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9 August 2004

Michelle Groves and Nevenka Codevelle
National Competition Council
Level 9 / 128 Exhibition Street
MELBOURNE VIC 3000

Dear Ms Grove and Ms Codevelle

SERVICES SYDNEY NEGOTIATIONS WITH SYDNEY WATER

We refer to our telephone conference on 5 August 2003 in relation to negotiations between Services Sydney Pty Ltd (**Services Sydney**) and Sydney Water Corporation (**Sydney Water**).

The history of negotiations between Services Sydney and Sydney Water is briefly set out in Services Sydney's application for recommendation with respect to declaration (p 13). To enable the Council to form a view as to the extent to which Sydney Water has refused Services Sydney's requests for the provision of transmission and interconnection services, a more detailed description of these negotiations is set out in Attachment A. While detailed, this summary is not comprehensive and Services Sydney would be happy to provide further information if required.

In summary, Services Sydney has made numerous efforts over several years to enter into negotiations with Sydney Water to facilitate development of Services Sydney's 'Sustaining the City' proposal through the provision of interconnection and transmission services by Sydney Water via the Sydney Sewage Reticulation Network.

These efforts have been based upon a range of business models including outsourcing arrangements with Sydney Water, public-private partnership with Sydney Water and the New

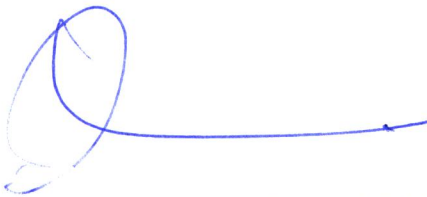
South Wales Government and the provision of sewage collection services by Services Sydney in competition with Sydney Water.

While Sydney Water engaged in some negotiations with Services Sydney at an early stage, since November 2003 Sydney Water has expressly refused to negotiate or enter into any dialogue with Services Sydney with respect to the development of 'Sustaining the City' and the provision of interconnection and transmission services to Services Sydney.

Services Sydney submits that Sydney Water's actions are clear evidence of an exercise of its market power with respect to the provision of interconnection and transmission services. This has frustrated Services Sydney's efforts to get on with business and led to Services Sydney's decision to seek access rights under Part IIIA of the Trade Practices Act 1974 (Cth).

Please contact us if you have any further queries in relation to this issue.

Regards

A handwritten signature in blue ink, consisting of a large, stylized loop followed by a long horizontal line extending to the right.

Luke Woodward / Rowan McMonnies

**ATTACHMENT A –
NEGOTIATIONS BETWEEN SERVICES SYDNEY AND SYDNEY WATER**

September 1998 to April 1999 – Services Sydney Pty Ltd was established as a special purpose vehicle in September 1998. Services Sydney made numerous efforts to meet with Sydney Water to discuss alternative wastewater management proposals. Sydney Water eventually met with Services Sydney, but Sydney Water refused to discuss alternatives for its proposed Georges River Program, which is a key component of Sydney Water’s long term strategic vision of water management called WaterPlan21.

May 1999 – The then Sydney Water Managing Director, Alex Walker, agreed to consider Services Sydney’s alternative to WaterPlan21. Services Sydney proposed six alternative infrastructure projects that currently form the cornerstones of ‘Sustaining the City’. At all times during negotiations with Sydney Water and through the further development of ‘Sustaining the City’, these Services Sydney’s proposals were based upon the interconnection of the Sydney Sewage Reticulation Network with new sewage transmission infrastructure and the provision of transportation services to those interconnection points.

April 1999 to January 2000 – Discussions in relation to and execution of a formal Heads of Agreement (**HoA**) between Sydney Water and Services Sydney in October 1999. Implementation commenced with a pre-feasibility study undertaken by engineers, Connell Wagner jointly on behalf of Sydney Water and Services Sydney. This study investigated Services Sydney’s alternative proposals to WaterPlan21 based on the provision of interconnection and transmission services by Sydney Water. The results of the pre-feasibility studies were positive.

March 2000 – Sydney Water notified Services Sydney it had terminated the HoA, that it did not intend to pursue the development of Services Sydney’s waste water proposals and recommended a “whole of government approach to the water issue” given the positive outcomes.

