

**Our Ref:** MSR:AM:211066  
**Your Ref:**  
**Reply to:** ALBURY OFFICE

16 May 2022

Attention: Lyn Camilleri  
Acting General Manager of Competition Exemptions Branch  
exemptions@accc.gov.au

cc. alex.cicchini@accc.gov.au

### Email Transmission

Dear Madam

**Application for Revocation and Substitution  
Existing Determination AA1000596 dated 14 April 2022  
Jointly Procure Waste Collection and Resource Recovery Services**

We act on behalf of Albury City Council, as tender lead on behalf of the Applicants in relation to an Application for Revocation of Authorisation AA1000596 and Substitution of a replacement Authorisation to Jointly Procure Waste Collection and Resource Recovery.

We note the prior waiver of fees for this Application.

In accordance with the writer's various discussions and emails with Darrell Channing, the nature of this Application is to correct a prior misdescription of the dates and timing of the current Authorisation. The period of authorisation requested is from the date of the Determination of this Application until 30 June 2034, being the expiration of the 10 year Contract proposed to commence on 1 July 2024.

We have marked up the minor amendments to the initial Application with tracking and enclose together with the following documents in support of the Application:

- (a) Council Report to Albury City as Tender Lead on behalf of the Applicants (**Annexure A**);
- (b) Memorandum of Understanding (**Annexure B**);
- (c) Probity Plan (**Annexure C**);
- (d) The draft Statement of Intent and Request for Market Information (**Annexure D**).

We note that the Annexures remain as submitted with the initial Application and have not been amended.

In reliance upon the existing Authorisation, the Participating Council propose to continue with preparation of the Request for Tender in anticipation of a release to the market in mid June 2022. We would appreciate prompt consideration of the Application to enable compliance with the Procurement Timetable as set out within the Application.

Attention: Lyn Camilleri  
Acting General Manager of Competition Exemptions Branch

16 May, 2022

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If you require any further information or documentation, please contact the writer.

Yours faithfully

**KELL MOORE**

Per:



**Matthew Rogers**

Director

*Acc. Spec in Local Govt and Planning*

Email: 



**LOCAL  
GOVERNMENT  
PROCUREMENT**  
APPROVED CONTRACTOR

# Application for Authorisation to Jointly Procure Waste Collection and Resource Recovery Services

Albury City Council  
Wodonga City Council  
Indigo Shire Council  
Greater Hume Shire Council  
Federation Council  
Leeton Shire Council  
Berrigan Shire Council  
Edward River Council  
(Applicants)



571 Kiewa Street  
ALBURY NSW 2640  
Tel: 02 6021 2844  
Fax: 02 6021 6075  
Ref: MSR:211066

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## Parties to the proposed Conduct

1. Provide details of the applicants for authorisation, including:
  - 1.1 Name, address (registered office), telephone number and ACN
  - 1.2 Contact person's name, position, telephone number and email address
  - 1.3 A description of business activities
  - 1.4 Email address for service of documents in Australia.

The Applications are:

### **Albury City Council**

ABN 69 071 146 814

PO Box 323

ALBURY NSW 2640

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Mr Frank Zaknich

Position: Chief Executive Officer

Telephone: [REDACTED]

Email: [REDACTED]

### **Wodonga City Council**

ABN 63 277 160 265

PO Box 923

WODONGA VIC 3689

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Mr Mark Dixon

Position: Chief Executive Officer

Telephone: [REDACTED]

Direct Email: [REDACTED]

### **Indigo Shire Council**

ABN 76 887 704 310

PO Box 28

BEECHWORTH VIC 3747

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Mr Trevor Ierino

Position: Chief Executive Officer

Telephone: [REDACTED]

Email: [REDACTED]

**Greater Hume Council**

ABN 44 970 341 154

PO Box 99

HOLBROOK NSW 2644

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Mr Steven Pinnuck

Position: General Manager

Telephone: [REDACTED]

Email: [REDACTED]

**Federation Council**

ABN 43 874 223 315

PO Box 77

COROWA NSW 2646

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Mr Adrian Butler

Position: General Manager

Telephone: [REDACTED]

Email: [REDACTED]

**Leeton Shire Council**

ABN 59 217 957 665

23-25 Chelmsford Place

LEETON NSW 2705

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Ms Jackie Kruger

Position: General Manager

Telephone: [REDACTED]

Email: [REDACTED]

**Berrigan Shire Council**

ABN 53 900 833 102

56 Chanter Street

BERRIGAN NSW 2712

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Ms Karina Ewer

Position: Chief Executive Officer

Telephone: [REDACTED]

Email: [REDACTED]

**Edward River Council**

ABN 90 407 359 958

PO Box 270

DENILIQUIN NSW 2710

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Mr Phil Stone

Position: General Manager

Telephone: [REDACTED]

Email: [REDACTED]

**The Applicants are all represented in this matter by:**

Kell Moore Lawyers

PO Box 487

ALBURY NSW 2640

Contact: Matthew Rogers

Email: [REDACTED]

Telephone: [REDACTED]

The Applicants consent to the ACCC communicating with their solicitors, Kell Moore Lawyers.

The Applicants are local government authorities in regional New South Wales and Victoria. We provide a brief description of each Applicant as follows:

- (a) Albury City Council has a resident population of 54,353, and an area of 306 sq km, located on the northern banks of the Murray River in the Riverina region of south-eastern New South Wales.<sup>1</sup>
- (b) Wodonga City Council has a resident population of more than 42,000, and an area of 433.7 sq km, which includes the main centre of Wodonga, as well as rural localities of Bandiana, Baranduda, Barnawartha North, Bonegilla, Castle Creek, Ebdon, Gateway Island, Huon Creek, Killara, Leneva and Staghorn Flat.<sup>2</sup>

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<sup>1</sup> Albury City Council, 2019-20 Annual Report.

<sup>2</sup> Wodonga Council, 2019-20 Annual Report.

- (c) Indigo Shire Council has a resident population of 16,220 and an area of 2,016 sq km, located in north-east Victoria, bordering the Murray River and the Victorian Alps.<sup>3</sup>
- (d) Greater Hume Council has a resident population of 10,764 and an area of 5,939 sq km, which includes centres such as Brocklesby, Burrumbuttock, Culcairn, Morven, Gerogery, Henty, Holbrook, Jindera, Walbundrie, Walla Walla and Woomargama.<sup>4</sup>
- (e) Federation Council has a resident population of 12,437 and an area of 5,685 sq km, which includes towns such as Corowa, Howlong, Mulwala, Urana, Oaklands and surrounding villages.<sup>5</sup>
- (f) Leeton Shire Council has a resident population of 11,438 and an area of 1,167 sq km, located in south-west New South Wales, being the second-largest regional centre in the Western Riverina Region.<sup>6</sup>
- (g) Berrigan Shire Council has a resident population of 8,863 and an area of 1,316 sq km, which includes centres such as Finley, Berrigan, Tocumwal and Barooga.<sup>7</sup>
- (h) Edward River Council has a resident population of 9,084 and an area of 8,881 sq km, which includes towns such as Deniliquin, Blighty, Booroorban, Conargo, Mayrung, Pretty Pine and Wanganella.<sup>8</sup>

**2. If applicable, provide details of the other persons and/or classes of persons who also propose to engage, or become engaged, in the proposed conduct and on whose behalf authorisation is sought.**

In reliance upon Authorisation AA1000596 the Applicants have published a Statement of Intent and Request for Market Information.

The purpose of this action was to seek voluntary input from the waste industry in advance of advertising the Request for Tender (RFT).

The Statement of Intent and Request for Market Information is **Annexure D** to this Application.

**Authorisation for which revocation is sought**

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<sup>3</sup> Indigo Shire Council, 2019-20 Annual Report.

<sup>4</sup> Greater Hume Council, 2019-20 Annual Report.

<sup>5</sup> Federation Council, 2019-20 Annual Report.

<sup>6</sup> Leeton Shire Council, 2019-20 Annual Report.

<sup>7</sup> Berrigan Shire Council, 2019-20 Annual Report.

<sup>8</sup> <https://www.edwardriver.nsw.gov.au/Council/About-Edward-River-Council/About-Council>.



- (a) Authorisation AA1000596 granted by ACCC on 14 April 2022 to Albury City Council and 7 Victorian and New South Wales local councils;
- (b) Accordingly, revocation of Authorisation AA1000596 is sought to enable the Applicants to be granted a new (substituted) authorisation by the ACCC to engage in the conduct the subject of Authorisation 1000596.

## The proposed Conduct

### 3. Provide details of the proposed conduct, including:

#### 3.1 A description of the proposed conduct and any documents that detail the terms of the proposed conduct

The Applicants propose to jointly procure through a tender process, and contract for, Regional Kerbside Collection Services, including:

- a. domestic kerbside residual waste, recyclables and organic waste collection and transport;
- b. domestic kerbside recyclables acceptance and sorting;
- c. domestic kerbside organic waste (including food organics and/or green waste) acceptance and processing;
- d. residual waste disposal;
- e. resource recovery centre (**RRC**) domestic residual waste recyclables collection and transport;
- f. supply of mobile kerbside bins; and
- g. supply of organics kitchen caddies and liners (**Conduct**).

In carrying out the Conduct, the Applicants will jointly prepare and advertise a RFT to invite Tenders from suitably qualified organisations.

Historically, councils in the region have participated in collaborative procurement processes for kerbside waste collection services since the mid 1990's.

Each of the Applicants have sought or are in the process of seeking internal approval and Council resolution to participate in the proposed joint procurement process.

To indicate each of the Applicant's commitment, the Applicants have entered into a Memorandum of Understanding (**MoU**), seeking to collectively and collaboratively engage in a procurement process for kerbside waste collection and processing services. The MoU constitutes a statement of genuine and mutual intentions to procure the services and enter into any eventual contracts following the procurement process.

The MoU is **Annexure B** to this Application.

## **Current Arrangements**

The current contracts include 5 partnering councils and their municipal areas, being Albury City, City of Wodonga, Federation, Indigo and Greater Hume. The proposed contract is anticipated to include up to 8 partnering councils in total including the existing 5 and 3 additional Councils being Berrigan, Leeton and Edward River.

Albury City, Federation, Indigo Shire and City of Wodonga, all supply to the incumbent contractor residential waste material from their three bin kerbside collection systems – Red Municipal Solid Waste (**MSW**), Yellow Recycling (**Co-mingle**) & Green Organics (**FOGO**), with weekly alternating collections from residents.

Federation and Indigo Shire Councils currently provide the three bin system for residential services, but within nominated township boundaries. These Councils are seeking to transition all kerbside services to the three bin collection system within the term of the next contract.

Greater Hume currently supply to the incumbent contractor residential waste material from their two bin kerbside collection system (Red MSW and Yellow Co-mingle) on a weekly rotation for MSW and fortnightly rotation for recycling. This Council is seeking to transition to a three bin collection system within the term of the next contract.

Berrigan, Leeton and Edward River Shire Councils seek to join the existing Councils in regional procurement and contracting of kerbside collection services. These Councils each currently supply material from either a one or two bin system (Red MSW and Yellow Co-mingle) on a weekly rotation for MSW and fortnightly rotation for recycling under their own contractual arrangements. These councils are all seeking to transition to a three bin collection system within the term of the next contract.

Albury City Council will act as the Tender Lead and overall Contract Manager on behalf of all participating Councils to provide administrative efficiencies. Each Council will manage its own kerbside operations under the terms agreed in the eventual contract.

Councils are open to alternative contract management arrangements, however, ideally would prefer a single Contractor or Service Provider.

## **Governance and Services to be Tendered**

The Conduct to date has been guided by a governance structure, procurement process and project plan identifying all roles and responsibilities, decision making processes and milestone tasks along with probity management.

A Project Control Group known as the “Regional Kerbside Contract Working Group” has been established to oversee the procurement process and comprises of the member Council's nominated representatives, and respective Executive Leaders.

The intention, subject to approval of this Application, is for the Councils under this joint procurement process to jointly tender for collection, disposal and processing services to commence from 1 July 2024.

Service proposals from prospective Tenderers will be sought for the following:

- a. Collection and disposal of kerbside MSW services (with Council nominated disposal locations)
- b. Collection and processing of kerbside recycling (Co-mingle) services
- c. Collection and processing of kerbside food organics and garden organics (FOGO) services
- d. Future option for the collection and processing of kerbside compliant glass services

### Procurement Timeline

The Councils estimate that the procurement process will be managed to the below timeline (adjusted to accommodate the Interim Authorisation Application to ACCC):

ACTIVITY	TIMEFRAME
Lodge ACCC application seeking permission to participate and release a joint tender	December 2021
Industry Engagement, release Statement of Intent and Request for Market Information survey (subject to interim authorisation from ACCC).	February 2022 (Open for 3 weeks)
Review of Market Information received, edit and update RFT to include relevant industry and consultation data.	February - March 2022
Internal and Legal Review of RFT documentation.	March – April 2022
Release RFT to the Market via Tenderlink.	June 2022 (Open for 6-8 weeks)
Close of Tender submissions.	July - August 2022
Assessment of submissions and any clarifications.	August - September 2022
Recommendations for Council resolution to award contracts to the successful Contractor(s).	October 2022
Contract award and Councils to arrange Contracts.	November – December 2022
Contract implementation tasks with the successful contractor with equipment and vehicles to be ordered.	January 2023 – June 2024
Contract commencement	1 July 2024
Contract End Date	30 June 2034

Note: Timeline is an estimate and may be subject to changes.

## Contract Objectives

The Contract is proposed for a term of 10 years from 1 July 2024 until 30 June 2034.

The member Councils have developed Draft guiding principles for the 10-year Kerbside Collection Contract. This will provide a collective approach by member Councils and the successful Contractor towards waste management ensuring continued progress and direction towards key strategic goals and legislative targets as set by Victorian and New South Wales State Governments relating to waste minimisation, avoidance and resource recovery.

The draft Roadmap recommends the following guiding principles:

- Action 1     Divert 80% of waste (from 2010 levels) by 2030 from MSW.
- Action 2     The 3 bin system is the standard default system and will be applied across all services by 2030 in line with both NSW and Victorian waste and recycling strategy targets.
- Action 3     Organics contamination rates are maintained consistently below 0.5%.
- Action 4     Co-mingled recycling contamination has reduced to below 5% over the term of the contract.
- Action 5     Maintain a fortnightly collection for MSW garbage waste and commingled recycling and maintain a weekly collection service for food and organic material.
- Action 6     Presentation rates for FOGO and comingled recycling are maintained above 80%.
- Action 7     All municipal organic waste streams to be diverted from landfill by 2025.
- Action 8     The existing Halve Waste education and engagement program is maintained and introduced with all participating Councils as a minimum and where able across the region.
- Action 9     Halve Waste will oversee the education component as delivered by the contractor. Each participating Council delivers their waste and recycling messaging in consistent and agreed Halve Waste co-branding and the education program is supported across the region.
- Action 10    Councils to set recycled content purchasing targets and these targets are reported on through procurement processes and sustainable procurement targets.
- Action 11    Support technology advancement and emerging circular economy practices which further encourage and promote waste minimisation, localised processing, manufacturing with reclaimed content and local reuse options within our regions, particularly for items that are not currently diverted from landfill and where councils' services can be managed more cost effectively and sustainably for our local communities.

- Action 12 The existing contamination program will continue for the term of the next contract and may be extended if 'bans' from landfill are implemented (eg. Organics in the red lidded bin).
- Action 13 All kerbside bins and services should be a standard size and colour as per specifications in the kerbside contract (140L red lid for general waste, 240L yellow for co-mingled recycling and 240L with lime green lid for organics) unless alternative tenders are submitted to keep current bins.
- Action 14 Auditing of bin services is to occur at the commencement of the contract and then scheduled biannually.
- Action 15 Understand, report and set a target for the percentage of diverted materials that are processed, recycled or kept in the region.
- Action 16 Councils internal waste and recycling fees reflect and support the diversion targets set within this strategy. Kerbside general waste fees are utilised as a lever that supports positive behaviour change in the community.
- Action 17 All Councils work together with the contractor to support changes in legislation across the two states, and particularly in relation to glass, soft plastics collection/drop off and paper and cardboard recycling to provide a consistent service where logical, cost effective and resulting in the greatest benefits to waste diversion, recycling rates and benefits to the regional communities.

### **Independence of Decision Making and Individual Contracts**

Whilst the Councils seek to advertise a single RFT, each participating Council will make an independent decision and enter into an individual Contract with the successful Tenderer thus providing an independent report to their respective Council.

The participating Councils have a strong preference for a single provider to be appointed to service all participating Councils in the interests of achieving value for money and economies of scale.

The assessment of all Responses to the RFT will be undertaken by a selection panel comprising of representatives from each of the participating Councils (**Regional Kerbside Contract Working Group**).

The Regional Kerbside Contract Working Group will prepare a report on the assessment of the Responses and make a recommendation on the preferred Tenderer. That report and recommendation will be referred to each participating Council for individual resolution on the acceptance of the successful Tenderer prior to any appointment and execution of individual Contracts.

The participating Councils are not bound by the Regional Kerbside Contract Working Group recommendation and may elect to conduct an individual assessment or call for additional information from Tenderers.

The RFT will permit the Tenderer to:

- (a) submit individual prices for each participating Council;
- (b) elect to submit a price for all participating Councils, or any combination of participating Councils, subject to a minimum requirement that the Tenderer must submit a collective Response for both Albury City and City of Wodonga.

**3.2 The relevant provisions of the *Competition and Consumer Act 2010* (Cth) (the Act) which might apply to the proposed conduct:**

- (a) Cartel conduct (Division 1 of Part IV)
- (b) Contracts, arrangements or understandings that restrict dealings or affect competition (s.45).

**3.3 The rationale for the proposed conduct**

The proposed Conduct will:

- (a) allow the participating Council to carry out the procurement process with the highest level of efficiency.
- (b) increase the likelihood of savings in the contract itself with Tenderers offering services at a cheaper rate.
- (c) increase the likelihood of higher quality and more diverse bids, which may result in improved environmental outcomes.
- (d) provide benefits to smaller participating Councils who may not attract competition for their waste services contract if tendered on an individual basis.

This is explained further and expanded on in Item 10 of this Application.

**3.4 The term of authorisation sought and reasons for seeking this period. By default, the ACCC will assume you are seeking authorisation for five years. If a different period is being sought, please specify and explain why.**

The proposed term of the collection Contract will be ten (10) years from the date of its commencement on 1 July 2024 until 30 June 2034.

The proposed 10 year Contract term is typical for waste and resource recovery services and is intended to facilitate a competitive tender process, as well as to allow Tenderers to realise returns on any capital investments made.

As set out in the Procurement Timeline above there are preliminary steps to be undertaken in advance of the Contract commencement. Accordingly, **the Participating Councils seek Authorisation from the date of the Determination of this Application until 30 June 2034.**

4. **Provide documents submitted to the applicant's board or prepared by or for the applicant's senior management for purposes of assessing or making a decision in relation to the proposed conduct and any minutes or record of the decision made.**
  - (a) Council Report to Albury City as Tender Lead on behalf of the Applicants (**Annexure A**);
  - (b) Memorandum of Understanding (**Annexure B**);
  - (c) Probity Plan (**Annexure C**);
  - (d) The draft Statement of Intent and Request for Market Information (**Annexure D**).
5. **Provide the names of persons, or classes of persons, who may be directly impacted by the proposed conduct (eg targets of a proposed collective bargaining arrangement; suppliers or acquirers of the relevant products or services) and detail how or why they might be impacted.**

All providers of waste collection services in this region will be directly impacted. However, the detriment is outweighed by the public benefit.

