Response to submissions from interested parties

Opening Statement

At the time of preparing this submission, Council Solutions notes the submissions provided from the following interested parties:

- 1. In support of AA1000414 and/or the associated goals and outcomes to be achieved:
 - The Local Government Association of South Australia (*LGASA*), dated 20 April 2018;
 - Green Industries SA (GISA), dated 12 April 2018;
 - The Environmental Protection Agency (SA EPA), dated 20 April 2018;
 - the City of Adelaide, dated 13 April 2018;
 - the City of Charles Sturt, dated 13 April 2018;
 - the City of Marion, dated 12 April 2018; and
 - the City of Port Adelaide Enfield, dated 9 April 2018.
- 2. Expressing concern with aspects of AA1000414:
 - The Waste & Recycling Industry Association of South Australia (WRISA), dated 25 April 2018;
 - Trident Plastics (*Trident*), dated 18 April 2018;
 - Australian Organics Recycling Association (AORA), dated 26 April 2018;
 - Peats Soil & Garden Supplies (Peats), dated 26 April 2018;
 - Hatch Waste and Recycling (Hatch Waste), dated 26 April 2018;
 - Small Business Commissioner of South Australia (SBC), dated 26 April 2018; and
 - Scout Recycling Centre (Scout), dated 21 October 2016.

Council Solutions provides the following responses with regard to the submissions that expressed concerns with aspects of AA1000414. Where Council Solutions has not responded directly to a specific concern raised in a submission made by an interested party, that should not be construed as Council Solutions' agreement to the relevant submission.

As an overarching comment, Council Solutions notes the submissions expressing concerns generally have two key themes, namely they:

- Rely on an assumption that competition will be reduced as a result of the Proposed Conduct without providing any evidence or explanation to substantiate this position. Council Solutions submits as per AA1000414:
 - The Proposed Conduct is straightforward, that is, to undertake a public Request for Tender (RFT) on behalf of four Greater Adelaide Region Councils to award a contract to a sole supplier for Waste Collection Services (collection of the 3-Bin System only) and will result in a highly competitive tender process.
 - There is no evidence to suggest that any detriments in the future with the Proposed Conduct will be substantially different to any detriments in the future without the Proposed Conduct in AA1000414, noting:
 - with the Proposed Conduct the only outcome where one provider would have a greater market share than the current market leader currently enjoys is if that market leader won the Waste Collection Services contract under the Proposed Contract, in which case their market share would grow by one Council. As the current market share analysis shows, this outcome could occur without the Proposed Conduct
 - without the Proposed Conduct each Participating Council will be required to undertake their own procurement processes for Waste Collection Services and currently the same

- supplier is contracted by three out of the four Participating Councils for provision of Waste Collection Services; and
- without the Proposed Conduct the extent of the public benefits detailed in AA1000414
 will not be realised by the Participating Councils and their communities.
- 2. Suggest the public benefits claimed by the Applicants will not be achieved, in some cases without providing any evidence or explanation to substantiate this position. Council Solutions submits as per AA1000414, that this is <u>not</u> consistent with:
 - the advice provided by our expert waste industry advisor (Wright Corporate Strategy), who
 have participated in numerous successful collaborative waste services procurements and,
 with an understanding of the South Australian market, advised the Participating Councils will
 achieve significant benefits that would not occur without the Proposed Conduct;
 - the views of the Participating Councils who currently procure Waste Collection Services from the market and have chosen to participate in the Proposed Conduct because of the benefits they will achieve (as outlined in the submissions made by the Cities of Adelaide, Charles Sturt, Marion and Port Adelaide Enfield); and
 - the public benefits previously acknowledged by the ACCC for similar procurement activities as identified in the numerous references provided in AA1000414. The Applicants see no reason why comparable benefits will not be achieved under the Proposed Conduct.

Council Solutions also notes the conduct proposed in AA1000414 will be assessed on its merits by the ACCC and not simply in relation to its 'differences' to any previously proposed conduct.

Terms defined in this submission have the same meaning as in application AA1000414 unless stated otherwise.

WRISA

Council Solutions provides the following response to demonstrate there will be a net public benefit and there will be no substantial lessening of competition as a result of the Proposed Conduct in AA1000414.

WRISA makes the statement upfront "joint procurement of waste and recycling services by local governments provides an opportunity for councils to generate cost savings and efficiencies". Council Solutions concurs with this statement and this is a fundamental reason why the Participating Councils have directed Council Solutions to undertake the Proposed Conduct (as per the submissions made by the Cities of Adelaide, Charles Sturt, Marion and Port Adelaide Enfield). Furthermore, the Proposed Conduct has been developed as per the recommendations of expert waste industry advisors appointed by Council Solutions, Wright Corporate Strategy, who have participated in numerous successful collaborative waste services procurements and, with an understanding of the South Australian market, advised that the Participating Councils will achieve significant benefits that would not occur without the Proposed Conduct under AA1000414.

Joint procurement of waste and recycling services by local governments is not a new concept or a controversial one. Local governments have done so previously to achieve cost savings, efficiencies and other associated benefits.

It would appear the main concern of WRISA can be surmised in the next statement: "procurements of this nature can be poorly structured and have a material impact on competition."

Council Solutions also concurs that poorly structured procurements can generate sub-optimal outcomes.

Council Solutions consists of experts in all aspects of procurement, including qualified and accredited procurement professionals. Council Solutions was established in 2012 as a Regional Authority and provides the legal structure to the G6 Procurement Group formed in 1994 by the Cities of Adelaide, Charles Sturt, Marion, Onkaparinga, Salisbury and Tea Tree Gully. For more than 20 years we have been providing a collaborative and strategic approach to the procurement of goods and services to attain the best value for the community and optimise the financial sustainability of Councils by reducing administrative costs, the number of tender processes and replicated contract management activities. In 2016-17 in excess of \$63.5 million of Council expenditure was undertaken under Council Solutions collaborative procurement arrangements.

Specifically, for the Proposed Conduct we are developing the Request for Tender for Waste Collection Services in conjunction with our expert Waste Industry Advisors and the Participating Councils nominated waste service specialists.

The structure of the Request for Tender is based on the LGA Model Contract and is being developed and adapted by Council Solutions in conjunction with our expert waste industry advisors (Wright Corporate Strategy) and technical advisor (Rawtec) who have participated in numerous successful strategic waste service procurements with the local government sector across Australia. In addition, the RFT is being reviewed by the nominated waste services specialist from each Participating Council, who interact with the waste management services market on a daily basis.

The Waste Management Services Project, including the RFT outlined in the Proposed Conduct, is well structured, follows, as far as relevant, a 'traditional' procurement process with refinement to ensure best practice, and is well advanced. As such, Council Solutions submits the joint procurement is not poorly structured and will not have a material impact on competition.

