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01 April 2021

Attention: David Jones  
General Manager, Adjudication

Australian Competition and Consumer Commission  
GPO Box 3131  
CANBERRA ACT 2601

**By Email: [exemptions@acc.gov.au](mailto:exemptions@acc.gov.au)**

Dear David,

### **APPLICATION FOR AUTHORISATION FOR PROPOSED CONDUCT: TOOWOOMBA REGIONAL COUNCIL AND WESTERN DOWNS REGIONAL COUNCIL**

Toowoomba Regional Council (**TRC**) and Western Downs Regional Council (**WDRC**) have identified an opportunity for a joint procurement for waste and recyclable collections services and bulk haulage and processing services for their respective local government areas.

TRC is submitting the application on behalf of itself and WDRC.

Please find **enclosed**:

1. Application for Authorisation (confidential);
2. Application for Authorisation (public);
3. Signed declaration from TRC (included in the Application for Authorisation); and
4. Confirmation of the EFT transfer of \$2,500 made on 2 April 2021 for the payment of the application fee, based on the partial fee waiver.

#### **Interim authorisation**

TRC seeks interim authorisation to allow it to commence the preparation of the Request for Tender documentation and to release the open tender in July 2021. A delay in the release of the tender will result in the target completion dates being pushed out.

TRC and WDRC current contracts have the following expiry dates:

	<b>Waste and Recyclables Collection Service</b>	<b>Bulk Haulage and Processing Services</b>
<b>Toowoomba Regional Council</b>	30 June 2023	30 June 2023
<b>Western Downs Regional Council</b>	30 September 2022	30 September 2022

The Councils will not select a tenderer, or enter into any negotiations or contracts, until TRC has been provided with the final determination in relation to the Application for Authorisation from the Australian Consumer and Competition Commission (**ACCC**). TRC's request for interim authorisation is to allow TRC to release the tender to the public, as per the planned timeline contained within the Application.

### **Confidentiality**

We have enclosed a confidential version of the Application for Authorisation. We request that this version is not released to the public and only the public version of the Application for Authorisation is published on the public register. We have redacted from the public version:

1. Annexure C – Waste and Recyclables Collection Services and Bulk Haulage and Processing Services Contract Pre-tender Memorandum of Understanding

If you have any questions in relation to the Application for Authorisation, please contact Matt Bell on 07 4616 9860.

Yours faithfully

**MURDOCH LAWYERS**



Matt Bell  
Director  
Accredited Specialist – Business Law

**APPLICATION FOR AUTHORISATION**

**LODGED BY**

**TOOWOOMBA REGIONAL COUNCIL**

**AND**

**WESTERN DOWNS REGIONAL COUNCIL**

**IN RESPECT OF JOINT ADVERTISEMENT AND PREPARATION OF TENDER  
DOCUMENTS FOR WASTE AND RECYCLABLES COLLECTION SERVICES AND BULK  
HAULAGE AND PROCESSING SERVICES**

## 1. PARTIES TO THE PROPOSED CONDUCT

### 1.1 Applicants for authorisation

Name: **Toowoomba Regional Council (TRC) ABN 99 788 305 360**

Address (registered office): 4 Little Street, Toowoomba, Queensland, 4350

Telephone number: 131 872

Description of business activities: Local Government

Email address for service: info@tr.qld.gov.au

Attention: David O'Shea, Principal Waste Collections

### 1.2 Other parties to the application for authorisation

Name: **Western Downs Regional Council (WDRC) ABN 91 232 587 651**

Address (registered office): 30 Marble Street, Dalby Queensland 4405

Telephone number: 1300 268 624

Description of business activities: Local Government

Email address for service: info@wdrc.qld.gov.au

Attention: Ken French, Waste Coordinator

The Applicants are both local government authorities under the provisions of the *Local Government Act 2009 (LG Act)*. Each Council is situated within the Darling Downs Region and share one geographic boundary. Each Council's specific locations is depicted in paragraph 3.1 and the size of TRC and WDRC is outlined in Table 1 below.

Council	Population 2019	Rateable Properties	Domestic Services	Land Area
TRC	169,008	73,000	68,219	12,957 km <sup>2</sup>
WDRC	34,585	20,700	11,275	37,937 km <sup>2</sup>

Table 1 – Statistical data for Participating Councils

## 2. PROPOSED CONDUCT

The Proposed Conduct is described in paragraph 2 of this Application.

### 2.1 Description

The parties to this Application for Authorisation (**Councils**) are seeking authorisation from the Australian Competition and Consumer Commission (**ACCC**) to engage in a joint procurement process. The joint procurement will involve the preparation and advertisement of a request for tender to service providers of waste and recyclables collection services and bulk haulage and processing services (**Services**). The Services will comprise a number of separable portions.

### 2.2 Services

The Councils collect and receive the following types of waste in respect of the Services:

Type of waste	TRC	WDRC
Residual waste – general household waste	Yes	Yes
Recyclable waste – nominated plastic, glass, paper, cardboard and other products that can be recovered in a typical Materials Recovery Facility (MRF)	Yes	Yes
Green waste – small prunings, cuttings, branches, lawn clippings and other materials as approved by Council	Yes	Optional
Organics - means any combination of food waste and green waste	Optional	No
Public place bin waste – litter placed in street and park bins	Yes	Yes
Hard (kerbside clean up) waste - means for the purpose of a periodic or on call kerbside collection and disposal of bulky items up to but not exceeding two (2) cubic metres in aggregate	Optional	No
Dead animals – on-call service to remove small deceased animals from council controlled roads and public parks	Yes	No

### 2.3 The procurement process

The Councils have reached an agreement in relation to the procurement and evaluation process for the Proposed Conduct in a Memorandum of Understanding (See Annexure C).

The Councils will jointly prepare and TRC will advertise and manage the Request for Tender (**RFT**) for the Services via Vendor Panel.

The RFT will be advertised as an open tender and will invite tenderers to submit separate responses to the Councils.

The RFT will invite tenderers to provide a response for the Services as follows:

- (1) waste and recyclables collection services and bulk haulage and processing services for TRC; and/or
- (2) waste and recyclables collection services and bulk haulage and processing services for WDRC.

Each Council is responsible for the development of its own tender evaluation panel, evaluation weighting and evaluation criteria. Responses to the RFT will be evaluated against the pre-determined evaluation weighting and criteria, contained within the RFT and on sound contracting principles.

Each Council will assess each response separately through their tender evaluation panel.

#### **2.4 The Contract**

Each Council will review all submissions that relate to Services in their local government area separately and enter into separate negotiations and contract(s) with the successful tenderer(s) for their local government area.

#### **2.5 Relevant provisions of the Competition and Consumer Act 2010 (Cth)**

The relevant provisions of the *Competition and Consumer Act 2010 (Cth)* (Act) that may apply to the Proposed Conduct are:

- (1) Division 1 of part IV in relation to cartel conduct;
- (2) Sections 45(1)(a) and (b) in relation to anticompetitive agreements; and
- (3) Sections 45(1)(c) in relation to concerted practices.

#### **2.6 Rationale**

The Councils are both involved in the management of waste in their respective local government areas. The Councils current contracts with their suppliers are due to expire on:

- (1) 30 June 2023 for TRC; and
- (2) 30 September 2022 for WDRC, this date will be subject to an extension, also to 30 June 2023.

Due to the similarity of the Services in their respective local government areas, their contracts for Services having similar expiry dates, the anticipated cost-saving to rate payers, the Councils believe that it is in the best interest of their communities to engage in a joint procurement initiative for the Services.

#### **2.7 Term**

The term of authorisation sought is from the date approved by the ACCC until 30 June 2033 when the contracts for the Services, including the options to extend, are expected to expire. The Councils request this period to enable the proposed conduct to occur over a period of time and the Services to be provided.

The Councils intend on finalising the procurement process and entering into contract(s) with the successful respondent(s) by the end of June 2022. The term of the contract(s) to be awarded will be an eight (8) year term with two (2) options to extend, both options being by one (1) year. The Council contract(s) will commence on the 1 July 2023, with a maximum operating term of ten (10) years. Therefore, TRC is seeking that authorisation be granted to 30 June 2033.

During the term of authorisation sought, the Councils will:

- (1) publish the RFT for the Services in February 2022;
- (2) keep the tender open for a period of eight weeks;
- (3) conduct the tender evaluation, with contracts expected to be awarded by June 2022;
- (4) provide a six (6) to nine (9) month mobilisation period to the successful tenderer(s) to allow for the purchase and commission of new trucks, recruitment and training of staff and the preparation of pre submittal requirements;
- (5) enter into a contract with the successful tenderer(s); and
- (6) be provided with the Services by 1 July 2023.

## 2.8 Relevant documents for assessing or making a decision

The relevant documents that provide evidence of the rationale behind the Councils decision to submit this Application for Authorisation are listed and annexed as indicated below.