Whilst contact details of known market participants are included in response to Item 12 below, the Applicants also wish to utilise the proposed Statement of Intent and Request for Market Information (Annexure D) to place all impacted parties within the waste industry on notice at the earliest opportunity, whilst also providing them with an opportunity to contribute to the formulation of the RFT by responding to a series of questions.

Although the Applicants submit that it is unlikely that neighbouring councils are impacted by the proposed conduct, we provide their contact information below for their consultation.

**Alpine Shire Council**

ABN 14 821 390 281

PO Box 139

BRIGHT VIC 3741

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Mr Charlie Bird

Position: Chief Executive Officer

Telephone: [REDACTED]

Email: [REDACTED]

**Griffith City Council**

ABN 81 274 100 792

PO Box 485

GRIFFITH NSW 2680

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Mr Brett Stonestreet

Position: General Manager

Telephone: [REDACTED]

Email: [REDACTED]

**Hay Shire Council**

ABN 84 075 604 155

PO Box 141

HAY NSW 2711

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Mr David Webb

Position: General Manager

Telephone: [REDACTED]

Email: [REDACTED]

**Lockhart Shire Council**

ABN 82 002 584 082

PO Box 21

LOCKHART NSW 2656

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Mr Peter Veneris

Position: General Manager

Telephone: [REDACTED]

Email: [REDACTED]

**Moir Shire Council**

ABN 20 538 141 700

PO Box 578

COBRAM VIC 3643

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Ms Clare Keenan

Position: Chief Executive Officer



Telephone: [REDACTED]

Email: [REDACTED]

**Murray River Council**

ABN 30 308 161 484

PO Box 906

MOAMA NSW 2731

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Mr Terry Dodds

Position: Chief Executive Officer

Telephone: 1300 087 004

Email: [REDACTED]

**Murrumbidgee Council**

ABN 53 573 617 925

PO Box 96

JERILDERIE NSW 2716

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Mr John Scarce

Position: General Manager

Telephone: [REDACTED]

Email: [REDACTED]

**Narrandera Shire Council**

ABN 96 547 765 569

141 East Street

NARRANDERA NSW 2700

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Mr George Cowan

Position: General Manager

Telephone: [REDACTED]

Email: [REDACTED]

**Snowy Valleys Council**

ABN 53 558 891 887

76 Capper St

TUMUT NSW 2720

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Mr Matthew Hyde

Position: Chief Executive Officer

Telephone: [REDACTED]

Email: [REDACTED]

**Towong Shire Council**

ABN 45 718 604 860

PO Box 55

TALLANGATTA VIC 3700

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Ms Juliana Phelps

Position: Chief Executive Officer

Telephone: [REDACTED]

Email: [REDACTED]

**Wagga Wagga City Council**

ABN 56 044 159 537

PO Box 20

WAGGA WAGGA NSW 2650

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Mr Peter Thompson

Position: General Manager

Telephone: [REDACTED]

Email: [REDACTED]

**Wangaratta Rural City Council**

ABN 67 784 981 354

PO Box

WANGARATTA VIC 3677

Email: [REDACTED]

Telephone: [REDACTED]

Contact person: Mr Brendan McGrath

Position: General Manager

Telephone: [REDACTED]

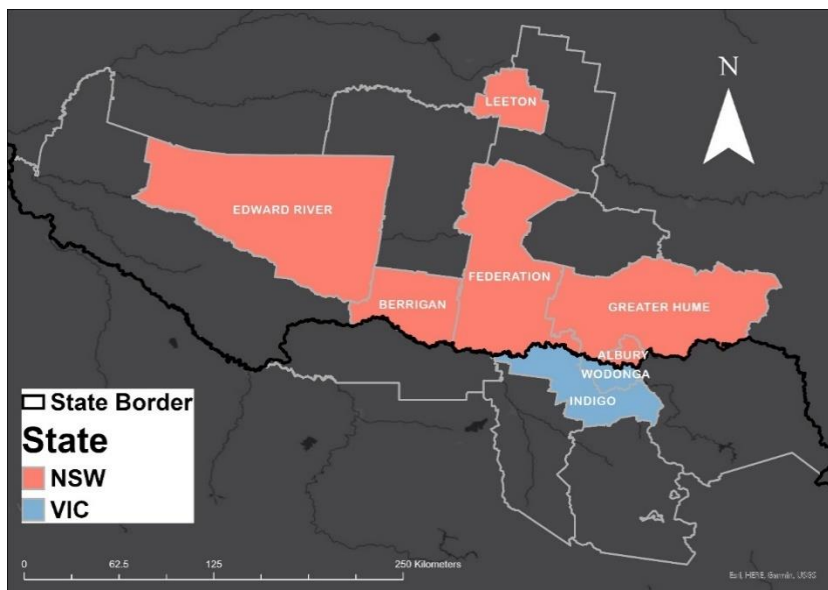
Email: [REDACTED]

## Market information and concentration

6. Describe the products and/or services, and the geographic areas, supplied by the applicants. Identify all products and services in which two or more parties to the proposed conduct overlap (compete with each other) or have a vertical relationship (eg supplier-customer).

The services that are subject of the RFT are described in our response in Item 3 above.

The geographic areas of the Applicants are depicted in the below map.



7. Describe the relevant industry or industries. Where relevant, describe the sales process, the supply chains of any products or services involved, and the manufacturing process.

The waste industry in Australia is best summarised as follows:

*“While government is responsible for the delivery of waste management policy, regulations and, in some cases, waste services, the composition of the waste management industry is a mix of both public and private operations. This mix of public and private is present in all aspects of waste management, from collection through to disposal.*

*State and territory government regulations, licensing requirements and policies often set the parameters for what waste services are to be provided, where they will be provided and, through environmental standards and occupational health and safety requirements, how waste services will be provided. Local government’s roles and responsibilities in respect to waste management are determined by jurisdictional policies and frameworks.*

*Waste management and recycling businesses often provide services across multiple waste activities. The collection of waste is one example, with many businesses that collect waste also managing operations around the collection of recyclables and, in some cases, green waste.*

*Decisions relating to waste management operations and processing services are made by local governments. Local governments will often contract collection and processing services to the private sector, but, in some cases, councils will elect to retain these responsibilities. However, in most cases, the public sector depends on private operations to supply new innovative technologies and specialist skills*

*for material separation as demonstrated by ownership of alternative waste treatment facilities which are currently wholly operated by the trading sector.*

*The trading and private sector operators have proven to be crucial in the advancement of waste management operations. Many private waste management businesses are now considered specialists in their field, either in one particular waste stream, in the recovery of specific materials or in the treatment of one type of waste/product. Outside of collection and transportation services, the trading sector accounts for approximately two thirds of the businesses involved in material/resource recovery or reprocessing activities”*

*(Source: Australian Government, Dept of Agriculture, Water and the Environment  
[www.environment.gov.au](http://www.environment.gov.au))*

**8. In respect of the overlapping products and/or services identified, provided estimated market shares for each of the parties where readily available.**

The Applicant submits that in previous authorisations, the ACCC considered it unnecessary to precisely determine the estimated market share.

**9. In assessing an application for authorisation, the ACCC takes into account competition faced by the parties to the proposed conduct. Describe the factors that would limit or prevent any ability for the parties involved to raise prices, reduce quality or choice, reduce innovation, or coordinate rather than compete vigorously. For example, describe:**

**9.1 existing competitors**

**9.2 likely entry by new competitors**

**9.3 any countervailing power of customers and/or suppliers**

**9.4 any other relevant factors.**

As explained in Item 3 above, all Responses to the RFT will be assessed by the Regional Kerbside Contract Working Group. The report and recommendation will then be referred to each Council for individual resolution on the acceptance of the successful Tenderer. The participating Councils are not bound by the Regional Kerbside Contract Working Group recommendation and may elect to conduct an individual assessment or call for additional information from Tenderers. Each participating Council will then enter into an individual Contract with the successful Tenderer.

For this reason, the Applicants submit that all Tenderers will need to compete vigorously to be successful.

The RFT will be open to all competitors (both existing suppliers and new competitors) equally.

The benefit of Councils collaborating together to jointly advertise a RFT results in the prospect of larger waste collection businesses from metropolitan areas submitting a tender based upon the overall size of the combined Contracts. Alternatively, by virtue of the option for submission of separate prices for each Council, smaller regional based waste collection

businesses will still be able to submit a price for a selection of Councils (subject to certain limitations).

In any event, the Applicants further submit that if any competitive constraints do arise, the public benefit of this joint procurement will far outweigh any detriment caused by such constraints. Further, the public benefit will also provide benefits to participants in the industry which is explained in Item 10 below.

## Public benefit

**10. Describe the benefits to the public that are likely to result from the proposed conduct. Provide information, data, documents or other evidence relevant to the ACCC's assessment of the public benefits.**

The Applicants submit that the proposed joint procurement process will result in significant public benefit, all of which have been recognised in previous ACCC determinations. These are as follows:

**(a) Transaction cost savings**

The proposed joint procurement process will enable each participating Council to combine finance and human resources in conducting the tender process. This will likely reduce the time and resources associated with calling for separate tenders, including duplicated administrative costs. These reduced costs will benefit ratepayers as the cost savings will be able to be applied to other projects.

The Applicants submit that there will be additional transaction cost savings with the Regional Kerbside Contract Working Group as all responses received will be assessed by a single panel rather than in the circumstances where each council carries out their own assessment of tender responses. For the smaller regional based participating Councils, it is often the case that they lack expertise in the waste industry to properly assess a tender of this nature, often resulting in the need to retain a waste industry consultant to assist with the preparation of a RFT and assessment of responses.

This process will also mean that service providers will save costs by preparing a single response to a joint tender.

Lastly, this joint procurement process provides a likelihood of tenderers developing "economies of scale" which means that Council will have the opportunity to consider more favourable responses, where price is reduced by virtue of volume.

**(b) Increased efficiency:**

The Applicants submit that by jointly procuring these services, the service providers are likely to become more efficient as they will be able to operate a larger scale of

operation than if they were to service each Council individually. This will include the ability to utilise more efficient truck routes when travelling significant distances on rural road networks.

Further, the service providers will be able to collaborate with Council on other matters such as community education programs and law enforcement associated with waste management if they are saving time due to increased efficiency with the waste collection and recycling process as a result of the joint tender process.

The joint procurement process is likely to increase the incentive for service providers to invest in new technologies and service streams as they are given the opportunity to service several Councils at once. The evolution of waste processing and recycling provides opportunities for service providers to be innovative. However, the technology and facility establishment costs are substantial. Accordingly, there will be opportunities for service providers to establish large scale facilities leading to improved economies of scale by providing services to multiple neighbouring councils.

**(c) Increased competition:**

The Applicant submits that as service providers are given the opportunity to deliver services to multiple Councils, it is anticipated that higher quality bids will be received as there is greater incentive to be the successful tenderer than where you are bidding for one Council at a time. As the Councils individually are small in population by comparison to large scale cities, it is unlikely that a high number of good quality bids would be received if each Council was to advertise a request for tender. This is particularly relevant for the smaller participating Councils.

Further, the Applicants consider it likely that the joint procurement will attract interest from service providers who have not previously tendered or would not have otherwise tendered due to the scale of the joint procurement proposal.

**(d) Environmental benefits**

The increased efficiency of waste collection and recycling services will result in reduced greenhouse gas emissions from the transportation of waste. Whilst these savings are anticipated to be partly attributable to streamlining processes and truck movements, it is also anticipated that the collective value of the combined contracts emanating from a single procurement process will also encourage service providers to invest in advanced waste processing facilities to improve environmental outcomes.

The objectives and joint targets set by the Applicants will drive best practices in waste management, resource recovery and reuse options within the respective municipal local government areas, promoting circular economy principles in line with State based legislative targets.

Furthermore, it is more likely that the service providers will invest in infrastructure to reduce waste, reuse and recycle waste. It is anticipated that these benefits will include:

- (a) diversion of 80% of municipal solid waste from 2010 levels by 2030;
- (b) introduction of a 3-bin system as the default standard across all Applicants by 2030;
- (c) reduction in co-mingled recycling contamination;
- (d) diversion of all organic waste streams from landfill by 2025;
- (e) introduction of the Halve Waste education and engagement program throughout the Applicants;
- (f) a reduction in landfill waste;
- (g) improved conservation of natural resources;
- (h) a reduction in the price of goods due to increased recycling;
- (i) a reduction in air pollution through reduced incineration;
- (j) application of a best practice standard in response to changes in legislation across the two states resulting in the greatest benefits to waste diversion, recycling rates and benefits to the regional communities;
- (k) a reduction in greenhouse gas emissions due to a reduction in the refining of materials and reduction in energy usage through greater recycling of existing materials; and
- (l) a reduction in greenhouse gas emissions due to the implementation of more efficient processes and greater investment in recycling technologies.

If authorisation is not granted for the proposed conduct, it is unlikely that the smaller regional councils included in the application will be able to require tenderers to meet standards set in the contractual objectives, including:

- (a) diversion of 80% of municipal solid waste from 2010 levels by 2030;
- (b) introduction of a 3-bin system as the default standard across all Applicant councils by 2030;
- (c) diversion of all organic waste streams from landfill by 2025;
- (d) introduction of the Halve Waste education and engagement program throughout the participating Councils; and
- (e) investment in new technologies to improve efficiencies and drive reduction in greenhouse gas emissions.

This investment may also result in other community benefits like increases to local and regional employment numbers, economic growth, introduction of new waste processing technology, capability and other areas of innovation.

By way of a specific example of anticipated investment arising from this procurement, there is presently no large-scale organic recycling facility capable of serving the

participating Councils to enable diversion of organic waste streams to its full potential. The majority of the Applicants organic waste streams are presently transported by trucks to facilities outside of the Applicants' local government areas. This has a negative impact on price in terms of transportation costs and also results in a negative impact on greenhouse gas emissions from the excessive truck movements.

The granting of authorisation by ACCC to this application is likely to deliver a substantial financial investment in the region by the successful waste provider(s) that will result in long term environmental benefits by delivering the objectives above.

Furthermore, it is anticipated that authorisation of this application may lead to increased industry investment in processing opportunities to address paper/cardboard, plastics, and items that form part of the export ban (glass, tyres, plastics). Due to the scale of the combined area of the Applicants it is also expected that a second Material Recovery Facility will be needed to accommodate the kerbside recycling processing or a contractor may elect to set up bulk up facilities.

## Public detriment (including likely competitive effects)

- 11. Describe any detriments to the public likely to result from the proposed conduct, including those likely to result from any lessening of competition. Provide information, data, documents, or other evidence relevant to the ACCC's assessment of the detriments.**

The Applicant acknowledges that a public detriment may arise as this joint procurement comprises a substantial portion of the market and therefore it may operate to reduce competition and cause some providers to exit the market. However, the Applicant considers that the public benefits significantly outweigh the possible detriment and competition is increased during the tendering process.

While some service providers may assert that they have been denied an opportunity to work in the market while the Contracts are in place, there is fair opportunity for all providers to respond to the RFT and submit a competitive price on a level playing field with all other service providers.

It is intended that the RFT will be tailored to enable smaller waste companies to compete for individual Council's services, whilst larger waste companies may elect to tender for all or grouped Councils. This will increase competition for the Councils services, both on an individual and collective basis.

Furthermore, it is noted that the proposed Conduct does not include all commercial waste services in the region and is predominately focused upon residential services. Presently, a number of waste providers service the region for commercial waste services and it is envisaged that this will remain available to the industry.



As mentioned above, this is the same Conduct that is the subject of Authorisation AA1000596 which was granted recently by ACCC on 14 April 2022.

## Contact details of relevant market participants

12. Identify and/or provide names and, where possible, contact details (phone number and email address) for likely interested parties such as actual or potential competitors, key customers and suppliers, trade or industry associations and regulators.

### **Environmental Protection Authority**

PO Box 544

ALBURY NSW 2640

Email: [REDACTED]

Telephone: [REDACTED]

### **Cleanaway Albury-Wodonga Solid Waste Services**

26 Reiff Street

LAVINGTON NSW 2641

Email: [REDACTED]

Telephone: [REDACTED]

### **J J Richards's Waste & Recycling**

3 Bullock Court

WODONGA VIC 3690

Email: [REDACTED]

Telephone: [REDACTED]

### **Veolia Environmental Services**

3 Michael Drive

WODONGA VIC 3690

Email: [REDACTED]

Telephone: [REDACTED]

### **North East Bin Hire**

138 North Street

ALBURY NSW 2640

Email: [REDACTED]

Telephone: [REDACTED]

### **Takeaway Trash**

Email: [REDACTED]

Telephone: [REDACTED]

**Albury Wodonga Skips and Bins**

70 Baranduda Drive

BARANDUDA VIC 3691

Telephone: [REDACTED]

**Foot Waste**

10 Carroll Road

SHEPPARTON VIC 3630

Telephone: [REDACTED]

(Presently Servicing Berrigan Shire Council)

## Additional Information

13. Provide any other information or documents you consider relevant to the ACCC's assessment of the application.

The Applicants will provide any further information as required by the ACCC.

## Declaration by Applicant(s)

Authorised persons of the applicant(s) must complete the following declaration. Where there are multiple applicants, a separate declaration should be completed by each applicant.

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).



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### Signature of authorised person

Solicitor for Applicants

Director of Kell Moore Lawyers

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### Office held

Matthew Rogers

(Print) Name of authorised person

This 16th day of May 2022

*Note: If the Applicant is a corporation, state the position occupied in the corporation by the person signing. If signed by a solicitor on behalf of the Applicant, this fact must be stated*



Contact officer: Alex Cicchini  
Contact phone: (03) 9910 9552

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

11/05/2021

exemptions@accc.gov.au  
www.accc.gov.au

Mr Matthew Rogers  
Director  
Kell Moore Lawyers & Conveyancers

Dear Mr Rogers

### Fee waiver request

I refer to your letter of 9 May 2022 to the Australian Competition and Consumer Commission (**ACCC**) in respect of a proposed application for revocation of authorisation AA1000596 and substitution for a new authorisation (**revocation and substitution**). In your letter 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 revocation and substitution to be lodged by Albury City Council, Wodonga City Council, Indigo Shire Council, Greater Hume Council, Federation Council, Leeton Shire Council, Berrigan Shire Council and Edward River Council (the **Participating Councils**) be waived in whole.

In support of your request, among other things, you submitted that in this circumstance where the application is lodged to address minor issues with the description of timing of the authorisation period, you consider it justified that the additional fee is waived, noting the Participating Councils previously made full payment of the fee for the application of the authorisation itself on 9 December 2021.

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 related application fee to be paid by the Participating Councils has been waived in whole. No application fee will apply with respect to the related application for revocation and substitution to be lodged by the Participating Councils.

This decision will remain in force for a period of three months. The three-month period will expire on 11 August 2022.

A copy of this letter should accompany the application for revocation and substitution to be lodged by the Participating 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 revocation and substitution is lodged by the Participating Councils after 11 August 2022, a full application fee of \$2500 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 Alex Cicchini on (03) 9910 9552 or at [alex.cicchini@accc.gov.au](mailto:alex.cicchini@accc.gov.au)

Yours sincerely

A handwritten signature in dark ink, appearing to read 'L. Camilleri', written in a cursive style.