In addition, Council Solutions has undertaken consultation with existing and potential suppliers for Waste Collection Services regarding the Proposed Conduct and the RFT structure (refer Annexure 2 of AA1000414). All suppliers that Council Solutions met with indicated that the opportunity presented by the proposed RFT process was attractive. No concerns were expressed by the existing or potential suppliers to Council Solutions regarding the structure or complexity of the Proposed Conduct outlined in AA1000414.

Response to overarching comments

Council Solutions notes the overarching comments are a summary of the specific comments raised further on in the submission by WRISA. As such, Council Solutions provide in this section cross references to our responses to each of the applicable specific comments that relate to the overarching comments.

- Council Solutions rejects the market share analysis provided by WRISA, including the assertion the 'share of the market' that is not available through public tender has not been taken into account. This is outlined further on page 6, in response to the specific comments to paragraph 5.3. Market Share.
- WRISA has misinterpreted the statement that more tenders will follow after the Proposed Conduct. This is outlined further on page 9, in response to the specific comments to paragraph 6.2.2. Increased competition Reduced access for the market.
- Council Solutions rejects both that the balance of power in the market is based on whether there
 is bargaining with the price submitted and that there is no bargaining involved. This is outlined
 further on page 7, in response to the specific comments to paragraph 5.4.3 Countervailing Power
 of Customers and / or Suppliers.

- Council Solutions rejects WRISA's assertion that "waste collections are not likely to be a conduit for greater waste diversion and reduced dependence on landfill" and that this should instead be "attributed to new processing infrastructure to recover resources from residual waste." This is outlined further on page 5, in response to the specific comments to paragraph 4.5.1 Policy Context.
- Council Solutions rejects the statement that the tender will "significantly limit competition and exclude a number of market players who would likely bid for waste from Participating Councils if offered through individual tenders. This is outlined further on page 9, in response to the specific comments to paragraph 6.2.2. Increased competition.
- Council Solutions re-affirms the efficiency gains related to contract administration are not only likely to occur, but, in fact, will occur. This is outlined further on page 7, in response to the specific comments to paragraph 6.1.1. Tender process cost savings and efficiencies.
- Council Solutions re-affirms the efficiency gains related to service efficiency are likely to occur. This is outlined further on page 12, in response to the specific comments to paragraph 6.2.3. Improved Service Efficiency.
- Council Solutions notes WRISA's statement "reduced competition in the market would likely increase commercial and industrial waste service provision as contractors not awarded a municipal contract may retreat entirely from the area." This appears inconsistent with WRISA's statements in the specific comments to paragraph 6.2.2 where WRISA implies a reduction in competition "could be further impacted by a restriction in commercial and industrial waste providers." This is outlined further on page 9 in response to the specific comments to paragraph 6.2.2. Increased competition.
- Council Solutions rejects the improved purchasing power is overstated as the economies of scale are "already realised by large Councils". This is outlined further on page 12, in response to the specific comments to paragraph 6.2.3. Improved Service Efficiency.

Response to specific comments

Council Solutions notes WRISA's specific comments on paragraphs of the application and responds as below.

Paragraph 4.3.2.

Council Solutions submits tendering to deliver to a location within a 5km radius is not uncommon or difficult to price appropriately. A potential supplier will be asked to provide a price to deliver to:

- Nominated Facility (as defined in the LGA Model Contract) 1, being the intersection of Cormack Road and Hanson Road Wingfield, including a 5km radius; and
- Nominated Facility 2, being the intersection of Anzac Highway and Morphett Road Camden Park, including a 5km radius.

In addition, within the LGA Model Contract is a standard return schedule, Schedule 11 Payment for Transport to Alternative Facility. This requires tenderers to provide an Alternative Facility Payment Rate, where the tenderer nominates a \$ per tonne/km rate (see Attachment 1 to this submission). The market is familiar with the LGA Model Contract structure and has been able to provide pricing in previous tender submissions.

The major cost in Waste Collection Services is the actual pick-up of bins as vehicles methodically progress from property to property picking up MGBs, in comparison the transit cost from the point at

which collections cease and to where the waste stream is to be discharged is readily calculated with a considerable degree of certainty and is not considered a significant risk in tendering.

Paragraph 4.3.3.

Council Solutions clarifies it is not the intention to shift the entire customer interface away from the contractor and back to the Councils. Rather, in stating that the Participating Councils will need to provide the customer interface to their communities, it is acknowledging that a resident will always look to contact their Council in the first instance regarding a waste matter and it is not expected this will change. The Council may elect to immediately re-direct the enquiry to the contractor or act as the intermediary, but in either circumstance the Council is the visible 'provider' of the service to the community, even when this is outsourced. The RFT documents will outline the role the contractor will have in managing the customer interaction, with alignment to the generally accepted allocation of responsibility.

Paragraph 4.5.1.

WRISA states "it is extremely unlikely that a procurement for waste collection services will have any impact on waste reduction and diversion. These targets are more closely linked to recycling activity, processing options for residual waste and state-wide community engagement, none of which is relevant to this procurement."

Council Solutions rejects this position. Indeed, with the current downward trajectory of diversion and waste minimisation outcomes, a holistic approach is required to support the achievement of these goals.

Waste Collection Services is the "front line" when it comes to reducing contamination and improving resource recovery and diversion of wastes from landfill.

- Collection vehicle drivers can pin point individual households where contamination of Recyclables
 and Organics is occurring through direct observation of bins as presented and through the onboard video cameras as bins are emptied.
- Identifying perpetrators allows for targeted remedial actions by both the Council and the collection driver, and ultimately may lead to withdrawal of service for serial offenders.
- Non-collection of obviously contaminated bins reduces the contamination of other materials
 collected in that truck, improves the recovery of resources at the next stage (being processing
 operations) and improves the financial return the process operator might negotiate due to
 cleaner and less contaminated products.
- In the current recyclables market this management of contamination and improvement of the quality of recovered resources has become critical in light of the Chinese Government's National Sword policy.
- Small amounts of contaminants in the organics stream, such as Organics placed into MGBs in noncompostable plastic bags, can result in significant and wide-spread contamination of products through the dispersal of fine plastic remnants into end products, leading to lower quality products, reduced markets for those products and lower prices for those products.

Without this front line intervention by collection vehicle drivers there is serious concern that the future of kerbside recycling could be undermined, the growing confidence of end users of the organic products could be destroyed and delicate markets may collapse.

Council Solutions further notes the submission of the SA EPA which notes the achievement of

sustainable, best practice and accountable waste management must be supported by "effective recording, monitoring and reporting systems for waste **transport**, resource recovery and waste disposal." This clearly envisages a 'whole of journey' approach to waste management.