Document	Annexure
TRC Waste and Recyclables Collection Services Joint Procurement Report	A
Western Downs Regional Council Minutes	B
Waste and Recyclables Collection Services and Bulk Haulage and Processing Services Contract Pre-tender Memorandum of Understanding	C
Letter from WDRC	D

## 2.9 Names of persons and classes of persons directly impacted

The persons that may be directly impacted by the proposed joint procurement will be the existing providers of Services to the Councils and any other providers of the Services who wish to tender for the Services.

The existing service providers will not be precluded from submitting a tender.

Any other person who wishes to tender for the Services, will have to respond to the RFT if they wish to tender for the Services.

The current service provider for TRC is:

J.J. Richards & Sons Pty Ltd t/as JJ's Waste & Recycling

07 4634 1062

The current service provider for WDRC is:

J.J. Richards & Sons Pty Ltd t/as JJ's Waste & Recycling

07 4634 1062

## 3. MARKET INFORMATION AND CONCENTRATION

### 3.1 Geographic areas

The Councils are responsible for the management of waste in their respective local governments. The Councils are located adjacent to one another, as shown in the map below.



Map 1: Local Government Area Boundaries  
(available at: <https://croakey.org/wp-content/uploads/2018/01/DarlingDownsRegion.jpg>)

### 3.2 Services

The types of waste and recyclables disposal and bulk haulage services that the Councils offer are similar, if not the same. The Councils outsource the Services to service providers.

The broad categories defined within section 2.2 can be broken down into the following components:

- (1) **Residual waste** - is the residual fraction of the waste stream that remains after the removal of recyclable and, if applicable organics, but excludes building or construction wastes, liquid wastes, hazardous wastes and car parts.

Residual waste is generally collected in kerbside waste collection from households. Households typically receive a weekly collection of residual waste, a fortnightly collection of recyclables material, an optional fortnightly collection of green waste and organics, and hard (kerbside clean-up) waste which is collected as a scheduled collection service, e.g. yearly, or on-call when residents book a collection.



The separation of waste into like streams by householders for kerbside waste collection is designed primarily to divert recyclable material, green waste and organics from disposal to landfill to reduce the amount of landfill gas and to maintain a circular economy.

- (2) **Recyclable waste** - includes the following packaging and products emanating from premises and public place locations:
  - (a) recyclable paper and cardboard;
  - (b) glass bottles and jars;
  - (c) aluminium cans, rigid and semi-rigid packaging;
  - (d) PET (1), HDPE (2) and PVC (3) rigid plastic packaging;
  - (e) other rigid plastic packaging including LDPE (4), PP (5), PS (6), Other (7);
  - (f) steel can, rigid packaging, including aerosol cans; and
  - (g) any other recyclables as nominated by council.
- (3) **Green waste** - includes:
  - (a) small pruning's, cuttings and branches no longer than one metre and 50 millimetres in diameter;
  - (b) lawn clippings, leaves, weeds and cut flowers; and
  - (c) any other materials as included by Council from time to time.
- (4) **Organic waste** - includes any combination of food waste and green waste.
- (5) **Hard (kerbside clean-up) waste** - includes dry inorganic, bulky waste, not able to be conveniently placed into garbage or recycling bins and which generally requires disposal to landfill, except metals that may be recycled for recovery.
- (6) **Bulk haulage** - includes:
  - (a) the collection of recyclables, greenwaste and/or organics from a bulking up facility;
  - (b) the transport and deposit of recyclables, greenwaste and/or organics to a processor; and
  - (c) the provision of all staff, plant and equipment and other items required to adequately perform the Services in accordance with the contract
- (7) **Processing** - includes the receipt, processing, marketing and resale or treatment of materials collected in any nominated waste collection service.

The Councils current suppliers provide the following core resource and waste recovery services:

	<b>Services</b>	<b>Service Provider</b>
TRC	Weekly waste collection, 240L bin	JJ's Waste & Recycling

TRC	Fortnightly recyclable materials, 240L bin	JJ's Waste & Recycling
TRC	Fortnightly green waste, 240L bin, opt-in service	JJ's Waste & Recycling
WDRC	Weekly waste collection, 240L bin	JJ's Waste & Recycling
WDRC	Fortnightly recyclable materials, 240L bin	JJ's Waste & Recycling

### 3.3 Excluded Services

Waste that is specifically excluded from the Services being sought include:

- (1) Soft plastics;
- (2) Regulated waste;
- (3) Hazardous waste; and
- (4) Liquid waste.

### 3.4 Relevant industry

The industry that is relevant to the Councils is the resource and waste management services industry within the South East Queensland region. As outlined in section 3.2, the Councils outsource the Services to service providers. The delivery of the services is carried out in accordance with the following supply chain:

- (1) the manufacturers of the collection vehicles plus the included data gathering equipment;
- (2) the manufacturers of the mobile garbage bins (MGBs), bulk bins and litter bins;
- (3) the suppliers of the waste collection services;
- (4) Councils who acquire waste collection services from suppliers in the TRC & WDRC areas;
- (5) residents of the TRC & WDRC areas who benefit from the services; and
- (6) the processors responsible for receiving the waste once discharged from the collection vehicles.

The Councils expect to receive tenders from suppliers who would typically tender for waste management services in:

- (1) kerbside collection services for local councils – residual waste, recyclables and organic wastes;
- (2) commercial collection services for business waste – residual waste, recyclables, organic wastes;
- (3) bulk bin supply and removal;

- (4) landfill disposal;
- (5) beneficial sorting and processing of materials
- (6) waste haulage and transport; and
- (7) recyclables processing services

### 3.5 Estimated market shares of overlapping services

According to the Recycling and Waste in Queensland Report 2019 report (available at [https://www.qld.gov.au/\\_\\_data/assets/pdf\\_file/0033/129669/recycling-waste-report-2019.pdf](https://www.qld.gov.au/__data/assets/pdf_file/0033/129669/recycling-waste-report-2019.pdf)) South East Queensland (SEQ) generated 2,160,548 of municipal solid waste in 2018-2019.

"Amount of Headline waste landfilled or incinerated"	1,410,000
"Paper and packaging collected by local governments"	230,401
"Amount of other selected wastes sent for recovery by local governments (excl. asphalt and tip shop sales)"	520,147
<b>Total</b>	<b>2,160,548</b>

The Councils combined municipal solid waste is 122,402 which is approximately 6% of the municipal solid waste generated by SEQ.

Council	Tonnes (2018/2019)*	Approx. % of SEQ waste
Toowoomba Regional Council	103,245	5%
Western Downs Regional Council	19,157	1%
<b>Total</b>	<b>122,402</b>	<b>6%</b>

\*These figures have been provided by each of the Councils

### 3.6 Competitive restraints

- (1) Existing or potential competitors

The Councils in the proposed joint procurement believe that there are no existing or potential competitors because they have exclusive responsibility for waste management services in their respective local government areas.

The Proposed Conduct will involve a competitive tender process which will be accessible as an open tender.

- (2) Likelihood of entry by new competitors

Local government areas are defined under legislation. It is highly unlikely that a new local government would enter the same market as the Councils.

- (3) Countervailing power of customers and/or suppliers

Waste management is an essential service provided by the Councils to their respective communities. As the Services are an essential service, the Councils are constrained by:

- (a) the nature of the services that they require; and

- (b) the nature of their organisation, which is governed by legislation and subject to scrutiny by the public.

The respondents to the RFT will submit their pricing which will be assessed by the evaluation panels of the Councils.

State legislation and local government procurement policies and procedures are aimed at procuring value for money, open and effective competition, the development of competitive local business and industry, environmental protection and ethical behaviour and fair dealing. The Councils will endeavour to comply with these requirements in their procurement process.

### **3.7 Other relevant factors**

#### **(1) Adverse benefits**

If the Proposed Conduct is not authorised by the ACCC, the Councils will be required to individually develop the tender and contract for the Services. This approach is likely to result in adverse benefits to their respective communities as a result of:

- (a) increased procurement costs;
- (b) a reduction in the efficiency of the procurement process; and
- (c) less attractive pricing due to potential economy of scale not being promoted.

#### **(2) State and Federal waste strategies**

Both the State and Federal Governments have implemented targets to reduce the amount of waste sent to landfill.

The Queensland Government identified in their QLD Strategy (available at [https://www.qld.gov.au/\\_\\_data/assets/pdf\\_file/0028/103798/qld-waste-management-resource-recovery-strategy.pdf](https://www.qld.gov.au/__data/assets/pdf_file/0028/103798/qld-waste-management-resource-recovery-strategy.pdf)) that their targets for 2050 were a:

- (a) 25% reduction in household waste;
- (b) 90% of waste is recovered and does not go to landfill; and
- (c) 75% recycling rates across all waste types.

The Australian Government outlined in their National Waste Policy – Less waste, more resources 2018 (available at <https://www.environment.gov.au/system/files/resources/d523f4e9-d958-466b-9fd1-3b7d6283f006/files/national-waste-policy-2018.pdf>) that their target is to recover 80% of our waste by 2030.