Lyn Camilleri  
General Manager  
Competition Exemptions Branch

# **ANNEXURE A**

## **Council Report to Albury City as Tender Lead on behalf of the Applicants**

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<b>DATE</b>	30 September 2021	<b>FIL REFERENCE</b>	FIL21/00246
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<b>CONFIDENTIAL</b>	No
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<b>FURTHER ENQUIRIES TO</b>	Steven Millett	<b>PHONE</b>	6023 8111
	Assets, Sustainability & Environment		

<b>AUTHOR</b>	Andrea Baldwin
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## **Purpose of Report**

The purpose of this report is to consider options for the provision of kerbside collection services, due to commence 1 July 2024, and provide key documents for review and consideration.

Due to the complexities of a project of this nature, AlburyCity's Project Management Framework has been adhered to ensuring project deliverables, probity, and accountability can be achieved.

This report aims to provide background information and address the issues surrounding the potential next kerbside collection contract along with key documents for approval and endorsement. These include:

- Draft Stakeholder Engagement Plan; and
- Draft Memorandum of Understanding.

## **Background**

The Councils of AlburyCity, City of Wodonga, Federation, Indigo and Greater Hume each participate in a collaborative regional contract to provide kerbside collection services. The current contract is for a period of 12 years; it commenced on 1 July 2012 and is due to expire 30 June 2024. AlburyCity has successfully participated in collaborative regional waste contracts since the mid-1990s.

The scope of the current contract centres on the provision of a regular scheduled collection, disposal, and processing service. This includes:

- collection and disposal of Kerbside Municipal Solid Waste (MSW) services;
- collection and processing of Kerbside Recycling (co-mingle) services; and
- collection and processing of Kerbside Food and Garden Organics (FOGO) services.

Albury, Wodonga, Federation and Indigo Shire Councils dispose of all their Municipal Solid Waste (MSW) at the Albury Waste Management Centre (AWMC). All commingled recycling as part of this service is collected and processed by Cleanaway, at the local Material Recovery Facility (MRF) in Albury. In 2015 these Councils commenced a three-bin system with the introduction of a Food Organics and Garden Organics (FOGO) kerbside service. FOGO material is firstly transported to the AWMC where it is bulked before being transported offsite to Carbon Mate in Wagga Wagga. Carbon Mate is working in partnership with Cleanaway to process the organic material into compost.

Greater Hume Shire presently has a two-bin system, which includes municipal waste and recycling. Greater Hume dispose of all their MSW to either Culcairn, Henty, or Holbrook. All commingled recycling as part of this service is collected and processed by Cleanaway's MRF located in Albury. Greater Hume do not presently have a FOGO service in place.

Albury City Council's (ACC) current contract is estimated at \$57M over the term of the 12-year contract. As a group tender with the five participating Councils, the total contract costs are estimated at \$150M.

It should be noted that the current contract structure includes joint procurement with individual contracts between the preferred provider and each participating Council. Similarly, each service component is individually priced for each respective Council, minimising any cross-subsidisation risks. Each Council also nominates their destinations for disposal/processing for each waste/recyclable element of the contract.

To proactively support waste minimisation and successfully adopt industry best practice, the Halve Waste program was introduced in 2010. This program is a waste education campaign that is an initiative of Albury City Council, City of Wodonga and the Shires of Towong, Greater Hume, Federation, and Indigo. The objectives of the program are to reduce the region's waste by active recycling, engage and inform the community about waste management, and halve the total waste buried.

Achievements to date have seen diversion rates for recycling increased from 13% to 49%, with a 52% reduction on 2010 Municipal Solid Waste (MSW) levels. This is a direct result of the region's engagement, and it demonstrates the success of implementing effective recycling services and engaging the community in recycling behaviour change. The Halve Waste program's objective is to continue to be a key program to support the ongoing delivery of kerbside collection services.

## **Issues**

In June 2019 member Councils of the current Kerbside Collection Contract attended an initial meeting to review the 2012-2024 contract and consider future options for kerbside collection services. From this meeting a Kerbside Collection Working Party (Working Party) was formed with representatives from each of the member Councils, Albury, Wodonga, Federation, Indigo and Greater Hume. The Working Party agreed to meet regularly with initial discussions focusing on reviewing the current Kerbside Collection Service and identifying any changes for future delivery of this service.

Under current arrangements Cleanaway utilise trucks to collect, dispose, and process material for the five member Councils. They have established a depot, administration centre, Materials Recovery Facility and employ staff locally. Cleanaway were unable to provide a composting plant as part of their commitment to the current contract. Two attempts at establishing a compost plant within our region were unsuccessful.

Primarily, the provision of kerbside waste collection services (post 1 July 2024) can be delivered through three regimes; being a multi council collaborative contract with a specialist provider, a standalone contract with a specialist provider, or utilise internal resources to provide this service. The alternatives are further detailed below.



## Collaborative Procurement

The recently released NSW Waste and Sustainable Materials Strategy 2041, highlights the key reforms for NSW over the next 20 years. The Strategy identifies joint procurement for household waste services as a strategic action. This approach aims to allow state and local government to work collaboratively on steering strategic planning for waste infrastructure and services to meet state and local needs.

In accordance with the Strategy, benefits to Albury of a regional joint approach include:

- Economies of scale by bringing together multiple organisations and their purchasing requirements.
- Saving in overall effort, reduced costs incurred to carry out the procurement work, the whole tendering process from early market engagement to tender and contract award saves on duplication of efforts, thus affords the group with better pricing.
- Collaborative procurement helps counter pressure on public sector budgets and the need to extend services as far as possible.
- Lower costs for the market, one response instead of suppliers having to bid many times.
- Drive standardisation, stock in the form of supplier's equipment can be shared between the different entities.
- Building stronger relationships with our partner Councils.
- Permits securing commodities for a supplier and draws competition from further afield.
- Standardisation across the region for kerbside services which in turn makes it easier for our local and regional community members.
- Common engagement practices for education purposes more broadly through the Halve Waste program.
- Increases investment locally and regionally with a larger pool of organisations participating and realising local solutions for waste management.
- A more sustainable service is delivered.

Challenges of a regional joint approach include:

- Contract management complexities due to the size and participating partners of the contract.
- Individual Councils will need to take a holistic approach to a regional outcome, confident in the knowledge that this will increase the value for them in comparison to going it alone.
- Reduces the opportunity for small operators/suppliers to win the work based on the scale of the procurement process.

The challenges of a collaborative procurement process can be managed through a number of methods. Following a Project Management Framework and having access to industry templates for kerbside collection services will enable more effective contract management processes to be implemented.

Ongoing involvement and taking a holistic approach to the services contract will keep each Council abreast of the requirements of developing and implementing a kerbside collection contract. As outlined, pooling resources with neighbouring organisations strengthens buying power, and running

one single procurement exercise on behalf of several organisations, rather than multiple organisations each running a separate procurement process remains highly beneficial. AlburyCity, as the largest Council, has the capacity to resource and play a lead role under a collaborative regional joint procurement process for waste services.

AlburyCity has been a successful participant in collaborative regional waste contracts since the mid-1990s. This option will maintain a collaborative approach which has been successfully implemented within the region for the last 30 years. Participating Councils would procure kerbside collection services under one Request for Tender process but enter separate contracts with the preferred supplier.

The collaborative procurement contract allows for industry experts to manage and operate the kerbside collection service and permits companies with a high degree of proficiency to be engaged to fulfil the needs of a contract of this size. Improved contractor performance can be achieved through collaborative procurement, which is evidenced by the significantly lower contamination rates that have been achieved under the current contract,, and this also drives behaviour change across the region through education and messaging that is distributed in a unified manner.

Contract management costs are kept low for all parties as these are shared across all participating Councils. Establishment costs for a contractor are maximised with a clear understanding of the contract area boundaries, Councils are well supported if vehicles break down (particularly with a large fleet), and there is support at hand for emergency situations.

Collaborative procurement continues to support the Two Cities One Community initiative. Wodonga and Albury are the largest municipalities and continue to provide strategic direction in waste management for the region.

#### Standalone Procurement

This regime considers AlburyCity releasing a Request for Tender as a single Council for the procurement of kerbside collection services. Very few regional Councils of Albury's size engage in a contract as a single Council; the preference is to partner with neighbouring Councils for the advantages outlined above.

Under this regime, Council will focus on Albury's needs and not adopt a regional approach to waste management. While the procurement process may be simpler, costs associated with contract management, legal expenses and probity would not be offset by others, as the compliance costs are the same for one Council or several Councils.

The Halve Waste program that provides education would be fragmented and more difficult to deliver locally as this presently utilises traditional mediums such as television, radio, social media and has a regional website developed. This program would need to be reviewed to establish the most appropriate communication methods to engage with our local community, especially if regional Councils utilise different service providers. Program costs are likely to increase due to a reduced scale, resource redundancy risks will increase with a reduced program, and opportunities for waste solutions at a local level will decrease.

### Inhouse Service

This regime considers AlburyCity providing a full inhouse service to in excess of 24,000 Albury households within the municipality. This methodology is adopted generally by smaller Councils that have a one bin system in place.

For Council to consider this option, we would require establishment costs to purchase plant and equipment, depot, administration facilities, sorting and treatment systems, and any associated land purchases, staffing and human resourcing requirements. The waste and recycling industry is highly regulated and would require Council to obtain licensing and approvals from the Environment Protection Authority (EPA) to provide these services. Considering the preliminary studies, environmental controls, approvals, and establishment processes required for projects of this size and nature, based on industry consultation and experience, the expected period to establish this service may take between five to ten years.

Service delivery risks of this regime would be high for a Council of our size. Management and operational costs have not been fully developed. However these would also be significant. To establish a depot, administration, plant, resources, sorting facilities, treatment plants and related equipment is estimated to cost in excess of \$50M. Contract management costs would be negligible and education programs would have to be revisited to establish the most effective methods of engagement.

A challenge for Council under an inhouse option would include the management of contamination programs, maintaining and operating additional fleet, a resource structure that provides for a new business unit and will include, as a minimum, the following positions – management, supervisors, pickers, drivers, administration staff, and mechanics. Other items include the daily distribution of bins and bin changes, annual roll out of compostable liners, delivery of education material and kerbside specific education programs, coordinating industry auditing, ongoing industry reporting and industry participation in this highly regulated area. With no experience in the industry, the setup for supplier agreements for the on selling of commodities is an unknown for Council. Maintaining and delivering a service to a high standard of customer satisfaction may be a challenge if Council is not able to provide all the above as a minimum.

### Summary

In summary, distinct options are available for Council consideration. However, the existing model of a collaborative procurement process provides benefits in the form of lower service costs, specialised providers, building relationships with our neighbouring Councils, contract management shared costs, shared education resources and economy of scale to seek innovation and investment in our regional area.

The NSW Waste and Sustainable Materials Strategy 2041 supports joint procurement of household waste services and seeks to support local government in the collection and processing of waste from household bins.

Councils also do not have the internal expertise or industry knowledge to develop supplier agreements for the value of the materials to be sold through a MRF or treatment processes; this is identified as a major risk. These agreements, and the value of the materials sold, significantly impact the overall cost of operating a MRF and/or organics facility. Although the cost for processing will remain reasonably stable, the income from materials will dramatically influence overall business outcomes.

Whilst the size of the proposed collaborative procurement process typically attracts national suppliers, there will still be significant flow on benefits to local and regional businesses.

The Working Party identified significant benefits through collaborative joint procurement processes and has identified a preference towards a collaborative joint tender for the next contract. To help guide the contract process, the Working Party has identified the NSW Model Waste and Recycling documentation released by NSW EPA as an invaluable resource to follow. As identified above, a standalone procurement process or inhouse service model present significant risks to Council.

#### NSW Model Waste and Recycling Documentation

If Council chooses a collaborative procurement approach for waste services, NSW EPA have provided a comprehensive suite of tender documents titled NSW Model Waste and Recycling Collection Documentation. These documents are based on industry best practice and will permit customisation and alterations as required and are modelled around kerbside collection services specifically.

The NSW Model Contract includes a template with a list of phases as part of the pre work required for the delivery of kerbside services. This template aligns with the AlburyCity Project Management Framework.

Key activities of the Initiate and Plan stages are listed below:

#### INITIATE PHASE: Phase 1

- Formation of the kerbside collection working group with Council nominated representatives.
- Determine preferred delivery model.
- Set the Tender and Contract Objectives.
- Define Market approach – NSW Model Contract.
- Development of the Project Probity Plan.
- Development of the Project Management Plan and timeline of events.
- Set up regular tender preparation meetings for participating Councils.
- Invitation extended to Councils to participate.
- Community Attitudes Survey.
- Performance and Customer Service Review.
- Best-practice research paper.

#### PLAN PHASE: Phase 2

- Compile Tender documents and supporting information.

- Perform an in-depth review of all Model Contract and RFT template sections.
- Define preliminary Scope for each Council, identify areas of difference and future plans.
- Development of a MOU outlining roles, responsibilities and actions for each Council and Project Sponsor's participation.
- Seek Council resolution from each Council to authorise joint tender participation.
- Define the procurement process Probity Plan and appoint a Probity Advisor.
- Development of Waste Management & Resource Recovery Roadmap outlining key objectives.
- Develop further and extend Community Education.
- Consult Legal and ACCC regarding competitive nature of joint tender process and seek authorisation.

It is proposed that Albury City adopt the NSW Model Waste and Recycling Documentation as part of the collaborative procurement process.

### **Legislative**

Kerbside collection services fall under two main pieces of legislation, these include:

- NSW Waste Avoidance and Resource Recovery Act 2001; and
- Local Government Act 1993.

The NSW Waste Avoidance and Resource Recovery Act 2001 commits the NSW Government to refreshing and updating its waste strategy every five years, to review and continually improve the State's policies and targets for waste reduction and landfill diversion. This review has recently occurred and enabled the NSW Waste and Sustainable Materials Strategy 2041 to be released.

Key reforms under the NSW Waste and Sustainable Materials Strategy 2041 over the next six years see a focus on:

1. phasing out problematic single use plastic items;
2. financial incentives for manufacturers and producers to design out problematic plastics;
3. having government agencies preference recycled content and invest in research and pilots for recycling innovation;
4. tighter environmental controls for energy to waste;
5. mandating the source separation of food and garden for households and businesses; and
6. incentivising biogas generation from waste materials.

Mandating the source separation of food and garden for households and businesses is of high relevance to the kerbside collection contract. NSW EPA's strategy focuses on the state of NSW providing a food and garden service to every household by 2030. Albury introduced a food and garden organics bin in April 2015 along with Wodonga, Federation, and Indigo Shire Councils. This service was implemented to decrease waste from the Municipal sector being buried. Since the introduction of the food and garden organics bin, in excess of 140,000 tonnes from the participating Councils have been transported offsite for repurposing into compost.

A key focus under the NSW Waste and Sustainable Strategy 2041 also recommends local government to facilitate joint procurement of waste services. The intent is to make it easier for local Councils to come together to procure waste services that deliver consistent, high value services for ratepayers and help to achieve better waste and recycling outcomes.

The introduction of a mandated food and garden organics bin across NSW by 2030 permits regional Councils in our area to consider the opportunity to join in a collaborative arrangement. Councils that have previously gone through the implementation of an altered service, such as Albury, can assist those Councils seeking to establish a FOGO service in their municipality.

The provision of a kerbside collection service is in line with the Local Government Act, whereby, it states that Council is required to make and levy an annual charge for domestic waste management services for each parcel of rateable land for which the service is available. Council is meeting this requirement through the provision of a kerbside collection service.

Under a collaborative procurement contract, future options for Victorian Councils to collect and process kerbside glass services will be required. Victorian legislation intends to introduce and provide household recycling of compliant glass by 2027 and introduce a Container Deposit Scheme (CDS) during 2023. Victorian member Councils have identified they would like to introduce a kerbside glass service at the commencement of the June 2024 contract. With NSW having already introduced the Container Deposit Scheme (CDS) in 2017 there is no requirement for the NSW member Councils to consider a fourth bin at this stage. These aspects can be included in the next contract to address Victorian legislation.

In summary the key priorities identified by the Working Party include:

- A regional approach to procuring kerbside collection services.
- Maintaining a material recovery facility (MRF) within our region.
- To meet both NSW and Victorian requirements, the base service will include provisions for municipal solid waste, co-mingled recycling and FOGO (a three-bin service).
- Provisions for kerbside glass collection (Victorian Councils only).
- Establishment of a composting plant within the region for the processing and reuse of FOGO material.
- Utilisation of the NSW model waste and recycling collection documentation to guide the process.
- Encourage innovation to maximise recycling/reuse.

### *Albury 2030*

As part of Albury 2030, the current and future kerbside collection service addresses the following Strategic Outcomes.

### *An Enhanced Natural Environment:*

2.1 to facilitate and promote effective waste management practices; and

2.3 increased awareness in sustainability and environmental issues.

### *Two Cities One Community*

As part of the Two Cities One Community Strategic Plan, this initiative aligns with the Strategic Goals:

- Goal 2.1 We have a high level of awareness of sustainability and environmental issues.
- 2.1.2 Continue to collaborate on Waste Management and Halve Waste Program marketing and education.
- Goal 4.3 Our Councils continue to provide strong leadership and governance.
- 4.3.1 Explore additional opportunities for shared services and joint purchasing/procurement.

Through the Kerbside Collection Contract, Albury and Wodonga continue to collaborate to raise awareness on sustainability and environmental issues. The Councils work together to provide leadership and governance in the waste space, enabling effective services to be implemented across two highly legislative states.

### **Financials**

AlburyCity's contract is estimated at \$57M over the term of the current 12-year contract. As a group tender with the current five participating Councils, the total contract costs are estimated at \$150M.

The current Domestic Waste Management Charge (DWMC) for Albury is charged at \$250 per service. This service entitles our municipality to be provided with the following:

- Collection and disposal of Kerbside Municipal Solid Waste (MSW) service.
- Collection and processing of Kerbside Recycling (co-mingle) service.
- Collection and processing of Kerbside Food and Garden Organics (FOGO) service.
- Kitchen caddy and compostable bin liners for each household.
- Voucher program, entitling each household access to four vouchers for general household waste disposal.
- Access to a home-based collection.
- Free drop off for a range of products, these include steel, cardboard, polystyrene, whitegoods, reuse furniture, gas bottles, paint, household and car batteries, commingled recyclables, plastics.

This fee for service has remained unchanged for the last three years and presents as very good value in comparison to other Council's fees and charges for the same service.

The below table shows the DWMC in comparison to other Councils for the 2021/22 financial year.

Local Government Area	DWMC 2021/22	Service Offered
Albury*	\$250	WRO
Griffith	\$425	WR
Wagga	\$369	WRO
Federation *	\$373	WRO
Greater Hume*	\$262	WR
Wangaratta	\$530	WRO
Wodonga*	\$221	WRO
Shepparton	\$708	WRG
Indigo*	\$363	WRO

\*Participants in the current kerbside collection services contract.

W – General Waste

R – Recycling

G – Garden Waste

O – Food and garden organics

It is unknown what the future costs may be for the next contract. Releasing the RFT during 2022 enables Council to establish a financial model that minimises the impact on this fee for service to our community.

Legislative changes for kerbside recycling for Albury have been minimal to date. Negotiations with our current contractor have enabled additional costs for the recycling of commingled goods to be kept low with little impact to our community.