The Applicants do not see that any one party is responsible for the achievement of the State government strategies and targets, nor that any one party is responsible for managing contamination. Rather, a collaborative, holistic approach is the only way there will be lasting improvement in this area.

Council Solutions further notes that during the consultation undertaken with the industry, one processor expressed a very firm opinion that leaving the management of contamination to the processor was unrealistic and unfair on processors. The same processor strongly advocated the inclusion of the Waste Collection Services contractor in the management of this issue.

Paragraph 5.3.

Council Solutions rejects there has been an oversight in stating the Participating Councils' share of the market as 26.23% and points the ACCC to paragraph 5.3, and particularly Chart 1, of the application which clearly outlines the market share of all Greater Adelaide Region Councils, including those that currently provide the service inhouse and do not use private sector suppliers.

Whilst some of this market share may not currently be available to the private sector, that does not mean a) it is not part of the market and b) that it will remain unavailable for the duration of the Proposed Conduct.

Paragraph 5.4.1.

Council Solutions maintains there are 16 other Greater Adelaide Region Councils who provide the market with opportunities to tender for their Waste Collection Services and rejects that in order to do so they must be "unaligned Councils" as WRISA proposes.

Greater Adelaide Region Councils	27	as defined	
East Waste	7	as defined	
FRWA	3	as defined	

East Waste and FRWA are the only groups of Councils that do not provide the market with opportunities to tender for their Waste Collection Services.

Of the other groups of Councils listed by WRISA:

Participating Councils	4	as defined	Open tender process is proposed as per the Proposed Conduct
NAWMA	3	as defined	Open tender last conducted in 2015, awarded to Suez
BRPG	2	as defined	Open tender last conducted in 2017, currently transitioning to Solo.

In addition to the nine Councils in this group there are the other 8 'unaligned' Councils as defined by WRISA. This equates to 16 Greater Adelaide Region Councils.

Additionally, Council Solutions rejects the assumption that the Cities of Onkaparinga and Tea Tree Gully should be excluded also by virtue of being Constituent Councils of Council Solutions. These two Councils are not Applicants or Participating Councils in this process and conduct their own open tenders as appropriate.

Paragraph 5.4.3.

Council Solutions maintains the statements made at paragraph 5.4.3. of the application that there is an imbalance of power in the market in the favour of the potential suppliers.

WRISA states that over the course of the last 10-15 years "competition in the market has continued to **increase**" but offers no evidence to support this. Indeed, they then go on to say "Whilst some potential contractors would not tender for all available opportunities in the market, tenders in the Greater Adelaide Region ... attract significant competition. The concentration of market share is not a representation of competitiveness in this market."

In assessing the number of tenders received by the Participating Councils in their last procurements for this service, it is clear the number of tenders received is reducing. In consultation with the industry, it has been expressed this is a result of the concentration of the market share and the perception by some potential suppliers that some Councils award contracts based on the rock bottom price, rather than taking a balanced Value for Money approach to contract award that considers cost, service quality and risk.

WRISA further states there will be a "reduction of potential tenderers" but provides no evidence of this. Council Solutions has undertaken consultation with existing and potential suppliers for waste collection services regarding the Proposed Conduct and RFT structure (refer Annexure 2 of AA1000414). All suppliers that Council Solutions met with indicated that the opportunity presented by the proposed RFT process was attractive.

Council Solutions rejects the assumption that as "there is no bargaining involved with the price that has been submitted" during a tender process, there is a power balance. As an essential service, a Council must accept one of the offers provided. In contrast, in providing a range of waste management services, a potential supplier may 'pick and choose' which tenders to respond to.

The fact Councils ask for (and indirectly pay for) Security Guarantees further highlights the imbalance of power, where a Council requires a 'bond' to protect itself should a Contractor exit the contract, either in accordance with the exit provisions or by invoking force majeure or change of law clauses, as is happening in other areas of the waste management services industry. Whilst security guarantees provide some risk mitigation to Councils, the reality is the cessation of a contract creates a service void that needs to be filled and the requirement to ultimately undertake a new procurement activity to reappoint another contractor.

Council Solutions submits the Proposed Conduct will address this imbalance by providing an attractive contract opportunity to the market that will stimulate significant supplier competition in response to the RFT.

Paragraph 6.1.1.

Council Solutions maintains the tender process cost savings and efficiencies outlined in paragraph 6.1.1. will occur and comments on WRISA's concerns as follows:

• The complexity or otherwise of any legal advice sought does not impact on the cost savings achieved. Additionally, it is typical in a tender for Waste Collection Services for tenderers to submit a list of 'non-compliances' or 'alternatives' to the proposed contract clauses, even where the LGA Model Contract is used. Where separate RFT processes are conducted by the Participating Councils, each Council would be required to obtain and pay for their own legal advice as to the risk of accepting any proposed contract amendments and the possible development of alternative clauses. This is just one area where the advice sought will only need to be sought once for all Participating Councils and the costs will be amortised equally across the

Applicants, reducing costs. The same would apply to other specialist advice, such as probity services.

- Councils Solutions directs the ACCC's attention to paragraph 4.3.2. of the application where it is stated "the potential suppliers will be asked to provide a price for each Participating Council for delivery to each of the centroid locations to ensure that topographical and service density differences between each local government area are accounted for." This in no way indicates differences in service requirements but, rather, acknowledges the cost of providing an identical service differs according to if a vehicle must collect from undulating areas or may collect 5, 10 or 20 bins per 100m traversed based on density.
- In addition, having been the receiver of the technical advice, the Applicants can state all technical advice has been of benefit to the group and no Participating Council has been "disadvantaged by the need of an individual Participat[ing] Council to obtain detailed technical advice." We also draw the ACCC's attention to the submissions made by the Cities of Adelaide, Charles Sturt, Marion and Port Adelaide Enfield in support of the Application outlining why they have chosen to participate in the Proposed Conduct and the benefits they will receive.
- Council Solutions directs the ACCC's attention to paragraph 4.3.2, Table 2 in paragraph 4.3.4. and the sub-paragraphs reduction of replication of resources and work and reduced tender process administration costs in paragraph 6.1.1 of the application.
 - These articulate the roles of all Applicants and the extent of administration required in a procurement process, including but also well beyond, the evaluation process. It is inaccurate to assert that as each Participating Council will be involved in the evaluation process all other cost savings outlined will not eventuate. The evaluation process is one component and even in this process, there will be reduction in the replication of work.
 - O WRISA states "Council Solutions will in many ways act as just a coordinator." This is incorrect. As noted in the application Council Solutions will perform numerous tasks instead of the Participating Councils, such as document preparation, evaluation of insurances, licenses, accreditations and referees, clarifications, negotiations, price review assessments and KPI collation and reporting. These are all tasks throughout the lifecycle of a procurement that each Council would need to undertake if conducting their own tender process. In addition, as procurement specialists, Council Solutions ensures there are formal structures, experienced personnel in procurement and the subject matter, and full consideration of the market is given to the procurement process, which is a role that would otherwise be undertaken by the procurement team at each individual Council. Council Solutions experience in undertaken in 2016/17 utilising Council Solutions collaborative contract arrangements.
 - Council Solutions directs the ACCC's attention to sub-paragraph combined contract management in paragraph 6.1.1. where the tasks to be performed by Council Solutions in the ongoing management of the contracts is clearly stated, including the critical imperative to ensure the contract is well managed to ensure the gains made in the establishment of the contract do not evaporate and the savings continue over its life.
- Council Solutions confirms it is <u>not</u> the intent of the Participating Councils to move from the 'standard' bin sizes as part of the alignment of bin types but, rather, an alignment of bin lid colour consistent with Recycle Right® tagging where Residual Waste bins have red lids rather than a mix of red and blue across the Participating Councils. To restrict alignment to bin size ignores the other areas of alignment, including contamination management.

