

Waste & Recycling Association of South Australia Inc.

11 September 2018

Submission by WRASA in relation to the Pre Decision Conference

Dear Ms Cramond,

Re: Council Solutions – AA1000414

Thank you for organising the Pre Decision Conference (PDC).

Several points were raised at the PDC that require clarification:

1. Market Share

Council Solutions' representative [REDACTED] stated (and it is [REDACTED] published on the ACCC website) that Solo Resource Recovery held a 68% market share. As per questions to Mr Wright at the PDC [REDACTED] [REDACTED] have erroneously not been included in Council Solutions submission.

[REDACTED]

[REDACTED]

2. Bin Supply Market Competition

We refer to Bruce Wright's PDC comments on competition in the bin supply market, the subject of the ACCC's Draft Determination, paragraphs 172-180. Mr Wright's argument is that because the bin supply will be subcontracted, the ACCC does not need to consider the anti-competitive effects of the proposed conduct. Whether the proposed bin supply is undertaken direct by Council Solutions or via a collection contractor, the net effect is the same in that bin supply is being concentrated by 75% due to four (4) individual Council's tendering opportunities being condensed into one (1) tendering opportunity.

We also note similar concerns raised by bin manufacturing companies about the proposed conduct in their submissions to the ACCC.

Our advice under the Competition and Consumer Act is that the ACCC must be satisfied that in all circumstances, the lessening of competition is not outweighed by net public detriment. We submit that Council Solutions have not provided sufficient evidence to prove a net public benefit, nor addressed the lessening of competition by concentrating 32.7% of

the market into a single contract tendered once every 10+ years in relation to both the collection and bin supply components.

We note that Council Solutions have not permitted the ACCC to publish any of their bin supply, initial bin rollout or bin maintenance requirements, as per their submission of May 18, 2018 (Attachment 2). This represents a significant component of the Application that will go untested as the bins represent one of the largest capital components of the proposed conduct. Indications from Mr Wright at the PDC are that Council Solutions are claiming they will now not conduct an initial new bin rollout however many of the bins differ between Councils and Mr Rose at the PDC advised the majority of bins are 20 years old.

[REDACTED]
[REDACTED]
[REDACTED] It is our understanding the onus is on Council Solutions to provide evidence to support their claims which they have not done in this case.

3. Compaction Ratio and Other Facility Requirements

We refer to Bruce Wright's PDC comments in response to WRASA's concern that the processing and disposal facilities will not have the opportunity to convey their facility or contractual requirements to Council Solutions and kerbside collection tenderers for the submission of prices for the collection tender.

[REDACTED]
[REDACTED]

Mr Wright suggested they would just specify the compaction ratio, for example. WRASA is curious as to how they will correctly guess the correct compaction ratio, and the other numerous facility / contract requirements, in particular during a time of great change in the recycling industry. We note that an incorrect compaction ratio can have serious financial implications. If, for example, Council Solutions specify a 220kg/m³ compaction ratio, a recycling facility requiring 180kg/m³ for its machinery will add a premium for the over-compacted material and collection prices submitted will be invalid and require correction with the correct compaction ratio at hand. If the facility can take 250kg/m³, collection tenderers will have overestimated by 14% the number of loads to be transported to the facility which can add significantly to the cost of the service.

Several speakers at the PDC expressed this concern which highlights a lack of experience and judgement by Council Solutions in its approach to the proposed order of tenders. If Council Solutions request tenderers to submit pricing based on various contamination rates, compaction and other criteria usually stated by processing facilities, this will increase the pricing combinations and complexity of the proposed tender.

The ACCC should also be aware of the fundamental change occurring in the Australian and International Recycling Industry as a result of the China National Sword and Blue Sky Policies. Recycling markets have collapsed, and there is a gross oversupply of recyclables as a result of China's ban on kerbside recycling imports and other products into China. The Industry is in an unprecedented crisis requiring a seismic shift in the way recyclables have to be collected and processed. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Councils are also having to consider changes to kerbside collection systems including the possible separate collection of paper. Council Solutions do not appear to have taken these current factors into account and the geographic spread, proposed long recycling processing contract term and lead times and contract management complexities of Council Solutions will hinder efforts for individual Councils to restructure the local recycling industry.

4. Discounts to Ratepayers

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The ability for the individual participating Councils to make flexible and customised arrangements with regards to their waste services will be more difficult under a single joint mega contract administered by Council Solutions.

5. Trucks Collecting in Multiple Councils with no Regards for Boundaries

We note that Council Solutions has suggested that the trucks will be able to move between Councils with no regard for boundaries. WRASA and others have raised this as a major issue in submissions as Council Solutions have only submitted that they will use a pro rata system for working out how many tonnes of disposal will be attributable to each Council

[REDACTED]

We submit the following points in this regard:

- a. Councils are obligated to only charge their Ratepayers the actual cost of services provided to them, not an approximate cost. The proposal by Council Solutions for widespread pro rata allocation of waste costs has not been used in any other contract in Australia
- b. The proposal will rely on drivers and bin lift counters/RFID tags to accurately count the bins they collect from all Councils that contribute to the load. That, theoretically, will go towards a pro rata split of the load. It is not sufficient to just record the bins from one Council. Bin lift counters/ RFID tags do not provide accurate recording of lifts sufficient for this proposal.
- c. The drivers will need to either (a) record bin lifts manually, which in our members' experience is likely to generate many ongoing errors daily that need reconciling or are not detected, or (b) electronically, which will involve the drivers remembering to correctly track bin lifts for each area, including drivers who are not familiar with any given area.
- d. Alternatively the electronic system may be attempted in the office where administration staff analyse geofences and truck replay maps to try to reconcile how many bins each truck collected in each area. In any case, the Council Solutions proposal will (1) significantly increase contract management costs, (2) be almost certain to produce inaccurate disposal invoices and (3) require additional computer hardware and software costs to ensure the GPS and RFID systems are always 100% accurate however there are no software systems available that provide a 100% guarantee of even a high degree of accuracy.

- e. Additional administration and management costs will be incurred due to operations and administration staff attempting to identify and reconcile disposal invoices correctly. However no amount of administrative work can correct a problem if the data is not capable of being accurately recorded in the first instance.
- f. The proposed system appears to be a poor governance solution demonstrating a lack of experience on the part of Council Solutions to the detriment of individual Councils and Ratepayers.
- g. Professional waste service providers will seek to keep the same truck performing the same run each week or fortnight and avoid any need to "cross boundaries" as operational data shows that is when the likelihood of an accident involving a truck, spilt waste, missed services and complaints increase dramatically.
- h. The collection schedule in place in any given Council has been developed over years or decades and it is sensible for operational management and customer service. Councils go out of their way to ensure that not only the collection schedule for each day does not change but also that the collection time does not change as residents get used to the approximate time the truck arrives. This occurs to the extent that the standard waste contract for South Australia has clauses specifying that any incoming contractor must not change the collection schedule without the Council's prior approval.
- i. Standard South Australian waste contracts already have clauses that specify how missed services should be performed and this has become consistent across most of Australia. Missed services reported prior to midday are collected that day. Missed services reported after midday are collected the next morning. This allows the driver in each respective area to collect their own missed bins. This fosters "ownership" of the run by the driver and removes the risk of accidents occurring from the presence of drivers unfamiliar with an area.

Yours sincerely

John Fitzpatrick
Public Officer