#### Potential New Participating Councils

As part of Phase 1 of this project, a formal presentation was provided to the Mayors and General Managers of the Riverina and Murray Joint Organisation (RAMJO) in May 2021. This presentation advised of the NSW Waste and Sustainable Materials Strategy 2041 targets, discussed barriers and benefits of collaborative procurement, discussed the impending target of diverting organics from landfill by 2030, along with considerations around the opportunity to potentially join in a collaborative contract for kerbside services within our region.

As a response to the opportunity for collaborative procurement, three NSW Councils have contacted Albury requesting to join the joint procurement process. These include Leeton, Berrigan and Edward River Shire Councils.

The Working Party is in discussions with each of these Councils seeking in principle support to join the potential procurement process.



### Memorandum of Understanding (MoU)

A draft Memorandum of Understanding (MoU) has been developed as the key commitment document to collaborate in a Joint Tender process for the supply of kerbside collection services. Each member Council will be required to sign the MoU.

The MoU provides certainty for each Council involved in the Tender process that their specific needs will be addressed and, where practicable, incorporated in the Request for Tender. The MoU establishes agreed principles for the sharing of costs and the respective obligations of the Councils to evaluate the Tender responses. The MoU provides a commitment for each member Council to participate in the Request for Tender process noting each Council retains the option to accept any or no tenders. A Council can withdraw from the process and is not obliged to accept the preferred contractor as selected.

This document has been prepared by Council's Procurement Team in conjunction with Kell Moore legal advisers. A copy of the MoU is attached for consideration.

To formalise AlburyCity's commitment to the process, the following items need to be considered and approved by Council:

- Council agrees to deliver kerbside waste services through an external specialist provider; and
- Council agrees to participate in a collaborative joint procurement process; this approval will seek to formalise the commitment by AlburyCity and all member Councils through a request to execute a Memorandum of Understanding.

### Community Impact and Stakeholder Engagement

A Stakeholder Engagement Plan (SEP) has been developed for this project and partially actioned. The objective of the SEP is to engage with the community, industry, member Councils, internal stakeholders, Executive Leadership Team and Councillors on the issues and items that influence the introduction and continuation of the next Kerbside Collection Service, from 1 July 2024. The SEP identifies the key stages for Council specific engagement.

The draft Stakeholder Engagement Plan (attachment 2) has been included for consideration by Council.

### **Risk**

- **Business Risk** – The Kerbside Collection Service is one of the largest projects AlburyCity manages. The service applies to more than 24,000 homes and small businesses across the Albury municipality. Business risks associated with the service include the following:
  - Cost of the service – Future costs of the service are unknown. Industry information supports a lower service cost as scale increases. Having a long lead time prior to the commencement of the new service permits financial modelling of any cost impacts on the community.

- Costs and time associated for any potential new infrastructure and setup – Establishment costs to purchase plant, equipment, depot establishment and administration facilities, sorting and treatment systems and associated land purchases along with resourcing requirements are a business risk for Council. An established specialised operator performing these services reduces service risks.
  - Lack of expertise – Establishment of supplier agreements for the on-selling of commodities is challenging for new entrants. The industry auditing, ongoing industry reporting and industry participation in a highly regulated environment are additional challenges for Council. Options that include engaging a specialised provider presents less risk to this service delivery.
  - Maintaining and delivering a service to a high standard of customer satisfaction may be a risk if Council is not able to provide appropriate programs and maintain adequate resources. Not providing a high level of customer satisfaction presents a risk for Council.
- **Corporate Risk** – Reputational risks exist, if Council is unable to meet the expectations of our community to deliver a kerbside service this can cause a loss of confidence. Through the provision of a third-party arrangement, Council can manage this more effectively, accessing well established industry experts. Council has effectively managed its risk to date through procurement processes that engage specialised providers with contracts that protect Council's interest. Council has limited expertise in the management of delivering kerbside services inhouse. A higher degree of operational risk, financial risk and competition risks are present with an inhouse option.
  - **WHS and Public Risk** – Through Council's Project Management Framework, a governance structure has been initiated to address the potential project risks. WHS risk has traditionally been managed by a third-party contractor when the service has commenced. However, with the options to provide an inhouse or standalone service, this will increase Council's exposure to the requirements to meet WHS legislation.
  - **Environmental Risk** – Environmental impacts are of high importance for the current and future kerbside collection service. Ensuring that all waste material can be managed locally or within our region is a key factor for all Councils involved. With waste as the highest contributor to AlburyCity's carbon emissions, it is a critical component of Council's commitment to Net Zero. To assist with addressing this commitment to Net Zero, the Halve Waste program is a key contributor to educating our community on not only improved waste and recycling behaviour but will provide further awareness of these emission targets. The flow on effects of education both locally and regionally impact the amount of material that is sent to landfill. The Halve Waste program is a significant contributor to assist Council in achieving our waste and emissions goals.
  - **Delivery Program Risk** – Utilising AlburyCity's Project Management Framework, a comprehensive governance and delivery structure has been developed in preparedness, outlining key stakeholder groups necessary to oversee the various components and reporting structure for the pre planning of a new service. If the Collaborative Procurement option is approved, the aim is to allow approximately 18-month lead time to ensure a contractor is

engaged to deliver a service commencing 1 July 2024. If the option to provide an inhouse service is preferred, the risk of delivering kerbside services to our community by 1 July 2024 will be challenging to achieve, based on internal knowledge and the approval process and set up costs.

## Options

### 1. Council participates in a collaborative procurement process.

This option provides for Albury City Council to take part in the Collaborative Procurement Request for Tender for Regional Kerbside Collection Services to commence 1 July 2024 for the collection, disposal and processing of the following services:

- i. Collection and disposal of Kerbside Municipal Solid Waste (MSW) services;
- ii. Collection and processing of Kerbside Recycling (co-mingle) services; and
- iii. Collection and processing of Kerbside Food and Garden Organics (FOGO) services.

The advantages of collaborative procurement include the allowance for industry experts to manage and operate the kerbside collection service and permits companies with a high degree of proficiency to be engaged to fulfil the needs of a kerbside service. Contract management costs are kept low as these are shared across participating Councils. Pooling resources with neighbouring organisations strengthen buying power; running one single procurement exercise on behalf of several organisations, rather than multiple organisations each running a separate procurement process remains highly beneficial.

This is the **recommended** option and is the methodology that has previously successfully been adopted by AlburyCity. Participating Councils will collaboratively procure kerbside collection services under one Request for Tender process. Each Council will enter individual contracts with the preferred provider which have been individually priced for each Council and respective service.

### 2. Council releases a tender for kerbside services as a single Council.

This option provides for Albury City Council to release a tender for kerbside services as a single Council to commence 1 July 2024 for the collection, disposal, and processing of the following services:

- i. Collection and disposal of Kerbside Municipal Solid Waste (MSW) services.
- ii. Collection and processing of Kerbside Recycling (co-mingle) services.
- iii. Collection and processing of Kerbside Food and Garden Organics (FOGO) services.

This is **not recommended**. Costs associated with contract management, legal expenses and probity would not be offset by others; and while the procurement process would be simpler, the compliance costs are the same for one Council or several councils.

AlburyCity has been a successful participant in collaborative regional contracts since the mid-1990s. This option does not allow pooling of resources with neighbouring organisations, does not assist in investment locally and regionally, and is likely to increase service costs. This option does not support the Two Cities One Community Initiative.

3. Council provide an inhouse option to manage and deliver the municipalities kerbside services.

This option provides for Albury City Council to establish an inhouse service to manage and deliver AlburyCity's waste collections, to commence 1 July 2024 for the collection, disposal, and processing of the following services:

- i. Collection and disposal of Kerbside Municipal Solid Waste (MSW) services.
- ii. Collection and processing of Kerbside Recycling (co-mingle) services.
- iii. Collection and processing of Kerbside Food and Garden Organics (FOGO) services.

This option is **not recommended** and would see AlburyCity working alone and not leveraging the advantages of collaborative procurement. The disadvantages of an inhouse option include the costs to purchase plant and equipment, depot, administration facilities, sorting and treatment systems and any associated land purchases, staffing and human resourcing requirements. Preliminary studies, environmental controls and approvals are estimated to take between five to ten years and cost in excess of \$50M. Council's lack of expertise in supplier agreements for commodities and our lack of industry expertise in this highly regulated environment are significant challenges for Council.

4. Council approves the Stakeholder Engagement Plan.

This option is the **recommended** option. A draft Stakeholder Engagement Plan has been developed to engage with the community, industry, member Councils, internal stakeholders, Executive and Councillors on the issues and items that influence the introduction and continuation of the kerbside service. The Stakeholder Engagement Plan identifies the key stages for specific engagement.

5. Not approve the Stakeholder Engagement Plan.

This option is **not recommended**. If the Stakeholder Engagement Plan is not developed and approved, this would see a delay or disjointed approach to key activities without appropriate input from our community and stakeholders.

6. Council approves the Memorandum of Understanding.

This option is **recommended**. The draft document has been developed to utilise as the key commitment document to collaborate in a joint tender process. The draft establishes agreed principles for sharing costs, resources, education, and the respective obligations of the Councils to evaluate the Tender responses.

7. Not approve the Memorandum of Understanding.

This option is **not recommended**. A Memorandum of Understanding provides an agreement with the intention of encouraging resource sharing and supports best value principles. Recognising the market this service operates within and the scope due to population, geographic size, and location, it is appropriate to provide certainty for each Council involved to address specific needs and have set obligations as part of the process.

## Conclusion

AlburyCity, City of Wodonga, Federation, Indigo and Greater Hume currently collaborate in the procurement to provide kerbside collection services. The current contract concludes on 30 June 2024 and includes the following services:

- Collection and disposal of Kerbside Municipal Solid Waste (MSW) services.
- Collection and processing of Kerbside Recycling (co-mingle) services.
- Collection and processing of Kerbside Food and Garden Organics (FOGO) services.

In June 2019 member Councils of the current Kerbside Collection Contract attended an initial meeting to review the 2012-2024 contract and consider future options for kerbside collection services. From this meeting a Kerbside Collection Working Party was formed with representatives from each of the member Councils. The Working Party agreed to meet regularly with initial discussions focusing on reviewing the current Kerbside Collection Service and identifying any changes for future delivery of this service.

The key priorities identified by the working party include:

- a regional approach to procuring kerbside collection services was the preferred model;
- provisions for municipal solid waste, co-mingled recycling and FOGO (a three-bin service);
- provisions for Kerbside Glass collection (Victorian Councils only);
- maintain the provision of a Recycling MRF locally within the region;
- establishment of a composting plant within the region for the processing and reuse of FOGO material; and
- utilisation of the NSW Model Waste and Recycling Collection documentation to guide the process.

These priorities are consistent with both the NSW and Victorian legislative requirements and meet the objectives of the NSW Waste and Sustainable Materials Strategy 2041.

The provision of kerbside waste collection services (post 1 July 2024) can be delivered through three regimes; being a multi council collaborative contract with a specialist provider, a standalone contract with a specialist provider, or utilise internal resources to provide the services.

The recommendation is a multi-council collaborative contract with a specialist provider. This continues to support the Two Cities One Community initiative and allows for industry experts to manage and operate the kerbside collection service permitting companies with a high degree of

proficiency be engaged to fulfil the needs of a contract of this size. Improved contractor performance can be achieved through collaborative procurement. This is evidenced through the innovation and high performance that has been achieved under the current contract. Driving behaviour change across the region through education and messaging can be distributed in a unified manner. Costs can remain relatively low for all parties as these have been shared across participating member Councils.

A regional collaborative joint approach provides economies of scale by bringing multiple organisations and their purchasing requirements together, saving on overall effort, increasing investment locally and regionally and provides a more sustainable service overall.

Three additional Councils have sought to join the collaborative procurement process. These include Leeton, Berrigan and Edward River Shire Councils. These Councils all have in-principle support from their respective Councils to progress to a collaborative Request for Tender. It is proposed that all participating Councils enter into a Memorandum of Understanding for this service provision. This represents a total of eight Councils participating in the joint procurement process to secure Kerbside Collection Services for Municipal Solid Waste, Recycling and Food and Garden Organics Services.

A detailed Stakeholder Engagement Plan will support the effective implementation of a new kerbside collection service and has been developed and is attached to this report for Council review and approval.

### **Recommendation**

{remove-from-minutes-end}

{recommendation-start}

That Council:

- a. Participates in the Collaborative Procurement Request for Tender for Regional Kerbside Collection Services to commence 1 July 2024 for the collection, disposal, and processing of the following services:
  - i. Collection and disposal of Kerbside Municipal Solid Waste (MSW) services.
  - ii. Collection and processing of Kerbside Recycling (co-mingle) services.
  - iii. Collection and processing of Kerbside Food and Garden Organics (FOGO) services.
- b. Endorses the draft Stakeholder Engagement Plan; and
- c. Endorses the draft Memorandum of Understanding.

{recommendation-end}

{remove-from-minutes-start}

### **Attachments**

1. Draft Memorandum of Understanding (DOC21/193913).
2. Draft Stakeholder Engagement Plan – Regional Kerbside Contract 2024 (DOC21/181500).

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# **Council Meeting**

## **Minutes**

### **Minutes of the Council Meeting held on Monday 11 October 2021 at 6.58pm**

**Present** Crs K Mack (Chairperson), A Cohn, D Cameron (via Zoom), G Docksey, A Glachan, M King (via Zoom), J Stuchbery, D Thurley and H van de Ven

**Staff** Chief Executive Officer, Deputy CEO Business, Growth & Community, Deputy CEO Infrastructure, Planning and Environment, Service Leader Community and Place, Service Leader People and Culture, Service Leader Strategy and Performance, Service Leader Business and Lifestyle, Service Leader Assets, Sustainability and Environment, Service Leader City Projects, Service Leader City Development, Service Leader Water and Wastewater, Team Leader Development, Team Leader Libraries and Museum, Acting Team Leader Governance and Executive Support, Museum Coordinator, Media and Communications Officer, IT Systems Administrator, Executive Assistant and Executive Support/Governance Officer.

### **Apologies**

**THE MEETING OPENED WITH THE PRAYER & ACKNOWLEDGMENT OF ORIGINAL  
CUSTODIANS OF OUR LAND**

## **CM2. RECORDING AND WEBCASTING OF MEETING**

*The Chairperson advised those present that the meeting is being webcast and recorded for administrative purposes.*

## **CM3. CONFLICT OF INTEREST DECLARATIONS RECEIVED BY THE CHAIR AND DISCLOSURE OF POLITICAL DONATIONS**

### **3.1 Conflict of Interest Declarations**

Conflict of Interest Declarations received by the Chair to be noted:

- Cr Murray King declared a Pecuniary Conflict of Interest in relation to item CM13.4 Traffic Management Panel Contract No. 21/02052, because he has a professional relationship with some of the tenderers. Cr King advised that he would leave the meeting and be placed in the virtual waiting room when the matter was discussed.

### **3.2 Disclosure of Political Donations and Requirements of the *Environmental Planning & Assessment Act 1979***

#### ***Advice to the Council Meeting***

*The Environmental Planning and Assessment Act 1979, Section 10.4 requires a person submitting planning applications or submissions regarding a planning application, to disclose any reportable political donation and/or gifts to any local Councillor or employee of Council. Reportable political donations include those of, or above, \$1,000.*

*The Disclosure Statement forms are available on Council's website or from the Customer Service Centre and must be lodged in accordance with the Act. The forms are also available at the back of the Chamber during meetings.*

*In dealing with Development Applications, Councillors need to take into account specific planning matters contained in the Environmental Planning & Assessment Act 1979.*

*Accordingly, the provisions of Section 4.15(1) of that Act are set out in the Council officers report detailing planning issues to be considered.*

*The Local Government Act 1993, section 375A requires that a division be called whenever a motion for a planning decision is put at a meeting of the council.*

*Planning decision means a decision made in the exercise of a function of council under the Environmental Planning and Assessment Act 1979 including a decision relating to a development application, an environmental planning instrument, a development control plan or a development*



*contribution plan under that Act, but not including the making of an order under Division 9.3 of Part 9 of that Act.*

#### **CM4. APOLOGIES**

*There were no Apologies received by the Chairperson.*

#### **CM5. MAYORAL MINUTE**

*There was no Mayoral Minute.*

#### **CM6. ACTION PLANS**

##### **MOTION**

**Cr Thurley Moved, Cr Stuchbery Seconded**

That the following Action Plans be received and noted:

1. Actions Complete – For Noting Only;
2. Actions Awaiting Response from External Parties;
3. Actions in Progress; and
4. Long Term Issues (more than three months).

**CARRIED**

#### **CM7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**CM7.1. Minutes of the Council Meeting held on Monday 27 September 2021 at 7.00pm**

##### **MOTION**

**Cr Docksey Moved, Cr Glachan Seconded**

That the Minutes of the Council Meeting held on Monday 27 September 2021 at 7.00pm be confirmed.

**CARRIED**

#### **CM8. REPORTS FROM COMMUNITY FORUMS**

*There were no Reports from Community Forums.*

## **CM9. NOTICES OF MOTION/NOTICES OF RESCISSION**

*There were no Notices of Motion/Notices of Rescission.*

## **CM10. PRESENTATIONS AND DEPUTATIONS**

*There were no Presentations and Deputations.*

## **CM11. REPORTS/MINUTES OF COMMITTEES AND WORKING PARTIES**

*There were no Reports/Minutes of Committees and Working Parties.*

## **CM12. DOCUMENTS FOR SEALING**

*There were no Documents for Sealing.*

## **CM13. OFFICERS REPORTS FOR CONSIDERATION**

### **CM13.1. Development Application 10.2021.38281.1 Forty-three (43) Lot Torrens Title Subdivision & Tree Removal - 186 Kaitlers Road & Birubi Road Springdale Heights**

#### **MOTION**

**Cr Stuchbery Moved, Cr King Seconded**

That Council:

- a. Receives the contents of this report; and
- b. Resolves to refuse to grant development consent to Development Application 10.2021.38281.1 for Forty Three (43) Lot Torrens Title Subdivision and Tree Removal at 186 Kaitlers Road and Birubi Road, Springdale Heights for the following reasons:
  - i. The development is contrary to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as it will have an unacceptable impact on the amenity of the adjoining property owners in the locality, including traffic, noise and air quality, and social impact; and
  - ii. The development is contrary to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979 as it will have an unacceptable impact on the amenity of the adjoining property owners in the locality, including traffic, noise and air quality, and social impact.

*In accordance with s.375A(2) of the Local Government Act 1993, a division was duly called. The following votes of the motion were recorded:*

**FOR**

Cr Stuchbery  
Cr Docksey  
Cr Cameron  
Cr Mack  
Cr King

**AGAINST**

Cr Cohn  
Cr Glachan  
Cr Thurley  
Cr van de Ven

**Disclosure of Political Donations**

*There were no Disclosures of Political Donations received by the Chairperson.*

**CARRIED**

**CM13.2. Heritage Study Review - Project Scope and Stakeholder Engagement Plan**

**MOTION**

**Cr Thurley Moved, Cr Stuchbery Seconded**

That Council endorses the Heritage Study Review project scope and Stakeholder Engagement Plan.

