



**Bathurst Regional Council & Ors –
application for authorisation A91387
Interim authorisation decision
2 October 2013**

Decision

The Australian Competition and Consumer Commission (the ACCC) has granted interim authorisation in respect of the application for authorisation lodged by the Bathurst Regional Council, Blayney Shire Council, Blue Mountains City Council, Cabonne Council, Forbes Shire Council, Orange City Council, Parkes Shire Council and Wellington Council (Bathurst Council & Ors) on 17 September 2013. These councils are located in close proximity to each other in the central and eastern subregions of New South Wales.

Interim authorisation is granted to enable Bathurst Regional Council & Ors to commence work on the joint tender for waste collection, recycling and organic waste services.

The ACCC grants interim authorisation on the basis that no contracts will be entered into for the provision of waste collection, recycling and organic waste services until the ACCC's final determination is made.

Interim authorisation commences immediately and remains in place until it is revoked or the date the ACCC's final determination comes into effect.

The application for authorisation

Bathurst Regional Council & Ors seek authorisation to jointly tender for waste collection, recycling and organic waste services, with each component waste service forming a separate part of the tender. NetWaste has been appointed by the Councils to manage the proposed joint tender.

Bathurst Regional Council & Ors have sought authorisation for a period of 13 years, and intend to enter into 10 year contracts for each of the services commencing in 2016.

The authorisation process

Authorisation provides protection from legal action for conduct that may otherwise breach the competition provisions of the *Competition and Consumer Act 2010* (the Act). Broadly, the ACCC may grant authorisation if it is satisfied that the benefit to

the public from the conduct outweighs any public detriment, including from a lessening of competition. The ACCC conducts a public consultation process to assist it to determine whether a proposed arrangement results in a net public benefit.

Interim authorisation

Section 91 of the Act allows the ACCC to grant interim authorisation without making a decision on the merits of the application.

The ACCC will only grant interim authorisation in appropriate circumstances. In many circumstances it is not appropriate to do so because interim authorisation allows an applicant, for a limited period, to engage in conduct before the ACCC has been able to fully assess whether the conduct satisfies the authorisation test.

Consultation

Upon receipt of the application for authorisation on 17 September 2013, the ACCC invited submissions from interested parties in order to consider the request for interim authorisation. The ACCC received submissions from three interested parties. No concerns were raised about the interim authorisation.

Further information in relation to the application for authorisation, including any public submissions received by the ACCC as this matter progresses, may be obtained from the ACCC's website www.accc.gov.au/authorisations.

Reasons for decision

In granting interim authorisation, the ACCC considers that:

- Interim authorisation is limited to commencing the tender process and will enable the Councils to invite tenders prior to the expiry of existing contracts. The Councils will not enter into contracts until the ACCC issues its final determination.
- Interested parties did not raise any objections with the ACCC.

Reconsideration of interim authorisation

The ACCC may review the interim authorisation at any time. The ACCC's decision in relation to the interim authorisation should not be taken to be indicative of whether or not the final authorisation will be granted.