

From: [Crystal Hoolihan](#)
To: [Pappa Michael](#)
Cc: [Channing Darrell](#); [Matt Bell](#)
Subject: RE: AA1000550 Toowoomba Regional Council and Western Downs Regional Council application for authorisation [SEC=OFFICIAL] [ACCC-ACCANDAER.FID2841422]
Date: Tuesday, 20 July 2021 11:24:56 AM
Attachments: [image001.png](#)

Dear Michael
Please see our responses to your questions below in [blue](#).
Please let us know if you have any questions.
Kind regards

Crystal Hoolihan

Paralegal

T: [REDACTED]

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From: Michael.Pappa@acc.gov.au
Sent: Friday, 16 July 2021 3:06 PM
To: [REDACTED]
Cc: darrell.channing@acc.gov.au; [REDACTED]
Subject: AA1000550 Toowoomba Regional Council and Western Downs Regional Council application for authorisation [SEC=OFFICIAL] [ACCC-ACCANDAER.FID2841422]

OFFICIAL

Dear Crystal,
To assist with us in reaching our draft determination and interim authorisation decision, could you please provide a response to the following:

Scope of the Proposed Conduct

(1) We understand that the main part of the Proposed Conduct is a joint tender between TRC and WDRC. However, it is not clear that there is likely to be any joint conduct between the councils following the tender process (for example – joint contracts, joint administration of contracts or sharing of information from the tender process going forward) – please confirm whether this is correct.

[We refer you to sections 2.3 and 2.4 of our application. The councils will jointly prepare the tender documents \(request for tender, contract and any other necessary documentation\) and advertise the tender. As Toowoomba Regional Council will be managing the request for tender, the councils will during the tender stage, communicate with one another with respect to the tenders received however, the councils will separately assess each response and enter into separate negotiations and contracts with the tenderers.](#)

[Once the tender has been awarded to the successful tenderers, the councils will not engage in any further joint conduct.](#)

Services included in the Proposed Conduct

(2) It is clear from the application and supporting materials that the joint tender will invite tenderers to provide a response for waste and recyclables collection services, and you have provided the names of the existing providers of those services for TRC and WDRC.

However, the application also suggests that the joint tender will also invite tenderers to provide a response for 'bulk haulage and processing services'. While these services are described in section 3.2 on p.7 of the application, it is not clear whether TRC and WDRC currently engage service providers for these services, or intend to jointly procure these services going forward.

(a) Please clarify how 'bulk haulage and processing services' fit within the Proposed Conduct.

Both councils currently offer bulk haulage and processing services. We refer you to section 2.2, where it is noted that the joint procurement process will involve the preparation and advertisement of a request for tender (Proposed Conduct) to service providers of waste and recyclables collections services and bulk haulage and processing services. The councils will be engaging in the Proposed Conduct for bulk haulage and processing services.

(b) Please provide the names of any service providers who provide bulk haulage and processing services for TRC and WDRC.

J.J. Richards & Sons Pty Ltd is the current service provider for both councils.

(3) Do the Applicants expect different providers to submit tenders for each service (waste collection, recyclables collection, bulk haulage, processing), or is it expected that a provider will submit a tender to provide all of the above services?

The request for tender documentation will provide tenderers with the option to submit a response for all of the services in section 2.2 and bulk haulage and processing services or alternatively tenderers may submit a tender for some of the services.

Period of authorisation sought

(4) If the Proposed Conduct is limited to the joint tender process, it is not clear why authorisation is required until 2033 (noting that the application states TRC and WDRC will separately negotiate and contract with successful tenderers). Please clarify the rationale for the period of authorisation sought.

The Proposed Conduct is for the joint procurement process however, the contracts that each council will award will expire in 2033. It was our understanding that the period of authorisation sought should be for the duration of the contracts awarded from the Proposed Conduct. Please let us know if this is not the correct interpretation.

If you could provide your response by **COB Tuesday 20 July**, it would be much appreciated.

Let us know if you would like to organise a call to discuss the above.

Kind regards

Michael

Michael Pappa

Analyst | Competition Exemptions | Merger Exemptions and Digital

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The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.