire Council;
- 3.1.16 Whitehorse City Council;
- 3.1.17 Whittlesea City Council;
- 3.1.18 Wyndham City Council; and
- 3.1.19 Yarra City Council.

3.2 8 councils have informed the Department of Infrastructure that they agree to participate in the tender process. These councils are:

- 3.2.1 Bayside City Council;
- 3.2.2 Boroondara City Council;
- 3.2.3 Brimbank City Council;
- 3.2.4 Casey City Council;
- 3.2.5 Darebin City Council;
- 3.2.6 Knox City Council;

¹ As previously notified to the Commission, Glen Eira City Council subsequently elected not to participate in the applications for authorisation.

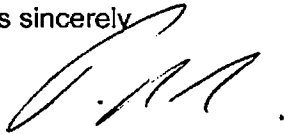
² We note that correspondence from Hume City Council to the Commission may indicate some limitations on its participation in the applications.

3.2.7 Maroondah City Council; and

3.2.8 Wyndham City Council.

- 4 We note that Bayside City Council, Brimbank City Council, Darebin City Council and Knox City Council were not listed in Schedule 1 to the submission attached to the applications. However, pursuant to section 88(13) of the *Trade Practices Act 1974* (C'th), these applications for authorisation were also expressed to be made in relation to other contracts, arrangements or understandings or proposed contracts, arrangements or understandings that are or will be in similar terms. The participation of these Councils in the tender process will result in proposed contracts, arrangements or understandings on similar terms to that subject to these authorisation applications.
- 5 The councils listed at paragraph 5(b) of the applications are the councils who currently have a contract with a bus shelter provider but may opt in to the proposed arrangements at a later date once their existing contracts have terminated. The names of the councils now participating in the tender that were not included in Schedule 1 to the submission, were not listed at paragraph 5(b) because, based on our instructions at the time the application was made, they had not indicated an intention to participate to MAV.
- 6 We are advised by the Department that some councils may choose not to make a decision concerning their participation in the Department's process until the terms and conditions of the supply of bus shelters, including price, are finalised.
- 7 This letter may be placed on the public register.

Yours sincerely



Paul Holm
Partner
Direct +61 2 9286 8035
paul.holm@dlaphillipsfox.com