

# Waste & Recycling Association of South Australia Inc.

28 September 2016

Ms Elizabeth Batten  
Senior Project Officer  
Adjudication  
Merger & Authorisation Review  
Australian Competition and Consumer Commission  
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**By email: [adjudication@accc.gov.au](mailto:adjudication@accc.gov.au)  
[Elizabeth.Batten@accc.gov.au](mailto:Elizabeth.Batten@accc.gov.au)**

Dear Ms Batten

**Re: Council Solutions & Ors - application for authorisation A91520**

I refer to our recent telephone conversation.

As we discussed, I confirm that the submission which I have forwarded to you on behalf of our Membership is authorised for release to the public, notwithstanding that there is a watermark appearing on it with the word "Confidential".

Unfortunately, in the course of preparing the submission, it was not possible to remove the watermark reference.

I trust that this letter is adequate, from the perspective of clarifying this issue.

Yours sincerely

**John Fitzpatrick**  
**Public Officer**



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## 1. INTRODUCTION

*Council Solutions has had the opportunity to review the public submissions made by interested parties to the application for authorisation A91520 (Application), both written and those presented at the pre-decision conference held on 21 March 2016 (Pre-decision Conference). In addition, Council Solutions and representatives from the Participating Councils have also met with representatives from the Office of the Small Business Commissioner (SBC), Waste & Recycling Association of South Australia (WRASA) and the South Australian Waste Industry Network (SAWIN).*

### **[WRASA]**

**Whilst it is correct that Council Solutions “met” with WRASA, the meeting provided no responses to our repeated specific queries and comments as to why they should be exempt from abiding by the Competition and Consumer Act law. As is evidenced by WRASA Attachment 1.1, no consultation was planned, itemised on Council Solutions agenda or minuted by Council Solutions during the meeting.**

**WRASA Attachment 1.1 details the communication between the two entities resulting in Council Solutions confirming that “I appreciate you wish to consult with your members regarding our submission, however the intention of this meeting is to further discuss the authorisation process and our respective positions.” Due to this agenda, Council Solutions were not willing to discuss the issues previously raised and the meeting simply involved Council Solutions repeating their application position.**

**Minutes from the meeting with WRASA are available upon request.**

*As summarised by Commissioner Court at the Pre-decision Conference, the concerns of the interested parties appear to fall broadly into four categories, namely:*

- (a) all four service streams for all five councils could be awarded to one provider, potentially resulting in a lessening of competition;*
- (b) the size and complexity of the collective tender could effectively exclude a significant number of small businesses from competing; further these small businesses might not be able to meet financial criteria and as such would likely be excluded from competing;*
- (c) the term requested is too long as too much of the market would be tied up for too long, especially when combined with other contracts such as East Waste and NAWMA; and*
- (d) the public benefits claimed are overstated or might not eventuate.*

### **[WRASA]**

**The industry concerns with Council Solutions application noted above minimise and omit many specific and substantial concerns which are summarised below:**

1. Incredibly complex tendering process (5 Councils, all waste services) that results in hundreds or thousands of service combinations (Please refer to Attachment 1.2). Please refer to the expert opinion provided by Mike Ritchie and Associates (MRA), arguably Australia's most capable waste management consultancy, specialising in tendering, contracts management and waste facilities.
2. Very low boundaries in common results in service inefficiencies. Council Solutions service efficiency claims are not based on actual operational waste procedures and experience
3. Geographic spread of the Councils restricts other Councils' and the State's ability to plan for major infrastructure
4. Evidence from other Council areas highlight a reduced public benefit in the areas of:
  - a. Waste diversion (larger entities = lower diversion)
  - b. Quality of service (larger entities = slower advances in kerbside services)
  - c. Price per collection (larger entities = higher prices)
5. Council Solutions procurement staff are inexperienced in waste services and the additional burden of due diligence for individual Council staff adds an extra layer of bureaucracy and cost to an already complicated process. Their limited understanding of waste management has been further demonstrated in their recent response to the ACCC. This will be expanded upon in this submission.
6. Council Solutions will have a 269% greater market share than previous ACCC metropolitan applications. They seek to placate the ACCC and the market by saying any growth will be subject to a new ACCC application however it is well known that an application to add a single Council will be easier than starting with 5 Councils.
7. The contract term of 14 years with a 3 year lead time was a concern of industry that has resulted in Council Solutions reducing to 10 years. However, we note that the St George group of Councils recent application to extend their application by 5 years was approved without the applicant providing evidence of a public benefit. Therefore, based on precedent, Council Solutions is likely to be able to request an extension at a later stage. Also, their revised timeframe for the commissioning of an AWT would normally require a commitment of 20 years plus to a contractor. This cornerstone of their argument for innovation and joint tendering is now at loggerheads with their revised maximum contract period of 10 years. For example, Phoenix in Perth has contracted for 20 years. Due to the need for differing terms that align to specific services, we believe a public detriment will result from a single term for all service types that ignores proven industry optimally efficient terms.
8. There is no doubt that larger contracts favour larger contractors. Even though

Council Solutions say that the services are separable, Councils always prefer to deal with fewer contractors, preferably one contractor, which historically has been to the benefit of larger multinational companies. Small to medium businesses will find it extremely difficult to be a part of the process. MRA confirm this in their report and all previous waste applications to the ACCC have seen one successful contractor except 1 where the Councils selected 3 organics processors for the reasons the Council Solutions proposal does not address such as risk, travel distance and innovation.

9. From our members past experience, the pricing combinations required for a “first and last chance” RFP process, now clarified to be the medium for final contracts, will be incredibly extensive and complicated. Council Solutions do not seem to understand this and their proposal for the market to recommend solutions for services for 5 Councils and 4 major waste services plus ancillary services, with any or all able to be included, is gravely underestimating the process.
10. Council Solutions response fails to address the issues raised at the Pre Decision Conference that the scope of their application is not comparable to any prior ACCC approval. The Council Solutions application is greater in market size and power, includes all waste streams, includes all waste services, and yet does not offer a single new service to the community. In short, we believe the prior ACCC approvals they cite as precedent in their application differ so significantly in scope that they are irrelevant in this assessment. We continue to be concerned that Council Solutions have failed to provide any evidence, substantiation or even an estimate for their claims of economies of scale, net public benefit or a more effective or efficient tendering process.
11. An initial concern of industry was the lack of quantification supplied in Council Solutions’ December application. After reviewing the revised submission our concerns remain as no substantiation has been produced to support their public interest claims. WRASA and other interested parties have provided supporting quantification and provided their sources for consideration by Council Solutions and the ACCC, whereas Council Solutions only refer to their “Commercial and Technical Advisors” without naming them or their qualifications or providing their information. We believe this is essential when applying for an exemption to break Australia’s competition and consumer law.

*This submission addresses each of these concerns in turn. Additionally, Council Solutions clarifies aspects of the application that have, in Council Solutions' view, been misinterpreted in some submissions by interested parties. In the interests of brevity, Council Solutions has sought to take an over-arching approach in responding to the submissions made by interested parties, by providing responses on a collective basis (i.e. rather than separately addressing submissions on an interested party basis). Where Council Solutions has not responded directly to a specific submission made by an interested party, that should not be construed as Council Solutions' acquiescence to the relevant submission.*

It is concerning that Council Solutions failed to truly consult with any interested parties during the 14 weeks following the PDC and then state they will respond to the detailed and quantified concerns raised with “an overarching approach” / “in the interests of brevity”. The WRASA membership is rightly concerned by this token response in relation to an application so broad in scope and with an undefined/unknown impact that it requires an exemption to the Competition and Consumer Act 2010. Our understanding is that the ACCC require a response to the issues raised and substantiation of the claimed public benefits, not brevity. It is incumbent on Council Solutions to prove that there will be no net public detriment given their intention to obtain an exemption to break the law.

## 2. REQUEST FOR PROPOSAL

*As stated at the Pre-decision Conference, the Applicants have determined that rather than using a traditional Request for Tender (RFT) for the project, the procurement will be undertaken via a Request for Proposal (RFP). The ACCC has requested further details regarding this process.*

*An RFT typically utilises a very clearly defined criteria and/or prescriptive specifications, which is the traditional approach used by local governments for the procurement of waste services. Accordingly, an RFT is generally quite rigid in detailing not only what services are required but also prescribing to the market how the services are to be delivered. When innovation is sought, it is done through 'alternative bids', which typically require the tenderer to submit a 'conforming' bid as well, increasing the resources required to respond to the RFT.*

### [WRASA]

**We have sought independent advice from arguably Australia’s leading waste consultancy (last 4 years awarded Best Small Waste Consultancy by the waste industry) and provided it with the Council Solutions application and subsequent submissions. This expert’s account of how tendering has developed in the waste industry to deliver value and innovation demonstrates that the Council Solutions plan is flawed and destined for failure should it be allowed to proceed.**

*In contrast, an RFP allows for solution-based responses, allowing the respondent to specify how they best see the minimum service elements delivered. An RFP describes the scope of services required, including minimum service requirements and performance levels, and allows providers to propose the optimal approach to delivery to ensure the best outcomes. Importantly, there is no requirement for a 'conforming' bid prior to presenting innovation. In short, an RFT sets out exactly what is required, whereas an RFP looks for the best value solution to deliver a service. Both processes are standard procurement tools used by governments at all levels and both generally result in the award of contracts.*

### [WRASA]

This is an incredibly simplistic view of RFPs and RFTs as they relate to the waste industry as RFT's have never restricted innovation. Our members always provide the latest innovation, be it through a conforming tender or by submitting an alternate tender. This RFT process has seen the South Australian waste industry progress dynamically to its current status as a leader in waste management globally.

RFPs are most valuable where a specific outcome is required. One recent example is Canberra's RFP for recycling processing. As highlighted at the recent Coffs Harbour Waste Conference, the Council supplied Contractors with the service outcomes they required and allowed the contractors to develop the most efficient methodology to deliver against those outcomes. The time savings were made by Council, not the contractors as the Council only had to develop a service brief versus the standard detailed tender documents. In this case, with 1 Council and 1 service, contractors could develop 2-3 differentiated options for Councils consideration. The outcome was also straightforward; processed recyclables at the best value rate.

In contrast, the Council Solutions RFP is for services to 5 optional Councils across 4 waste services, with no tender specification. This will exponentially increase the service options and hence the workload for tenderers. In turn, Council Solutions and all 5 Councils will be presented with an unworkable amount of unique, and therefore un-comparable tenders to review, assess, negotiate and finalise for each Council.

As MRA state in their attached report, "The combination of a large number of options with the fact that any or all of the Councils can withdraw at any time puts unacceptable risk on all tenderers but particularly small tenderers."

*The advice from our Commercial and Technical Advisors is that an RFP will provide the best outcome for both the Participating Councils and the respondents. The RFP will specify the outputs required (including mandatory services) for each Service Stream and then allow the respondents to submit how they propose to meet these requirements using their creativity and innovation, which provides the opportunity for the Participating Councils to receive solutions that may be of benefit to their communities that have not previously been considered. Whilst it is anticipated some Service Stream providers might respond for all five Participating Councils for that Service Stream, it will not be a requirement in the RFP to do so. Additionally, the RFP will allow respondents to amalgamate the service requirement in whatever combination they believe will offer the Participating Councils the best value. This may be across Service Streams for a portion of the Participating Councils, or across all Participating Councils for one Service Stream. In summary, Council Solutions will not be prescribing how many Participating Councils or Service Streams a respondent has to bid for and, where respondents choose to bid for multiple Participating Councils and/or Service Streams, they can advise if it is conditional on all being accepted.*

#### **[WRASA]**

WRASA and other interested parties have always provided the name of our sources and advisers to the ACCC and provided the actual document as a reference. Council Solutions continue to fail to provide any substantiation for their claims.