Finally, Council Solution submits while some benefits within the tender process cost savings and efficiencies may be incremental, the net benefit is an accumulation of the incremental benefits, yielding a significant benefit in total.

Paragraph 6.1.2.

Council Solutions re-affirms the impact consistent messaging can have in helping to reduce contamination and increasing diversion of waste as outlined in paragraph 6.1.2. of the application and also acknowledges the role of state wide organisations in this area.

Council Solutions respectfully rejects WRISA's claims that waste diversion is not relevant to a procurement of this nature and draws the ACCC's attention to the response provided to the comments of WRISA to paragraph 4.5.1. above at page 5.

WRISA acknowledges a consistent message "could be achieved through other joint initiatives ... for example, groups of councils commonly work together to develop and [deliver] shared waste education resources for the community." Council Solutions notes this appears to be inconsistent with the assertion this is the realm for individual Councils or state wide organisations, but also notes the effectiveness of these is compromised when the Councils working together do not have consistent data to feed into and then assess the success of these education resources.

Paragraph 6.2.1.

WRISA states "the economies of scale that apply to the services involved are already realised by large Councils." As there is a difference in scale of 5.62% in terms of market share between the largest and smallest of the Participating Councils, it is hard to reconcile that all the Participating Councils currently realise all economies of scale.

WRISA further acknowledges that collaborative procurement opportunities such as standardised approach, multi-year contracts and assurance of business are desirable for a commercial contract, yet also claims they are made available by Councils through individual tender processes. Council Solutions does not agree that the same level of benefits are available to Councils when conducting individual tender processes compared to the Proposed Conduct. Additionally, it is hard to see standardisation occurring in separate tenders and any assurance of business is watered down to an individual Council's volume.

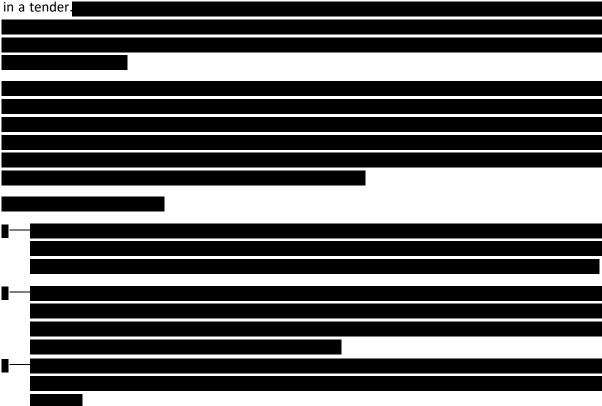
Finally, WRISA's comments and views are <u>not</u> consistent with:

- the advice provided by our expert waste industry advisor (Wright Corporate Strategy), who have
 participated in numerous successful collaborative waste services procurements and advised that
 the Participating Councils will achieve significant benefits that would not occur without the
 Proposed Conduct;
- the views of the Participating Councils who currently procure Waste Collection Services from the
 market and have chosen to participate in the Proposed Conduct because of the benefits they will
 achieve (as outlined in the submissions made by the Cities of Adelaide, Charles Sturt, Marion and
 Port Adelaide Enfield); and
- the public benefits previously acknowledged by the ACCC for similar procurement activities as identified in the numerous references provided in AA1000414. The Applicants see no reason why comparable benefits will not be achieved under the Proposed Conduct.

Paragraph 6.2.2.

Council Solutions notes part of this section has been withheld from the public register to maintain the confidentiality of meetings and discussions held.

With respect, Council Solutions submits the claims of WRISA regarding the position of its members should be considered by the ACCC with caution. Associations can be effective voices for its members on a broad range of market issues, but not on the preparedness of individual members to participate in a tender



Council Solutions does not accept the requirement to service all Participating Councils will prevent any of the potential suppliers who could demonstrate the experience and financial capacity that would convince any Council in the Greater Adelaide Region, regardless of size, to confidently enter into an up to 10-year contract for Waste Collection Services, from participating in the RFT. Rather, it is expected that the collaboration of the Participating Councils will entice more potential suppliers to respond to the RFT than an individual Council may attract on its own.

Council Solutions notes the 6-8 week tender open period outlined in paragraph 4.6 of the application was discussed with the market as part of the consultation and was not considered short at that time. Should it be an issue, however, Council Solutions can work with the project timelines to extend the tender open period. Council Solutions also draws the ACCC's attention to the sub-paragraph *reduction of replication of resources and work* in paragraph 6.1.1 of the application which outlines the reduction in time, cost and resources for potential suppliers in only responding to one tender submission rather than four, regardless of individual pricing.

Council Solutions does not accept that there will likely be **fewer** suppliers participating in the RFT for Waste Collection Services. Council Solutions notes that while two providers currently service the Participating Councils, one services three of the four Participating Councils.

In terms of all Greater Adelaide Region Councils, there are only 3 suppliers who currently hold waste collection contracts:

- one provider services 13 Greater Adelaide Region Councils,
- a second provider services three Greater Adelaide Region Councils; and
- the third provider services one Greater Adelaide Region Council.

This distribution has arisen without the Proposed Conduct and is a result of, as WRISA outlined above, not all potential suppliers tendering for all available opportunities.

Council Solutions contends the Proposed Conduct is, in fact, an effective way to entice other potential suppliers to step into the market or to address this imbalance.

Should the major market provider be successful, not only will it be the result of a public, fair and transparent competitive process, it is not unfeasible that the same appointment could occur if the Participating Councils all undertook individual tender processes, without the public benefits outlined in AA1000414.

