



PROJECT FINANCE ADVISORY

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Michelle Groves  
Director  
National Competition Council  
GPO Box 250B  
MELBOURNE VIC 3000

Dear Ms Groves

**Third Party Access to Sydney Water's Sewerage System by Services Sydney  
Declared Period for Access**

Ernst & Young is a professional services firm with unparalleled experience in major public and privately funded infrastructure projects. Ernst & Young staff have been involved in projects that range from the early Sydney Water water treatment boot projects to acting as adviser to the NSW Government on the current housing PPP transactions.

We have been briefed by Services Sydney in relation to their Sustaining the City proposal and their application to the National Competition Council with respect to access to the sewers operated by Sydney Water.

The development of competing waste water treatment facilities in Sydney has the potential to provide substantial commercial, community and environmental benefits, in terms of competition for sewage collection and re-use of treated waste water. The development of competing sewage treatment facilities, as proposed by Services Sydney, or more generally, would be major infrastructure project.

We are aware that the Council has issued a draft recommendation in favour of declaration for a period of 15 years. We consider that this period of declaration will not permit a privately funded project to be implemented.

In our experience, for projects such as this to be viable, they require:

- a sufficient project term to enable recovery of the debt and equity invested in the project while still setting infrastructure charges at a level that is acceptable to those using the services. For example it would be possible to have a toll road with a concession term of 10 years, but the tolls that would be required to support such a short concession term would be exorbitant – no one would use the tollway. The timeframe for return on investment in major infrastructure projects can be significant with projects similar to Services Sydney's proposal commonly requiring a 30-50 year period to provide a sufficient return on investment to attract investors and set charges at a level that can be borne by prospective users;

- substantial regulatory and commercial certainty. In the case of competing waste water treatment infrastructure, this would require certainty of access and interconnection to the Sydney Water sewerage system, given that it is the fundamental bottleneck for access to waste water.

Where access and interconnection to monopoly infrastructure is involved, the ability to get appropriate commercial terms is connected to mandated rights of access under declaration. As a result, the duration of declaration is of critical importance to potential investors in major infrastructure projects.

In our view, it would be necessary for Services Sydney to be able to negotiate a long term access/interconnection agreement, in the order of 30-50 years in order to attract investors to such a project.

We also note that it would be inconsistent with the concept of promoting competition, to require a competing waste water treatment operator to recover its investment over a very short period compared to the incumbent, which can recover its investment over longer periods.

We understand that there is the opportunity that declaration could be extended, but debt and equity investors are unlikely to rely on this opportunity and would seek repayment of their investment during the initial term. In the circumstances, we consider that a significantly longer duration for declaration, in the order of 50 years, is appropriate in this case. We note that the Queensland Government is considering 100 year concession terms for two tollway projects under analysis.

While we know specific access arrangements are often for significantly shorter periods, for example, typically 5 years in electricity and gas; that is in the context of a clear and open ended legal obligation to provide access (and interconnection) under the National Gas and Electricity Codes. In effect, in gas and electricity there is in effect access regimes which have no specific end date

We recognise that there may be merit in some form of periodic review. It is our understanding that the NCC has the power to review declaration periodically under the Trade Practices Act and this would seem to provide sufficient scope to review changes in market conditions, while providing the necessary regulatory framework to permit the negotiation of long term access and interconnection agreements.

Regards,



Bill Banks  
Director & Representative