This paragraph demonstrates that Council Solutions is underestimating the complexity of what they are proposing. Five Councils, 4 services (or more likely 6 or 7

or more – garbage collection, recycling collection, organics collection, garbage disposal/processing, recycling processing, organics processing, hard waste collection (and disposal), public litter bin collection and disposal).

To be direct, there is a valid reason that a tender, either RFP or RFT, of this breadth has not been sought before. It is because it is incredibly, and exponentially, difficult to extract the best value options for the individual Council and general public as service streams are added and Councils are added.

Please refer to advice from perhaps Australia's most experienced waste tendering consultants, Mike Ritchie and Associates and their recommendations for the proposed RFP process. They state, *"The only unique public benefit articulated by Council Solutions is a notional 'economy of scale' benefit. All of the other benefits mentioned can be procured via Service Specific (targeted) procurement processes (e.g. collection only, MRF only, landfill only, collection with one process etc). The economy of scale benefit is based on procurement theory and not the practice of the waste/recycling sector."*

Furthermore, as Council Solutions state that the scope of the RFP is intentionally broad and undefined to allow respondents to make submissions that *"have not previously been considered"*, it logically follows that the result may be either a public benefit or a public detriment that has *"not been previously considered"*.

The WRASA membership is simply stunned with the audacity of the proposal's scope and the potential for failure and massive public detriment of this latest change to the application. Council Solutions has now requested:

1. increased market power to
2. manage all 4 waste services
3. without providing the guidelines for assessable and comparable tenders
4. allowing the market to determine the final outcome
5. without providing any economic impact analysis or cost benefit analysis to support their public benefit assertions

*Conventional practice in waste service procurements has been to first approach the market for the Receiving and Processing and Waste Disposal Service Streams so as to set the disposal locations prior to approaching for Waste Collection to this location. However, our Commercial Advisors and Waste Experts have advised that this is a constraint on the Waste Collection respondents which may be a barrier to innovation, opportunities to achieve collection and transfer efficiencies and lower total service costs from vertical integration management. The Participating Councils lend themselves to multiple disposal points for collection vehicles, and as some providers operate in both the Waste Collection and Receiving and Processing spaces, further value may be obtained by allowing the option for Service Streams to be combined through responses to the RFP.*

**[WRASA]**

The most efficient solution for each Council is to have a disposal location that is as close

to the centre of density as possible. With the Council Solutions application, the broad geographic spread will increase the transfer times from the collection areas to disposal. As noted above, the Participating Councils lend themselves to multiple disposal points. This immediately diminishes the economies for a larger alternate waste facility servicing all Councils. Please see section 1 of Mike Ritchie and Associates' report for an assessment of the conventional waste service procurement process versus the RFP process proposed above.

Furthermore, the Council Solutions statements:

- *“opportunities to achieve collection and transfer efficiencies and lower total service costs from vertical integration management” and*
- *“some providers operate in both the Waste Collection and Receiving and Processing spaces, further value may be obtained by allowing the option for Service Streams to be combined”,*

contradicts the applicants earlier assertions that they are not looking for reduced service providers. Simply allowing small businesses to tender on individual components of the contract is unlikely to result in them winning their tenders when Councils generally set price as one of their primary selection criteria and the above quotes confirm Council Solutions are seeking reduced prices from vertical integration from providers who operate in multiple or all waste service streams.

If Council Solutions are successful in negotiating savings through awarding the contracts to multinationals with vertical integration solutions, the unavoidable impact will be to the detriment of small business and their local staff members. Again the evidence we have collected and presented for all to consider shows that public detriment will be the result

*All local government procurement is subject to structured and comprehensive processes and evaluation, and this RFP process is no different. There will be a formal evaluation criteria developed that is expected to include, at a high level:*

- *qualitative criteria, such as service proposal, quality, environmental goals, organisational capability, efficiency and innovation;*
- *mandatory criteria, such as insurance, licenses, accreditations and referees;*
- *specialist evaluated mandatory criteria, such as workplace health and safety and industry participation principles; and*
- *quantitative criteria, such as pricing.*

*For the avoidance of doubt, the RFP process is not an information gathering exercise (such as a Request for Information), nor is it a pre-cursor to a subsequent procurement process. The RFP process will invite a broader range of alternatives (in comparison to an RFT) and there may be a longer evaluation and negotiation process, however the RFP process will solicit legal and binding offers from providers with the intention and expectation contract will be awarded at the end.*

**[WRASA]**

**The RFP process for numerous Councils and a broad range of services is absolutely**

unproven as a method for securing a contract with the required specification in Australia in the waste industry. The diversity of submissions that will be received by Council Solutions and the respective Councils will result in a higher risk to individual Councils and their ratepayers as they will be heading into uncharted territories with regards to the final contract.

### 3. INTERESTED PARTY CONCERNS

*3.1 Interested Party Concern: All four service streams for all five councils could be awarded to one provider.*

*Some of the interested parties have purported that the appointment of one provider to service all four Service Streams across the five Participating Councils would result in a lessening of competition, and could cause current providers to effectively withdraw from the market.*

*Council Solutions rejects this submission for the following reasons:*

- Council Solutions' investigations of the market indicate there does not currently appear to be an existing single provider in the market which has the capacity, experience and/or expertise to deliver the service requirements of all four Service Streams to one Participating Council without significant subcontractor arrangements.*

**[WRASA]**

**This is incorrect and highlights Council Solutions lack of understanding of procuring waste services. Suez or Cleanaway (TPI), for example, are capable of providing all of the services.**

- It is also unlikely that a proposal including such subcontractor arrangements would be as commercially attractive to the Participating Councils as entering into contracts directly with the subcontractor for those Service Streams. Therefore, it is extremely unlikely that a single provider would be awarded a contract for all five Participating Councils across all four Service Streams.*

**[WRASA]**

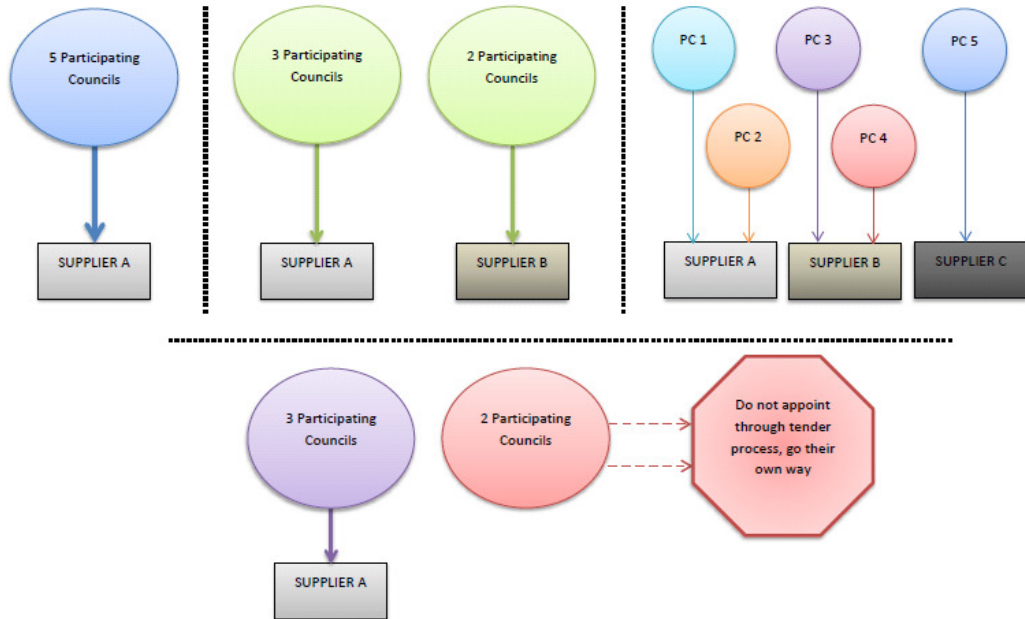
**This is incorrect. The history of waste tenders awarded show that Councils prefer to award the services to fewer contractors, preferably one, to avoid having issues between contractors.**

**Councils may select more than one contractor if there is an overwhelming commercial attraction however in most cases a prime contractor can often offer competitive pricing for all aspects. In fact, prime contractors can often offer a better rate if they have existing business with the potential subcontractor. This is the case for recyclables and organics processing in many cases.**

**The above assertion by Council Solutions also contradicts the 4 potential outcomes summarised in Annexure 2 on page 23 of their original submission showing 1 service provider winning all 4 service contracts:**

#### SOME POTENTIAL OUTCOMES FOR EACH SERVICE STREAM

Note: 'Split' of Participating Councils is for example only. Any permutation could occur based on consideration of tender responses.

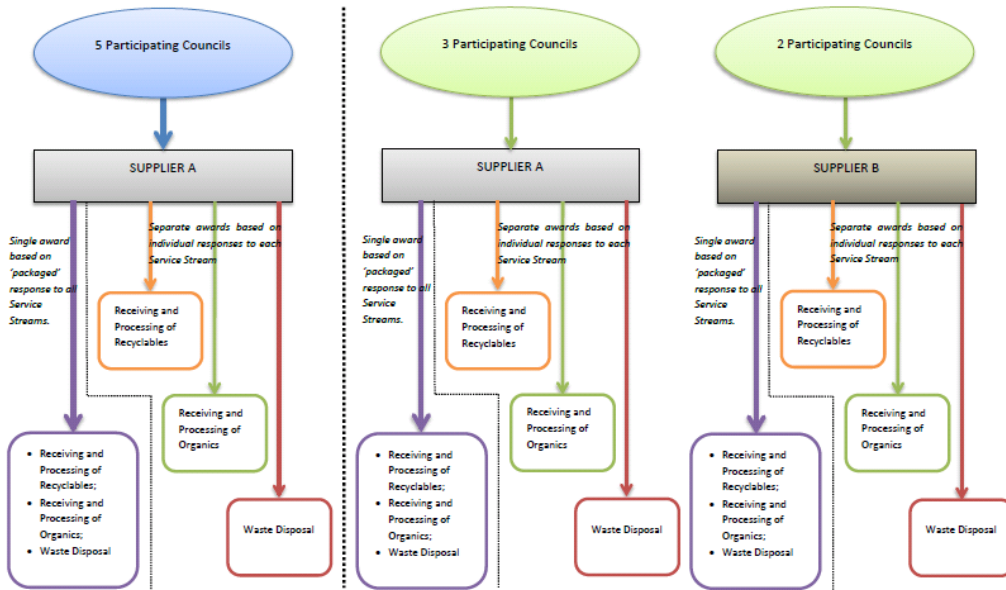


It is also noteworthy that the final option shown above, "*Do not appoint through tender process, go their own way*" sees any combination of Councils able to opt out. Despite allowing Councils to opt out of the process, Council Solutions still assert that economies of scale will result despite any number of Councils being able to remove their volume from the RFP. They also appear to be oblivious to the massive additional tendering costs for contractors and Councils that this opt out creates.