**CARRIED**

**CM13.3. Wonga Wetlands Water Main Contract No. 21/02109**

**MOTION**

**Cr Stuchbery Moved, Cr van de Ven Seconded**

That Council accepts the tender from Abbott Construction Pty Ltd for Contract No. 21/02109 – Wonga Wetlands Water Main – McLeod Court to Wonga Wetlands for the lump sum amount of \$494,588.99 (including GST).

**CARRIED**

*Cr King was placed in the virtual waiting room at 7.25pm.*

#### **CM13.4. Traffic Management Panel Contract No. 21/02052**

##### **MOTION**

**Cr Stuchbery Moved, Cr Thurley Seconded**

That Council:

- a. Accepts the tender (panel contract) from 1300Roads Pty Ltd t/a Trafficking, Stadelmann Traffic Pty Ltd and Riverina Traffic Service Pty Ltd for the provision of Full Service Traffic Management Services, Contract No.21/02052 – Provision of Traffic Management Services (2021 – 2023) at an estimated value of \$1,270,000 including GST; and
- b. Accepts the tenders (panel contract) from 1300Roads Pty Ltd t/a Trafficking and Ovens & King Pty Ltd for the provision of Portable Variable Message signs, Contract No.21/02052 – Provision of Traffic Management Services (2021 – 2023) at an estimated value of \$51,000 including GST.

**CARRIED**

*Cr King was returned to the meeting at 7.26pm.*

#### **CM13.5. Regional Kerbside Waste Collection Contract Update**

##### **MOTION**

**Cr Thurley Moved, Cr Docksey Seconded**

That Council:

- a. Participates in the Collaborative Procurement Request for Tender for Regional Kerbside Collection Services to commence 1 July 2024 for the collection, disposal, and processing of the following services:
  - i. Collection and disposal of Kerbside Municipal Solid Waste (MSW) services.
  - ii. Collection and processing of Kerbside Recycling (co-mingle) services.
  - iii. Collection and processing of Kerbside Food and Garden Organics (FOGO) services.
- b. Endorses the draft Stakeholder Engagement Plan; and
- c. Endorses the draft Memorandum of Understanding.

**CARRIED**

### **CM13.6. AlburyCity Corporate Success Pillars - Measures and Targets**

#### **MOTION**

**Cr van de Ven Moved, Cr Thurley Seconded**

That Council:

- a. Receives and notes the AlburyCity Corporate Success Pillars 2020/21 results; and
- b. Endorses the AlburyCity 2021/22 Corporate Success Pillars measures and targets.

**CARRIED**

### **CM13.7. Draft Uiver Collection Policy - Submissions from Public Exhibition**

#### **MOTION**

**Cr Thurley Moved, Cr Stuchbery Seconded**

That Council:

- a. Adopts the revised draft Uiver Collection Policy with the following changes:
  - i. Paragraph 5.2. The preamble to be replaced with the following:  
*The Uiver Collection should include and accept material of the following kind that is consistent with the State significant values of the Uiver collection as outlined by the State Heritage Register listing.*
  - ii. Paragraph 5.2. After the words 'Representative Uiver commercial material manufactured in the period that followed the Uiver event,' insert the following new line:  
*Material related to the crash of the Uiver in Iraq.*
  - iii. Paragraph 5.2. After the words 'Samples of material related to the Uiver representative DC-2 aircraft, including material related to advocacy for the retention of the Uiver Memorial DC-2, as part of Albury's social history,' start a new line and insert the following:  
*Material that explains the reasons behind the Uiver's ultimate success in the MacRobertson International Centenary Air Race.*
  - iv. Paragraph 5.3. Replace the whole of paragraph 5.3 with the following:  
*The AlburyCity Uiver Collection should exclude duplicate materials, unless in better condition or with strong provenance and connected stories.*
- b. Updates the Public Policy and Procedure Register with the finalised Uiver Collection policy document;
- c. Asks the AlburyCity Museum & Social History team officers, when next reviewing the AlburyCity Cultural Assets Development and Management Policy and the AlburyCity Cultural Collection Development Plan 2015 – 2020, to recommend the incorporation of suitable provisions with respect to any State heritage listed collection, to facilitate the acceptance of material that is consistent with the State significant values of that collection as outlined by the State Heritage Register listing; and

- d. Asks the AlburyCity Museum & Social History team officers to investigate the feasibility and cost (including the cost of a heritage consultant) of nominating the Uiver Collection for National Heritage Listing and reporting back to Council by March 2022.

**CARRIED**

## **CM14. OFFICERS REPORTS FOR NOTING**

### **CM14.1. Corporate Health Indicators - June 2021**

#### **MOTION**

**Cr Glachan Moved, Cr van de Ven Seconded**

That Council receives and notes the June 2021 Corporate Health Indicators Report.

**CARRIED**

### **CM14.2. Disclosures by Councillors, Audit Risk & Improvement Committee Members and Designated Persons Return 2020/2021**

#### **MOTION**

**Cr van de Ven Moved, Cr Thurley Seconded**

That Council receives and notes the report concerning the 2020/2021 Annual Disclosure of Returns by Councillors, Audit Risk & Improvement Committee members and designated persons.

**CARRIED**

### **CM14.3. Audit, Risk & Improvement Committee (ARIC) Annual Report**

#### **MOTION**

**Cr Glachan Moved, Cr Thurley Seconded**

That Council receives and notes the AlburyCity Audit Risk and Improvement Committee Annual Report 2020 – 2021.

**CARRIED**

**CM14.4. 2021 Local Government Elections: Caretaker Period, Electoral Matter and the Regulated Period, and Use of Council Resources for Election Campaign Purposes**

**MOTION**

**Cr van de Ven Moved, Cr Docksey Seconded**

That Council notes the operation of the caretaker period, the regulated period, and the Code of Conduct obligations regarding the use of council resources during the 2021 local government elections.

**CARRIED**

**CM15. DELEGATES REPORTS FOR NOTING**

*There were no Delegates Reports for Noting.*

**CM16. NOTICE OF URGENT BUSINESS**

**CM16.1. Carols by Candlelight**

Cr King sought to reverse the decision to cancel the 2021 Carols by Candlelight event due to COVID-19 restrictions and uncertainty. Some discussion ensued around the feasibility of implementation, the risks and benefits to the community, and the alternative events that have been planned. The Mayor requested that further communications be provided to the Councillors and the community that would detail the rigour and structure of the alternate programming being proposed.

## CONFIDENTIAL MATTERS

ITEM NO.	NAME OF REPORT & REASON FOR CONFIDENTIALITY
CM17.1	<p><b>Albury Wodonga Regional Deal Agreement</b></p> <p><i>Confidential item, exclusive of press or public on the grounds that:</i></p> <p>(2) <i>The matters and information are the following:</i></p> <p>(d) <i>commercial information of a confidential nature that would, if disclosed:</i></p> <p>(i) <i>prejudice the commercial position of the person who supplied it.</i></p> <p><i>Local Government Act 1993 No.30 Section 10A(2)(d)(i).</i></p>
CM17.2	<p><b>Code of Conduct Report by Conduct Reviewer</b></p> <p><i>Confidential item, exclusive of press or public on the grounds that:</i></p> <p>(2) <i>The matters and information are the following:</i></p> <p>(i) <i>alleged contraventions of any code of conduct requirements applicable under section 440.</i></p> <p><i>Local Government Act 1993 No.30 Section 10A(2)(i).</i></p>

### CM17. CONFIDENTIAL MATTERS

#### MOTION

**Cr Thurley Moved, Cr Glachan Seconded**

That Council moves into Confidential to discuss Items CM 17.1 and CM 17.2 as these are confidential items, exclusive of press or public on the grounds that the matters relate to:

- CM 17.1**      2) *The matters and information are the following:*
- (d) *commercial information of a confidential nature that would, if disclosed:*
- (i) *prejudice the commercial position of the person who supplied it.*

*Local Government Act 1993 No.30 Section 10A(2)(d)(i).*



The Chairperson, Cr Mack, asked if there were any statements or submissions from the public regarding the reasons as identified for these Confidential Items CM 17.1 and CM17.2.

The Chair asked the Council if they wished to proceed with the MOTION to move into Confidential.

**CARRIED**

**CARRIED**

- b. Authorises its Seal to be affixed to the Albury Wodonga Regional Deal Agreement and any other documents deemed necessary to complete the transaction in the presence of two signatories authorised to affix the Seal pursuant to Regulation 400 of the Local Government (General) Regulation 2005 and Council's associated procedure.

**CARRIED**

*Cr Cohn left the meeting, and Cr King was placed in the virtual waiting room at 8.25pm.  
Cr Docksey left the meeting at 8.40pm.*

## **CM17.2. Code of Conduct Report by Conduct Reviewer**

### **MOTION**

**Cr Thurley Moved, Cr Stuchbery Seconded**

That, having regard to all the circumstances and further submission from Cr Docksey, Council, pursuant to Part 7.58 (b) and Part 7.59 of the Procedures for the Administration of the Code of Conduct, censures Cr Graham Docksey for the following in relation to Civic Flag Protocol matter:

- i. Failing to appropriately manage his conflict of interest in accordance with Clause 5.4 of the Code of Conduct.

*Cr Cameron called for a division and the following votes were recorded:*

#### **FOR**

Cr Stuchbery  
Cr Mack  
Cr Thurley

#### **AGAINST**

Cr Cameron  
Cr Glachan  
Cr van de Ven

*There was an equality of votes, and the Chairperson exercised his casting vote for the motion.*

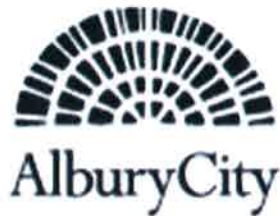
**CARRIED**

*Crs Cohn, Docksey and King returned to the meeting at 9.04pm.*

The meeting closed at 9.09pm.

# **ANNEXURE B**

## **Memorandum of Understanding**



# MEMORANDUM OF UNDERSTANDING

For a Joint Tender Process between:

Albury City Council, ABN 69 071 146 814  
Berrigan Shire Council, ABN 53 900 833 102  
Edward River Council, ABN 90 407 359 958  
Federation Council, ABN 43 874 223 315  
Greater Hume Council, ABN 44 970 341 154  
Indigo Shire Council, ABN 76 887 704 310  
Leeton Shire Council, ABN 59 217 957 665  
City of Wodonga Council, ABN 63 277 160 265

## MEMORANDUM OF UNDERSTANDING

### DATE

15<sup>th</sup> day of October 2021.

### PARTIES

<b>Albury City Council - ABN 69 071 146 814</b> of 553 Kiewa Street, Albury, New South Wales, 2640
<b>Berrigan Shire Council – ABN 53 900 833 102</b> of 56 Chanter Street Berrigan, 2712
<b>Edward River Council – ABN 90 407 359 958</b> of Napier Street Deniliquin, New South Wales 2710
<b>Federation Council - ABN 43 874 223 315</b> of 233 Honour Avenue, Corowa, New South Wales, 2646
<b>Greater Hume Council - ABN 44 970 341 154</b> of 39 Young Street, Holbrook, New South Wales, 2644
<b>Indigo Shire Council - ABN 76 887 704 310</b> of 101 Ford Street, Beechworth, Victoria, 3747
<b>Leeton Shire Council – ABN 59 217 957 665</b> of 23-25 Chelmsford Place Leeton NSW 2705
<b>City of Wodonga Council - ABN 63 277 160 265</b> of 104 Hovell Street, Wodonga, Victoria, 3690

### BACKGROUND

- A. The Memorandum of Understanding (MOU) is an agreement by the Councils to collaborate in a Joint Tender process for the supply of Residential Waste and Recycling Collection Services. It is the intention of the Councils that the Joint Tender be advertised around July 2022 for a commencement date of 1 July 2024.
- B. The Waste and Recycling Collection Services to be incorporated in the Request for Tender include the following Waste streams:
- Domestic Kerbside Putrescible Waste
  - Domestic Kerbside Recyclables
  - Domestic Kerbside Organic Waste
- C. The Councils have agreed to enter into this MOU with the intention of encouraging resource sharing and to support best value principles. The Councils recognise that the market they operate within for Waste and Recycling Collection is limited in scope due to its population, geographic size and location. In this context, the Councils have agreed to enter into this MOU and prepare a Joint Tender to encourage competition from a broader spectrum of potential contractors.

- D. The MOU provides certainty for each Council involved in the Tender that their specific needs will be addressed and where practicable incorporated in the Request for Tender.
- E. The MOU also establishes agreed principles for the sharing of costs, resources, education and the respective obligations of the Councils to evaluate the Tender responses.

## **OPERATIVE PROVISIONS**

### **1. Interpretation**

1.1 In this document, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders.
- (b) another grammatical form of a defined word or expression has a corresponding meaning.
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this agreement, and a reference to this agreement includes any schedule or annexure.
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time.
- (e) a reference to A\$, \$A, dollar, AUD or \$ is to Australian currency.
- (f) a reference to time is to New South Wales, Australian time.
- (g) a reference to a party is to a party to this agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes.
- (h) a reference to a person includes a natural person, partnership, body corporate, body politic, association, governmental or local authority or agency or other entity.
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.
- (j) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions.
- (k) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally; and
- (l) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally).

1.2 Construction

A rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it.

1.3 Business Day

If a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed, or the event must occur on or by the next Business Day.

1.4 Headings

Headings are for ease of reference only and do not affect interpretation.

## **2. Request for Tender & Process Governance**

- 2.1 This MOU is subject to prior approval of an Application to the Australian Competition and Consumer Commission (ACCC) to permit the proposed joint tender. The purpose of the Application to the ACCC is to satisfy the ACCC that the proposed conduct does not lessen competition and that there is a public benefit to undertaking a joint tender that outweighs any public detriment.
- 2.2 The Tender is to be a Joint Tender.
- 2.3 The Request for Tender will clearly enunciate the specific service needs and constraints for each participating Council.
- 2.4 The Request for Tender will provide for flexible bid requirements including the option for each prospective contractor to tender for:
  - (a) the provision of services to all participating Councils.
  - (b) the provision of services to a single Council.
  - (c) the provision of services to a cluster of Councils determined by geographic proximity, volume or any other relevant factors.
- 2.5 The Councils have a preference for the appointment of a single contractor to service all Councils in anticipation that economies of scale will produce best value for all Councils. However, all Councils are open to consideration of single Council bids and cluster Council bids in order to assess the benefit to their respective Councils. The option will exist for each prospective contractor to determine if they wish to submit Tender responses for one or all alternative bid options set out in clause 2.3.
- 2.6 Where a Council may have a preference for the Contractor to deliver waste to a waste processing site, all site preferences must be disclosed and known to the working group to ensure the Tender can address and accommodate such requests.
- 2.7 The MOU and governance framework for the Request for Tender process is outlined in Attachment 1.

## **3. Tender Development**

- 3.1 The Request for Tender will be developed by a Working Group comprised of a nominated representative of each Council and any necessary consultants.
- 3.2 Albury City Council will prepare the documentation associated with the Request for Tender and will act as the primary lead for all administrative aspects of the Tender.
- 3.3 Albury City Council will in its absolute discretion instruct its solicitors for legal advice and or consultants as required to ensure compliance with all relevant legislation. It is the responsibility of each Council to seek legal advice independently on their respective positions.

## **4. Tender Advertising**

- 4.1 The Request for Tender will be advertised by Albury City Council for and on behalf of all Councils.
- 4.2 Receipt of Tender responses will be co-ordinated by Albury City Council in accordance with the New South Wales legislative requirements.

## **5. Tender Evaluation**

- 5.1 The initial Tender evaluation will be undertaken by the Working Group.

- 5.2 The Working Group will evaluate the Tender responses in accordance with compliance and specifications to be set out in the Request for Tender.
- 5.3 The Working Group will assess all Tender responses submitted for the preferred option of a single contractor for all eight Councils.
- 5.4 In the event of any Tender responses being submitted for a cluster of Councils (more than one, but less than eight), then representatives of the Councils included in the cluster will be responsible for evaluating those Tender responses only.
- 5.5 Any Tender responses for individual Councils will be assessed by the respective Council.
- 5.6 The Working Group will prepare a Joint Report. It will be at the discretion of the respective Councils as to whether they carry out any additional evaluation or prepare individual reports for presentation to their respective Councils.
- 5.7 The Joint Report prepared by the Working Group will not be binding on any Council.

## **6. Tender Acceptance**

- 6.1 Each Council will be required to separately resolve to accept any Tender following the evaluation of the Joint Report of the Working Group and any additional report prepared by their respective Council Officers.
- 6.2 No participating Council is obliged to accept a Tender and enter into a contract with the preferred contractor selected by the Working Group.
- 6.3 A Council can withdraw from the Joint Tender process following consideration of the Joint Report prepared by the Working Group. In the event that any Council fails to pass a resolution in favour of the recommendation of the Working Group, it is that Council's responsibility to inform the Working Group as soon as practical.

## **7. Contract Management**

- 7.1 The Joint Tender is to be configured so that individual Council's control and manage their own components of the contract. Each Council will enter into a separate and individual contract with the appointed contractor or contractors.
- 7.2 In the event of the appointment of a contractor by a cluster of Councils, it is open to the Councils in the respective clusters to consult with one another and determine whether they wish to control and manage their own contract, or alternatively, form a Project Management Group consisting of representatives from each of the participating Councils within the cluster to manage the contract.

## **8. Cost of Administration of the Joint Tender**

- 8.1 Participating Councils in the Joint Tender agree to contribute towards the cost of development of the Tender, documentation, advertising of the Tender and evaluation of the Tender bids.
- 8.2 The cost incurred by each participating Council is to be distributed on a pro rata basis in accordance with the number of households within each Council area.

## **9. Probity Issues**



- 9.1 Each Council, its employees and Councillors, are bound by their Code of Conduct obligations including, but not limited to, acting honestly, appropriately handling conflicts of interest and behaving ethically.
- 9.2 Participating Councils cannot negotiate independently with possible contractors for the supply of Waste and Recycling Collection Services whilst the Joint Tender process is ongoing.
- 9.3 An independent Probity Advisor is to be appointed to oversee all aspects of the Tender preparation, the release to market and independently review the Tender evaluation process.

## **10. Confidentiality**

- 10.1 The Councils must not disclose any Confidential Information to any persons except:
- (a) to relevant employees, lawyers or other consultants of each party to the extent necessary to further the negotiations of the parties.
  - (b) with the consent of the party who supplied the information.
  - (c) if required by law; or
  - (d) if the information is generally and publicly available other than as a result of a breach of confidence by the person receiving the information.
- 10.2 "Confidential Information" means information relating to the:
- (i) negotiation and terms of this document and other documents entered into between the parties, including all Tender documentation; and
  - (ii) operations, business dealings or financial affairs of each party.
- 10.3 A party must not make, cause or allow any public announcement, press release or public statement of any kind to be made about this document or the Joint Tender without the prior consent of the Working Group.

## **11. Good faith**

- 11.1 The Councils agree to act honestly and in good faith with each other in pursuing the objectives of this MOU and in the proposed Joint Tender.

## **12. Miscellaneous**

- 12.1 Further assurance
- Each party must execute and do all acts and things necessary or desirable to implement and give full effect to the provisions and purpose of this document.
- 12.2 Survival
- Any obligation of confidence under this document is independent and survives termination of this document. Any other term by its nature intended to survive termination of this document survives termination of this document.
- 12.3 Fettering of Discretion
- Nothing in this document should be construed in any way to fetter the discretion of each Council to carry out its statutory obligations.
- 12.4 Execution and Counterparts
- This document may be executed in any number of counterparts which together will form one and the same document.