WRISA states "at Clause 1 the Applicant foreshadows that it will be making further and similar applications. It is very clear that if the Application is approved, that the opportunities for potential suppliers to tender for similar contracts will be even further reduced". Council Solutions draws the ACCC's attention to paragraph 4.2.1. of AA1000414 which outlines these RFTs will be for **Processing Service Streams** and **Ancillary Service Streams**. They are <u>not</u> for Waste Collection Services and, as those applications will demonstrate, operate in different markets and may be serviced by different or broader suppliers than as provide Waste Collection Services. As such, Council Solutions rejects those RFTs will have any further impact on competition than outlined in AA1000414.

Council Solutions notes WRISA's statement that a reduction in competition "could be further impacted by a *restriction* in commercial and industrial waste providers." This appears inconsistent with WRISA's second to last bullet point in the overarching comments that states "reduced competition in the market would likely *increase* commercial and industrial waste service provision as contractors not awarded a municipal contract may retreat entirely from the area."

Council Solutions submits the market for the kerbside collection of the 3-Bin System of bins is different to the collection of commercial & industrial properties, due to the following factors:

- commercial & industrial properties generally do not use the 3-Bin System but, rather, use a variety of Bulk Bins, 2 bin systems and/or skip bins;
- Where source separation is available, it generally will not be the same mix of recyclable material
 as found in the kerbside recycling bin and will be limited to, for example, paper & cardboard only,
 Container Deposit Legislation Containers (*CDL Containers*);
- Where Bulk Bins or skip bins are used, the vehicles to collect these are not interchangeable with the trucks collecting the 3-Bin System, therefore there is no element of direct substitution between the markets; and
- The collection vehicles for 3-Bin System are branded for the Councils they operate in and Councils
 are charged by the processor or landfill for the weight of the waste offloaded, therefore a
 collector would not be permitted to use that vehicle for anything other than the collection of the

3-Bin System.1

Council Solutions explicitly excludes the Participating Councils' Bulk Bin, Hard Waste and Street Litter Collection requirements from the definition of "commercial & industrial" opportunities. The requirement of the Participating Councils to provide this service automatically makes it a municipal opportunity, <u>not</u> a commercial & industrial opportunity. These collection services are outside the scope of AA1000414 and will be the subject of a separate RFT.

Therefore, it appears highly unlikely that a contractor would elect <u>not</u> to take up commercial & industrial opportunities in a particular geographical area simply because separate vehicles that could not have serviced these opportunities previously were no longer traversing that area. Should the ACCC prefer a market definition that includes all commercial & industrial opportunities available in the Participating Councils' areas as well as the 3-Bin System Waste Collection Services opportunities, Council Solutions would be happy to provide an expanded market definition and, by extension, the Proposed Conduct would represent a smaller market share.

Finally, Council Solutions emphatically rejects the statement "the winning provider would have an almost unassailable lead in capturing market share." As the charts in Attachment 2 of this submission show, the only outcome where one provider would have a greater market share than the current market leader currently enjoys is if that market leader won the Waste Collection Services contract under the Proposed Conduct, in which case their market share would grow by **one Council**. Additionally, as the current market share analysis shows, this 'unassailable lead' could occur even should the Participating Councils conduct individual tender processes and does not affect the 'future with and without' assessment.

Paragraph 6.2.3.

Council Solutions submits there is little doubt larger contracts bring economies of scale and thus potential for better Value for Money in the delivery. Whilst some benefits might be incremental, the net benefit is an accumulation of the incremental benefits, yielding significant benefit in total.

As acknowledged by WRISA, these include:

- A reduction in the number of spare vehicles, which will in part contribute to the reduction of vehicles on the road; and
- Better utilisation of the collection vehicles via optimisation of collection route on the single contract basis and may be shaped by natural boundaries such as major roads, rivers and other such physical constraints rather than artificial lines on a map, even where the Councils are grouped or otherwise.

Additionally, Wright Corporate Strategy as the Applicants expert waste industry advisor has also highlighted the benefits of:

- Better purchasing power on the part of the successful contractor for the vehicle on-board monitoring equipment and MGBs;
- Improved efficiency in vehicle servicing and maintenance on the part of the contractor;
- Improved productivity of overhead and support staff of the contractor; and
- Fewer collection vehicles required to service the properties than would be the case otherwise, noting this includes spare vehicles.

¹ Council Solutions stresses this is no way restricts a Waste Collection Services provider from collecting 3-Bin System from more than one Participating Council in a single run – charges will be attributed to the relevant Participating Council.

Furthermore, as the Participating Councils do not currently utilise RFID tags, the benefit claimed has **not** already been in place for many years as claimed by WRISA.

Trident

Council Solutions directs the ACCC to paragraph 5.2 Relevant industry of AA1000414 and the statement "the procurement of ... the MGBs will be at the discretion of the successful supplier." As such, the terms and conditions of the successful supplier's contract with any MGB manufacturer will be as negotiated between the two parties.

However Council Solutions also responds to the following points stated in Trident's submission:

- At paragraph 10, Trident states, "we have the capacity to undertake roll out programs using sub-contractors to deliver our bins directly to service eligible (rateable) homes and to collect old and/or redundant mobile garbage bins from those homes at the same time. Typically, however, we sell the bins in bulk and Council's waste management companies will arrange for the delivery of the bins to the service eligible (rateable) homes". Either of these options are acceptable to the Participating Councils under the Proposed Conduct and the approach to be utilised will be a matter for agreement between the MGB manufacturer and the Waste Collection Services provider.
- At paragraph 17, Trident states it is "uncommon" for supply contracts to be in excess of five years, let alone seven with an option to extend to 10. The term/length of any subcontracting agreement for supply and maintenance of MGBs will be the subject of agreement between the MGB manufacturer and the Waste Collection Service provider.
- At paragraph 26, Trident outlines an assumption of an initial roll-out of over 540,000 MGBs. There
 will <u>not</u> be a complete roll-out of new bins to the Participating Councils as a result of the Proposed
 Conduct. Whilst some Participating Councils are assessing their current assets and may look to
 do a partial roll-out (for example, replace the MGBs for Residual Waste only), the expected
 number of an initial roll-out would be a fraction of 540,000.
- At paragraphs 28-31 Trident rejects the public benefits claimed in their entirety and restricts the alignment of "specifications, service standards and bin types" to the provision of MGBs that meet Australian Standards. Council Solutions confirms it is not the intent of the Participating Councils to move from the Australian Standard bin sizes as part of the alignment of bin types but, rather, an alignment of bin lid colour consistent with Recycle Right® tagging where Residual Waste bins have red lids rather than a mix of red and blue across the Participating Councils. To restrict alignment of "specifications, service standards and bin types" to the Australian Standards bin manufacturing requirements ignores the other areas of alignment, including contamination management. Council Solutions directs the ACCC's attention to the details of the public benefits claimed in Section 6 of the application on pages 17-28.
- At paragraph 35, Trident states the Proposed Conduct would favour a large multi-national manufacturer due to restrictions on production capacity to service a contract of the proposed size, including a requirement to increase production requirements to service the incorrectly assumed initial roll-out of over 540,000 MGBs. Council Solutions submits that as the initial rollout will be a fraction of the 540,000 assumed, this concern is no longer applicable.