However, Annexure 2 on page 24 (shown below) does acknowledge that individual companies may win separate components of the RFP. These two charts also clearly highlight the complexity the RFP approach will result in as there is no limit to the combinations of tenders and a minimum of 31 submissions will be required by tenderers to cover each possible combination of Councils. The two charts alone show 19 different combinations of tenders which will grow exponentially as tenderers add differentiated options across each of the 20 to 30 pricing fields on average required by each Council. Again, this not only causes inefficiencies and additional workload for tenderers, but Council Solutions and each Council will need to assess and compare all tenders to other like identical tenders. Without a tender specification and allowing any and all options to be presented this will exponentially add to the workload and costs of all Councils as well as establishing a high probability of a poor result for Councils and ratepayers.

#### ADDITIONAL WASTE HANDLING SERVICE STREAMS POTENTIAL OUTCOMES

Each of the scenarios outlined for Waste Collection may occur in each of the waste handling Service Streams. Additionally, the following scenarios may also occur.



However, Council Solutions is aware of existing relationships between providers across some Service Streams, which warrants a combined approach.

#### [WRASA]

Correct, all contractors, whether they perform collection, disposal or processing services, will generally have a relationship with all other related contractors in a region. Indeed this is the case in Adelaide. However, the RFP process is not warranted by this fact alone as the various contractors will only come together when it is in their own best interests. With this RFP, that will be very difficult for the market to determine. What they do work out will be extremely difficult for the Councils to assess. We cannot stress this point enough.

- Further, some market participants may look at establishing joint venture or other consortia to respond to the RFP which may include otherwise unachievable levels of service provision or innovation.

#### [WRASA]

Correct, however this would be done with (1) less risk, (2) more certainty and (3) more historical precedence if it focused on specific service streams and was based on a group of Councils that were geographically clustered. The low boundaries in common, the uncertainty of councils opting out and final contract specifications are major impediments to planning for important infrastructure.

As such, Council Solutions believes that given the Participating Councils intend to approach the market at the same time for all four Service Streams, putting constraints on the market in how providers could respond will result in a less than optimal outcome for the Participating Councils. The benefits of a multiple or sole provider arrangements will depend on the responses received and be determined by the RFP evaluation. However, in evaluating responses that amalgamate Service Streams, the Applicants make the following commitments:

- (a) due regard will be given to the resulting structure of the market should the amalgamated

response be awarded; and

- (b) the entire merits of an amalgamated response will be considered, with no 'bonus' weighting given for simply including more than one Service Stream.

Council Solutions appreciates that the interested parties' concern may be based on the Potential Outcomes outlined on pages 23 and 24 of the supporting submission to the Application (Supporting Submission), however Council Solutions also notes the authorisation process requires the Applicants to disclose the broadest possible outcomes, even if believed to be unlikely.

#### [WRASA]

In fact, as mentioned above, our research shows that of the 16 previous waste applications to the ACCC 15 of them have been won by one provider, as opposed to being split up between a selection of tenderers.

The results were as follows:

#### Previous Waste ACCC Applications

NAME	COUNCILS	HOUSEHOLDS	% to METRO	SERVICES	TERM	PROVIDER	NUMBER OF SUCCESSFUL PROVIDERS
Council Solutions	5 +	185698	37.09%	1. Collection, 2. Recyclables processing, 3. Organics processing, 4. Garbage disposal/processing plus ancillary services	17	-	-
Central Queensland Local Govt Assoc	5	77460	N/A – regional area	1. Green Waste Mulching	5	Cancelled	Cancelled
Hunter Resource Recovery	4	135968	Regional area	1. Recyclables collection and 2. processing	12	Solo	1
Wollongong & Shellharbour City Councils	2	104932	Regional area	1. Recyclables collection and 2. processing	15	Remondis	1
Burwood Council & Ors	6	90847	5.28%	1. Recyclables processing	10	JJ Richards	1
Northern Sydney Regional Councils	7	172427	8.40%	1. Waste disposal	16	Veolia	1
Melb Metro Waste Management Group 1	5	258886	15.80%	1. Organics processing	18	Pending	Pending
Clarence City Council, Glenorchy City Council & Hobart City Council	3	62679	Estimated at 27% of Tasmania	1. Recyclables collection and processing	9	Veolia	1
Cities of Warreroo, Joondalup & Swan	3	156438	21.52%	1. Recyclables collection and 2. processing	5	Cleanaway	1
Bathurst Regional Council & Ors	8	106442	Regional area	1. Collection, 2. Recyclables processing, 3. Organics processing	13	JR Richards	1
Bankstown City Council & Ors	4	245423	14.26%	1. Hard Waste processing/disposal	6	Suez	1
Redland & Brisbane City Councils	2	456315	55% of QLD - net public detriment evidenced	1. Collection	19	Pending	Pending
Melb Metro Waste Management Group 2	4	230447	14.06%	1. Recyclables processing	Not advised	SKM	1
Maitland City Council & Ors	3	58287	Regional area	1. Organics processing and collection	Not advised	Solo	1
Southern Metropolitan Regional Council	4	92381	12.70%	1. Recyclables processing	21	Pending	Pending
Melb Metro Waste Management Group 3	8	490841	29.90%	1. Organics processing	18	Sacyr, Veolia, Cleanaway	3

3.2 Interested Party Submission: The size and complexity of the collective tender will effectively exclude a significant number of small businesses from competing.

3.2.1 *Impact on small business will be materially the same both with and without the Proposed Conduct.*

*The interested parties have submitted a number of concerns as to how the conduct proposed by the Application (Proposed Conduct) may affect small businesses. Specifically, some of the interested parties have claimed that:*

- the size of the collective requirement will lock out small businesses which may not be in a position to respond to or service such a large requirement;*
- the capital costs and bank guarantee requirements are likely to be at a level to form a barrier preventing small businesses from tendering; and*
- small to medium businesses may be uncompetitive when compared to larger businesses and may be left with a small share of the market.*

*Council Solutions submits that these submissions are without merit for the following reasons:*

- As stated in the verbal submission at the Pre-decision Conference, to the extent that the interested parties (or any party whose interests are represented by an interested party) currently tender for work from the Participating Councils, they will continue to have the opportunity to do so.*

**[WRASA]**

**We agree that they will have the opportunity and also that their specific component may be separable, however the data shows that they are highly unlikely to be successful. However the question is whether this results in net public detriment.**

**The answer is yes, for 3 reasons:**

- 1. Local jobs will be lost to interstate head office or even international jobs**
  - 2. Small to medium businesses as well as lower risk small to medium Council contracts have been largely responsible for increased waste diversion, new and innovative services and Australia's best value waste services in South Australia.**
  - 3. As small businesses are squeezed from the market, competition will reduce in the long term and the evidence shows prices will increase.**
- By undertaking an RFP, Council Solutions submits there will be greater opportunity for all market participants to be involved as they might propose an outcome based on their expertise without needing to meet a prescriptive service specification they may not have the capacity to undertake.*

**[WRASA]**

**This argument is clutching at straws. Councils are risk adverse entities and larger, better resourced companies are viewed by Councils as a safer contractor. The chance of Councils selecting an "innovative" solution from a smaller contractor is unlikely. In fact, in our member's experience, Councils will often go back to other preferred tenderers to see if they can provide an equivalent service to bring all services under one contractor.**

- Additionally, providers may identify opportunities to collaborate with other market*

participants to provide a holistic solution.

**[WRASA]**

Indeed they may however their chances of success would be greater if the scope of the RFP was narrowed and Councils were required to opt in.

This comment directly contradicts their assertion detailed in section 3.1 where they state: ***“It is also unlikely that a proposal including such subcontractor arrangements would be as commercially attractive to the Participating Councils as entering into contracts directly with the subcontractor for those Service Streams.”***

Council Solutions acknowledges that some interested parties currently engage with the Participating Councils via a subcontract arrangement with the existing Contractors appointed and wishes to assure these interested parties that it is not the intention of the RFP to restrict or prevent these types of relationships from continuing. Approval for the use of subcontractors in waste service contracts is an existing and common practice, which will continue under the Proposed Conduct.

**[WRASA]**

This comment directly contradicts their assertion detailed in section 3.1 where they state: ***“It is also unlikely that a proposal including such subcontractor arrangements would be as commercially attractive to the Participating Councils as entering into contracts directly with the subcontractor for those Service Streams.”***

- Importantly, this should not be construed as an intention by the Participating Councils to force subcontract arrangements by only allowing one provider to service all Participating Councils and/or all Service Streams. There will be no prescribed requirement in the RFP for providers to respond for more than one Service Stream or Participating Council.

**[WRASA]**

This statement contradicts Council Solutions earlier assertions in section 2 where they state:

- ***“opportunities to achieve collection and transfer efficiencies and lower total service costs from vertical integration management” and***
- ***“some providers operate in both the Waste Collection and Receiving and Processing spaces, further value may be obtained by allowing the option for Service Streams to be combined”,***

Clearly Council Solutions are seeking lower prices through vertical integration at the expense of small businesses operating in one service stream.

Similarly, Council Solutions also considers that the submissions relating to the capital cost and bank guarantee requirements to be unfounded, for the following reasons:

- *Where market participants have the capacity to tender for and win contracts with Participating Councils on an individual basis, it is expected they will have the capacity to tender for and win a contract for an amalgamation of Participating Councils. Indeed, the streamlining of the service may reduce market participants' capital costs.*

#### **[WRASA]**

**This is incorrect. For example, a hard waste service provider may require 2 vehicles and a capital cost of say \$200,000 for second hand trucks. For the same provider to tender for 5 Councils their capital cost may be \$1,000,000. Although some of their overhead costs (administration, management) may be spread over more Councils, their initial capital commitment and ongoing operational costs, which is around 90% of their total costs, will be 5 times/500% of the current situation.**

**As banks require security to provide bank guarantees and loans for capital equipment, they insist on securing the asset base of the contractor. It is highly unlikely a small company with one contract would have the asset base required to secure bank finance and bank guarantees for a contract 5 times the size. Small businesses are able to secure bank finance on an incremental tender by tender basis, but it is unlikely they will have the asset base required for a contract that represents at least 37% of the market.**

- *Whilst the value of any bank guarantee is a matter for commercial negotiation, it is not the intention of the Participating Councils to require more collectively than the sum that each Participating Council would require individually from the market participants.*

#### **[WRASA]**

**The point is that smaller operators, as is the case with any business, cannot effectively compete with the larger company's ability to submit a tender covering more services. Relatively smaller businesses cannot amplify their business by a factor of 500% without exposing themselves to terminal risk.**

**Without being able to progressively build up to this level of contract over time, many small businesses will be unable to secure bank financing of this size at one point in time. However, large businesses with national and international contracts and large asset bases will not struggle to gain support from financial institutions to the lower risk they present.**

*Many of the interested party submissions dealing with the ability of small and medium businesses to compete with the larger players have focused on the Waste Collection Service Stream, although Council Solutions acknowledges this is also a perceived issue in the Receiving and Processing of Organics Service Stream. Council Solutions understands that the small businesses which have lodged submissions generally specialise in elements of Waste Collection, such as Hard Waste or Park and Footpath collection, or supply and maintenance of Mobile Garbage Bins. It is likely these elements will each be separable portions of the RFP or may be the subject of a separate tender process for the specialised requirement, providing these small*

businesses the same opportunity to participate as they have historically (see Diagram 1 below).  
Where they currently provide this service through subcontract arrangements, this is also a possible outcome.