#### 12.5 Governing law and jurisdiction

This document is governed by the law of New South Wales and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales.

### 13. Contract Objectives

13.1 The member Councils have developed Draft guiding principles for the Kerbside Collection Contract for 2024 onwards. This will provide a collective approach by member Councils and the successful contractor towards waste management ensuring continued progress and direction towards key strategic goals and legislative targets as set by Victorian and New South Wales State Governments relating to waste minimisation, avoidance and resource recovery.

13.2 The Draft objectives and actions for the Kerbside Collection Contract for 2024 are:

- |           |  |
|-----------|--|
| Action 1  | Divert 80% of waste (from 2010 levels) by 2030 from Municipal Solid Waste (MSW).   |
| Action 2  | The three-bin system is the standard default system and will be applied across all services by 2030 in line with both NSW and Victorian waste and recycling strategy targets.  |
| Action 3  | Organics contamination rates are maintained consistently below 0.5%.   |
| Action 4  | Co-mingled recycling contamination has reduced to below 5% over the term of the contract.  |
| Action 5  | Maintain a fortnightly collection for MSW garbage waste and commingled recycling and maintain a weekly collection service for food and organic material.   |
| Action 6  | Presentation rates for Food Organics Garden Organics (FOGO) and co-mingled recycling are maintained above 80%.   |
| Action 7  | All municipal organic waste streams to be diverted from landfill by 2025*.   |
| Action 8  | The existing Halve Waste education and engagement program is maintained and introduced with all participating Councils as a minimum and where able across the region.  |
| Action 9  | Halve Waste will oversee the education component as delivered by the contractor. Each participating Council delivers their waste and recycling messaging in consistent and agreed Halve Waste co-branding and the education program is supported across the region.                                |
| Action 10 | Councils to set recycled content purchasing targets and these targets are reported on through procurement processes and sustainable procurement targets.   |
| Action 11 | Support technology advancement and circular economy practices which further promote waste minimisation within our region, particularly where Councils services can be managed more cost effectively and sustainably.   |
| Action 12 | The existing contamination program will continue for the term of the next contract and may be extended if 'bans' from landfill are implemented (e.g., organics in the red-lidded bin).   |
| Action 13 | All kerbside bins and services should be a standard size and colour as per specifications in the kerbside contract (140L red lid for general waste, 240L yellow for co-mingled recycling and 240L with lime green lid for organics) unless alternative tenders are submitted to keep current bins. |
| Action 14 | Auditing of bin services is to occur at the commencement of the contract and then scheduled biannually.  |

- Action 15 Understand, report and set a target for the percentage of diverted materials that are processed, recycled or kept in the region.
- Action 16 Councils internal waste and recycling fees reflect and support the diversion targets set within this strategy. Kerbside general waste fees are utilized as a lever that supports positive behaviour change in the community.
- Action 17 All Councils work together with the contractor to support changes in legislation across the two states, and particularly in relation to glass, soft plastics collection/drop off and paper and cardboard recycling to provide a consistent service where logical, cost effective and resulting in the greatest benefits to waste diversion, recycling rates and benefits to the regional communities.

\*for existing three-bin services, FOGO implemented by 2030 for new services.

- 13.3 The Councils as named, declares their commitment to these objectives and agrees to take reasonable steps within the contract period to support the achievement of these.



#### **14. Community Education - Halve Waste**



- 14.1 Halve Waste is a waste and recycling education program, commenced in 2010 by original member councils (Albury City Council, City of Wodonga Council, Federation Council and the Shires of Towong, Greater Hume, Indigo Shire Councils) with the initial goal of reducing the amount of waste going to landfill by 50% through community engagement, education, promotion and reinforcement of positive waste reduction and recycling behaviours. The Halve Waste Education Program provides the opportunity to the community to learn what happens to local waste and is offered to all schools, educational facilities, and community groups within the Halve Waste region. The new overall target that drives the initiative is to divert 80% of all wastes away from landfill by 2030 and the actions of the kerbside waste and recycling strategy further detail how this overall goal will be achieved.
- 14.2 Participation in the Joint Tender process and any resolution to enter into a resultant contract, will automatically join the Council to the Halve Waste region, participation in the Halve Waste education program will be mandatory, and each member Council will pay an annual contribution fee towards funding its operations. This fee will be calculated using each Council's approximate number of house holder services and the type of services in place.
- 14.3 Exclusive resources, branding and marketing campaign material will be provided to all member councils for use within their LGAs, and their Council logo will be displayed on the Halve Waste website: [www.halvewaste.com.au](http://www.halvewaste.com.au) as joining Councils will become part of an expanded Halve Waste region.
- 14.4 The annual contribution fee towards the Halve Waste program is considered separate to the costs associated with administering the Joint Tender process and will be billed to each individual Council separately as per the calculation method in clause 14.2.



## APPENDIX



1. MOU and Tender Governance Model – Regional Kerbside Collection Services Tender (attached).



### EXECUTED BY THE PARTIES


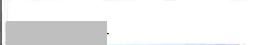
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<b>Name of delegated Council Officer:</b> Frank Zaknich	<b>Name of Witness:</b> Rosie ODonoghue

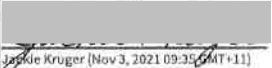

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 X .....	 X .....
<b>Name of delegated Council Officer:</b> Karina Ewer	<b>Name of Witness:</b> Ram Murugabubati



<b>Date:</b>	
<b>EXECUTED for and on behalf of Edward River Council ABN 90 407 359 958 under delegated authority and in the presence of:</b>	
 X .....	 Mark Dalzell (Oct 25, 2021 14:43 GMT+11) X .....
<b>Name of delegated Council Officer:</b> Phil Stone	<b>Name of Witness:</b> Mark Dalzell

<b>Date:</b>  <b>EXECUTED for and on behalf of  Federation Council ABN 43 874 223 315  under delegated authority and in the presence of:</b>	
 Adrian Butler (Oct 28, 2021 13:25 GMT+11) X .....	 X .....
<b>Name of delegated Council Officer:</b> Adrian Butler	<b>Name of Witness:</b> Rachelle Henson

<b>Date:</b>  <b>EXECUTED for and on behalf of  Greater Hume Council ABN 44 970 341 154  under delegated authority and in the presence of:</b>	
 Steven Pinnuck (Oct 28, 2021 13:51 GMT+11) X .....	 Colin Kane (Oct 28, 2021 14:25 GMT+11) X .....
<b>Name of delegated Council Officer:</b> Steven Pinnuck	<b>Name of Witness:</b> Colin Kane

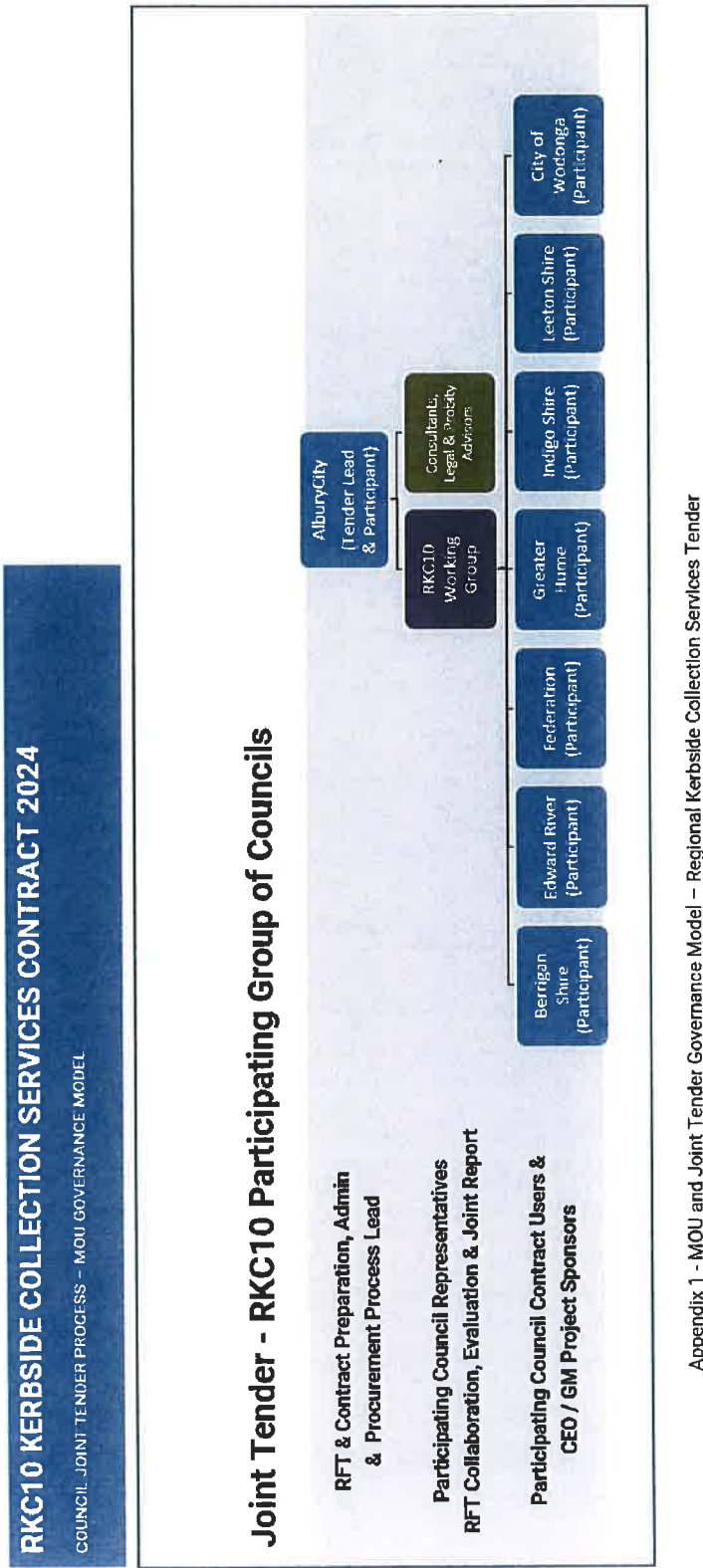
<b>Date:</b>  <b>THE SEAL of Indigo Shire Council  ABN 76 887 704 310 was affixed  and witnessed by the  following persons:</b>	
 Trevor Ierino (Oct 28, 2021 16:35 GMT+11) X .....	 Ian Ellett (Nov 2, 2021 14:49 GMT+11) X .....
<b>Name of delegated Council Officer:</b> Trevor Ierino	<b>Name of Witness:</b> Ian Ellett

<b>Date:</b>	
<b>EXECUTED for and on behalf of Leeton Shire Council ABN 59 217 957 665 under delegated authority and in the presence of:</b>	
 <small>Jackie Kruger (Nov 3, 2021 09:35 GMT+11)</small>	 <small>Melissa Seymour (Nov 3, 2021 09:42 GMT+11)</small>
<b>X</b> .....	<b>X</b> .....
<b>Name of delegated Council Officer:</b> Jackie Kruger	<b>Name of Witness:</b> Melissa Seymour

<b>Date:</b>	
<b>THE SEAL of City of Wodonga Council ABN 63 277 160 265 was affixed and witnessed by the following persons:</b>	
 <small>Mark Dixon (Nov 3, 2021 10:28 GMT+11)</small>	 <small>mark verbaken (Nov 3, 2021 10:38 GMT+11)</small>
<b>X</b> .....	<b>X</b> .....
<b>Name of delegated Council Officer:</b> Mark Dixon	<b>Name of Witness:</b> mark verbaken

APPENDIX

1. MOU and Joint Tender Governance Model – Regional Kerbside Collection Services Tender












# RKC10 MEMORANDUM OF UNDERSTANDING\_15 OCT 2021\_FOR SIGNATURES

Final Audit Report

2021-11-02

Created:	2021-10-15
By:	Elisha Lieschke (REDACTED)
Status:	Signed
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Signature Date: 2021-11-02 - 11:38:24 PM GMT - Time Source: server

 Agreement completed.

2021-11-02 - 11:38:24 PM GMT

# ANNEXURE C

## Probity Plan

# Project Probity Plan (Complex)

KERBSIDE COLLECTION SERVICES 2024

RKC10 JOINT TENDER PROCESS

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Project Probity Plan .....	6

<b>Project Lead</b>	Andrea Baldwin of AlburyCity		
<b>Project Sponsor(s)</b>	CEO/GM of each participating Council as per the signed MoU and in addendum.		
<b>PMO Project ID</b>	2972046 - AlburyCity TRIM Ref: FIL21/02154, ADMIN Ref: FIL19/04045.		
<b>Project Category</b>	Complex - Joint Tender on behalf of all Councils participating in the buying group.		
<b>Document Version</b>	<b>Version</b>	<b>Author</b>	<b>Date</b>
	0.1	Elisha Lieschke Procurement Services	13/07/2021
	0.2	Elisha Lieschke (Legal review - Kell Moore)	6/08/2021
	0.3	Elisha Lieschke (Probity review - Crowe)	30/08/2021
	0.4	Elisha Lieschke\Andrea Baldwin	16/09/2021
	0.5	Andrea Baldwin	25/09/2021
	0.6	Justin Finlayson	2/11/2021
	0.7	Justin Finlayson	17/11/2021
<b>Document Number</b>	DOC21/206520		

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## Background

The Councils of AlburyCity, City of Wodonga, Federation, Indigo and Greater Hume each participate in a collaborative agreement to provide Kerbside Municipal Solid Waste, Recycling and Food and Garden Organics Collection Services. The current contract commenced on 1 July 2012 and is due to expire 30 June 2024, the contract is for a term of 12 years.

The kerbside collection service presently consists of the following:

- Collection and disposal for Kerbside Municipal Solid Waste (MSW) services;
- Collection and processing of Kerbside Recycling (co mingle) services; and
- Collection and processing of Kerbside Food and Garden Organics (FOGO) services.

Four of the five Councils participate in the three-bin service and currently dispose of all MSW to the Albury Waste Management Centre (AWMC). Greater Hume have a two-bin service and utilise their Culcairn, Henty and Holbrook landfill facilities for MSW disposal. More than 61,000 tenements are serviced under the current kerbside collection service.

AlburyCity's operational costs alone over the term of the existing contract are estimated at \$57 Million. The kerbside collection services contract is the largest contract for Council to manage and oversee.

Albury City Council will need to consider the most appropriate options that enable these services to be delivered from 2024. The following options will be considered by Council.

- Council participates in a collaborative procurement process
- Council releases a tender for kerbside services as a single council
- Council provide an inhouse option to manage Albury kerbside services.

The existing model of a collaborative procurement process is the preferred option, it provides benefits in the form of lower service costs, specialised provider, building relationship with our neighbouring councils, contract management shared costs, shared education resources and economy of scale to seek innovation and investment in our regional area. This probity plan is developed on the proviso an external provider is the preferred delivery model.

*At its meeting held 11<sup>th</sup> October 2021, Albury City Council agreed and endorsed the following recommendations.*

*a. Agreed for Albury City Council to take part in the Collaborative Procurement Request for Tender for Regional Kerbside Collection Services to commence 1 July 2024 for the collection, disposal and processing of the following services:*

- i. Collection and disposal of Kerbside Municipal Solid Waste (MSW) services.*
- ii. Collection and processing of Kerbside Recycling (co-mingle) services.*
- iii. Collection and processing of Kerbside Food and Garden Organics (FOGO) services.*

*b. Endorses the Stakeholder Engagement Plan*

*c. Endorses the Memorandum of Understanding by approving the execution and sealing by Albury City Councils Mayor and Chief Executive Officer.*

*The report as provided to Council 11<sup>th</sup> October 2021 provided three options, these included:*

- *Council participates in a collaborative procurement process*
- *Council releases a tender for kerbside services as a single council*
- *Council provide an inhouse option to manage and deliver the municipalities kerbside services.*

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*The overall outcome was to enter into a collaborative procurement process with member Councils.*

*In addition, three additional councils have sought to join the collaborative procurement process, these include Leeton, Berrigan and Edward River Shire Councils, these Councils all have in principle support from their respective Councils to progress to a Request for Tender. These Councils will be requested to provide signed MOUs to secure their involvement. This represents a total of eight Councils participating in the joint procurement process to secure Kerbside Collection Services for Municipal Solid Waste, Recycling and Food and Garden Organics Services.*

## Probity Plan Purpose

To ensure probity principles are maintained throughout the Regional Kerbside Contract (RKC10) Request for Tender project by providing a project specific probity action plan for completion by the Regional Kerbside Working group. The objective of this plan is to maintain the utmost level of integrity and observe the highest degree of probity, ensuring confidence is preserved in our processes and decisions.

## Overview

The councils of AlburyCity, City of Wodonga, Federation, Indigo, Greater Hume, Leeton, Berrigan and Edward River have entered into a Memorandum of Understanding (MoU) for the collaborative planning, preparation and release of a joint procurement process for the provision of kerbside collection services, including the collection, disposal, and processing of residential waste for their respective municipal areas. The group of Councils intend to release a joint Request for Tender (RFT) to the market in mid 2022 for a proposed 10-year contract, to commence from 1st July 2024 onwards.

The procurement process is generally referred to as the Regional Kerbside Collection Services Contract or RKC10 and is subject to the NSW and VIC legislative and regulatory positions given the geographical locations of the participating Councils over the NSW and VIC state borders. A Project Control Group known as the "Regional Kerbside Contract Working Group" has been established to oversee the procurement process and comprises of the member Council's nominated representatives, and respective CEOs/General Managers.

## Probity Principles

RKC10 member Councils who have signed onto the Memorandum of Understanding (MoU) to contribute to and participate in this Tender, are statutory bodies and administrative decision-makers, who are required to exercise their functions in accordance with all duties and obligations imposed upon them by statute and the common law. All probity principles are based on those outlined within each Council's respective Codes of Conduct for its employees and delegated officers, as well as the principles detailed under the relevant sections of each State's Local Government Acts.

In NSW, compliance relates to Chapter 3 Principles for Local Government, detailed in the Local Government Act 1993, whilst in VIC, compliance with the framework set out in Section 186 of the Local Government Act -Legal framework and the policy framework set out in Section 3.11 Procurement policy.

Key themes central to these sections and probity of the procurement process include:

1. Obtain value for money and maintain fairness and impartiality.
2. Manage actual, perceived and potential conflicts of interest.
3. Maintain accountability, consistency and transparency of our processes.

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#### 4. Maintain confidentiality and security.

## Responsibilities

In the delivery of this project, the Project Lead, Project Sponsor(s), Kerbside Collection Working Group acting as the Project Team, and any other Council Officers involved with the project will:

- abide by all relevant and applicable laws and regulations with transparency and accountability;
- respect and where required and able, work within each Council's own Code of Conduct, Policies and Procedures;
- deal fairly, honestly and ethically with all individuals and organisations;
- assess all project related matters objectively and while considering all relevant and material factors;
- address, and effectively manage all actual, potential or perceived conflicts of interest;
- secure and handle all confidential information to the expectations of the relevant stakeholders;
- never solicit or accept remuneration, gifts or other benefits from an applicant in the discharge of official duties; and
- respond promptly to reasonable requests for information.

Figure 1. Kerbside Waste and Recycling Collection Contract, RKC10 Tender Working Group - MoU Governance Model.



The below is a guide only of key tasks, for more detail please refer to the detailed Project Plan – DOC19/132097.