AORA

Council Solutions provides the following with regard to the submission made by the Australian Organics Recycling Association, noting that the scope of the Proposed Conduct under AA1000414 is for Waste Collection Services and the processing of organics is not within the scope of AA1000414.

AORA acknowledges there is a substantial volume of organic matter that is currently going to landfill that needs to be diverted into beneficial processing. AORA also acknowledges "joint procurement of waste and recycling services by local governments provides an opportunity for councils to generate cost savings and efficiencies".

Council Solutions concurs with this statement and this is a fundamental reason why the Participating Councils have directed Council Solutions to undertake the Proposed Conduct (as per the submissions made by the Cities of Adelaide, Charles Sturt, Marion and Port Adelaide Enfield). Furthermore, the Proposed Conduct has been developed as per the recommendations of expert waste industry advisors appointed by Council Solutions, Wright Corporate Strategy, who have participated in numerous successful collaborative waste services procurements and, with an understanding of the South Australian market, advised that the Participating Councils will achieve significant benefits that would not occur without the Proposed Conduct under AA1000414.

Joint procurement of waste and recycling services by local governments is not a new concept or a controversial one. Local governments have done so previously to achieve cost savings, efficiencies and other associated benefits.

It would appear the main concern of AORA can be surmised in the next statement: "procurements of this nature can be poorly structured and have a material impact on competition."

Council Solutions also concurs that poorly structured procurements can generate sub-optimal outcomes.

Council Solutions consists of experts in all aspects of procurement, including qualified and accredited procurement professionals. Council Solutions was established in 2012 as a Regional Authority and provides the legal structure to the G6 Procurement Group formed in 1994 by the Cities of Adelaide, Charles Sturt, Marion, Onkaparinga, Salisbury and Tea Tree Gully. For more than 20 years we have been providing a collaborative and strategic approach to the procurement of goods and services to attain the best value for the community and optimise the financial sustainability of Councils by reducing administrative costs, the number of tender processes and replicated contract management activities. In 2016-17 in excess of \$63.5 million of Council expenditure was undertaken under Council Solutions collaborative procurement arrangements.

Specifically, for the Proposed Conduct we are developing the Request for Tender for Waste Collection Services in conjunction with our expert Waste Industry Advisors and the Participating Councils nominated waste service specialists.

The structure of the Request for Tender is based on the LGA Model Contract and is being developed and adapted by Council Solutions in conjunction with our expert waste industry advisors (Wright Corporate Strategy) and technical advisor (Rawtec) who have participated in numerous successful strategic waste service procurements with the local government sector across Australia. In addition, the RFT is being reviewed by the nominated waste services specialist from each Participating Council, who interact with the waste management services market on a daily basis.

The Waste Management Services Project, including the RFT outlined in the Proposed Conduct, is well structured, follows, as far as relevant, a 'traditional' procurement process with refinement to ensure best practice and is well advanced. As such, Council Solutions submits the joint procurement is not

poorly structured and will not undermine the many strategies being undertaken by the industry to increase organic waste diversion and to reduce contamination levels. Indeed, by promoting the importance of focusing on contamination and waste diversion at all stages of the journey of waste management, it will instead support this.

In addition, Council Solutions has undertaken consultation with existing and potential suppliers for Waste Collection Services regarding the Proposed Conduct and the RFT structure (refer Annexure 2 of AA1000414). All suppliers that Council Solutions met with indicated that the opportunity presented by the proposed RFT process was attractive. No concerns were expressed by the existing or potential suppliers to Council Solutions regarding the structure or complexity of the Proposed Conduct outlined in AA1000414.

Waste Collection Services is the "front line" when it comes to reducing contamination and improving resource recovery and diversion of organic matter from landfill.

- Collection vehicle drivers can pin point individual households where contamination of Organics is
 occurring through direct observation of bins as presented and through the on-board video
 cameras as bins are emptied.
- Identifying perpetrators allows for targeted remedial actions by both the Council and the collection driver, and ultimately may lead to withdrawal of service for serial offenders.
- Non-collection of obviously contaminated bins reduces the contamination of other materials
 collected in that truck, improves the recovery of resources at the next stage (being processing
 operations) and improves the financial return the process operator might negotiate due to
 cleaner and less contaminated products.
- Small amounts of contaminants in the organics stream, such as Organics placed into MGBs in noncompostable plastic bags, can result in significant and wide-spread contamination of products through the dispersal of fine plastic remnants into end products, leading to lower quality products, reduced markets for those products and lower prices for those products.

Without this front line intervention by collection vehicle drivers there is serious concern that the growing confidence of end users of the organic products could be destroyed and the strategies undertaken by the industry to increase organic waste diversion and reduce contamination levels could be undermined.

Council Solutions further notes the submission of the SA EPA which notes the achievement of sustainable, best practice and accountable waste management must be supported by "effective recording, monitoring and reporting systems for waste transport, resource recovery and waste disposal." This clearly envisages a 'whole of journey' approach to waste management.

The Applicants do not see that any one party is responsible for the achievement of the State government strategies and targets, nor that any one party is responsible for managing contamination. Rather, a collaborative, holistic approach is the only way there will be lasting improvement in this area.

Council Solutions further notes that during the consultation undertaken with the industry, one processor expressed a very firm opinion that leaving the management of contamination to the processor was unrealistic and unfair on processors. The same processor strongly advocated the inclusion of the Waste Collection Services contractor in the management of this issue.

Peats

Council Solutions notes Peats' endorsement of the submission of WRISA. As such, Council Solutions refers the ACCC to its response to the WRISA submission, above, whilst also noting that Peats is an organics processor, and organics processing services are not within the scope of the Proposed Conduct under AA1000414.

Hatch Waste

Council Solutions notes Hatch Waste currently provides Hard Waste Collection to **two** Participating Councils as a sub-contractor to the 3-Bin System Waste Collection Services contractors. The Proposed Conduct under AA1000414 does not include Hard Waste Collection as this will be the subject of a separate RFT (and application of authorisation). As such, Hatch Waste will have a *greater* opportunity to compete for the provision of Hard Waste Collection by its <u>exclusion</u> from the Waste Collection Services RFT requirement as it will no longer be bound to be a subcontractor in order to provide Hard Waste Collection to the Participating Councils.