**[WRASA]**

Council Solutions argue that by combining the services it delivers savings to Councils. Here it argues that it may do the opposite by tendering separately for hard waste, public litter bins or bin supply and maintenance; 2 of which provide Councils with savings if serviced in conjunction with the kerbside collections. Yes, all contractors may have the same opportunity to participate but we confirm to the ACCC that a tender this size usually sees a larger contractor win all of the tendered services unless there is a financial saving great enough to offset the difficult of managing the risk of having multiple contractors. .

Given the above. we respectfully submit that the impact of the RFP process on small business will be materially the same both with and without the Proposed Conduct.

**[WRASA]**

As evidenced by WRASA members experience and supported by MRA consulting in section 2, this assertion is absolutely incorrect. Council Solutions state they are wanting to obtain lower prices from vertical integration, yet fail to acknowledge that this historically benefits multinational corporations at the expenses of small businesses and their local employees producing a public detriment.

*Moreover, putting aside the above, Council Solutions respectfully submits that the businesses which regularly tender directly for local government requirements in the proposed Service Streams are not 'small businesses' at all, as outlined in Annexure A.*

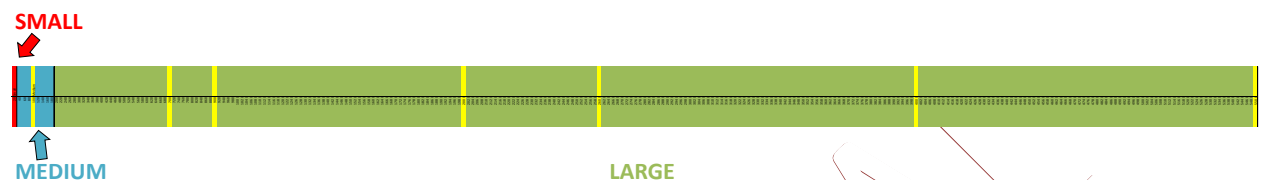
**[WRASA]**

Aside from Council Solutions definition of a small business, the point made by ALL parties including small, medium and large businesses, is that a level playing field should be established for the tender process and it should be designed to bring maximum net benefit to individual Councils and ratepayers with minimum risk. Council Solutions proposal is laden with risk which is why the model has not been used elsewhere in the waste industry.

Whilst these classifications are necessary for government when working across multiple industry sectors we believe industry specific classifications are more appropriate when working in one sector only. As illustrated below, in a chart showing employee numbers on the horizontal axis, the scale of:

- Small 1-20 employees (Red),
- Medium 21 to 200 employees (Blue), and
- Large 200+ employees (Green)

is an unrealistic base for categorising businesses within the waste industry.



The red and yellow stripes highlight some of the businesses represented in the industry with employee numbers ranging from less than 20 employees to greater than 5000.

Without entering into a debate on semantics, we wish to highlight to the ACCC the huge divide between small and large companies in the waste industry.<sup>33</sup> *Interested Party Submission: Length of term*

*The interested parties have expressed concern at the length of term requested for the authorisation, being 17 years. Some of the interested parties have claimed:*

- a contract term should align with the life of a collection vehicle (e.g. 10 years); and*
- once awarded, too much of the market will be 'tied up' (i.e. given existing arrangements entered into by other councils), reducing opportunity and impacting on competition.*

*Council Solutions wishes to re-iterate the submission made at paragraph 62 of the Supporting Submission (and also made verbally at the pre-decision conference), that the 17 year term requested comprised 3 distinct components, namely:*

- a 3 year procurement process;*
- (up to) a 10 year standard operating term; and*
- the ability to accept a longer term, up to a total of 14 years, where the market has demonstrated that any infrastructure investment, environmental initiatives or economic development is dependent on that longer operating term.*

*Having spoken with various interested parties and also considering the submissions by the market generally, the Applicants have agreed to remove the ability to accept a longer term contract and will only approach the market for a standard operating term of up to a maximum of 10 years (including all extensions).*

#### **[WRASA]**

**We understand the concession that Council Solutions have made however it is not in the best interests of the individual Councils and the public. Our main concern is the conglomeration of all services and the longer term's ability to extend a**

collection contract, for example, for convenience, to align with the same contractor's term for their processing or disposal. What is required is a specific tender for each service for the appropriate term, as has been done successfully by other ACCC applicants. For example, the Melbourne Metro groups successfully tendered for a processing facility for the standard term with no negative impact on their collection contracts. Each Council can assess each tendered site based on its distance from the Council centre of density. This is why we stress that a clustered set of Councils is imperative for achieving efficiencies.

With regards to alternate waste treatment facilities, by restricting itself to 10 years for this service, Council Solutions is halving the required term for this service. This change shows that Council Solutions are modifying their application in the hope of having it approved rather than listening to the industry's advice on fundamental contract features. We have no confidence that Council Solutions have grasped the complexity of their proposal nor that it can successfully deliver a raft of solutions that deliver net public benefit.

### 3.3.1 Initial period for investigation, procurement and start-up

*The interested parties have raised concerns with the length of the procurement period requested by Council Solutions. The portion of the authorised period prior to the commencement of the contracts (the procurement period) allows time for the following activities:*

- *Further industry consultation prior to the development and finalisation of the RFP documentation;*

#### [WRASA]

The above comment does not align with Council Solutions statement in section 2 regarding the RFP: *"For the avoidance of doubt, the RFP process is not an information gathering exercise (such as a Request for Information)), nor is it a pre-cursor to a subsequent procurement process.*

It is somewhat ironic that after failing to consult with interested parties in the 14 weeks between the PDC and their revised submission that Council Solutions state they now wish to engage in further 'industry consultation'. Based on the meetings to date, we lead to question if further industry consultation will simply be another meeting where Council fail to provide substantiation for their claims and repeat the information in their original application?

Additionally, one must question what will be achieved in this period as in section 2 page 2 Council Solutions state that *"The RFP will specify the outputs required (including mandatory services) for each Service Stream and then allow the respondents to submit how they propose to meet these requirements using their creativity and innovation".* If the benefit of the RFP is to allow respondents to reply to the Council defined "outputs required", why is there now a need to consult with service providers?

Furthermore, this additional step delays the procurement process compared to the standard tender period hence resulting in additional costs for Councils.

- *The release and evaluation of the RFP (the procurement process). In the interest of clarity, the procurement process is anticipated to take 9-12 months to complete, which is critical to ensure that:*
  - o *a thorough, robust, transparent procurement is undertaken;*
  - and o *all responses are carefully considered and evaluated.*

#### **[WRASA]**

It is worth noting that the standard tender evaluation period is 2-3 months. It appears that by planning for this “to take 9-12 months to complete” that Council Solutions are acknowledging that the procurement process will be at least 3 times more complex than a normal tender process. Again, this additional time burden created by unnecessary added complexity will increase costs and risk to the participating Councils, ratepayers and contractors

Furthermore, this delay adds risk to the tendering process. The time between submitting a tender and contract commencement using the standard tender process is generally 12 months. As the Council Solutions proposal doubles this, tenderers are forced to speculate on future pricing. This 12 month delay means that all quotes for fleet, machinery, and other expenditure items used in pricing the tender will need to include a price premium for the risk of price increases, which is achieved by increasing margins or estimating the worst case scenario of CPI and exchange rate increases. Failure to do so will ultimately result in the contractor looking to minimise costs during the contract period in order to regain this lost margin. This generally results in lower service levels for residents.

- *Upon completion of the procurement process, (for Waste Collection particularly) sufficient time between the award of the contract and the commencement of services (typically 9 – 12 months for Collection contracts) to allow for the purchase and commissioning of necessary infrastructure, such as collection vehicles.*

*Finally, the procurement period also allows for the expiration of the Participating Councils' existing service agreements; the commencement of the contracts under the proposed conduct will be from 2020.*

#### **[WRASA]**

Whilst Council Solutions state the 9-12 months for collection contracts is a maximum, in this case the procurement process is extended due to involvement of up to 5 Councils and the high level of complexity and vagaries of the combined RFP. Waste facility commissioning in recent years has taken at least 12 months and beyond 5 years which is another reason why (1) it should be absolutely separated from the collection tender process and (2) it should be organised in conjunction with all Councils and the State to ensure important waste infrastructure is correctly procured and commissioned

*Some interested parties have suggested the ACCC only grant authorisation for this initial procurement period, following which authorisation would again need to be sought prior to entering into any contracts, however Council Solutions respectfully rejects this approach. If such a procurement process as outlined above were to take place without assurance from the ACCC that the successful outcome could be enacted, it would introduce elements of uncertainty and risk to the market that could have a commercial impact, either through a reduction in responses received or that risk being factored into any pricing proposal. Additionally, if the outcome were then rejected by the ACCC, it would be a waste of resources to both the Participating Councils and the market to undertake the procurement process.*

**[WRASA]**

**This again provides an example of Council Solutions lack of understanding of Waste Services procurement. When stating that “it would introduce elements of uncertainty and risk to the market that could have a commercial impact” Council Solutions appear to not understand the impact of their proposal on tenderers pricing of risk or are willing for this risk to be shifted to the service providers. Due to this, we are proposing that the Council Solutions proposal be rejected outright.**

**3.3.2 Operating term**

*Council Solutions respectfully rejects any assertion by interested parties that the market will be 'tied up', thereby reducing the residual opportunities for market participants and reducing competition, for the following reasons:*

- Consistent with the advice provided by our Commercial Advisors, it has always been the understanding of Council Solutions that the contract operating term for Waste Collection should be linked to the optimal life of a collection vehicle to gain the greatest benefit.*
- Similarly in the processing space, the contract term requires the flexibility to allow changes in the market and innovation to be accounted for, whilst also providing enough stability to the respondents to propose innovative solutions.*

**[WRASA]**

**This is incorrect. As mentioned above, new alternate waste disposal or processing facilities typically enter into a 20 year agreement or longer. Council Solutions has now limited itself to 10 years (including any extensions) which makes it impossible for a new alternate waste facility provider to, for example, provide the most economical price to Councils and the ratepayers. As highlighted by MRA, NSW now limits landfill tender terms to 5 years to ensure they do not lock out the development of Waste to Energy facilities.**

- As such it is (and has always been), the Applicants' intention to offer the market standard operating terms for each Service Stream. This was outlined in both the Supporting Submission and at the Pre-decision Conference, and also to the market as part of the Industry Briefing conducted on 21 December 2015.<sup>2</sup>*

**[WRASA]**

**The above comment “As such it is (and has always been), the Applicants' intention to offer the market standard operating terms for each Service Stream” contradicts their**

shortening ALL services to ten years when each service has different optimal operating terms. It appears that Council Solutions is merely paying lip service to this point rather than seeking to deliver the best solution for the public.