**INITIATE PHASE:** means Phase 1 - Consultation & Planning in Project Plan.

Development of the Project Plan and timeline of events

Formation of the RKC10 working group with Council nominated representatives

Review preferred delivery model

Set the Tender and Contract Objectives

Define Market approach –NSW Environment Protection Authority Model Contract (with some VIC based variations)

Set up regular tender preparation meetings for participating Councils

Invitation extended to other Councils to participate

Community Attitudes Survey

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## **Performance and Customer Service Review**

### **Best-practice research paper**

**PLAN PHASE: means Phase 2.1 - Prepare Tender Documents.**

**Define the procurement process Probity Plan (this document) and appoint a Probity Advisor**

**Compile Tender documents and supporting information**

**Perform an in-depth review of all Model Contract and RFT template sections**

**Define preliminary Scope for each Council, identify areas of difference and future plans**

**Development of a MoU outlining roles, responsibilities and actions for each Council and Project Sponsor's participation**

**Seek Council resolution from each Council to authorise joint tender participation**

**Development of Waste Management & Resource Recovery Strategy**

**Develop further and extend Community Education Strategy via Halve Waste**

**Consult Legal and ACCC regarding competitive nature of joint tender process, seek authorisation**

**DESIGN PHASE: means Phase 2.2 – Market engagement & research.**

**Conduct further market research into best practice via consultants and other Councils**

**Issue to the market an advance Statement of Intent to release a Joint Tender**

**Conduct an RFI – Survey to seek Industry interest, engagement and targeted market research**

**Collate and review findings, consider content to inform RFT final scope and future plans**

**Amend or include additions to scope and model contract sections**

**Set Tender evaluation criteria**

**Seek external review of all documentation in preparation of release to market including Legal review**

**EXECUTE PHASE: means Phase 3 – Tendering**

**Arrange Tender advertising**

**Arrange Tender release to market via Tenderlink**

**Response to posted forum questions and management of any addendums if required**

**Close of tenders process**

**Open and assessment of submissions by the RKC10 working group**

**Check conformity, financial assessments**

**Interview tenderers**

**Allow for Council specific review, consideration and sponsor approval**

**Final evaluation, notify unsuccessful and draft proposal to award with probity and legal checks**

**Each Council to write a Council report seeking endorsement**

**CLOSE PHASE: means Phase 4 - New Service Commissioning & Phase 5 - Monitoring & Review**

**Contract execution, finalise and sign contracts for each council (individual contracts)**

**Begin Service and successful Supplier onboarding**

**Plan with incumbent exit and transition plan if required**

**Begin Roll-out planning including set up of Contract Management plan**

**Review of RFT process**

**Implement Community Education plans and associated community engagement activities**

**Equipment roll outs and delivery plans**

**Monitor Contractor and service performance**

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## Project Probity Plan

Item	Required?	Comments	Responsible Officer	Applicable Project Lifecycle Phase				
				Initiate Phase	Plan Phase	Design Phase	Execute Phase	Close Phase
Risk Management Plan								
• All probity risks will be identified, assessed, controlled and reviewed as part of the Project Risk Management Plan.	Yes		WG	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
• Probity risks, including control plans, will be recorded within the Project Document File.	Yes		WG & Admin Support	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
• Project Governance structures will be included within the Project Management Plan.	Yes		AB/EL	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• A Project Risk Register will be kept with the Project Plan and reviewed on a regular basis at a minimum at each Working Group project meeting with a notation included in the meeting agenda and minutes.	Yes		WG & Admin Support	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Conflicts of Interest								
• All Council Officers and Consultants associated with the project will submit a "Conflict of Interest" declaration form.	Yes	To be provided to meeting Chair and/or Justin Finlayson (cc Probity Advisor)	WG	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
• actual, where an officer is in a position <i>to be influenced</i> by their personal interests when doing their job.								
• perceived, where an officer is in a position to appear to be influenced by their personal interests when doing their job.								
• potential, where an officer is in a position where they <i>may be influenced in the future</i> by their private interests when doing their job.								
• Conflicts of interest will be a standing item on all meeting agendas.								
Independent Probity Advisor								
• An external and impartial Probity Advisor will be appointed to provide advice.	Yes	Present	EL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

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Item	Required?	Comments	Responsible Officer	Applicable Project Lifecycle Phase				
				Initiate Phase	Plan Phase	Design Phase	Execute Phase	Close Phase
		<ul style="list-style-type: none"><li>- Pre-tender Industry engagement</li><li>- Final Tender doc preparation</li><li>- Tender release</li><li>- Receipt of submissions</li><li>- Assessment of submissions</li><li>- Clarifications</li><li>- Proposal to award</li><li>- Post Award briefings</li><li>- Final review &amp; report</li></ul>						
<ul style="list-style-type: none"><li>• Probity compliance reports will be presented at the completion of the Design, Execute and Close Project Phase.</li></ul>	Yes		JF & appointed Probity Advisor	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"><li>• Any modifications or amendments made to this Probity Plan after its acceptance and implementation by the Working Group is to be listed in the final pages under Document History, reviewed, dated and approved by the appointed Probity Advisor.</li></ul>	Yes		WG & appointed Probity Advisor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Roles and Responsibilities								
<ul style="list-style-type: none"><li>• The Project Delivery Structure will be included within the MoU and Project Management Plan, including membership of the Tender Project Working Group which will act in the role of the Probity Control Group.</li></ul>	Yes		AB/EL	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"><li>• Roles and responsibilities, in relation to probity, of Council Officers and Consultants associated with the project will be defined within the MoU and Project Management Plan. All</li></ul>	Yes		AB/EL & appointed	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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Item	Required?	Comments	Responsible Officer	Applicable Project Lifecycle Phase				
				Initiate Phase	Plan Phase	Design Phase	Execute Phase	Close Phase
Working Group members are to be briefed by the appointed Probity Advisor.			Probity Advisor					
<ul style="list-style-type: none"><li>All Council Officers and Consultants associated with the project will be informed of their obligation to raise any identified Probity Risks with the Project Lead and/or Project Working Group immediately.</li></ul>	Yes	Included in meeting agendas and minutes	JF	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"><li>All Council Officers and Consultants associated with the project will be informed of their obligations to report any suspected breaches of this Probity Plan to the Probity Advisor (if relevant) and/or the Probity Control Group (Working Group).</li></ul>	Yes		WG & appointed Probity Advisor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"><li>All Council Officers and Consultants associated with the project will be informed of their obligations not to discuss the project with any media, except as documented in the Project Plan.</li></ul>	Yes	Review Media Permissions and Comms plans.	WG	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Security, Record Keeping and Confidentiality								
<ul style="list-style-type: none"><li>The project will follow the AlburyCity (as the Project Lead) document management policies and procedures for all project related documentation.</li></ul>	Yes		AB	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"><li>Only Council Officers with a direct “need to know” will be provided access to commercially sensitive information that is to be stored in TRIM (HP Content Manager) and Objective Connect.</li></ul>	Yes		AB & Admin Support	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"><li>All Working Group meetings will be minuted with the discussion accurately recorded and circulated in a timely manner.</li></ul>	Yes		Admin Support	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"><li>All meetings involving external stakeholders will be minuted with the discussion accurately recorded and circulated in a timely manner.</li></ul>	Yes		Admin Support	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"><li>Any emails of significance will be registered into the AlburyCity document management system under the project FIL reference.</li></ul>	Yes		AB/EL & Admin Support	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

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<ul style="list-style-type: none"><li>All Council Officers and Consultants associated with the project will submit a “Confidentiality and Non-disclosure Deed Poll” form as required.</li><li>Any project information, that is not publicly available, will only be communicated in accordance with AlburyCity’s Procurement Manual (as the Project Lead) and NSW Tendering Guidelines and with permission from the Working Group.</li></ul>	Select	Template to be provided to WG	JF	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
	Yes		WG & Admin Support	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Procurement – Tender process								
<ul style="list-style-type: none"><li>Adequate time and resources will be allowed for within the Project Schedule to conduct all procurement activities outlined in the AlburyCity Procurement Manual and NSW Model Waste and Recycling Collection Model Contract process.</li></ul>	Yes		WG	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<ul style="list-style-type: none"><li>All Market interactions and Tender documents will be released to the Market via an online Tendering portal for open, transparent, equal and auditable access by prospective Tenderers. All questions, queries, scope or document addendums are to be issued, responded to and managed by the online portal.</li><li>Any contact or correspondence received outside of the portal regarding the tender is to be reported to Procurement and the Probity Advisor and a note made in the Project file.</li></ul>	Yes		EL, Probity Advisor & Admin Support	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<ul style="list-style-type: none"><li>All submissions and completed schedules are to be received from Tenderers via the online portal on or prior to close of tenders in order for submissions to be deemed as received and compliant. The submissions will be placed onto an online Tenderbox where electronic keys will be provided upon tender close to an independent person or a probity advisor as nominated by the Working Group.</li></ul>	Yes		Appointed Probity Advisor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<ul style="list-style-type: none"><li>Assessment Criteria and score weightings will be set by the Working Group, reviewed by the Probity Advisor and</li></ul>	Yes		EL, WG, Admin &	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

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locked in prior to tender release to ensure there is not risk of interference. These will be saved into restricted folders within TRIM and made only available to WG panel members via Objective Connect. These weightings are to be confirmed as unchanged, by the Probity Advisor prior to release of the suppliers tender submissions to the Working Group for review.			Probity Advisor					
<b>Procurement – Post Tender &amp; Award</b>								
<ul style="list-style-type: none"> <li>Tender response clarifications are to be identified and documented in writing during the assessment phase by Working Group panel members. All clarification is to be agreed by the working group before going to tenderers for a response. A register of all requests for information regarding the tender and requests for clarification are maintained.</li> </ul>	Yes		WG & Admin Support	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Evaluation of supplier offers will be against the documented criteria and be objective. Each Council representative will review against the set criteria on behalf of the cohort as well as consider Council specific requirements.</li> </ul>	Yes		WG with appointed Probity Advisor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>Information or clarification provided to potential tenderers is consistent and documented. Where the information is not readily or immediately available, the contact person obtains the relevant information and then follows up the request. Unless impractical, all communication to tenderers be provided in writing and simultaneously to all tenderers in respect of a question asked of the tender. A copy of the question, but not details of the source of the question, should be circulated with the answer.</li> </ul>	Yes		WG & Admin Support	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>A communication protocol with tenderers will be established (to ensure that no one bid obtains an unfair advantage over others).</li> </ul>	Yes	Nominated Contact Person to be confirmed	AB/EL & appointed	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

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Item	Required?	Comments	Responsible Officer	Applicable Project Lifecycle Phase				
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<p>The Victorian Local Government Best Practice Procurement Guidelines 2013 notes the following: While it is related to record keeping, particular attention should be paid to documenting any and all communication with prospective suppliers</p> <p>Tendering Guidelines for NSW Local Government – October 2009 notes the following: Communication with potential tenderers is only undertaken by the contact person who must be listed in the public advertisement of the tender and the tender documents under clauses 167, 168, 169 and 170 of the Regulation.</p>			Probity Advisor					
<ul style="list-style-type: none"> <li>Any amendment to the tender documents and the steps taken to inform all potential tenderers of the amendments, as per clause 170 of the Regulation, are documented. Responses to tender enquiries should reference the relevant clause in the tender documents or if there is no clause relevant to the query, provide the response as an addendum to the tender documents.</li> </ul>	Yes		AB/EL & appointed Probity Advisor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>Response to queries about a specific tenderer's innovative solution should not be communicated to any other tenderer.</li> </ul>	Yes	Nominated Contact Person to be confirmed	WG & Admin Support	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>Tenderers may be encouraged to offer alternative tenders that do not fully meet the prescriptive conditions of tendering but provide innovative solutions and better value for money. Councils must specify the circumstances in which alternative tenders will be considered. Where a tenderer offers an alternative, a tender for that alternative should not be sought from other tenderers. Councils should not breach confidentiality by using information contained in alternative tenders as the basis for calling subsequent tenders.</li> </ul>	Yes		WG & appointed Probity Advisor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Alternative tenders should not be accepted from tenderers that have not submitted a complying tender.</li> </ul>	Yes		WG	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

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				Initiate Phase	Plan Phase	Design Phase	Execute Phase	Close Phase
<ul style="list-style-type: none"> <li>For non-complying or alternate tenders, a detailed analysis of the non-compliance should be included and the reasons for council to rule out a submission and consider this appropriate or otherwise.</li> </ul>	Yes		WG & Admin Support	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>All Tender submission information, that is commercially sensitive and not publicly available, will only be communicated between the Working Group, any appointed consultant or subject matter expert in confidence and only with those who "need to know" for the purpose of assessment and review.</li> </ul>	Yes		WG & Admin Support	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>All Council specific contract information pre contract award, that is commercially sensitive and not publicly available, will only be communicated between the Working Group, each Council's authorised representatives or with those who "need to know" in confidence for the purpose of assessment and review.</li> </ul>	Yes		WG & Admin Support	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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# Working Group Representation

Working Group Representatives include:

Admin Support – Donna Pearson, Maree O’Connell (AlburyCity)

Appointed Legal Advisor – Matthew Rogers, KELL MOORE

\*Denotes Sponsor/Executive participant

Appointed Probity Advisor – Alison Lee, CROWE/FINDEK

NOTE: A PROXY MAY NOT ATTEND MEETINGS IN THE PLACE OF ANY MEMBER WITHOUT THE PROJECT LEAD’S PERMISSION AND HAVING BEEN MADE AWARE OF THIS PROBITY PLAN, SIGN A CONFIDENTIALITY AGREEMENT AND UNDERSTAND THE PRINCIPLES CONTAINED WITHIN THESE DOCUMENTS.

AlburyCity	Berrigan Shire	Edward River	Federation	Greater Hume	Indigo Shire	Leeton Shire	City of Wodonga
Andrea Baldwin (AB)	Ram Murugabubati (RM)	Cassie Harkin (CS)	Tony Rintala (TR)	Steven Pinnuck (SP)*	Ewen Oldmeadow (EO)	Guy Retallick (GR)	Mark Verbaken (MV)
Elisha Lieschke (EL)	Gary George (GG)	Mark Daizell (MDa)	Sue Lavis (SL)	Colin Kane (CK)	Ian Elliott (IE)	Tom Steele (TS)	Jason Perna (JP)
Michelle Wilkinson (MW)	Karina Ewer (KE)*	Phil Stone (PS)*	Adrian Butler (ABu)*		Trevor Ierino (TI)*	Jackie Kruger (JK)*	Mark Dixon (MD)*
Steven Millett (SM)	Rohit Srivastava (RS)				Shawn Uppal (SU)	Denise Jones (DJ)	Leon Schultz (LS)
Kate De Hennin (KDH)					Emma Avery (EA)	Luke Tedesco (LD)	
Justin Finlayson (JF)							
Brad Ferris (BF)*							
Frank Zaknich (FZ)*							
Tracey Squire (TS)							

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Template Effective Date: 05/1/2019	Template Version Number: 0.3	Template Document Name: Project Management Framework Plan Phase – Project Probity Plan	Template Reference: DOC19/104590	Page 13 of 14
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## Document History

Document History (after WG acceptance and Probity Plan Implementation)			
Amendment made by:	Applicable Section/Phase:	Changes/Amendments made:	Appointed Probity Advisor's Approval:
Andrea Baldwin	Background & Working Group Representation	AlburyCity Council resolution and additional PSG/Executive members included	
Justin Finlayson	Conflicts of Interest/Confidentiality	Updated who to provide Conflict declarations to, updated Confidentiality Deed description and added JF responsibilities	
Justin Finlayson	Working Group Representation	Updated details of member council representatives	

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Template Effective Date: 05/11/2019	Template Version Number: 0.3	Template Document Name: Project Management Framework Plan Phase – Project Probity Plan	Template Reference: DOC19/104590	Page 14 of 14
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# **ANNEXURE D**

## **Draft Statement of Intent**

Prepared by  
Albury City Council on behalf of the  
Regional Kerbside Contract  
Working Group

# RKC10 REGIONAL KERBSIDE WASTE COLLECTION SERVICES

## STATEMENT OF INTENT TO JOINT TENDER

## REQUEST FOR MARKET INFORMATION

NOVEMBER 2021



# Statement of Intent - Joint Tender Release

## RKC10 – REGIONAL KERBSIDE COLLECTION CONTRACT 2024

The Councils of AlburyCity, City of Wodonga, Federation, Indigo, Greater Hume, Leeton, Berrigan, and Edward River are planning for a joint procurement process for the provision of kerbside collection services, including the collection, disposal, and processing of residential waste for their respective municipal areas. The group of Councils intend to release a joint Request for Tender (RFT) to the market early 2022 for a proposed 10-year contract, to be effective from 1 July 2024 onwards.

The procurement process is generally referred to as the Regional Kerbside Collection Services Contract or RKC10 and is subject to the NSW and VIC legislative and regulatory positions given our geographical location over the NSW and VIC state borders, and extensive planning for the procurement process is underway.

The Councils are now seeking to notify industry service providers in advance, of their intention to release a joint RFT as well as engage with industry participants to ascertain levels of interest, readiness for tendering, as well as to allow the final design of the RFT to be informed by industry waste management operators and experts. Councils wish to identify and give consideration to industry trends, market structural changes, innovation, environmental, social, economic and political impacts that may affect future service aspects of the regional contract.

The regional joint approach to procuring kerbside collection services follows a previously successful regional tender which resulted in five (5) of the member Councils entering into contractual arrangements for waste collection, disposal, recycling and processing services. These contracts are due to expire on 30 June 2024.

To indicate each of the Councils' commitment to participating in this joint procurement process, the Councils have entered into a Memorandum of Understanding (MoU), seeking to collectively and collaboratively engage in a procurement process for kerbside waste collection and processing services. The MoU constitutes a statement of genuine and mutual intentions to procure the services and enter into any eventual contracts following the procurement process.

Whilst the joint procurement process will result in a single request for tender being advertised, the specifications for each Council will be separately identified and contractors will be required to submit prices for each Council individually. Whilst a joint panel will assess the tender submissions and make recommendations, each Council will be required to pass its own resolution on the selection of its preferred contractor. Thereafter, separate Contracts will be entered into for each Council and its appointed contractor.

### Current Arrangements

For the information of prospective tenderers, the existing contractual arrangements are that each Council holds a separate but almost identical contract with the current service provider for the collection, disposal and processing for nominated waste streams.

The current contract includes five (5) partnering councils and their municipal areas, being AlburyCity, City of Wodonga, Federation, Indigo and Greater Hume. The next contract is anticipated to include up to eight (8) partnering councils in total including the existing five (5) and possibly the three (3) additional Councils being Berrigan, Leeton, and Edward River.

AlburyCity, Federation, Indigo Shire and City of Wodonga, all supply residential waste material from their

three bin kerbside collection systems – Red Municipal Solid Waste (MSW), Yellow Recycling & Green Organics, with weekly alternating collections from residents. Federation and Indigo Shire Councils currently provide the three-bin system for residential services but within nominated township boundaries. These Councils are seeking to transition all kerbside services to the three-bin collection system within the term of the next contract. Wodonga did allow 'opt outs' to rural residents from the FOGO/Green bin but these will no longer be allowed from the commencement of the new contract in 2024.