The Councils believe that the Proposed Conduct will assist WDRC in contributing to State and Federal targets.

#### **(3) Waste diversion targets**

The current diversion percentages of kerbside collection for the Councils is:

- (a) 28% for TRC; and
- (b) 19% for WDRC.

The table below provides the target diversion rates for all material diverted from landfill (available at [https://www.qld.gov.au/data/assets/pdf\\_file/0028/103798/qld-waste-management-resource-recovery-strategy.pdf](https://www.qld.gov.au/data/assets/pdf_file/0028/103798/qld-waste-management-resource-recovery-strategy.pdf)).

**Table 2—Waste diversion from landfill targets (recovery rate as a percentage of total waste generated)**

Stream	Baseline (2018)	2025	2030	2040	2050
MSW	32.4 %	55%	70%	90%	95%
C&I	47.3 %	65%	80%	90%	95%
C&D	50.9 %	75%	85%	85%	85%
Overall	45.4 %	65%	80%	85%	90%

#### 4. PUBLIC BENEFIT

The Councils submit that the Proposed Conduct is likely to result in numerous benefits to the public. The primary benefit to the public is that the joint procurement will provide costs savings and efficiencies to the Councils which will benefit the public. The Councils have also identified that the joint procurement will result in the below benefits.

##### 4.1 An efficient procurement approach

The Councils believe that economic benefits will be achieved through the:

- (1) sharing of resources;
- (2) avoidance of duplication of administration tasks;
- (3) joint advertisement and preparation of tender documents; and
- (4) engagement of one consultant to assist in the preparation of the RFT documents.

##### 4.2 Potential for savings through economies of scale

The Councils believe that the tenderers will identify savings through economies of scale, as the:

- (1) Councils RFT will be released at the same time;
- (2) Councils RFT have similar specifications and standards of services;
- (3) contracts used by the Council's to engage the successful tenderer will be similar.

##### 4.3 Maximising competitive tension within the waste industry

TRC previously went to tender for Services in 2012 and received tenders from:

- (1) three (3) national companies;
- (2) one (1) local pre-amalgamation contractor for the collections contract; and
- (3) four (4) national companies for the tender of haulage and processing.

WDRC previously went out for tender for the Services in 2010 and received tenders from:

- (4) three (3) companies for the collections contract; and
- (5) three (3) companies for the processing contract,

of these companies, one (1) was a national company, one (1) was an existing local contractor from pre-amalgamation and one (1) company was just entering the market and had no previous experience in the Services required. Except for the national company, the other companies are no longer in the Services market.

The Councils believe that tendering for the Services jointly, will encourage more service providers to submit tenders for both Councils Services as the service providers will have the opportunity to potentially secure a greater volume of waste. TRC currently produces 750 tonne of recyclables per month in comparison to WDRC who only produces 100 tonne per month. With the price of processing recyclables increasing in 2017, the Councils believe that they will receive more tenders for the processing of WDRC waste if they engage in the Proposed Conduct.

The region in which the Councils are situated currently has one established waste contractor, which has been operating in the region in excess of 50 years. Advertising the Services jointly may encourage other service providers that are not currently present in the region to submit tenders, as the service providers will have a chance at securing the Services of two councils.

If the Councils were to individually advertise for the Services, the quantity of service numbers and waste material may not be substantial enough to entice new entrants into the market and therefore the Councils would only attract service providers with established facilities and depot, existing fleet, infrastructure for collection vehicles and bulking facility for long haul vehicles.

The Council's believe that the Proposed Conduct will provide the market with greater security in relation to the quantity of services and waste materials required for processing and will encourage new entrants into the market. New entrants will face significant capital outlays in order to provide facilities for depots and waste processing. The Councils believe that if they provide the service providers with the opportunity to tender for the waste collection of both Councils, the greater volume of waste material will encourage new entrants to invest in the required facilities and infrastructure. New entrants may feel that that they can justify entering the market if they have the opportunity to service two councils.

#### **4.4 Sharing of costs for a single procurement exercise**

The benefits likely to be derived from the Proposed Conduct will include:

- (1) increased competition;
- (2) improved coordination and efficiency of services;
- (3) increased transportation and materials handling efficiencies;
- (4) improved recycling and resource recovery;
- (5) compliance with the waste strategy targets;
- (6) lower costs to household ratepayers; and
- (7) environmental benefits.

The efficiencies mentioned above are likely to result in lower charges payable by rate payers for domestic waste utility charges. Additionally, increased competition from attracting new entrants to

the market may lead to more competitive pricing of the Services, resulting in downward pressure on the prices payable by ratepayers.

As the LG Act requires domestic waste management utility charges to be imposed on ratepayers, this charge must reflect the reasonable costs incurred for the Services. Any savings that the Councils receive from the service provider(s) would be passed onto ratepayers.

#### **4.5 The distance from kerbside collection to delivery for recyclables processing**

The Councils believe that the Proposed Conduct may attract service providers to submit a tender to both Councils at a competitive rate as the recyclable waste from both Councils could be hauled together, resulting in cost savings.

### **5. PUBLIC DETRIMENT**

The Councils do not foresee any detriment to the public from the Proposed Conduct. If there was a detriment to the public, the Councils believe that the benefit to the public would outweigh any detriments. The Councils consider it in the public's interest that the Proposed Conduct is authorised due to the benefits referred to in paragraph 4 above.

### **6. CONTACT DETAILS OF RELEVANT MARKET PARTICIPANTS**

#### **6.1 Current service providers**

##### **Toowoomba Regional Council**

J.J. Richards & Sons Pty Ltd t/as JJ's Waste & Recycling

51 Wilkinson Street Toowoomba Queensland 4350

##### **Western Downs Regional Council**

J.J. Richards & Sons Pty Ltd t/as JJ's Waste & Recycling

#### **6.2 Other potentially interested parties**

Based on TRC's online searches, TRC believes other potentially interested parties in the Services could include:

##### **COLLECTIONS**

Cleanaway Waste Management Limited

27-35 Wilkinson St,

Toowoomba, QLD, 4350

07 4529 3500

Remondis Australia Pty Ltd

Level 4, 163 O'Riordan Street

2020 NSW Mascot

02 90327100

Veolia Group

State Office, Level 21, 127 Creek St,

Brisbane, QLD 4000

07 3275 0111

E&E Waste  
12 Kimberley Court  
Torrington Qld 4350  
07 4633 0088

81 Hungerford Street  
Goondiwindi Qld 4390  
07 4671 2403

**RECYCLABLES PROCESSING**

Visy Group (Processing)  
168 Paringa Road,  
Gibson Island, Queensland, 4172  
07 3259 2466

Polytrade Recycling (Processing)  
35 Morton Street  
Chinderah, NSW 2487  
Tel: +612 6674 8295  
Email: [admin@polytrade.com.au](mailto:admin@polytrade.com.au)

Anuha Recycling  
64 Fords Rd, Adare QLD 4343  
07 5462 3272

ReGroup Recycling  
20 Bond St, Sydney, NSW, 2000.  
02 9235 1377

**GREEN WASTE & ORGANICS PROCESSING**

Orgro Recycling Center  
38 Griffiths Street  
Harlaxton Queensland 4350  
07 4632 4227

Candy Soil  
237-239 Mt Crosby Road  
Tivoli, QLD 4305  
07 3282 7388

NuGrow Pty Ltd  
Building 5, 22 Magnolia Drive  
Brookwater, QLD, 4300  
07 3294 1371

Phoenix Power Recyclers Pty Ltd  
126 Sandy Creek Road  
Yatala, QLD, 4207  
07 3807 5699

Wood Mulching Industries  
Via Cumnen Road  
Ripley Valley, QLD, 4206  
07 5596 2648

WestRex Services  
10/333 Queensport Road North



Murarie, QLD, 4172  
07 3097 9800

**7. ADDITIONAL INFORMATION**

**7.1 Fee waiver**

The fee waiver granted by the ACCC is annexed in Annexure E.

## DECLARATION BY APPLICANT(S)

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the Criminal Code (Cth).

  
\_\_\_\_\_  
Signature of authorised person

\_\_\_\_\_  
Office held **Brian Stanley Pidgeon**  
Chief Executive Officer

\_\_\_\_\_  
Name of authorised person

This 31 day of 3 2021

**ANNEXURE A**  
**TRC WASTE AND RECYCLABLES COLLECTION SERVICES JOINT PROCUREMENT**  
**REPORT**

Item No.	03
REPORT TITLE	<b>Waste and Recyclables Collection Services Joint Procurement</b>
AUTHOR	Manager, Waste Services (Matt Torr)

**PURPOSE OF REPORT**

The purpose of this report is to seek approval to enter into an agreement with Western Downs Regional Council (WDRC) to undertake a joint procurement exercise for waste and recyclables collection services.