*Therefore, Council Solutions submits that the impact on competitors of providers to the Participating Councils is conceivably the same both with and without the Proposed Conduct.*

**[WRASA]**

**The impact on competitors and the public will result in a net public detriment as the inappropriate contract term for waste to energy development will create a barrier for its implementation in Adelaide.**

*As Council Solutions does not have complete transparency on all Adelaide Metropolitan contract arrangements for all four Service Streams, nor their anticipated tender requirements, the Tender Horizon set out in Annexure C has been established based on the Waste Collection Service Stream and the current existing arrangements.*

*Under the Current Tender Horizon, there is a need for each of the Participating Councils to approach the market to put new contract arrangements in place. With the Proposed Conduct, this would be done collaboratively through the procurement process. Without the Proposed Conduct, it would be done individually, with a multiplication of procurement resources.*

**[WRASA]**

**As highlighted by the extended time required for submission assessment period, the resources required for each Council is greater than when tendering via the standard tender process. Each Council must still perform due diligence at each step but also it has the added significant burden of agreeing or compromising on tender and contract terms with all other Participating Councils, none of which are guaranteed to participate as any Council can elect to opt out at anytime. It could be assumed this would then result in the remaining Councils needing to recommence their assessment process as tendered pricing is generally conditional upon which Councils are ultimately contracted.**

**The likelihood of a poor or compromised result and net public detriment is likely under the Council Solutions proposal.**

*The Future Tender Horizon shows how the market may look with the award of contracts under the Proposed Conduct, if authorised.*

*Council Solutions submits that:*

- *while the work won't be contestable after the contract award, there will be extensive competition to win the work through the RFP;*

**[WRASA]**

**Yes, there will be competition however the RFP will be so broad in its scope that it will take an enormous amount of soliciting of respondents to come to any conclusion. This is why this model is not used elsewhere.**

- *regardless of whether the Participating Councils approach the market collaboratively or independently, the Future Tender Horizon would remain the same;*

**[WRASA]**

**This statement is misleading. Firstly, the Participating Councils are now aligning their current contracts by way of extensions in preparation for a possible Council Solutions tender. Secondly, the “Future Tender Horizon” will not be the same as Councils currently are free to align each contract term with the optimal timeframe that returns the greatest economic efficiencies. Under Council Solutions proposal all services have a 10 year term applied irrespective of operational and financial efficiencies. Also, it is uncertain as to whether other Councils will opt in or opt out of all of the services or any combination of the services.**

- in accordance with the Participating Councils' Current Supplier Arrangements, as outlined in Annexure 1 of the Supporting Submission, even if a single provider were to be awarded across the Waste Collection Service Stream, this would not be entirely different from the current situation.

**[WRASA]**

**The above comment shows a lack of understanding of the effects of market monopolisation. Information provided in Annexure 1 of Council Solutions initial application, summarises that 12 suppliers currently service all Councils. To use Council Solutions terminology, we respectfully submit it “*is nonsensical*” to state that a change from 12 suppliers to 1 supplier “*would not be entirely different from the current situation.*”**

*Therefore, the future without the Proposed Conduct may not be any different from the future with the Proposed Conduct, except without any of the public benefits. Council Solutions submits there is no greater public detriment in the future with the Proposed Conduct because, even if awarded individually, that section of the market will still be 'locked away' for the same time or possibly longer.*

**[WRASA]**

**The evidence and experience of other ACCC applications shows that the future without Council Solution's Proposed Conduct will be very different from a future with it. The evidence and experience of other ACCC applications shows that the individual Councils and their ratepayers will be better off if the Council Solutions application is rejected by the ACCC.**

### **3.4 Interested Party Submission: Public benefit claims**

#### **3.4.1 Transaction cost savings**

*The interested parties have submitted that a respondent will need to submit more responses*

*under the Proposed Conduct, as there would need to be pricing for individual as well as groups of councils, and therefore alleged that the Proposed Conduct would not result in any transaction cost savings. Additionally, where savings have been conceded, it has been suggested that those savings would be so small as to be immaterial. Council Solutions submits that this concern is unfounded, and rather is an oversimplification of the submission process which focusses on pricing submission requirements only, without consideration of the additional information required to be submitted as part of any response.*

**[WRASA]**

**Had Council Solutions truly consulted with the interested parties they may have a greater understanding of the complexity their proposal will cause and the factors that drive costs and efficiency gains in the Waste Management industry. Combined, our WRASA member companies have waste management experience exceeding 200 years, and yet Council Solutions state “this concern is unfounded, and rather is an oversimplification of the submission process”. These issues are obvious to experienced waste management specialists.**

*The lead up to the procurement process is time and cost intensive for the Participating Councils. It can take 12 – 18 months of preparatory work before going to market, which includes the drafting of specifications, conditions of contract and the RFP documentation itself. Whilst the Participating Councils will have input during this process, delegating the task to Council Solutions avoids the multiplication of these processes and results in one set of documentation in lieu of five sets.*

*As part of a robust and transparent procurement process respondents are required to supply detailed information with regard to a number of criteria, in addition to pricing, including:*

- Current Commitments
- Customer Service
- Depot Details
- Financial Capacity
- Insurances
- Licenses and Accreditations
- Management, Staff and Technical Resources
- Previous Experience
- Quality Management
- Referees
- Subcontractors
- Vehicles, Plants & Equipment
- Workplace Health & Safety

*While some information can be cut and pasted from one tender submission to another, the structure of the previous tenders issued by the Participating Councils all have slight variations which makes this practice problematic. Even where this can be done, separate documents need to be completed for each submission.*

**[WRASA]**

**WRASA agrees with the above but wishes to advise the ACCC that completing the above documents is time consuming however comprehensive tender submissions are a worthwhile and not onerous investment to win tenders and the time taken to work out the costs of providing services to an area will not be reduced by adding more Council areas.**

**Additionally, Council Solutions proposal is a replication of centralised services already available from Hi-Pro and Sitepass where third party companies centrally**

manage Contract Management Plans for subscribed Councils and in part a replication of Local Buy's current tender for a panel (see tender advertisement below August 2016) and South Australian Local Government Associations current procurement services for Adelaide Councils. It is a critical public policy planning issue that government bodies organise themselves so that they are not duplicating procurement services and wasting more Council and public money.

#### INFORMATION BRIEFING SESSION - NATIONAL WASTE MANAGEMENT

<p>This tender is <b>CURRENT</b></p>	<p><b>Local Buy Pty Ltd</b> LOCAL BUY PTY LTD. INFORMATION BRIEFING SESSION - NATIONAL <u>WASTE</u> MANAGEMENT CONTRACT. Tender Type: Industry Briefing. Tender Code LB005744. Description: Local Buy is holding an information briefing session for a proposed National <u>Waste</u> Management contract. The products and Services expected to be available under any resultant contract will include but not be limited to: ? Domestic Kerbside <u>Waste</u> and <u>Recycling Collection</u> Service; ? Commercial Kerbside <u>Waste</u> and <u>Recycling Collection</u> Service; ? <u>Waste</u> Collections from Public Place <u>Bins</u> and Reserves; ? Bulk Rubbish <u>Collection</u>; ? Community Public Events <u>Waste</u> and <u>Recycling Collection</u>; ? <u>Disposal</u> of <u>Waste</u>; ? Customer Service Centre Provision. ? <u>Waste</u> and <u>Recycling</u> Facility Management ? And other categories as determined Briefing Details: ? Date: Tuesday, 23rd August 2016. ? Time: 9.00am - 11.30am AEST ? Location: Level 1, 25 Evelyn Street, Newstead - Limited spaces available ? RSVP: Register by COB Friday, 19th August 2016 by email to <a href="mailto:contracts@localbuy.net.au">contracts@localbuy.net.au</a> Responses: Tender closes at 10:00 AM Brisbane time, 6 September 2016 This is not a tender. It's a notice regarding an information briefing session only. To RSVP please email <a href="mailto:contracts@localbuy.net.au">contracts@localbuy.net.au</a> by COB Friday 19th August 2016. We reserve the right to invite Tenderers to change their tenders as per Section 228(7) of the Local Government Regulation 2012. Information available from Internet Site the following address (please click <a href="#">here</a>)</p>
<p>· <b>TenderLink Ref :</b> AU-735080</p> <p>· <b>Type of Notice :</b> Notice of Information</p> <p>· <b>Region :</b> Queensland</p> <p>· <b>Contract Value :</b> Not Specified</p> <p>· <b>Profile Matched :</b> 1. Keywords</p>	
<p><b>Closing Date/Time</b> 19/08/2016 Close of Business</p>	

*A typical document package for download for a prospective respondent for a single Service Stream for a single council can be between 50 and 120 pages. A standard response from the market can range from 50 to 175 pages. The cost for a provider to respond to such a tender call is not insubstantial, estimated in a report presented by one interested party to be \$33,000, or 440 hours.<sup>3</sup> If, as the interested parties have submitted is the case, a provider responds for each opportunity presented to the market, for one stream only this could result in the provider downloading 600 pages and preparing 875 pages in response at a cost \$165,000 (i.e. for five individual councils). If they are able to provide services in multiple waste streams, these costs increase exponentially.*

*By running a single RFP process, a provider will be able to provide information for these criteria once and the multiplication of work will be eliminated. As the provider will be able to submit a proposal for the amalgamation of their choosing, they will only need to prepare servicing and pricing proposals for that amalgamation. Even if they choose to submit multiple amalgamation options, the multiplication of the above criteria will still be eliminated, demonstrating clear transaction cost savings.*

**[WRASA]**

The above assertions highlight Council Solutions lack of understanding of the costs involved in tendering:

1. The schedules listed above can be completed by an administration officer and then proof read by managers
2. The real expense in developing a tender is the cost modeling that is completed by qualified Cost Accountants (CA, CPA) in conjunction with senior Operations Managers and ultimately reviewed, finessed and finalised by company directors.

The cost per hour and time dedicated to each tender is heavily weighed to the latter group which increases exponentially in line with the number of potential pricing scenario's that are possible in an RFP of this broad scope.

Furthermore, each tender will supply unique proposals meaning they may not be comparable to other tendered pricing causing increased workload by Council Solutions and member Councils.

Experience in waste contract tendering has taught our members that the presence of options, in this case an unprecedented amount, is the factor that exacerbates costs of tendering exponentially for contractors and simultaneously assessment for Councils.

*In the Participating Councils' evaluation of the responses there will also be an elimination of multiplication of assessment. While a category expert from each Participating Council will assess the qualitative aspects, a central procurement expert from Council Solutions can assess the mandatory elements, such as insurances, licenses and accreditations and referees. Council Solutions will also coordinate assessment of specialist criteria, such as workplace health & safety and financial capacity, by either a small team from the Participating Councils or by external advisors. The quantitative elements, such as the pricing proposals, will also be assessed by Council Solutions, which will also take the lead on negotiations on behalf of all Participating Councils. The final contract documentation will also be managed by Council Solutions. By centralising the evaluation of the mandatory, specialist and quantitative evaluation criteria the multiplication of assessment is reduced, further demonstrating transaction cost savings. In an environment where councils are under increasing pressure from their ratepayers to minimise rate increases through greater internal efficiencies in expenditure any saving, no matter how small in relation to overall operating revenue it may appear, is a benefit the public is demanding.*

*As a consequence, Council Solutions submits that there will be transaction cost savings from the Proposed Conduct.*

**[WRASA]**

This contradicts earlier information provided by Council Solutions. If by using the current tender process a Council is able to assess and award a tender within three months and Council Solutions require 12 months to achieve the same result, one must question whether transaction costs savings will actually be achieved.