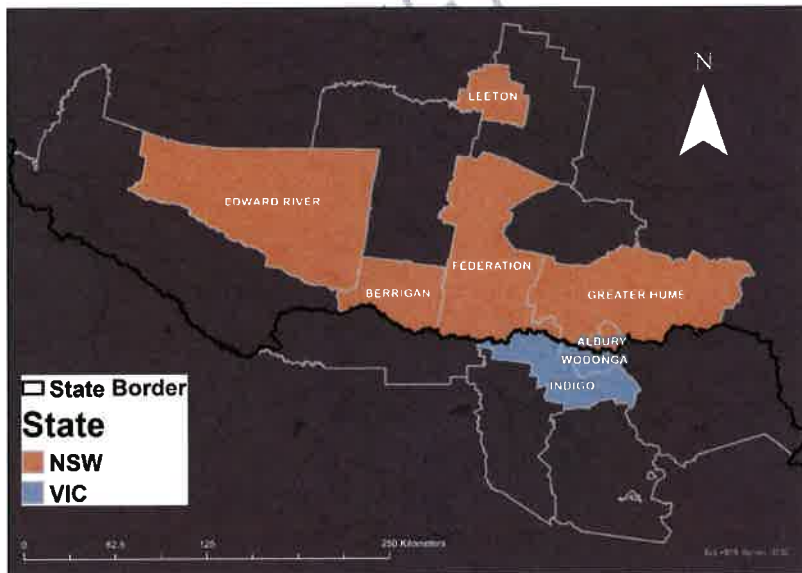
Greater Hume currently supply residential waste material from their two-bin kerbside collection system (Red MSW and Yellow Recycling) on a weekly rotation for MSW and fortnightly rotation for recycling. This council is seeking to transition to a three-bin collection system within the term of the next contract.

Berrigan, Leeton, and Edward River Shire Councils seek to join the existing Councils in regional procurement and contracting of kerbside collection services. They each currently supply material from either a one or two bin system (Red MSW and Yellow Recycling) on a weekly rotation for MSW and fortnightly rotation for recycling. These councils are all seeking to transition to a three-bin collection system within the term of the next contract.

Albury City Council will act as the Tender Lead and overall Contract Manager on behalf of all participating Council's to provide administrative efficiencies. Each Council will manage its own kerbside operations under the terms agreed in the eventual contract.

Councils are open to alternative contract management arrangements, however, ideally would prefer a single Contractor or Service Provider.

#### Geographical Locations of Participating Councils



## RKC10 Governance and Services to be Tendered

RKC10 to date has been guided by a governance structure, procurement process and project plan identifying all roles and responsibilities, decision making processes and milestone tasks along with probity management. A Project Control Group known as the "Regional Kerbside Contract Working Group" has been established and comprises of the member Council's nominated representatives, and respective CEOs/General Managers.

The Councils under this joint procurement process will collectively tender for collection, disposal and processing services to commence from 1 July 2024.

Service proposals from prospective Tenderers will be sought for the following:

- Collection and disposal of kerbside MSW services (with Council nominated disposal locations)
- Collection and processing of kerbside recycling (Co-mingle) services
- Collection and processing of kerbside food and garden organics (FOGO) services
- Future option for the collection and processing of kerbside compliant glass\* services

\*Current Victorian Legislation intends to introduce and provide household recycling of compliant glass by 2027. The group of participating Councils intend to work with the industry, prospective contractors and State Governments to develop a plan for complying with the relevant legislation for glass recycling in preparation for this requirement.

We are seeking industry feedback and market information into kerbside collections as well as glass recycling provisions and future capability in our region.

The Councils provide prospective tenderers the following indicative information prior to tender release for their understanding and consideration regarding the expected waste streams to be collected, processed and managed.

### Summary of Annual tonnes collected and point of disposal/processing 2020-2021:

COUNCIL	MIXED WASTE	RECYCLING	ORGANICS	COMMENTS
Albury City Council (NSW) Households – 25,073	Destination: AWMC Tonnes: 7138	Destination: MRF – Albury Tonnes: 4710	Destination: Regional Facility Tonnes: 11960	Reverse Vending Machines x 3 – CDS in place, inadequate for population growth
Federation Council (NSW) Households - 6111	Destination: AWMC Tonnes: 1968	Destination: MRF – Albury Tonnes: 1040	Destination: Regional Facility Tonnes: 2716	Over the Counter option – CDS in place. 1 reverse vending machine
Greater Hume Council (NSW) Households - 4250	Destination: Culcairn/Holbrook Landfill Tonnes: 2450	Destination: MRF – Albury Tonnes: 576	Not in place.	Commence organics service July 2024 or during the term of contract
Leeton Shire Council (NSW) Households - 4170	Destination: Leeton Landfill Tonnes: 2961	Destination: MRF – Wagga Tonnes: 520	Not in place.	Reverse Vending machine in place. CDS agreement for kerbside recycling with Kurrajong Recycling
Berrigan Shire Council (NSW) Households – 3833	Destination: Berrigan Landfill Tonnes: 4000	Destination: MRF - Albury Tonnes: 600	Not in place.	CDS not in place, Households Non Residential - 184 Farmland – 17 Residential Rural – 178

				Residential – 3329 Business - 326
Edward River Shire Council (NSW) Households - 3500	Destination: Deniliquin Landfill Tonnes: 3000	No recycling service in place	Not in place.	Commence organics service July 2024 or during the term of contract
Indigo Shire Council (VIC) Households - 4000	Destination: AWMC Tonnes: 2267	Destination: MRF – Albury Tonnes:1891	Destination: Regional Facility Tonnes: 2838	
City of Wodonga (VIC) Households - 17931	Destination: AWMC Tonnes: 4857	Destination: MRF – Albury Tonnes: 3808	Destination: Regional Facility Tonnes: 9296	CDS scheme to be introduced into Victoria 1 July 2023

AWMC = Albury Waste Management Centre/Landfill, MRF = Material Recovery Facility, CDS = Container Deposit Scheme.

The Councils wish to note that one of the key aims of this RFT is to determine the most suitable management systems for these services and will design and scope kerbside collection services to allow for flexibility if the waste streams above need to be re-configured, changed or rolled into the contract post implementation to suit participating Councils.

Ultimately, RKC10 is to secure effective, reliable, fit for purpose kerbside waste collection, disposal and processing services for participating Councils together with price certainty for the agreed term.



## Procurement Timeline

The Council's estimate that the procurement process will be managed to the below timeline:

ACTIVITY	TIMEFRAME
Lodge ACCC application seeking permission to participate and release a joint tender.	November 2021
Industry Engagement, Statement of Intent and Request for Market Information survey (this document).	December 2021
Review of Market Information received, edit and update RFT to include relevant industry considerations.	January 2022
Final Internal and Legal Review of RFT documentation.	February 2022
Release RFT to the Market via Tenderlink.	June 2022 (Open for 6-8 weeks)
Tender submissions.	July - August 2022
Assessment of submissions and any clarifications.	August - September 2022
Recommendations for individual Council resolution to award contracts to the successful Contractor(s).	October 2022
Contract award and Councils to arrange Contracts.	November - December 2022
Contract implementation tasks with the successful contractor to place equipment and vehicle orders.	January 2023 – June 2024
Contract commencement	1 July 2024

Note: Timeline is a best estimate and may be subject to changes.

The Contract is proposed for a term of 10 years.

The Councils' existing waste collection contracts will expire 30 June 2024 and any reconfiguration of the kerbside collection services will be informed by RKC10 and the RFT outcomes with flexibility built into contracts for future changes and updates.

## Contract Objectives

The member Councils have developed objectives and a roadmap for the 10-year Kerbside Collection Contract. This will provide a collective approach by member Councils and the successful contractor towards waste management ensuring continued progress and direction towards key strategic goals and legislative targets as set by Victorian and New South Wales State Governments relating to waste minimisation, avoidance and resource recovery.

The Kerbside, Waste, Recycling and Organics 2024 – 2034 Roadmap recommends the following objectives;

Action 1      Divert 80% of waste (from 2010 levels) by 2030 from MSW.

- Action 2 The three-bin system is the standard default system and will be applied across all services by 2030 in line with both NSW and Victorian waste and recycling strategy targets.
- Action 3 Organics contamination rates are maintained consistently below 0.5%.
- Action 4 Co-mingled recycling contamination has reduced to below 5% over the term of the contract.
- Action 5 Maintain a fortnightly collection for MSW garbage waste and commingled recycling and maintain a weekly collection service for food and organic material.
- Action 6 Presentation rates for FOGO and comingled recycling are maintained above 80%.
- Action 7 All municipal organic waste streams to be diverted from landfill by 2025\*.
- Action 8 The existing Halve Waste education and engagement program is maintained and introduced with all participating Councils as a minimum and where able across the region.
- Action 9 Halve Waste will oversee the education component as delivered by the contractor. Each participating Council delivers their waste and recycling messaging in consistent and agreed Halve Waste co-branding and the education program is supported across the region.
- Action 10 Councils to set recycled content purchasing targets and these targets are reported on through procurement processes and sustainable procurement targets.
- Action 11 Support technology advancement and emerging circular economy practices which further encourage and promote waste minimisation, localised processing, manufacturing with reclaimed content and local reuse options within our regions, particularly for items that are not currently diverted from landfill and where Councils services can be managed more cost effectively and sustainably for our local communities.
- Action 12 The existing contamination program will continue for the term of the next contract and may be extended if 'bans' from landfill are implemented (eg. organics in the red lidded bin).
- Action 13 All kerbside bins and services should be a standard size and colour as per specifications in the kerbside contract (140L red lid for general waste, 240L yellow for co-mingled recycling and 240L with lime green lid for organics) unless alternative tenders are submitted.
- Action 14 Auditing of bin services is to occur at the commencement of the contract and then scheduled biannually.
- Action 15 Understand, report and set a target for the percentage of diverted materials that are processed, recycled or kept in the region.
- Action 16 Councils internal waste and recycling fees reflect and support diversion targets. Kerbside general waste fees are utilised as a lever that supports positive behaviour change in the community.
- Action 17 All Councils work together and with the contractor to support changes in legislation across the two states, and particularly in relation to glass, soft plastics collection/drop off and paper and cardboard recycling to provide a consistent service where logical, cost effective and resulting in the greatest benefits to waste diversion, recycling rates and benefits to the regional communities.

\*for existing three bin services, FOGO implemented by 2030 for new services

### **Purpose of Communication**

The RKC10 Councils are seeking to communicate with industry participants to gauge levels of interest, readiness to respond to a tender of this size and the geographical municipal areas, as well as to gain feedback regarding a number of current market related matters that can and have influenced the waste industry.

RKC10 Working Group felt it was in the best interests of both prospective tenderers and that of the participating Councils to signal in advance their intent to release a joint tender to allow industry participants notice and ample time to consider the information provided, their ability and position to respond/submit tenders and plan their approach. It also enables the opportunity for industry to provide input and feedback to the group for consideration and possible inclusion in the RFT.

Industry participants are considered to be those organisations that have an interest in tendering for the waste collection, processing and disposal services across the group of member Councils and/or who may be subject matter experts in these related areas.

As industry participants would be aware, there have been significant events that have heavily impacted on the waste management industry, including regulatory and environmental changes that affect resource recovery solutions. Each Council understands that the industry is reacting to these changes, restructuring and that this RFT and resulting contract may be reliant on a new or innovative approach from the market as well as the readiness and willingness of waste companies and operators to invest in new solutions now and into the future.

The RKC10 Councils therefore request industry feedback, comments and input into the planning phase for the RFT to ensure that the broadest considerations guide the project, build in flexibility and future direction of the contract. We ask industry participants to complete the following Request for Market Information and survey.

# Request for Market Information

## Responses sought

RKC10 are seeking general comments and explanations, regarding the timing and presentation of the procurement process from industry participants and provides the following guidance regarding the issues that this working group is currently considering and is concerned with addressing. Only some matters may be relevant to some industry participants, so we ask that you complete those relevant areas within your organisation's knowledge, capacity and capabilities.

These questions are provided within this Statement of Intent and in advance for detailed responses to be prepared prior to and returned via completing the Market Information Survey found at (INSERT SURVEY LINK).

The Councils value the time and effort from industry participants in responding to this survey and will collect all options and possibilities for consideration and feedback for the RFT process and proposed timeline as this information will be instrumental in the next steps taken.

## Name of Company:

## Contact person completing the survey:

## Contact phone and email address:

## Procurement process, timeline and tender scope

1. Industry participants should indicate if they will consider the request for tender and whether a tender submission is likely to be forthcoming given the information and timeline set out above. Please provide comment:
2. The proposed term of kerbside collection services and Council contracts being considered is for an initial term of 10 years.
  - a) Do industry participants consider this to be an appropriate term? Please explain.
  - b) What risks need to be considered regarding this proposed term?  
Please identify risk items for each waste stream (garbage, recycling and FOGO) if applicable with comments.
3. Will a decision to award the contract by the participating Council's in mid to late 2022 provide industry participants with adequate preparation time to provide services and equipment for a July 2024 commencement? i.e. equipment, fleet purchases or technology?
4. In the event that the Councils retain the current planned commencement date of July 2024 and tenderers proposed facilities are not yet set-up or are not able to receive material at that date, would industry participants be able to provide interim services until facilities are fully commissioned or operational i.e. tender for services with facilities that may commence receiving material after contract commencement, but be able to manage the relevant streams between July 2024 and any facility commencement date?
5. The Councils intend to tender for the management of the three waste streams (garbage, Recycling & FOGO) at the same time. Industry participants should indicate if they will plan to provide a response for each stream or indicate which waste stream(s) is of interest.

Commented [EL1]: To be updated once Link is arranged by Coms Team.

#### **Contract considerations, KPIs, education**

6. The participating Councils have varying waste stream services and for those with one or two bin systems, intend to transition to a three or four bin system during the term of the contract. There is differing service levels, some Councils are in remote locations and have nominated alternative disposal points for garbage waste and recycling due to geographical location and/or are seeking disposal points for these materials.

Industry participants are encouraged to comment on the impacts these Councils pose on the overall management of the contract. Please provide any suggested approaches and possible issues with respect to maintaining the existing Council services and adding a new group of Councils to a collective contract.

7. Our region is divided with member Councils from both Victorian and NSW jurisdictions, considering cross border legislation issues, what impacts should we be considering in the tendering and contract management phases?
8. This RFT process includes the in-principle eight Councils. At a minimum, five of these Councils have a high confidence level of continuing into the next contract, what impacts does this present in relation to investment and capital outlay?
9. If more Councils and their municipal areas were added, does this influence prices charged due to economies of scale over the term of the contract?
10. What typically is used by other Councils or organizations to measure contract performance to targets and manage contracts of this size and duration?
11. Contract and community education objectives have been referenced in this document, do these represent achievable objectives or any challenges? Can you provide any suggestions further to these objectives?

#### **Political and market impacts, industry changes and investment opportunities**

12. Given the development of, and proposed timing for the 'Recycling Victoria – A new economy' policy and action plan with implications for glass recycling (2027), Container Deposit Scheme (2023) and FOGO (2030) targets, are industry participants confident that it will be possible to respond to a RFT from May 2022?
13. With your understanding and knowledge of the social and political environment, circular economy, technology and innovation in the marketplace, what broader approach would industry participants recommend, regarding kerbside garbage diversion, and what alternatives are available for the disposal of this material?
14. Given the group of Councils participating and the geographical areas these Councils reside in;
- is the proposed procurement timing and contract length suitable to achieve the establishment and commissioning of a FOGO processing facility?
  - what alternatives could be considered to permit all Councils to collect and process FOGO?
  - for those Councils without a current FOGO service, what are the impacts for these councils if FOGO is adopted?
15. Are FOGO processing solutions being planned within our region and what would be required by industry for ensuring that a secure long-term processing solution for FOGO occurred?

16. Given the group of Councils participating and the geographical area these Councils reside in
  - a) is the proposed procurement timing and contract length suitable to achieve the establishment and commissioning of a MRF processing facility?
  - b) what alternatives could be considered to permit all Councils access to and accommodate the processing of co-mingled recycling?
  - c) what are the impacts for councils if recycling facilities for co-mingled material are accessible or not accessible?
17. Are material recovery processing solutions being planned within our region and what would be required by industry for ensuring that a secure long-term processing solution for recycling occurred?
18. The Councils are considering the future of processing co-mingled recycling material and seeks comments regarding whether profit/risk sharing on MRF output commodities is preferred. Can industry participants provide details of how this might be achieved?
19. Are there any other considerations for how Councils should manage the collection of co-mingle recycling material that may affect the subsequent management of this material during the term of the contract? Has changes to the market and economy impacted pricing? If so, how?
20. With the introduction of CDS schemes, understanding that rebates and discounts are an option, do industry participants support one of these options or what would be the preference?
21. Please provide any comments on how the Councils ought to approach managing changes that may be necessary for their residents i.e. introduction of a fourth bin, collection system.
22. Do industry participants expect any further regulatory hurdles that would affect the proposed procurement process? Or market changes, political, social, environmental and or economic impacts that should be considered and addressed as part of this procurement process?

#### **Strategy, Innovation, Research and Development**

23. Given the status of the NSW Energy from Waste Policy Statement, do industry participants suggest the Council's ought to view energy from waste solutions as a viable alternative waste management option and solution?
24. As per the NSW Waste and Sustainable Materials Strategy 2041, an objective is to triple the plastics recycling rate by 2030. What production processes are been considered or could be considered to meet this target in our region? How can our region contribute towards these targets?
25. How can Councils within our region best prepare moving to a Circular Economy model, what impacts positive or negative does this present as part of this forthcoming procurement process?
26. Can industry participants provide insight into any forthcoming innovation, areas of research and development that is relevant to this contract and that may influence and assist Council's abilities to meet their set objectives?
27. Any further explanations regarding how this procurement approach may impact on the eventual costs per tonne that may be proposed to the Councils in response to the RFT for each waste stream will be helpful.
28. Please supply a broad capability statement on your company's skills and areas of expertise.

## Confidentiality

The Councils appeal to industry participants and experts to actively engage in responding to this communication. The security of responses will be of utmost importance and adequate controls will be maintained by the Councils to ensure information provided is maintained as confidential and sensitive in nature.

Councils will reserve the right to use information gained during this process to inform the RFT final design and content, and the assessment of the eventual tender submissions in line with probity principles.

This information is gathered for the purpose of market and industry research, nothing included in any feedback provided to the Councils through this process will be considered in the final evaluation of tenders. Assessment of tender submissions will be based on predetermined qualitative and quantitative aspects and the merits of the tender responses received. Any industry participant deciding not to participate in this request for market information survey will not be precluded from tendering in the eventual RFT process.

## Responses due by

The Councils kindly request that Survey responses are completed and submitted via the survey (INSERT LINK) by **5.00pm on Friday (INSERT DATE) 2021** to allow the RKC10 working group adequate time to review and the RFT process timeline to be maintained. Industry participants and experts are to provide any responses at their own costs.

The RKC10 working group thank you in advance for your time and valuable feedback.

## Questions to

Please direct any questions to Albury City Council on behalf of participating RKC10 Councils via Tenderlink forum: [www.tenderlink.com/albury](http://www.tenderlink.com/albury)

or

Email: [info@alburycity.nsw.gov.au](mailto:info@alburycity.nsw.gov.au)

Attention: Regional Kerbside Collection Working Group – Project Lead.

**Commented [EL2]:** To be updated with link provided by Coms Team and dates included prior to release.