**EXECUTIVE SUMMARY**

Council's current waste and recyclables collection and bulk haul and processing of recyclables services contract expires on 30 June 2023. WDRC is also preparing to replace its current contract due to expire in late 2022.

Following informal discussions at officer level, WDRC has sought to commence formal discussions on a joint procurement process resulting in either separate contracts, or a regional type contract.

Whilst a regional type contract is not favoured, a joint procurement process resulting in separate contracts for each Council has been successfully used by a number of Councils in Queensland, and represents the following identified opportunities:

- Efficiency of procurement approach;
- Potential for savings through economies of scale where a single contractor has the opportunity to secure both Councils contracts;
- Maximising competitive tension within the waste industry;
- Sharing of costs for a single procurement exercise resulting in separate contracts for each Council; and
- Building collaborative relationships to support the development of scale in preparation for future waste opportunities.

As part of the joint procurement arrangement the operational requirements including roles and responsibilities of the parties will be outlined in a Pre-Tender Agreement between the Councils. The Councils will also undertake the legislative requirement to secure the approval of the Australian Competition and Consumer Commission (ACCC) to undertake a joint procurement activity.

**RECOMMENDATION**

That Council:

1. Approve the proposed joint procurement of waste and recyclables collection services in accordance with the procurement considerations outlined in this report; and
2. Delegate authority to the Chief Executive Officer to negotiate and execute an appropriate Pre-Tender Agreement for the conduct of the joint procurement with Western Downs Regional Council and seek approval from the Australian Competition and Consumer Commission for the proposed joint procurement.

**REASONS FOR RECOMMENDATION**

Officers from Toowoomba Regional Council (TRC) and WDRC have considered and identified significant potential benefits of undertaking a joint procurement exercise to award new service provider contracts for waste and recyclables collection, separately for each Council.

**COMMITTEE RECOMMENDATION**

That Council:

1. Approve the proposed joint procurement of waste and recyclables collection services in accordance with the procurement considerations outlined in this report; and
2. Delegate authority to the Chief Executive Officer to negotiate and execute an appropriate Pre-Tender Agreement for the conduct of the joint procurement with Western Downs Regional Council and seek approval from the Australian Competition and Consumer Commission for the proposed joint procurement.

**COUNCIL DECISION - 22 OCTOBER 2020**

**(Water and Waste Committee - 13 October 2020 - Item No. 03)**

Committee Recommendation adopted by Council at its Ordinary Meeting of 22 October 2020.

**ACTION TO BE TAKEN**

<b>Item No.</b>	<b>Action Officer</b>	<b>Action</b>
03	Matt Torr	Please instigate all follow up action from Council's decision.

**CORPORATE PLAN REFERENCE**

3.2.4 Plan, deliver and manage efficient, integrated and sustainable waste and resource recovery services and reduction of emissions from landfill.

5.1.6 Maintain sustainable financial management and effective procurement practices.

**BACKGROUND**

Council currently provides waste and recyclables collection and bulk haul and processing of recyclables services by contract through JJ's Waste and Recycling.

At its Ordinary Meeting of 19 November 2019 (Water and Waste Committee - 12 November 2019 - Item No. 03) Council approved the extension of the existing contract by three (3) years from an expiry of 30 June 2020 to 30 June 2023. Drivers for the approval of the extension were identified as time to prepare for a new service provider contract, and instability of the recycling processing industry at the time.

Due to similar expiry dates of existing contracts, officers from WDRC and TRC have undertaken informal discussions regarding opportunities to collaborate on future waste and recyclables collection contracts.

WDRC wrote to TRC in May 2020 seeking to commence formal discussions on a joint procurement process resulting in either separate contracts, or a regional type contract, given the likelihood of genuine financial, operational and economic development benefits for both Councils.

Consideration of this request and continued discussion with WDRC officers has concluded that a regional type contract covering both Councils' interests would not be contractually nor operationally workable. However, as waste management contracts are historically some of Councils largest and longest contract arrangements, a joint procurement process resulting in separate contracts for each Council represents the following identified opportunities:

- Efficiency of procurement approach;
- Potential for savings through economies of scale where a single contractor has the opportunity to secure both Councils contracts;
- Maximising competitive tension within the waste industry;
- Sharing of costs for a single procurement exercise resulting in separate contracts for each Council; and
- Building collaborative relationships to support the development of scale in preparation for future waste opportunities.

A joint procurement initiative has been successfully used by a number of Councils in Queensland including Cairns Regional, Mareeba Shire and Douglas Shire Councils procurement in 2017 and Central Highlands Regional and Isaac Regional Councils procurement in 2019.

Should TRC approve the joint procurement arrangement the operational requirements including roles and responsibilities of the parties will be outlined in a Pre-Tender Agreement between the Councils, and the legislative requirement to secure the approval of the ACCC will be pursued.

## CONSULTATION UNDERTAKEN

Consultation on the proposed joint procurement initiative has occurred with Council's Governance and Legal Services Branch and Procure to Pay Section.

## ISSUES AND RESPONSES

### Procurement Considerations

Council's Procure to Pay Section has been consulted and confirmed that the proposed joint procurement complies with *Local Government Act 2009* Section 104 (3) 'sound contracting principles'.

To ensure the roles and responsibilities of each Council are clear it is proposed to develop a Pre-Tender Agreement.

Each party will be required to determine their own technical specifications and agree on common conditions of tender and contract required for the Request for Tender (RFT) documentation and to confirm key dates including service commencement day requirements. Subject to confirmation from WDRC this will be 1 July 2023.

The proposed Pre-Tender Agreement will appoint TRC as the local government that will lead and manage the RFT process in consultation with WDRC.

Costs of the procurement will be shared between the parties, as outlined in the proposed Pre-Tender Agreement.

Procurement activities have required external consultants to be engaged to manage and assist with the procurement. The RFT documents will also undergo a legal review by appointed Lawyers prior to issue.

## RISK MANAGEMENT MATTERS

Nil identified at this stage.

## LEGAL ISSUES

Securing approval of the ACCC is a legislative requirement under Section 45 of the *Competition and Consumer Act 2010* (Cth), Application for Authorisation. An application to undertake this joint procurement will be submitted following approval to proceed.

### *Human Rights Act 2019* Considerations

The *Human Rights Act 2019* provides that it is unlawful for a public agency to act or make a decision in a way that is not compatible with human rights, or to fail to give proper consideration to a human right. This necessitates understanding the human rights that are protected. When making decisions or taking actions, consideration needs to be given to how that may impact on a person's human rights. Where there is a restriction on a person's human rights the restriction must be no greater than is justifiable to protect the rights of others or the community at large.

There are no human rights issues to note.

**DELEGATION**

Delegation for the Chief Executive Officer to negotiate and execute an appropriate Pre-Tender Agreement for the conduct of the joint procurement with WDRC and seek approval from the ACCC for the joint procurement.

**FINANCIAL/RESOURCE IMPLICATIONS**

Council is committed to undertake the procurement of a new waste and recyclables collection contract service provider.

Key costs include expert consultancy to develop the request for tender document suite, manage the tender and evaluation process, and legal services to undertake the necessary review of draft request for tender documents prior to advertising and draft contract agreement/s prior to execution by the parties. These costs will be managed within existing operational budget allocations.

A joint procurement approach will provide some economy to these procurement costs and may also yield more favourable pricing for services compared to an individual tender process.

**CONCLUSION**

TRC's waste and recyclables and bulk haulage and processing contract has been extended to 30 June 2023. Actions have commenced to undertake a new procurement process to ensure a new contract arrangement is in place prior to this time.

WDRC has advised they are in a similar position and has sought TRC's consideration to a joint procurement exercise as a regional collaboration initiative.

A joint procurement process resulting in separate contracts for each Council represents the following identified opportunities:

- Efficiency of procurement approach;
- Potential for savings through economies of scale where a single contractor has the opportunity to secure both Councils contracts;
- Maximising competitive tension within the waste industry;
- Sharing of costs for a single procurement exercise resulting in separate contracts for each Council; and
- Building collaborative relationships to support the development of scale in preparation for future waste opportunities.

In consideration of the foreseen benefits it is recommended that TRC proceed with a joint procurement exercise with WDRC for the new waste and recyclables collections and processing contracts.

**ATTACHMENT**

Nil.



**ANNEXURE B**  
**WESTERN DOWNS REGIONAL COUNCIL MINUTES**

**5. CONFIRMATION OF MINUTES**

**5.1 Adopt Minutes Ordinary Meeting of Council**

The Purpose of this Report is for Council to adopt the Minutes of the Ordinary Meeting of Council held on Wednesday, 20 January 2021

**COUNCIL RESOLUTION**

**Moved By** Cr. O. G. Moore

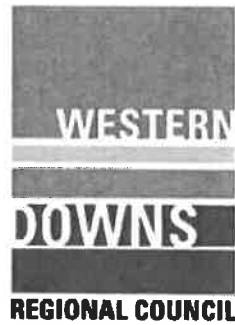
**Seconded By** Cr. K. A. Bourne

That this Report be received and that:

1. The Unconfirmed Minutes of the Ordinary Meeting of Council held on 20 January 2021, copies of which have been circulated to Members, be taken as read and confirmed.