### 3.4.2 Improved purchasing power

The interested parties have submitted that the Participating Councils are already big enough on their own to secure the best price in an already highly competitive market.

Council Solutions engaged an independent industry expert in late 2014/early 2015 to assess the joint procurement opportunities for municipal kerbside collections, which also assessed the disposal and processing markets. This report highlighted a number of areas where service efficiencies could be gained that would lead to a reduction in cost. These included the ability to cross boundaries, 'nearest vehicle' response to missed bins and a consolidation of the fleet in Waste Collection.

#### [WRASA]

**In any case WRASA advises there are little to no efficiencies to be gained by crossing boundaries, as Council Solutions propose, but the Council Solutions proposal before the ACCC does nothing to overcome the reporting and invoicing issues Councils require to pay disposal facility invoices.**

*In addition to these efficiency-led cost savings, Council Solutions reasserts that the potential to win a larger contract will stimulate competition and innovation within the Service Streams. The interested parties have submitted both that the market already vies for every opportunity and that larger contracts do not receive as many responses. Council Solutions respectfully rejects the proposition that the size of the contract will prevent market participants from tendering, and believes that the opportunity to secure volume, combined with the reduction in the physical number of complete tender packages to respond to, will provide a greater opportunity to respond. This provides a real possibility that strong competition will result in improved purchasing power for the Participating Councils.*

#### [WRASA]

**The statement: “Council Solutions respectfully rejects the proposition that the size of the contract will prevent market participants from tendering, and believes that the opportunity to secure volume, combined with the reduction in the physical number of complete tender packages to respond to, will provide a greater opportunity to respond” is erroneous for several reasons:**

- 1. Our earlier submission and PDC presentation did not state or assert that “the size of the contract will prevent market participants from tendering”.**
- 2. The statement “combined with the reduction in the physical number of complete tender packages to respond to” totally ignores the issues raised at the PDC that the broad scope (5 Councils, 4 waste services, no specifications) will increase the number of tendering options exponentially. This in turn increases the complexity of tendering for service providers and increases the complexity and time required by Councils to assess the tenders received.**

We highlight that Council Solutions avoid mentioning that they seek improved purchasing power through vertical integration as detailed in section 1, page 2 where they state they have been advised they may attain “*lower total service costs from vertical integration management*”.

Again, Council Solutions have made an unsubstantiated claim against the evidence and experience presented. All interested party submissions show there is less opportunity to be successful and less potential for innovation and value for each individual Council and their ratepayers.

### 3.4.3 *Greater economies of scale and efficiency*

#### (a) *Optimum number of households*

*The interested parties have alleged that public benefits in relation to greater economies of scale and efficiency will not be achieved due to a perception of the ideal contract size being 20,000 – 50,000 households and that there are not enough common boundaries between the Participating Councils.*

*Council Solutions respectfully submits that this allegation is incorrect, and founded on studies that are not relevant to the Application. Specifically:*

- the proposed ideal contract size appears to be based on studies conducted in the United States and Spain rather than Australia, however both these papers refer to individuals or inhabitants, not households;*
- whilst it is accurate that these studies found few cost economies of scale beyond 5000 inhabitants, the point of these studies was not to find the most cost-efficient contract size. The Stevens study (pertaining to the USA) analysed “how the costs of providing waste removal service vary systematically with the identity of the collector, the degree of competition, and the size of the market served”.<sup>4</sup> This was in a vastly different market where collection could be provided by public monopolies, private monopolies or independent contractors, all of which contract individually to the homeowner as opposed to the local government equivalent; and*
- the Bel and Fageda, study (which pertained to Spain) analysed “the factors that determine solid waste service costs” which, again, compared private delivery to public delivery.<sup>5</sup>*

**[WRASA]**

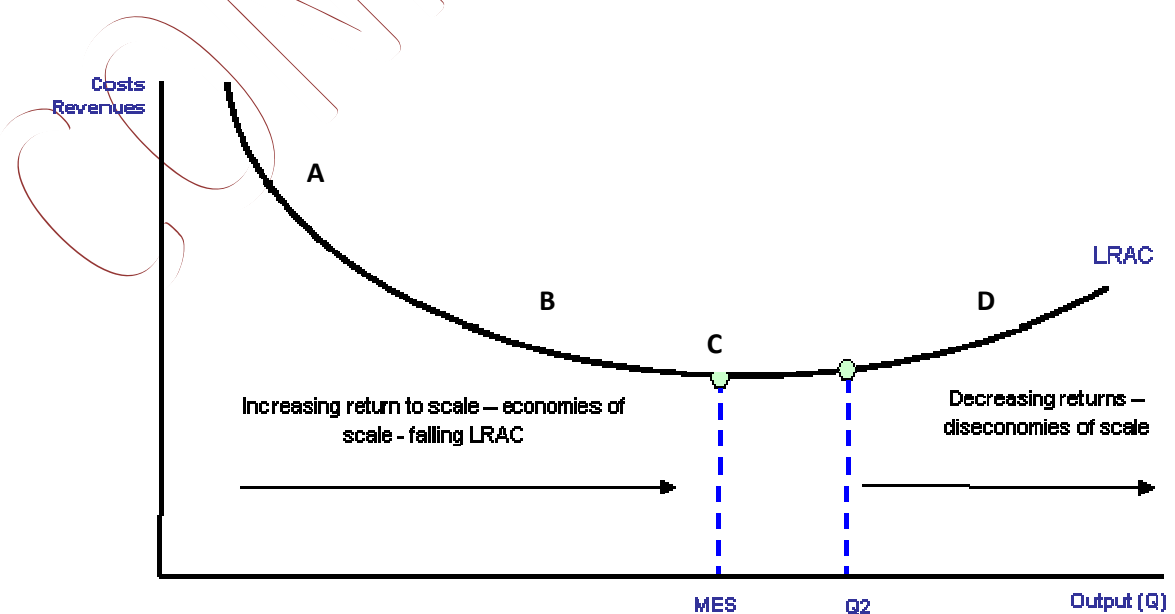
**The outright rejection of academic research undertaken by a professor who specialises in this field of study is audacious if not misguided. Rather than attempt to debate Council Solutions above assertions, please see attached responses supplied by Professor Barry Burgan and Professor Brian Dollery. The report compiled by Professor Brian Dollery provides independent academic research on Economies of Scale in local government. Initially he provides a literature review of global academic research relating to the provision of total government services and concludes by focusing on recent academic research into economies of scale in Waste Services in Australian local government (see section 3.5). His research analyses the resultant**

impact of Queensland and New South Wales Council mergers on waste service costs over the long term concluding in section 3.5.3 that “No economies of scale were observed for either roads or domestic waste collection and removal expenditure”.

Reliance on these studies to determine the ideal contract size is problematic for several reasons. First, the reports are historical and international, studying markets that are dissimilar to South Australia. They are also purely economic studies that do not assess the potential for collaboration and do not take into account broader efficiencies such as streamlined contract administration, centralisation of call centres and improved flexibility. Finally, the theoretically 'ideal' contract size of 20,000 – 50,000 inhabitants (as these studies present) would indicate that only the Adelaide City Council, with 22,690 people, currently has an efficient contract, whereas the City of Port Adelaide Enfield, with 122,205 people, would need to have three collection contracts in order to be efficient. Council Solutions respectfully submits this outcome is nonsensical and cannot be the outcome the Waste Collection providers are advocating. Additionally, the interested parties do not seem entirely opposed to local governments collaborating, as long as it is the 'right' cluster. Therefore, there must be some concession by the interested parties about the benefit of collaborating.

#### [WRASA]

Scale economies in waste management, as in other industries, show efficiencies are gained initially at an accelerated rate (See A below) and then at a decelerated rate (See B below) until the optimum efficiency is gained at the base of the curve (see C below). From this point onwards small diseconomies of scale occur. These are defined as “an economic concept referring to a situation in which economies of scale no longer functions for a firm. With this principle, rather than experiencing continued decreasing costs and increasing output, a firm sees an increase in marginal costs when output is increased.” (investopedia.com). This is highlighted below in section D.



There are many variables in waste contracts that provide deviations to the rule. Two points are important:

1. our member's actual data shows these optimal contract sizes
2. waste experience is required to identify the size and complexity of a contract. Travel distances, number of drivers and trucks, number of bins, supervision and management and Council requirements for ancillary functions such as customer service, education and auditing must be gauged.

In reference to Council Solutions assertion that efficiencies can be achieved via the centralisation of call centres, as 4 of the 5 collection contracts are performed by one collection contractor these savings have already been achieved and passed onto all Councils in the form of low prices through utilising one call centre and CRM software program for all 4 Councils. In short, the member Councils will not receive further savings as a result of Council Solutions proposal.

(b) Geographical locations of the Participating Councils

*The interested parties have further submitted that the Participating Councils only have 6.62% of boundaries in common and, to this end, the differences in geographical locations between the Participating Councils will increase costs due to additional transport distances. Council Solutions rejects this analysis. By an alternative calculation conducted by Council Solutions, as outlined in Annexure D, the common boundaries are in fact 10.4%.*

[WRASA]

We have reviewed our calculations and incorporated Council Solution's opinions about coastal boundaries, etc. Revised calculations using the same tool as used by Council Solutions show that the shared boundaries are approximately 10% however this is only 50% of the average for all other ACCC applications.

Council Solutions state that they don't believe the percentage of common boundaries as particularly relevant. This raises 2 questions:

1. Does Council Solutions think it would be better or the same in terms of efficiencies if the areas to service were spread out requiring more travel?
2. What is particularly relevant then? Again Council Solutions have provided no substantiation or offering for their claim.

*When the large coastal areas of the Cities of Port Adelaide Enfield, Charles Sturt and Marion are also taken into consideration (i.e. boundaries that cannot geographically be shared), the common boundaries increase to 13.17%. However, Council Solutions does not view the percentage of common boundaries as being particularly relevant to the assessment of whether there will be greater economies of scale and efficiency.*

[WRASA]

By stating that "Council Solutions does not view the percentage of common

*boundaries as being particularly relevant to the assessment of whether there will be greater economies of scale and efficiency” shows a naïve lack of understanding of the waste industry. The majority of collections costs, in accounting terms, are direct variable costs. These direct variable costs rise proportionately as the distance travelled rises. These include:*

- Increased fuel costs as distance travelled increases
- Increased repair and maintenance costs as distance travelled increases
- Increased truck capital required as distance travelled increases
- Increased wage costs as distance travelled increases

To state that economies of scale will result from tendering for multiple Councils and that geography is irrelevant when it is the key driver of cost, again highlights Council Solutions lack of understanding of waste management realities.

Of note is the different waste management group structures operating in other states of Australia. In Victoria, a state wide clustering of geographically adjacent Councils has been established to proactively manage the development of major waste infrastructure (waste to energy plants, landfill development, etc). These groups operate in consultation with all industry participants to develop a strategic plan for long-term increases in waste diversion. Despite each Council belonging to a regional waste group, each Council tenders separately for their collection, processing and disposal contracts and in many cases on their own for collection especially rather than as part of a joint tender. This is in stark contrast to the Council Solutions proposal, both in terms of geographical adjacency and Councils tendering separately for their waste services.