April 2000 to March 2002 – Services Sydney made numerous attempts to re-engage with Sydney Water. Sydney Water consistently refused to be briefed and indicated that they did not intend to engage with Services Sydney in relation to the development of any of Services Sydney’s proposed projects. During the same period financial models completed indicated positive outcomes for Services Sydney’s proposal over the outcomes of WaterPlan 21. Services Sydney briefed the NSW Government Premier’s Department, Infrastructure Co-ordination Unit on these studies and options for integrated water infrastructure.

April 2002 – Services Sydney briefed Sydney Water Chairperson, Gabrielle Kibble, and Managing Director, Alex Walker, on options for integrated water infrastructure and requested to enter into commercial negotiations in relation to the development of Sustaining the City, including the

provision of interconnection and transmission services by Sydney Water. Sydney Water refused to engage in negotiations and confirmed its intention to implement WaterPlan21.

June 2002 – NSW Premier, Bob Carr, and Minister for Sydney Water, Kim Yeadon were briefed on Services Sydney's 'Sustaining the City' proposal.

July 2002 – 'Sustaining the City' was considered in a NSW Government Premier's Department meeting attended by the relevant government agencies' CEO's and a Value Management Study was proposed.

August 2002 to September 2002 – Services Sydney sought terms in the form of a draft HoA with Government to conduct the Value Management Study. Upon request, Services Sydney provided further information and formally submitted 'Sustaining the City'. The Infrastructure Co-ordination Unit classified 'Sustaining the City' as a private sector proposal.

November 2002 to April 2003 – 'Sustaining the City' was presented to a 'Whole of Government' Review Committee comprising 18 Government agencies and departments. John Anderson from the then Department of Land and Water Conservation (now Department of Commerce) was appointed by the NSW Government Premier's Department to undertake an independent review of 'Sustaining the City' against WaterPlan21. The draft Anderson report recommending further consideration of 'Sustaining the City' was circulated to all Government agencies for comment.

May 2003 to August 2003 – Services Sydney sought direct negotiations with NSW Government based on the *'Working with Government Guidelines'*.

September 2003 – Services Sydney sought to brief the Board of Sydney Water and the Expert Water Panel of the NSW Government on 'Sustaining the City'. Both offers were declined. The NSW Government Premier's Department, Infrastructure Co-ordination Unit informed Services Sydney that no further resources would be committed to assessing 'Sustaining the City' and that any further dealings were to be with NSW Government Premier's Department.

November 2003 – Services Sydney met with NSW Government Premier's Department and Sydney Water to formalise consideration of the 'Sustaining the City' proposal including the provision of interconnection and transmission services by Sydney Water. The NSW Government Premier's Department and Sydney Water indicated that a decision has been made not to direct more resources to assessing Services Sydney's proposal. Services Sydney informed the NSW Government Premier's Department and Sydney Water of its intention to obtain rights of access through IPART process for the purpose of the provision of sewage collection services by Services Sydney on a competitive basis.

December 2003 – Services Sydney briefed and requested the Independent Pricing and Regulatory Tribunal (IPART) to confirm whether access rights are available under IPART regulatory powers. IPART confirmed that such rights of access are not available under IPART regulatory powers and that Services Sydney should consider making an application to the NCC for recommendation with respect to declaration.

March 2004 – Application for recommendation with respect to declaration of interconnection and transmission services lodged with NCC. Services Sydney informed Sydney Water and the Premier of New South Wales of the application. Services Sydney also informed shareholder ministers of Sydney Water and requested assistance in facilitating discussions with Sydney Water. Sydney Water was copied on this correspondence.

April 2004 – NCC released issues paper and called for submissions. Sydney Water publicly stated that it was prepared to negotiate with the private sector. Services Sydney requested clarification of statement from Managing Director, David Evans in writing and through telephone message. No response received.

May 2004 – Services Sydney wrote to NSW Government requesting that it facilitate negotiations with Sydney Water for the provision of interconnection and transmission services by Sydney Water. Services Sydney received a letter from Sydney Water in response to Services Sydney letter to shareholder ministers of Sydney Water in March 2004 indicating that a response to Services Sydney's request to discuss 'Sustaining the City' with Sydney Water would be "premature".

July 2004 – NSW Government informed Services Sydney that sewer mining is available under IPART regulatory regime. Services Sydney responded that sewer mining does not provide access to customers, does not provide a commercial timeframe has a non-commercial price. Services Sydney once again requested NSW Government assistance to facilitate negotiations with Sydney Water. No response received from NSW Government.