**CARRIED**

**Absent Did Not Vote:** Cr. I. J. Rasmussen



## **Ordinary Meeting of Council Minutes**

**Date** Wednesday, 20 January 2021  
**Time:** 9:30am  
**Location:** Chinchilla Cultural Centre  
80-86 Heene Street, Chinchilla QLD 4413

**Councillors:** Cr.P.M.McVeigh (Chairperson)  
Cr.A.N.Smith  
Cr.K.A.Bourne  
Cr.P.T.Saxelby  
Cr.K.A.Maguire  
Cr.I.J.Rasmussen  
Cr.M.J.James  
Cr.O.G.Moore  
Cr.CT.Tillman

**Officers:** R.A.Musgrove, Chief Executive Officer  
S.M.Peut, General Manager (Corporate Services)  
G.K.Cook, General Manager (Infrastructure Services)  
J.K.Taylor, General Manager (Community and Liveability)  
J. Weier  
A. Lyell

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**1. DECLARATION OF MEETING OPENING**

The Chairperson declared the Meeting open at 9.30AM.

**2. OPENING PRAYER AND MINUTE SILENCE**

Pastor Mark Hampel from the Lutheran Church, delivered the opening prayer. This was followed by the observance of a minute silence.

**3. APOLOGIES**

Nil

**4. CONGRATULATIONS**

Cr. O. G. Moore requested that Council extend congratulations to the Western Downs Regional Council staff for organising such successful Christmas events across the region.

**5. CONFIRMATION OF MINUTES**

**5.1 Adopt Minutes Ordinary Meeting of Council**

The Purpose of this Report is for Council to adopt the Minutes of the Ordinary Meeting of Council held on Wednesday, 9 December 2020

**COUNCIL RESOLUTION**

**Moved By Cr.P.T.Saxelby**

**Seconded By Cr.O.G.Moore**

That this Report be received and that:

1.The Unconfirmed Minutes of the Ordinary Meeting of Council held on 9 December 2020, copies of which have been circulated to Members, be taken as read and confirmed.

**CARRIED**

**6. BUSINESS ARISING FROM THE MINUTES OF PREVIOUS MEETINGS**

**7. PRESENTATION OF PETITIONS BY COUNCILLORS**

**7.1 Condamine Weir Petition - Presented by Cr. O. G. Moore**

Cr. O. G. Moore presented a petition to Council regarding raising the Condamine Weir by a further 2.5 metres

*In accordance with Chapter 6, Part 2, Division 5A of the Local Government Act 2009, Cr. A. N. Smith informed the meeting of a prescribed conflict of interest in respect to this matter due to:*

*a.) Although not a signature on the petition, it pertains to a stretch of water which borders my business*

*Having given due consideration to his position he determined that he would leave the meeting while the matter is discussed and voted on.*

Cr. A. N. Smith left the meeting at 9:41am

Cr. A. N. Smith joined the meeting at 9:43am.

**COUNCIL RESOLUTION**

**Moved By** Cr.O.G.Moore

**Seconded By** Cr.M.J.James

That:

1. Council accept the Petition received from Principal Petitioner, Gerard Fitzpatrick requesting Council consider raising of the Condamine Weir by a further 2.5m; and
2. A report be brought to Council.

**CARRIED (7 to 1)**

**Absent Did Not Vote:** Cr. A. N. Smith

**8. MAYORAL UPDATE**

**8.1 Executive Services Mayoral Report December 2020**

The purpose of this Report is to provide Council with significant meetings, forums and delegations attended by the Mayor during the month of December 2020.

**COUNCIL RESOLUTION**

**Moved By Cr.A.N.Smith**

**Seconded By Cr.CT.Tillman**

That this Report be received and noted

**CARRIED**

## **9. CONFIDENTIAL ITEMS**

*Section 254J of the Local Government Regulation 2012 in relation to Closed meetings provides:*

*(1) A local government may resolve that all or part of a meeting of the local government be closed to the public.*

*(2) A committee of a local government may resolve that all or part of a meeting of the committee be closed to the public.*

*(3) However, a local government or a committee of a local government may make a resolution about a local government meeting under subsection (1) or (2) only if its councillors or members consider it necessary to close the meeting to discuss one or more of the following matters—*

- (a) the appointment, discipline or dismissal of the chief executive officer;*
- (b) industrial matters affecting employees;*
- (c) the local government's budget;*
- (d) rating concessions;*
- (e) legal advice obtained by the local government or legal proceedings involving the local government including, for example, legal proceedings that may be taken by or against the local government;*
- (f) matters that may directly affect the health and safety of an individual or a group of individuals;*
- (g) negotiations relating to a commercial matter involving the local government for which a public discussion would be likely to prejudice the interests of the local government;*
- (h) negotiations relating to the taking of land by the local government under the Acquisition of Land Act 1967;*
- (i) a matter the local government is required to keep confidential under a law of, or formal arrangement with, the Commonwealth or a State.*

*(4) However, a local government or a committee of a local government must not resolve that a part of a local government meeting at which a decision mentioned in section 150ER(2), 150ES(3) or 150EU(2) of the Act will be considered, discussed, voted on or made be closed.*

*(5) A resolution that a local government meeting be closed must—*

- (a) state the matter mentioned in subsection (3) that is to be discussed; and*
- (b) include an overview of what is to be discussed while the meeting is closed.*

*(6) A local government or a committee of a local government must not make a resolution (other than a procedural resolution) in a local government meeting, or a part of a local government meeting, that is closed.*



**COUNCIL RESOLUTION - CLOSE MEETING**

**Moved By** Cr.K.A.Bourne

**Seconded By** Cr.P.T.Saxelby

That Council resolve to close the Meeting in accordance with Sections 275 (1) (G) of the *Local Government Regulation 2012* at 9:47am to discuss the following Confidential Reports:

1. Corporate Services Confidential Report Contract for Cloud-based Contract Centre & Unified Communications
2. Corporate Services Confidential Report Dalby Aerodrome Proposed Lease L;
3. Corporate Services Confidential Report Dalby Aerodrome Proposed Lease W;
4. Corporate Services Confidential Report Dalby Aerodrome Proposed Lease X; and
5. Corporate Services Confidential Report Tara Pool Precinct Masterplan Update.

**CARRIED**

**COUNCIL RESOLUTION - REOPEN MEETING**

**Moved By** Cr.A.N.Smith

**Seconded By** Cr.P.T.Saxelby

That Council resolve to reopen the Meeting at 10:28am

**CARRIED**

**9.1 EXECUTIVE SERVICES**

**9.2 CORPORATE SERVICES**

**9.2.1 Corporate Services Confidential Report Contract for Cloud-based Contact Centre & Unified Communications**

The purpose of this report is to provide Council with an assessment of the quotations received for the replacement of the existing corporate Contact Centre and telephony solution.

**COUNCIL RESOLUTION**

**Moved By Cr.K.A.Bourne**

**Seconded By Cr.O.G.Moore**

That this Report be received and that:

1. Council notes the Report and awards the Cloud-based Contact Centre and Unified Communications contract to 8x8 International Limited for the contract offer price.

**CARRIED**

**9.2.2 Corporate Services Confidential Report Dalby Aerodrome Proposed Lease L**

The purpose of this Report is to consider a request to renew Lease L at the Dalby Aerodrome.

*In accordance with Chapter 6, Part 2, Division 5A of the Local Government Act 2009, Cr. P. M. McVeigh informed the meeting of a declarable conflict of interest in respect to this matter due to:*

*a.) His daughter-in-law's family operate an agricultural aviation business from the Dalby airport.*

*Having given due consideration to his position he determined that he would leave the meeting while the matter is discussed and voted on.*

Cr. P. M. McVeigh left the meeting during the discussion at 9:49am

Cr. A. N. Smith resumed The Chair at 9:49am

Cr. P. M. McVeigh left the meeting during the vote at 11:06am

Cr. A. N. Smith resumed the Chair at 11:06am

**COUNCIL RESOLUTION**

**Moved By** Cr.P.T.Saxelby

**Seconded By** Cr.K.A.Bourne

That this Report be received and that Council:

1. apply the exception contained within section 236(1)(c)(iii) of the *Local Government Regulation 2012* (Qld) to the proposed lease;
2. offer the Dalby Hang Gliding Club Inc a ten-year lease over land described as Lease L on SP207425 at the Dalby Aerodrome on the terms as outlined in this report; and
3. delegate authority to the CEO to negotiate and sign all documents necessary to finalise the lease.

**CARRIED**

**Absent Did Not Vote:** Cr. P. M. McVeigh

### **9.2.3 Corporate Services Confidential Report Dalby Aerodrome Proposed Lease W**

The purpose of this Report is to consider a request to renew Lease W at the Dalby Aerodrome.

