



Australian  
Competition &  
Consumer  
Commission

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31/08/2017

## By email

Dear Sir or Madam

### **Muswellbrook Shire Council and Upper Hunter Shire Council application for authorisation A91598 —interested party consultation**

The Australian Competition and Consumer Commission (the ACCC) has received an application for authorisation from Muswellbrook Shire Council and Upper Hunter Shire Council (the Councils). The ACCC invites you to comment on the application. Attached is a summary of the authorisation process including how to make a submission to the ACCC.

The Councils have sought authorisation to enter into and give effect to an agreement to jointly invite tenders for the provision of kerbside waste collection services, specifically the collection of garbage, recyclables and organics from the kerbside and its transportation to their respective facilities for resource recovery processing or disposal.

The Councils will cooperate in inviting tenders, considering the submitted tenders, and selecting preferred tenderer(s). Each of the Councils will retain the power to select a different supplier from that selected by the other Council, and each Council will enter into a separate contract with the chosen supplier(s).

A full copy of the application for authorisation is available on the ACCC's website [www.acc.gov.au/AuthorisationsRegister](http://www.acc.gov.au/AuthorisationsRegister).

### **Interim authorisation**

The Councils have requested interim authorisation to prepare for, invite, and evaluate tenders, and to seek to enter into contractual arrangements. The Councils propose not to enter into any contract until the ACCC determination is made.

The ACCC endeavours to deal with requests for interim authorisation quickly. In making an assessment as to whether it is appropriate to grant interim authorisation, the ACCC is not required to undertake a full assessment of the benefit and detriment likely to arise as a result of the proposed conduct.

The ACCC decides whether to grant interim authorisation on a case by case basis. Should an applicant request interim authorisation, the ACCC will usually consider a range of factors, including harm to the applicant and other parties if interim is or is not granted, possible benefit and detriment to the public, the urgency of the matter and whether the market would be able to return to substantially its pre-interim state if the ACCC should later deny authorisation.

## Request for submission

The ACCC invites you to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the proposed arrangements.

If you intend to provide a submission in relation to the Councils' application for authorisation and/or request for interim authorisation, please do so by **13 September 2017**. Submissions should be emailed to [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au) with the subject A91598 – Muswellbrook & Upper Hunter Shire Councils – submission'.

Submissions will be placed on the ACCC's public register subject to any request for exclusion (guidelines are attached).

## Timetable

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information

<b>25 August 2017</b>	Lodgement of application and supporting submission.
<b>31 August 2017</b>	Public consultation process begins.
<b>13 September 2017</b>	Closing date for submissions from interested parties.
<b>27 September 2017</b>	Applicant responds to issues raised in the public consultation process.
<b>October 2017</b>	Draft determination, including consideration of request for interim authorisation
<b>November 2017</b>	Public consultation on draft determination including any conference if called.
<b>December 2017</b>	Final determination.

Please advise if you do not wish to make a submission at this time, but would like to be informed of the progress of the application at the draft and final determination stages. If you are able to please provide a nominated contact email address for future correspondence.

You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding the application.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Hannah Ransom on (02) 6243 1255 or [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au).

Yours sincerely



David Hatfield  
Director  
Adjudication

## List of interested parties consulted

<b>Australian Council of Recycling</b>
<b>Australian Organics Recycling Association Ltd</b>
<b>Australian Small Business and Family Enterprise Ombudsman</b>
<b>J.J. Richards</b>
<b>JR Richards &amp; Sons</b>
<b>Local Government Association of NSW</b>
<b>Mastec Australia</b>
<b>NSW Small Business Commissioner</b>
<b>REMONDIS Australia</b>
<b>Solo Resource Recovery</b>
<b>Suez Environment</b>
<b>T.C. Waste Services</b>
<b>Transpacific Cleanaway</b>
<b>United Resource Management Pty Ltd</b>
<b>Veolia</b>
<b>Visy Recycling</b>
<b>Waste Contractors and Recyclers Association of NSW</b>
<b>Waste Management Association of Australia</b>
<b>Worth Recycling Pty Ltd</b>