Council Solutions rejects Hatch Waste's statement "with the security of a 23-year tenure." At no time have the Participating Councils contemplated such a contract term, and paragraph 4.6. of the application clearly outlines a **maximum 10-year** contract operating term.

Hatch Waste states "It appears to me that, if approved, the proposed arrangement is likely to create a monopoly situation. Currently, I believe that all of the Adelaide council work is shared among 3 large multinational companies. ... what of the fate of the 2 unlucky companies who didn't win the contract?"

Attachment 2 of this submission outlines the potential market share outcomes as a result of the Proposed Conduct, which Council Solutions submits could also occur without the Proposed Conduct but also without the associated public benefits.

As the charts in Attachment 2 show, the only outcome where one provider would have a greater market share than the current market leader currently enjoys is if that market leader won the Waste Collection Services contract under the Proposed Contract, in which case their market share would grow by **one Council**. Additionally, as the current market share analysis shows, this outcome could occur even should the Participating Councils conduct individual tender processes and does not affect the 'future with and without' assessment.

Finally, Hatch Waste state "for Council Solutions to expect some sort of pricing uniformity between the various council regions is unrealistic...". Council Solutions directs the ACCC's attention to paragraph 4.3.2. of the application where it is clearly stated "the potential suppliers will be asked to provide a price for each Participating Council for delivery to each of the centroid locations to ensure that **topographical and service density differences** between each local government area are accounted for."

SBC

Response to specific comments

Council Solutions notes the SBC's specific comments on paragraphs of the application and responds as below, noting that the scope of the Proposed Conduct under AA1000414 is for Waste Collection Services and there are no small businesses who provide 3-Bin System Waste Collection Services to either the Participating Councils or any of the Greater Adelaide Region Councils. Additionally, any of the potential suppliers who could demonstrate the experience and financial capacity that would

convince any Council in the Greater Adelaide Region, regardless of size, to confidently enter into a contract for Waste Collection Services are not small businesses

Three separate applications

With regard to the lodgment of three discrete applications seeking authorisation for the conduct proposed under each of the three discrete RFT processes that each have a different service scope, Council Solutions confirms as per its discussions with the ACCC, that the Applicants are complying with and acting in a manner consistent with ACCC processes.

Council Solutions respectfully rejects the statement "Council Solutions is trying to achieve the **same end point** as its original application by dividing the information into three separate applications."

Council Solutions confirms both the procurement approach and the "end points" are, in fact, different.

Under the current application AA1000414 the Proposed Conduct is straightforward. That is, to undertake a public **Request for Tender** on behalf of **four** Greater Adelaide Region Councils to award a contract to a sole supplier **for a single waste service stream**, namely Waste Collection Services which is the collection of the 3-Bin System only, and undertake contract management of the resultant contract.

This differs from the previous application A91520 in terms of both the procurement approach and "end point" are summarised as follows:

- A91520 proposed a single Request for Proposal be released to the market for seven waste service steams with the option for suppliers to submit proposals offering the provision of any one or more waste service steams to any one or more of the five Greater Adelaide Region Councils participating.
- That is, in addition to the collection of the 3-Bin System, the single RFP process under A91520 also included six additional service streams:
 - Hard waste collection;
 - Bulk bin/multi-unit bin collection;
 - Street and footpath litter bin collection;
 - Processing of recyclables;
 - Processing of organics; and
 - Processing and/or disposal of residual waste.
- The "end point" for this conduct included the option for **one supplier to be awarded one contract** for all five councils participating across all seven service streams.

Under the Proposed Conduct in AA1000414, Council Solutions confirms that the Participating Councils will <u>not</u> appoint a single supplier for provision all service streams across the three RFTs.

The proposed conduct of the two additional applications is a matter for discussion once the SBC has had an opportunity to consider those applications, however as they have been raised by the SBC at this time, Council Solutions provides the following:

- Waste Management Service Packages: The Applicants are not packaging all waste management services into a single RFP. Under the Proposed Conduct the approach to market separates the service streams into three discrete RFTs to:
 - o reduce the complexity of the procurement process by simplifying the bidding process for suppliers and the tender evaluation process for the Participating Councils;
 - o group the waste services to align with the supply market capabilities and specialisations; and

 allow the small to medium enterprises, who typically deliver the Ancillary Service Streams, the opportunity to more easily participate in the procurement process by releasing a discrete RFT for these services.

This will simplify the approach and maximise the opportunities for small businesses to participate in the procurement process.

RFT 2 for the Processing Service Streams consists of:

- Receipt and processing of recyclables;
- Receipt and processing of organics; and
- Receipt and processing or disposal of residual waste.

Tenderers may bid for one, two or all Service Streams. If bidding for more than one Service Stream each offer of a Service Stream must be separable.

RFT 3 for the Ancillary Service Streams consists of:

- Multi-unit collection of Bulk Bins and processing or disposal of the waste (including the supply and maintenance of the bins);
- Kerbside collection and processing or disposal of Hard Waste; and
- Collection of park and footpath litter and/or recycling bins and disposal or processing of the waste.

Tenderers may bid for one, two or all Service Streams. If bidding for more than one Service Package each offer of a Service Stream must be separable.

Contract Term

Council Solutions notes a maximum 10-year operating term for Waste Collection Services is the generally accepted term for Waste Collection Services as it broadly aligns with the optimum economic life of a collection vehicle. This was confirmed during the consultation undertaken by Council Solutions with waste collection service providers. A shorter term would not allow economic depreciation of collection vehicles by suppliers. Indeed one market provider of Ancillary Collection Services made the comment during the small business engagement session that there is a substantial pricing differential that can be made between depreciating over seven-years versus 10. As such, Council Solutions submits a maximum 10-year operating term is appropriate for Waste Collection Services.

The SBC notes "the landscape of the waste management market can change dramatically and unexpectedly" and notes the Chinese's Governments implementation of the China National Sword as an example of this. Council Solutions notes this has had a significant impact on the recycling industry, particularly interstate, and has been taken into consideration in the proposed RFT structure for the processing of Recyclables accordingly.

However, Council Solutions notes that any future changes in the market will occur irrespective of whether the Councils collaborate or go it alone. Council Solutions also notes that the LGASA state in their submission dated 20 April 2018 "the LGASA's view is that, given the significant transition currently underway in the recycling and waste management industry generally, collaborative procurement processes may in fact offer a number of public benefits that may help to provide stability during this time of change".