*In accordance with Chapter 6, Part 2, Division 5A of the Local Government Act 2009, Cr. P. M. McVeigh informed the meeting of a declarable conflict of interest in respect to this matter due to:*

*a.) His daughter-in-law's family operate an agricultural aviation business from the Dalby airport.*

*Having given due consideration to his position he determined that he would leave the meeting while the matter is discussed and voted on.*

Cr. P. M. McVeigh left the meeting during the discussion at 9:49am

Cr. A. N. Smith resumed The Chair at 9:49am

Cr. P. M. McVeigh left the meeting during the vote at 11:06am

Cr. A. N. Smith resumed the Chair at 11:06am

#### **COUNCIL RESOLUTION**

**Moved By** Cr. CT. Tillman

**Seconded By** Cr. K.A. Maguire

That this Report be received and that Council:

1. apply the exception contained within section 236(1)(c)(iii) of the *Local Government Regulation 2012* to the proposed lease,
2. as the landing fees for the period 1 October 2012 to 30 June 2021 have been paid, offer Mr Robert Keen a 3 year lease over land described as Lease W on SP237292 at the Dalby Aerodrome on the terms as listed in this report, and
3. delegate authority to the CEO to negotiate and sign all documents necessary to finalise the lease.

**CARRIED**

**Absent Did Not Vote:** Cr. P. M. McVeigh

**9.2.4 Corporate Services Confidential Report Dalby Aerodrome Proposed Lease X**

The purpose of this Report is to consider a request to renew Lease X at the Dalby Aerodrome.

*In accordance with Chapter 6, Part 2, Division 5A of the Local Government Act 2009, Cr. P. M. McVeigh informed the meeting of a declarable conflict of interest in respect to this matter due to:*

*a.) His daughter-in-law's family operate an agricultural aviation business from the Dalby airport.*

*Having given due consideration to his position he determined that he would leave the meeting while the matter is discussed and voted on.*

Cr. P. M. McVeigh left the meeting during the discussion at 9:49am

Cr. A. N. Smith resumed The Chair at 9:49am

Cr. P. M. McVeigh left the meeting during the vote at 11:06am

Cr. A. N. Smith resumed the Chair at 11:06am

**COUNCIL RESOLUTION**

**Moved By** Cr.K.A.Maguire

**Seconded By** Cr.P.T.Saxelby

That this Report be received and that Council:

1. apply the exceptions contained within section 236(1)(c)(iii) of the *Local Government Regulation 2012* to the proposed lease,
2. offer Gary Thomas Ryan a 10 year lease over land described as Lease X on SP237292 at the Dalby Aerodrome on the terms as outlined in this report, and
3. delegate authority to the CEO to negotiate and sign all documents necessary to finalise the lease.

**CARRIED**

**Absent Did Not Vote:** Cr. P. M. McVeigh

Cr. P. M. McVeigh re-joined the meeting at 9:59am

Cr. P. M. McVeigh resumed The Chair at 9:59am

Cr. P. M. McVeigh re-joined the meeting at 11:12am

Cr. P. M. McVeigh resumed The Chair at 11:12am

### **9.2.5 Corporate Services Confidential Report Tara Pool Precinct Masterplan Update**

The purpose of this Report is to seek Council's direction in relation to the replacement of the Tara Pool.

#### **COUNCIL RESOLUTION**

**Moved By** Cr.M.J.James

**Seconded By** Cr.A.N.Smith

That this Report be received, and that Council:

1. endorses Option 3 to construct a new 25M eight lane pool in situ, that includes a disability access ramp, lane widths and pool depth suitable for short course competition, pool heating and solar blanket/s;
2. agrees to an increase in the capital budget allocation for the replacement of the Tara pool project to \$6.03M as outlined in the report, inclusive of an estimated \$500K for the replacement of the amenities and kiosk building.

#### **FORESHADOWED MOTION**

Cr. Rasmussen foreshadowed that if the motion on the floor failed, he would move;

That this Report be received, and that Council:

1. endorses Option 3 to construct a new 25M eight lane pool in situ, that includes a disability access ramp, lane widths and pool depth suitable for short course competition, pool heating and solar blanket/s, subject to receipt of external funding of an amount of at least \$3m

The **ORIGINAL MOTION** was **PUT** and **CARRIED (7 to 2)**  
**For (7):** Cr.P.M McVeigh, Cr.A.N.Smith, Cr.K.A.Bourne,  
Cr.K.A.Maguire, Cr.M.J.James, Cr.O.G.Moore, and Cr.CT.Tillman  
**Against (2):** Cr.P.T.Saxelby, and Cr.I.J.Rasmussen

### **9.3 COMMUNITY AND LIVEABILITY**

### **9.4 INFRASTRUCTURE SERVICES**

## 10. DEPUTATION

### 10.1 Deputation - Philip Watkins

*Cr. A. N. Smith declared a conflict on this item. (In accordance with Chapter 6, Part 2, Division 5A of the Local Government Act 2009, Cr. A. N. Smith informed the meeting of a prescribed conflict of interest in respect to this matter due to:*

*His sister Louise Smith, although not a submitter, has a residence in Riverdell Estate and will be affected as a result of the decision.*

*Having given due consideration to his position he determined that he would leave the meeting while the matter is discussed.)*

*Cr. K. A. Bourne declared a conflict on this item. (In accordance with Chapter 6, Part 2, Division 5A of the Local Government Act 2009, Cr. K. A. Bourne informed the meeting of a declarable conflict of interest in respect to this matter due to:*

*One of the submitters in response to the application is my husband Stephen Henry Bourne's direct employment supervisor at Queensland Gas Company.*

*Having given due consideration to her position she determined that she would leave the meeting while the matter is discussed.)*

Cr. A. N. Smith and Cr. K. A. Bourne left the meeting at 10:30am

Cr. A. N. Smith and Cr. K. A. Bourne re-joined the meeting at 10:39am

Philip Watkins addressed Council in relation to his Development Application for a material change of use. Mr Watkins provided Council with information in regard to his application including that it was smaller and included a 60-meter buffer between the next property unlike the previous approved application. He informed Council how the Service Station would run and that it also provided safe parking for large vehicles.

### 10.2 Deputation - Eunice Turner

Eunice Turner addressed Council in relation to the naming of the Burnt Bridge Road. She gave the history of community member Stan Wolski and advised that the road should be named after him and that the rest of the community would agree.

#### **COUNCIL RESOLUTION**

**Moved By** Cr.P.T.Saxelby

**Seconded By** Cr.M.J.James

**CARRIED**

That Council resolve to adjourn the Meeting.

*The Meeting adjourned at 10:45am*

*The Meeting resumed at 11:04am*

## 11. PLANNING

### 11.1 (030.2020.341.001) Community and Liveability Report Development Application for Material Change of Use for a Service Station on Lot 202 on SP183221 at Johnson Street Chinchilla Watkins Group (Qld) Pty Ltd Out of the Woods Planning

The purpose of this Report is for Council to decide the development application for a Service Station on land legally described as Lot 202 on SP183221, located at Johnson Street, Chinchilla.

*Cr.A.N.Smith declared a conflict on this item. (In accordance with Chapter 6, Part 2, Division 5A of the Local Government Act 2009, Cr. A. N. Smith informed the meeting of a prescribed conflict of interest in respect to this matter due to:*

*His sister Louise Smith, although not a submitter, has a residence in Riverdell Estate and will be affected as a result of the decision.*

*Having given due consideration to his position he determined that he would leave the meeting while the matter is considered and voted on.)*

*Cr.K.A.Bourne declared a conflict on this item. (In accordance with Chapter 6, Part 2, Division 5A of the Local Government Act 2009, Cr. K. A. Bourne informed the meeting of a declarable conflict of interest in respect to this matter due to:*

*One of the submitters in response to the application is my husband Stephen Henry Bourne's direct employment supervisor at Queensland Gas Company.*

*Having given due consideration to her position she determined that she would leave the meeting while the matter is considered and voted on.)*

Cr. A. N. Smith and Cr. K. A. Bourne left the meeting at 11:31am

Cr. A. N. Smith and Cr. K. A. Bourne re-joined the meeting at 11:35am

#### **COUNCIL RESOLUTION**

**Moved By** Cr.O.G.Moore

**Seconded By** Cr.I.J.Rasmussen

That this report be received that:

1.The application for a Material Change of Use to establish a Service Station on land described as Lot 202 on SP183221 and situated at Johnson Street, Chinchilla, be refused, for the following reasons:

(a)The development is inconsistent with the Strategic Plan of the Western Downs Planning Scheme 2017 incorporating Amendment 1 as follows:

(i)The development conflicts with Strategic Outcome (4) of Strategic Theme 3.3, as the development is for an Industrial Activity located in close proximity to established sensitive land uses within the Rural Residential Zone.