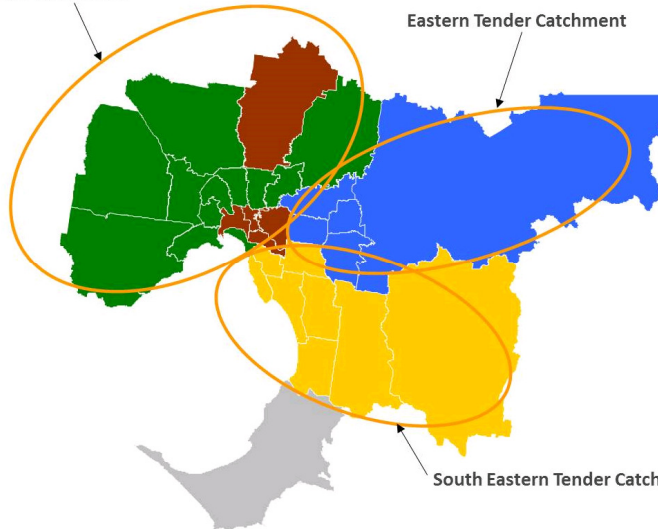
## Victorian Regional Waste Group Map



## Victorian Metropolitan Waste Group Map (showing areas they have clustered for tendering purposes)

North Western Tender Catchment

Eastern Tender Catchment



## Council Solutions Map



**A further consideration is the impact that Council Solutions could have on long term infrastructure development in Adelaide. Should the South Australian Government attempt to replicate the Victorian model, the grouping of un-adjacent Councils will provide a barrier to future long term planning.**

*As mentioned above, the interested parties have acknowledged there is some benefit in Councils collaborating, however they have submitted this is the 'wrong' cluster of Councils. Therefore, even though the economy of scale and efficiency is not as large as it could have been if all Participating Councils shared boundaries with each other, this does not necessarily mean there are no economics of scale and efficiency, and there is still a real chance and not a mere possibility of the benefit eventuating. Additionally, even where the Participating Councils do not share common boundaries, there are geographic efficiencies in their relative cluster. Finally, through the RFP process the respondents will be able to present the amalgamation that provides the best value and efficiency – i.e. if the market believes common boundaries are essential for this, this will be apparent in the process.*

#### **[WRASA]**

**Council Solutions have asserted there is a “still a real chance” versus “a mere possibility” of a benefit eventuating from clustered Councils yet provides no economic or financial quantification. WRASA respectfully requests the ACCC refer to the academic research provided by Professors Burgan and Dollery in the absence of any evidence from Council Solutions.**

**In fact there is a real chance of net public detriment. Again Council Solutions make claims with absolutely no substantiation.**

#### *3.4.4 Environmental benefits*

*The interested parties have claimed the environmental benefit of increased waste diversion will not materialise by way of the Proposed Conduct, and that there will be an impact on the operation of the Container Deposit Legislation (CDL).*

*Council Solutions rejects these claims. Specifically:*

- the interested parties have supported the position in the Supporting Submission that South Australia has the highest publically reported diversion rate in Australia (see paragraph 8.4 of the Supporting Submission);*
- Council Solutions rejects the interested parties' submission that this is due to smaller contracts, as well as the implication it is enough to be leading the diversion rates without striving for more;*
- all other Australian States and Territories have lagged behind South Australia's innovation in the waste management space, which is a far larger contributor to their lower waste diversions than the size of the contracts;*
- South Australia was the first State or Territory to introduce a CDL scheme, back in 1975, which also has had a far more significant impact on waste diversion than contract size; and*
- additionally, other States and Territories have not had full implementation of the three bin system adopted in metropolitan Adelaide, also a key driver of waste diversion.*

**[WRASA]**

Whilst Council Solutions are within their rights to reject our claims, we note that absolutely no evidence has been provided to explain their rationale for rejecting them. WRASA maintains that SA is at the forefront of positive environmental outcomes and waste diversion and has achieved this through service providers and Councils working together collaboratively to achieve these shared aims. Our concern remains that the ability and flexibility to continually and incrementally increase waste diversion currently available to Councils will be compromised under the Council Solutions model such as a restrictive 10 year term for Waste to Energy projects. Experiences of our members and other contractors around Australia as well as data available fully support the information we have provided.

*3.4.5 Improved incentives for new market entrants or expansion*

*The interested parties have submitted that all the large national waste companies already participate in the market, where they have defined the "market" as the Adelaide Metropolitan area open to tender' and, as such, alleged that there will be no new market entrants.*

*Council Solutions does not accept this definition of the market, but also notes that there were a number of interstate-based market participants which attended the Industry Briefing held 21 December 2015 which were not identified in the "Adelaide Metropolitan Area Municipal Solid Waste Market Review March 2016"<sup>7</sup> (Adelaide Market Review). This demonstrates there is indeed interest from new market entrants, particularly in some of the areas where innovation is anticipated, such as Waste to Energy. Additionally, Council Solutions submits the public benefit claimed is not solely based on a new entrant to the market, but also in the incentives for expansion and infrastructure investment the combined volume may provide. Council Solutions acknowledges this public benefit is linked to the extent a common provider for a Service Stream is awarded.*

**Council solutions state they do not accept the definition of the market as being the "Adelaide metropolitan area open to tender" but have failed to provide an alternate market definition.**

**For the ACCC to assess the market impact of the Council Solutions application, we believe it is critical that a market definition be confirmed. Based on this we believe the valid the market definition is summarised below:**

## Adelaide Metropolitan Waste Market

	Est. Population	%	Est. Properties	%
<b>Total Metropolitan Councils</b>	<b>1,261,033</b>		<b>585,473</b>	<b>100%</b>
Less				
<u>East Waste Council Group</u>				
Adelaide Hills Council	39,873		18,909	
City of Burnside	44,734		21,214	
Campbelltown City Council	51,344		24,349	
City of Mitcham	66,182		31,385	
City of Norwood, Payneham & St Peters	37,074		17,581	
Town of Walkerville	7,000		3,320	
<b>Total East Waste</b>	<b>246,207</b>		<b>116,758</b>	<b>19.9%</b>
<b>Total Market Open to Tender</b>	<b>1,014,826</b>	<b>100.0%</b>	<b>468,715</b>	<b>100.0%</b>
<u>Council Solutions Group</u>				
City of Adelaide	22,690		10,883	
City of Charles Sturt	112,714		53,091	
City of Marion	88,292		41,020	
City of Tea Tree Gully	98,575		41,721	
City of Port Adelaide Enfield	122,205		59,579	
<b>Total Council Solutions</b>	<b>444,476</b>	<b>43.8%</b>	<b>206,294</b>	<b>44.0%</b>
<u>NAWMA Council Group</u>				
City of Salisbury	134,042		58,888	
City of Playford	83,067		37,496	
City of Gawler	21,000		10,530	
<b>Total NAWMA</b>	<b>238,109</b>	<b>23.5%</b>	<b>106,914</b>	<b>22.8%</b>
<b>Remaining Market as a % of Open Market</b>	<b>332,241</b>	<b>32.7%</b>	<b>155,507</b>	<b>33.2%</b>
<b>Remaining Market as a % of Total Market</b>	<b>332,241</b>	<b>26.3%</b>	<b>155,507</b>	<b>26.6%</b>

### Source:

Council Solutions: Council Solution ACCC Submission

NAWMA: NAWMA 2015 Tender Specifications

East Waste: Profile.id

Total Metropolitan Councils: Council Solutions ACCC Submission

Furthermore, Council Solutions stated above that interstate companies attended their December Industry Briefing inferring this guarantees they will receive additional tenders. We have developed a factual analysis of Council Solutions claims. Please find below a table summarising the meeting attendees complete with their South Australia business addresses hence highlighting those that are currently not operating in the market.

Attachment B  
Pre Tender Briefing Attendees

Attendees who supply services that are out of scope					
No.	Company	Services	In Scope to provide services / tender directly Y or No	Address Listed in Council Solutions	SA Address Omitted
1	Bio Bag World Australia	Manufacture of waste bags and waste caddies	No	Fullarton SA	
2	KESAB	Waste resource and education	No	Flinders SA	
3	Superior Pak	Vehicle Suppliers	No	Regency Park SA	
4	Water + Waste Innovations Pty Ltd	Waste management consulting and advisory se	No	Encounter Bay SA	
5	Adelaide Resource Recovery	C&D Recycling (Concrete, bricks, scrap steel)	No	Dry Creek SA	
6	ClosetheLoop	Printer cartridge recycling	No	South Melbourne Vic	
7	Onkaparinga Council	Council	No	Onkaparinga SA	
8	Moreton Bay Regional Council	Council	No	Caboolture Qld	
9	Mineral Processing Solutions	Waste Equipment Suppliers	No	Burton SA	
10	Cardio Bioplastics	Manufacturer of waste bags and caddies	No	Waverley Vic	

Attendees who supply services that are in scope & operate within SA													
No.	Company	In Scope Services								In Scope to provide services / tender directly Y or No	Address Listed in Council Solutions	SA Address Omitted	
		Bin Supply	Bin Maintenance	Bin Collections	Hard Waste	Bulk Bins	Processing - Recyclables	Processing - Organics	WtE				Landfill & Transfer Stations
11	Trident Plastics	Y									Yes	Clare SA	
12	FWS (Finding Workable Solutions)				Y						Yes	Victor Harbor SA	
13	Jeffries							Y			Yes	Wingfield SA	
14	Visy Industries						Y				Yes	Wingfield SA	
15	East Waste		Y	Y							Yes	Ottoway SA	
16	SUEZ / SITA Australia Pty Ltd		Y	Y	Y	Y			Y		Yes	Wingfield SA	
17	Resource Co								Y	Y	Yes	Wingfield SA	
18	Transpacific Cleanaway		Y	Y	Y	Y				Y	Yes	Port Adelaide SA	
19	Veolia Australia and New Zealand		Y	Y	Y	Y				Y	Yes	Kilburn SA	
20	Integrated Waste Services									Y	Yes	Wingfield SA	
21	SRWRA									Y	Yes	Morphett Vale SA	
22	Solo/RICO Enterprises		Y	Y	Y	Y					Yes	North Plympton SA	
23	Remondis Australia Pty Ltd		Y	Y	Y	Y					Yes	Mascot NSW	32 Wingfield Rd, Wingfield SA
24	JJ Richards		Y	Y	Y	Y					Yes	Cleveland Qld	Lot 11 Elder Road Largs North SA
25	SKM						Y				Yes	Coolaroo Vic	19 Christie Road , Lonsdale SA
26	Kartaway Miniskips					Y					Yes	East Brunswick Vic	65 Stephens Ave, Torrensville SA

Attendees who supply services that are in scope & do not currently operate within SA													
27	Phoenix Energy								Y		Yes	Elphinstone Vic	No SA Operation

Summary:

Number of attendees out of Scope	10	37%
Number of attendees within Scope that currently operate in SA	16	59%
Number of attendees within Scopethat do not currently operate in SA	1	4%
Total Attendees	27	100%

In summary, only 1 potential new market entrant attended the pre tender briefing:

Phoenix Energy who will require more volume than the three remaining Councils who are participating in the landfill RFP. In Western Australia, Phoenix Energies Waste to Energy proposal is based on securing 260,000 tonnes per annum. The 3 participating councils produce approximately 50,000 tonnes per annum (see Attachment F2). Critically for their facilities they seek terms of 20 years plus to allow economical recovery of capital.