Ultimately, the future cannot be foreseen however appropriate contract terms and conditions that provide flexibility to manage change on mutually beneficial terms is the most effective way to manage this risk and will be incorporated into the contract terms and condition to be used.

The waste collection industry is relatively stable and there has been no indication from the market of

any expected major changes over the next 10 to 20 years other than progressive innovation and improvement.

Finally, Council Solutions notes in the future without the Proposed Conduct, Councils will continue to contract for up to 10-years (or potentially longer) as is their current practice.

Lack of transparency

Council Solutions reiterates the Board papers are confidential and, as such, have been withheld from the public register, however the ACCC has access to these.

Council Solutions is disappointed the SBC feels there has been "a failure to provide full and frank disclosure to all interested parties" given Council Solutions has:

- discussed the Proposed Conduct in numerous meetings with the Commissioner;
- conducted a small business engagement session (attended by representatives of the SBC) to explain the Proposed Conduct and answer any questions or concerns from suppliers (and subsequently sent all attendees a copy of the presentation outlining the Proposed Conduct);
- provided the SBC with feedback following the conduct of the small business engagement session, specifically that some small businesses in attendance indicated that preparing tenders was not their strength. Council Solutions suggested the SBC might organise a tender writing skills workshop to assist these parties;
- provided, the SBC with a list of consultations undertaken by Council Solutions with a request to
 identify any organisation the SBC represented that may have been overlooked to ensure full
 consultation. The SBC did not provide Council Solutions with any additional parties for
 consultation; and
- provided a summary presentation of the Proposed Conduct to the SBC requesting that it be distributed to any applicable businesses for information and provision of any questions or feedback to Council Solutions.

The Participating Councils and Council Solutions are entitled to retain commercial-in-confidence information.

Failure to provide public benefit

Council Solutions directs the ACCC's attention to the details of the public benefits claimed in Section 6 of the application on pages 17-28. Council Solutions has engaged independent expert advisors who have assisted in numerous successful and beneficial procurements for Waste Collection Services and their experience has guided both the overall strategy and the identification of the public benefits that both will occur and are likely to occur.

The SBC states the Proposed Conduct "will place a significant number of small businesses in the waste collection industry at risk." Without identification of these small businesses, Council Solutions does not accept this position. All potential suppliers were identified at Annexure 2 of the application; Council Solutions submits none of those who provided 3-Bin System collection are small businesses. Council Solutions further notes:

- The Waste Collection Services market in Adelaide is comprised of a relatively small number of
 participants with the demonstrated experience and financial capacity that would convince any
 Council, regardless of size, to confidently enter into a ten-year contract for 3-Bin System
 collection;
- Each of these providers is a known entity with substantial resource backing in respect of human, financial and physical assets, and are not small businesses; and

• The small, medium and large collection suppliers who operate collection services other than 3-Bin System collection generally operate either in the Ancillary Service Streams (such as Bulk Bin Collection, Hard Waste Collection and Street Litter Collection), the direct to resident market (such as provision of skip bins to home renovators) or the C&I or C&D source sectors. The Applicants have excluded the Ancillary Service Streams from the Waste Collection Services RFT.

The conduct proposed in Application AA1000420 is to conduct a discrete RFT process for **Ancillary Collection Services**. This will provide the opportunity for small business who typically deliver Ancillary Collection Services to more easily participate in the procurement process, including the ability to bid only for the ancillary service stream that is their core business, i.e.

- Multi-unit collection of Bulk Bins and processing or disposal of the waste (including the supply and maintenance of the bins);
- Kerbside collection and processing or disposal of Hard Waste; and
- Collection of park and footpath litter and/or recycling bins and disposal or processing of the waste.

With respect, Council Solutions submits the SBC has not provided evidence of any public detriments as a result of Waste Collections Services RFT as outlined in the Proposed Conduct, nor evidence to why any public benefits will not eventuate.

The Public Benefits claimed by the Applicants as per AA1000414, are consistent with:

- the advice provided by our expert waste industry advisor (Wright Corporate Strategy), who have
 participated in numerous successful collaborative waste services procurements and advised that
 the Participating Councils will achieve significant benefits that would not occur without the
 Proposed Conduct;
- the views of the Participating Councils who currently procure Waste Collection Services from the
 market and have chosen to participate in the Proposed Conduct because of the benefits they will
 achieve (as outlined in the submissions made by the Cities of Adelaide, Charles Sturt, Marion and
 Port Adelaide Enfield); and
- the public benefits previously acknowledged by the ACCC for similar procurement activities as identified in the numerous references provided in AA1000414. The Applicants see no reason why comparable benefits will not be achieved under the Proposed Conduct.

As such, Council Solutions maintains the extensive public benefits of the Proposed Conduct will significantly outweigh any public detriment (to the extent there is any detriment) and there will be no substantial lessening of competition arising in connection with the Proposed Conduct.

Scout

Council Solutions notes the submission by Scout does not address application AA1000414, nor the Proposed Conduct outlined in AA1000414

Council Solutions further notes the handling of CDL Containers is outside the scope of the Proposed Conduct in AA1000414. Should Scout have concerns with the conduct proposed in the application to conduct an RFT for the Processing Service Streams, which is the subject of a separate application, Council Solutions will be happy to address these.

Having said this, Council Solutions reiterates as per the responses provided previously in this submission and the information provided in AA1000414:

• the approach to market will be publicly advertised Request for Tenders with clearly defined service scopes and specifications;

Council Solutions and the Cities of Adelaide, Charles Sturt, Marion and Port Adelaide Enfield

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- rejects that the Proposed Conduct will substantially lessen competition; and
- maintains that there will be net public benefits as a result of the Proposed Conduct.

Conclusion

As such, Council Solutions maintains the extensive public benefits of the Proposed Conduct will significantly outweigh any public detriment (to the extent there is any detriment) and there will be no substantial lessening of competition arising in connection with the Proposed Conduct.

Should the ACCC require any further information in response to these submissions Council Solutions will be happy to provide any additional information.

ATTACHMENT 1

Schedule 11 Payment for Transport to Alternative Facility from LGA Model Contract

SCHEDULE 11 PAYMENT FOR TRANSPORT TO ALTERNATIVE FACILITY

Tenderers are required to provide the Alternative Facility Payment Rate, for use in the calculation of payment, for transport to Alternative Facilities as detailed in the Specification.

DESCRIPTION OF SERVICES	VEHICLE DESCRIPTION	ALTERNATIVE FACILITY PAYMENT RATE \$ PER TONNE/KM

ATTACHMENT 2

Current and potential future market share of the 16 Greater Adelaide Region Councils who use the private sector to deliver Waste Collection Services by provider using Rateable Properties.