(ii)The development conflicts with Strategic Outcome (8) of Strategic Theme 3.3, as the development is inconsistent with the intended character and amenity of the Major Centre



Zone and does not provide overriding community need for the use to be located within the Major Centre Zone.

(iii) The development conflicts with Strategic Outcome (6) of Strategic Theme 3.5, as the development does not consolidate industrial development in areas with appropriate infrastructure to maximise the utilisation of existing transport networks and services.

(iv) The development conflicts with Strategic Outcome (7) of Strategic Theme 3.5 of the Strategic Plan, as the development does not maximise the use of land within the Major Centre Zone for land uses that are consistent within that Zone.

(v) The development conflicts with Strategic Outcome (1) of the Strategic Theme 3.6 as the development does not align with the service level of infrastructure in the locality and will require infrastructure upgrades to be provided in a non-sequential manner.

(b) The development application is inconsistent with the relevant Codes of the Western Downs Planning Scheme 2017 incorporating Amendment 1, as follows:

(i) The development of a Service Station is not a consistent use within the Major Centre Zone.

(ii) The development is inconsistent with the intent of the Major Centre Zone to provide a variety of land uses and activities that meet the community's needs.

(iii) The development is not consistent with Overall Outcome 2 of the Major Centre Zone, as it will not ensure that land within the Major Centre Zone is used for a broad range of high order retail, commercial, administrative, community cultural and entertainment activities.

(iv) The development is inconsistent with Overall Outcome 12, as the applicant has not demonstrated that the development is consistent with the existing character and amenity of the Major Centre Zone.

(v) The development does not comply with Overall Outcome 15 of the Major Centre Zone Code, as the development will increase the volume and scale of traffic using Johnson Street and the intersection of Ainsworth Street, which will require the local road network to be upgraded and maintained to a higher standard.

(vi) The development conflicts with Overall Outcome 20 of the Major Centre Zone Code, as the applicant has not demonstrated that there is an overriding community need for the development, that justifies the development's conflicts with the character and amenity of the Major Centre Zone. Further, the proposal has not provided sufficient planning justification that the development could not be established on land within a more appropriate Zone.

(vii) The development does not satisfy Performance Outcome 15 of the Major Centre Code, as the development will operate 24 hours a day, 7 days a week, which is not considered appropriate to protect the amenity and character of the Major Centre Zone and the adjoining Rural Residential land.

**CARRIED**

**Absent Did Not Vote:** Cr. A. N. Smith and Cr. K. A. Bourne

**11.2 (035.2020.461.001) Community and Liveability Report Development Application Reconfiguring a Lot (Boundary Realignment) Lots 4 and 7 on SP121097 at 130 Branch Creek Road and 23 Armstrong Street West Dalby Harrison**

The purpose of this Report is for Council to decide the Development Application seeking a Development Approval for Reconfiguring a Lot (Boundary Realignment) of land legally described as Lot 4 on SP121097 and Lot 7 on SP121097 and situated at 130 Branch Creek Road and 23 Armstrong Street West, Dalby.

**COUNCIL RESOLUTION**

**Moved By** Cr.A.N.Smith

**Seconded By** Cr.K.A.Maguire

That this Report be received and that:

1.The development application for Reconfiguring a Lot (Boundary Realignment) of land described as Lots 4 and 7 on SP121097, located at 130 Branch Creek Road and 23 Armstrong West Dalby, be approved, subject to the following conditions:

**APPROVED PLAN**

1.The development shall be carried out generally in accordance with the Approved Plan listed below, subject to and modified by the conditions of this approval:

**Drawing No:**001012\_PSLP, Sheet 1 of 1, Rev B

**Description:**Proposed Boundary Realignment Plan, prepared by bplanned & surveyed, dated 09/09/2020

2.Where there is any conflict between the conditions of this development approval and the details shown on the Approved Plan, the conditions of this development approval must prevail.

**APPROVED DEVELOPMENT**

3.The approved development is Reconfiguring a Lot for a Boundary Realignment as shown on the Approved Plan.

**COMPLIANCE, TIMING AND COSTS**

4.All conditions of the approval shall be complied with before execution of the Plan of Survey, unless otherwise noted within these conditions.

5.All costs associated with compliance with these conditions shall be the responsibility of the developer unless otherwise noted.

6.The Plan of Survey shall not be executed until a letter of compliance is received demonstrating the development's compliance with all conditions of this approval.

**FEES AND CHARGES**

7.All fees, rates, interest and other charges levied on the property, shall be paid in full, in accordance with the rate at the time of payment.

**MAINTENANCE**

8.The development (including landscaping, parking, driveways and other external spaces) shall be maintained in accordance with the Approved Plan subject to and modified by any conditions of this approval.

**LOT NUMBERING**

9.The numbering of all approved lots shall remain as indicated on the Approved Plan (unless otherwise amended/approved by Council.

#### **LANDSCAPING**

10.All declared weeds and pests shall be removed from the subject land and the subject land kept clear of such nuisance varieties at all time during the course of the development works and any ensuing defects liability period.

11.Apart from declared weeds and pests, trees, shrubs and landscaped areas currently existing on the subject land shall be retained where possible, and action taken to minimise disturbance during construction work.

#### **LOCATION, PROTECTION AND REPAIR OF DAMAGE TO COUNCIL AND PUBLIC UTILITY SERVICES INFRASTRUCTURE AND ASSETS**

12.Be responsible for the location and protection of any Council and public utility services infrastructure and assets that may be impacted on during construction of the development.

13.Repair all damage incurred to Council and public utility services infrastructure and assets, as a result of the proposed development immediately should hazards exist for public health and safety or vehicular safety. Otherwise, repair all damage immediately upon completion of work associated with the development.

#### **EARTHWORKS - GENERAL**

14.No earthworks are permitted as part of this approval other than any works ancillary to existing or future buildings.

#### **ACCESS**

15.Ensure the existing vehicular property access to Armstrong Street West from Proposed Lot 1 is maintained in accordance with Council's Planning Scheme and the latest revision of Council's Standard Drawing R-004.

16.Ensure the existing vehicular property access to Branch Creek Road from Proposed Lot 2 is maintained in accordance with Council's Planning Scheme and the latest revision of Council's Standard Drawing R-004.

#### **SERVICES - EXISTING CONNECTIONS**

17.Ensure that all services provided to the existing houses on Proposed Lots 1 and 2 are wholly located within the lot(s) it serves.

18.Be responsible for the full cost of any alterations necessary to public utility installations in connection with the development.

#### **ON-SITE WASTEWATER DISPOSAL**

19.If the on-site wastewater disposal area for the septic system servicing Proposed Lot 1 conflicts with the proposed boundary of subdivision, or does not meet the setback requirements in the Queensland Plumbing and Wastewater Code, the applicant shall submit to Council, an amended proposal plan for Council's endorsement that ensures that the on-site wastewater disposal arrangement is wholly located within Proposed Lot 1.

20.If required, the on-site wastewater disposal system servicing the residence on Proposed Lot 1 shall be upgraded to meet the requirements of Australian Standard

1547:2012 On-site Domestic Wastewater Management, and the Queensland Plumbing and Wastewater Code.

**NOTE:** The applicant shall obtain a Plumbing Approval for any upgrade to the existing effluent disposal system or installation of a new effluent disposal system and removal of the existing system.

#### **ADVISORY NOTES**

##### **NOTE 1: Flood Hazard**

The subject land is located within in the Extreme, High and Medium Flood Hazard Areas illustrated by the Flood Hazard Overlay Map in the Western Downs Planning Scheme 2017 incorporating Amendment 1. Where the floor level of a habitable building is not elevated above the defined flood level, the building may be subject to inundation during a flood event.

##### **NOTE 2: Currency Period**

A part of a development approval lapses at the end of the currency period. The standard currency period for Reconfiguring a Lot (4 years after the approval starts to have effect) as stated in Section 85 of the *Planning Act 2016* applies to this approval.

##### **NOTE 3: Aboriginal Cultural Heritage**

It is advised that under Section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal cultural heritage legislation. The information on Aboriginal cultural heritage is available on the Department of Aboriginal and Torres Strait Islander and Partnerships' website .

##### **NOTE 4: General Environmental Duty**

General environmental duty under the *Environmental Protection Act 1994* prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.

##### **NOTE 5: General Safety of Public During Construction**

The *Work Health and Safety Act 2011* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

##### **NOTE 6: Property Note (Audit of Conditions)**

An inspection of the property to ascertain compliance with conditions will be undertaken three (3) months after the approval takes effect. If the works are completed prior to this time, please contact Council for an earlier inspection. A property note to this effect will be placed on Council's records.

##### **NOTE 7: Duty to Notify of Environmental Harm**

If a person becomes aware that serious or material environmental harm is caused or threatened by an activity or an associated activity, that person has a duty to notify Western Downs Regional Council.

**CARRIED**

**12. EXECUTIVE SERVICES**

**12.1 Executive Services Chief Executive Officer Report December 2020**

The purpose of this Report is to provide Council with the significant meetings, forums and delegations attended by the Chief Executive Officer during the month of December 2020.

**COUNCIL RESOLUTION**

**Moved By** Cr.K.A.Bourne

**Seconded By** Cr.P.T.Saxelby

That this Report be received and noted

**CARRIED**

**12.2 Executive Services Report Outstanding Actions December 2020**

The purpose of this Report is to provide Council with an updated on the status of outstanding Council Meeting Action Items to 9 December 2020.

**COUNCIL RESOLUTION**

**Moved By** Cr.A.N.Smith

**Seconded By** Cr.CT.Tillman

That this Report be received and noted.

**CARRIED**

**13. CORPORATE SERVICES**

**13.1 Corporate Services Report Entertainment and Hospitality - Council Policy**

The purpose of this Report is to present the draft amended Entertainment and Hospitality - Council Policy for Council's consideration and approval.

**COUNCIL RESOLUTION**

**Moved By** Cr.K.A.Bourne

**Seconded By** Cr.K.A.Maguire

That this Report be received and that:

1. Council adopt the amended Entertainment and Hospitality - Council Policy pursuant to section 196(1) of the *Local Government Regulation 2012*.

**CARRIED**

**13.2 Corporate Services Report Advertising Spending - Council Policy**

The purpose of this Report is to present the draft amended Advertising Spending - Council Policy for Council's consideration and approval.

**COUNCIL RESOLUTION**

**Moved By** Cr.K.A.Maguire

**Seconded By** Cr.A.N.Smith

That this Report be received and that:

1. Council adopt the amended Advertising Spending - Council Policy pursuant to section 197(1) of the *Local Government Regulation 2012*.

**CARRIED**

**13.3 Corporate Services Report - Building Our Regions Funding Commitment**

The purpose of this Report is to seek Councils' formal commitment for the delivery of the Tara Lagoon Masterplan project in partnership with the State Government under the Building Our Regions funding program.

**COUNCIL RESOLUTION**

**Moved By** Cr.M.J.James

**Seconded By** Cr.P.T.Saxelby

That this Report be received, and that Council confirm their previous approval of the Tara Lagoon Masterplan Project;

1. a financial contribution of \$2,401,500, being 50% of the total project cost (\$4,803,000);
2. commitment to delivering the project; and
3. acceptance of any funding shortfall.

**CARRIED**

**13.4 Corporate Services Financial Report December 2020**

The purpose of this Report is to provide Council with the Financial Report for the period ending 31 December 2020.

**COUNCIL RESOLUTION**

**Moved By** Cr.I.J.Rasmussen

**Seconded By** Cr.K.A.Maguire

That this Report be received, and that:

1. Council notes the December 2020 Financial Report, and
2. Resolves to approve \$1.271 million in capital expenditure and \$1.205 million in capital revenue being added to Council's 2020-21 capital works program.

**CARRIED**

**14. INFRASTRUCTURE SERVICES**

**14.1 Infrastructure Services Report 2020/21 Capital Works Program January 2021 Update**

The purpose of this Report is for the Works Department to provide an update to Council regarding the 2020/21 Capital Works Program for the month of December 2020.

**COUNCIL RESOLUTION**

**Moved By Cr.P.T.Saxelby**

**Seconded By Cr.O.G.Moore**

That this Report be received and noted.

**CARRIED**



**15. COMMUNITY AND LIVEABILITY**

**15.1 Community and Liveability Report Health Services - Governance Report**

The purpose of this Report is to provide Council with an update in relation to key governance areas within the Health Services sites and services for the second quarter of the 2020 / 2021 Financial Year.

**COUNCIL RESOLUTION**

**Moved By** Cr.A.N.Smith

**Seconded By** Cr.K.A.Maguire

That this Report be received and noted.

**CARRIED**

**15.2 Community and Liveability Report Proposed Waste Service Procurement Arrangements**

The purpose of this report is to advise Council on the discussions with Toowoomba Regional Council regarding a joint waste procurement exercise, and to seek Council's approval of a Memorandum of Understanding with that Council.

**COUNCIL RESOLUTION**

**Moved By** Cr.A.N.Smith

**Seconded By** Cr.K.A.Bourne

That this report be received, and that:

1. Council approve of the execution of the "Waste and Recyclables Collection Services and Bulk Waste Haulage and Processing Services Contract Pre-Tender Memorandum of Understanding"

**CARRIED**

**15.3 Community and Liveability Christmas Events Around the Region 2020**

This report is to update Council on the Christmas Events that were held around the Region in 2020.

**COUNCIL RESOLUTION**

**Moved By** Cr.K.A.Maguire

**Seconded By** Cr.O.G.Moore

That this report be received and noted.

**CARRIED**

**16. NOTICES OF MOTION**

**16.1 CONSIDERATION OF NOTICES OF MOTION/BUSINESS**

**16.2 RECEPTION OF NOTICES OF MOTION FOR NEXT MEETING**

**17. URGENT GENERAL BUSINESS**

**18. MEETING CLOSURE**

The Meeting concluded at 12:08pm

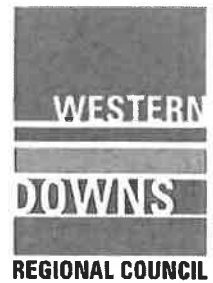
**ANNEXURE C**

**WASTE AND RECYCLABLES COLLECTION SERVICES AND BULK HAULAGE AND  
PROCESSING SERVICES CONTRACT PRE-TENDER MEMORANDUM OF  
UNDERSTANDING**

**ANNEXURE D**  
**LETTER FROM WDRC**

Customer Contact  
**1300 COUNCIL** (1300 268 624)  
**07 4679 4000**

[www.wdrc.qld.gov.au](http://www.wdrc.qld.gov.au)



**OUR COMMUNITIES | OUR FUTURE**

ENQUIRIES TO:  
Waste Services  
P 1300 268 624

FILE REF:  
LG 31.9.2  
ECM DOC SET:  
4295029

KF:CR

Address all correspondence  
to the Chief Executive Officer  
PO Box 551, DALBY, QLD 4405

[info@wdrc.qld.gov.au](mailto:info@wdrc.qld.gov.au)

23 March 2021

Chief Executive Officer  
Toowoomba Regional Council  
PO Box 3021  
TOOWOOMBA QLD 4350

Dear Brian

**RE: ACKNOWLEDGEMENT OF TIMELINE VARIATION**

I wish to acknowledge that Western Downs Regional Council accepts the change of the timeline table in the Pre-Tender Memorandum of Understanding between Toowoomba Regional Council and Western Downs Regional Council on the Waste and Recyclables Collection Services and Bulk Haulage and Processing Services Contracts to the timeline provided in the application to the ACCC for collective tendering.

Yours faithfully

  
Todd Summerville  
Planning & Environment Manager

**ANNEXURE E**  
**ACCC FEE WAIVER APPROVAL LETTER**



Contact officer: Tanya Hobbs  
Contact phone: 02 6243 1029

23 Marcus Clarke Street  
Canberra ACT 2601  
GPO Box 3131  
Canberra ACT 2601  
tel: (02) 6243 1111

10/03/2021

exemptions@acc.gov.au  
www.acc.gov.au

Mr Matt Bell  
Director  
Murdoch Lawyers

Dear Mr Bell

**Fee waiver request**

I refer to your letters of 2 and 5 March 2021 to the Australian Competition and Consumer Commission (ACCC) in respect of a proposed application for authorisation. In your letters you have requested that the ACCC grant a fee waiver in respect of the proposed arrangements.

In particular, you have requested that the fee to be paid in relation to an application for authorisation to be lodged by Toowoomba Regional Council and Western Downs Regional Council (the councils) be waived in part.

In support of your request, among other things, you submitted that:

- (a) The councils are not for profit organisations and the costs of the application will be borne by the rate payers of the respective councils.
- (b) The councils are seeking the authorisation to engage in the Proposed Conduct to increase the efficiency of the procurement approach which in turn should result in efficiency savings to councils, and to their rate payers.

Having regard to the above, as a person authorised to assess fee waiver requests for and on behalf of the ACCC, I wish to advise that the application fee to be paid by the councils has been waived in part. An application fee of \$2500 will apply with respect to the application for authorisation to be lodged by the councils.

This decision will remain in force for a period of three months. The three month period will expire on 10 June 2021.

A copy of this letter should accompany the application for authorisation to be lodged by the councils. The cover letter to the application should mention that a letter from the ACCC regarding a fee waiver is enclosed with the application. The application together with this letter will be placed on the public register at that time.

If the application for authorisation is lodged by the councils after 10 June 2021, a full application fee of \$7500 will apply, unless you make, and the ACCC approves, another fee waiver.

Should you have any queries in relation to this matter, please do not hesitate to contact Tanya Hobbs on 02 6243 1029.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Jones', written in a cursive style.

David Jones  
General Manager  
Competition Exemptions