WRASA wishes to confirm its member's commitment to further improving environmental outcomes for South Australia and welcomes the development of Waste to Energy (WtE) initiatives in the state. However, based on the Western Australian WtE experience to date, we feel that it is pertinent the ACCC understand that more than three Councils will be required to collaborate for the infrastructure to be

commercially viable. As stated earlier, a group council model similar to Victoria will be required for a WtE plant to be considered. It is imperative this important public planning infrastructure be developed with state government as the Adelaide market may only see one or perhaps two Alternate Waste Facilities developed.

#### 4. CLARIFICATION

Council Solutions notes that a number of submissions from interested parties have included, or provided arguments based on, an incorrect or flawed interpretation of the Application. In the interests of absolute certainty, Council Solutions wishes to clarify these points.

##### 4.1 Growth of market share

A consistent submission from interested parties has been made that Council Solutions has a growth objective and that the City of Onkaparinga (and, in one submission, also the City of Salisbury) will join the arrangement in future years and, as such, the market share of the Participating Councils should be considered in that light.

As stated in the Council Solutions Annual Report 2014/2015:

*the ultimate goal of Council Solutions is to improve community prosperity and wellbeing by undertaking local government procurement and collaborative services that:*

- > Deliver best value for money*
- > Explore innovative ways of delivering infrastructure and services*
- > Value partnerships between councils and suppliers*

*The growth that Council Solutions seeks is in the breadth and type of services it provides, such as providing a waste procurement service, rather than by growing existing contractual arrangements, as the interested parties submit. Council Solutions has no intention to 'shop around' the final arrangements with the objective of getting additional local governments to enter into similar agreements with the successful providers. Similarly, the Cities of Onkaparinga and Salisbury have made their own determination not to be involved in the project and, as such, will not simply 'sign-on' in the future once contracts have been established.*

**Council Solutions agreed at the PDC that other Councils may come on with an additional ACCC application.**

Council Solutions further notes that, if granted, the authorisation from the ACCC will only cover the Proposed Conduct for the named Participating Councils, thereby preventing the addition of any other local governments without a further authorisation, subject to the same assessment and consultation this Application has and will undergo. Council Solutions submits the Application must be assessed on the actual market share of the named Participating Councils only and not a hypothetical segment that is not envisaged and has not been requested by way of the Application.

**[WRASA]**

**Council Solutions have conceded that other Councils may be added. Any subsequent application if Council Solutions are successful on this occasion will be far easier given the precedent set. Council Solutions have never limited their ambitions by way of a commitment to a restricted number of Councils. This is where comparisons with all other ACCC applications end. All other applications nominate a specific list of Councils for a specific service for a specific contract term.**

## 4.2 Definition of market

The interested parties have made submissions challenging the indicators used to define the market in the Application and the inclusion of all source sectors. Council Solutions maintains the definition of the market presented in the Supporting Submission.

### 4.2.1 Indicators used

Council Solutions has used population and rateable properties to define the market for Waste Collection and combined tonnages to define the markets for the Receiving and Processing of Recyclables, Receiving and Processing of Organics and Waste Disposal. These have been sourced from independent, third party sources as outlined in the Supporting Submission and are able to be verified independently by a third party, such as the AGCC. They are also, on the whole, used by various industry analysts, including the State Government, to assess the provision of waste services in South Australia.

The interested parties have submitted the 'correct' data should be based on "actual figures from current collection services" and have also presented analysis based on "Estimated Actual Tonnes". Council Solutions respectfully rejects this proposal as this information can only be verified by either party to a contract (a council or the contractor) and, as such, lacks independence and robustness. As such, Council Solutions maintains the indicators used for the market share analysis as included in the Supporting Submission are correct.

#### [WRASA]

Because Council Solutions have neglected to check the tonnes with their participant Councils does not mean that the original information submitted by Council Solutions is correct.

DATA FOR PARTICIPATING COUNCILS, METROPOLITAN ADELAIDE COUNCILS & ALL METROPOLITAN SOURCE SECTORS

Council	Population		Rateable Properties		Land Area		Estimated quantity residual waste		Estimated quantity recyclables		Estimated quantity organics	
	People	% of All Metro Councils	Properties	% of All Metro Councils	Land area	% of All Metro Councils	Tonnes	% of All Metro Sectors	Tonnes	% of All Metro Sectors	Tonnes	% of All Metro Sectors
Corporation of the City of Adelaide	22,690	1.80%	22,735	3.88%	15.6	0.65%						
City of Charles Sturt	112,714	8.94%	54,067	9.23%	54.8	2.29%						
City of Marion	88,292	7.00%	41,011	7.00%	55.6	2.33%						
City of Tea Tree Gully	98,575	7.82%	39,393	6.73%	95.2	3.99%						
City of Port Adelaide Enfield	122,205	9.69%	59,579	10.18%	91.7	3.84%						
<b>TOTAL</b>	<b>444,476</b>	<b>35.25%</b>	<b>216,785</b>	<b>37.03%</b>	<b>313</b>	<b>13.10%</b>	<b>74,970</b>	<b>8.20%</b>	<b>33,580</b>	<b>1.30%</b>	<b>45,880</b>	<b>4.60%</b>
All Metropolitan Councils	1,261,033		585,473		2,388		262,228		258,087		126,121	
All Metropolitan Sectors*							914,000		2,591,000		997,000	

\* Municipal, Commercial & Industrial and Construction & Demolition; Recyclables excludes Fly Ash and Clay, Fines, Rubble & Soil

In the interests of clarity, WRASA provides below and attached confidential information and further industry knowledge regarding the market definition. The 13.01% figure quoted above by Council Solutions in their original application cannot realistically be considered as the numbers are blatantly incorrect. They state that Total Metropolitan Councils Recyclables and Residual Waste are 258,087 tonnes and 262,228 tonnes respectively. Expressed as a percentage it equates to 98.4%.

The actual rate is 40.8% which is logical when one considers that general waste collections are weekly and recycling is fortnightly. Added to this is the well known fact that general waste is heavier per cubic metre than recyclables. Please see Attachment F1 for the confidential information confirming the above.

Additionally, when analysing the above we noted the following errors In Council Solutions figures provided in Annexure 1:

1. The City of Adelaide is listed as having a population of 22690 and rateable properties of 22735. This is a 1:1 ratio whereas all other Councils have a 2:1 population which is logical based on an average household having 2 occupants. We assume Council Solutions have erroneously used two population numbers rather than the rateable properties number.
2. The general waste tonnage has been underestimated Please see Attachment F2 for confirmation.

Based on the above, we respectfully ask the ACCC to disregard the general waste and recyclables values and market share percentages supplied by Council Solutions.

At the PDC the ACCC requested that Council Solutions clarify the market figures as there are some obvious inconsistencies on which they have based their application. To date we are unsure as to whether this has been completed. We reaffirm that it should be. We also offer our information for independent audit by the ACCC but confirm that they are based on actual operational figures.

#### 4.2.2 Source Sectors

*Other than Waste Collection, where the relevant area of competition has been stated to be that for the collection of waste from the Municipal source sector only, Council Solutions submits the relevant market definition is comprised of all source sectors, including Commercial & Industrial (C&I) and Construction & Demolition (C&D). The interested parties have ignored these sectors in their submissions regarding the market share.*

*All the providers identified in Adelaide Market Review provide services to more than one source sector, including the waste collection providers.<sup>8</sup> Council Solutions acknowledges there is not always a direct substitutability of service provision, but is presented to give further market context and to highlight the other sources of input for these providers. Annexure F provides further discussion regarding the market definition for each Service Stream in response to the interested parties' submissions, but Council Solutions maintains the market definition as provided in the Supporting Submission is the appropriate definition of the market.*

#### [WRASA]

The market definition provided by Council Solutions overlooks the basic operational differences between each sector. Council Solutions asserts that each sector is one in the same and service providers could readily switch between municipal or C&I or C&D should they lose all the Council Solutions Council contracts in one fell swoop. Clearly, Organics and Recycling processors cannot accept material from the Construction and Demolition (C&D) sector. In fact the Adelaide processing facilities for these products are geographically and proprietorially separate. Additionally, suitable organic and recyclable material only represents a small percentage of the Commercial and Industrial (C&I) sector.

The same applies for collections as the type of trucks used in Municipal and C&I and C&D differ significantly due to the variations in materials they collect. Municipal collections use side loading vehicles that can only lift 80-240 litre wheelie bins.

C&I and C&D sectors use a combination of:

- Front lift trucks for approximately 660-4500 litre bins
- Roll on roll off and Merrell skip trucks for approximately 4000 to 30,000 litre bins.

This simplistic view of the industry is akin to saying a poultry farmer or chicken breeder who lost a supply contract could simply switch to growing wheat as both are farmers and both have tractors and trucks.

In short, the sectors are not comparable and the assets are not transferable as asserted by Council Solutions, therefore the market definition must solely be restricted to municipal collections.

#### 4.3 Council Solutions' role

##### 4.3.1 Experience

*There have been submissions from interested parties that query the role of Council Solutions in the Waste Management Services Project (the Project), particularly questioning Council Solutions' experience in the waste industry. With respect, Council Solutions does not believe this criticism is either relevant or correct.*

*Council Solutions is not a subsidiary for waste management, as East Waste and NAWMA are, but, rather, is for local government procurement and collaborative services, and is only one of six Applicants seeking authorisation from the ACCC. The other five are all local government authorities which deliver waste management services to their ratepayers on a daily basis and which each have a number of experienced, knowledgeable individuals contributing to the Project. A further benefit of the Project is bringing together these individuals to promote the sharing of knowledge and professional development. In addition, independent industry experts and commercial advisors have been engaged to assist. The Project has been established at the request of the Participating Councils and Council Solutions will play its procurement and ongoing contract management role accordingly.*

#### [WRASA]

**WRASA members accepts Council Solutions role as simply being the procurement expert in the proposal and respect their acknowledgment that they do not bring any waste management experience to the partnership. However, this lack of experience will have a detrimental effect in a contract of this unprecedented size, complexity and likelihood of failure.**

**If basics such as market definitions, truck types, tender complexities and the factors that drive economies of scale are not understood at the outset it is highly probable that serious damage to the waste industry, councils and residents will be the end result.**

**Council Solutions is in the difficult position of having to look after its own interests and in theory the interests of the group of Councils. However it is a certainty that the interests of one or more Councils will conflict with Council Solutions interests or one or more other Councils as each individual Council is obliged to protect the interests of its own ratepayers.**

#### **4.3.1 Funding**

*There have been assertions by a number of interested parties that a 1% 'commission' or 'surcharge' payable to Council Solutions will apply, which has been equated to \$5 million over the life of the contract.*

*As stated in the Supporting Submission, Council Solutions is currently funded by an administration fee on the contracts established, however the value of the fee has not been established for this Project. In every procurement undertaken by Council Solutions the administration fee is set by the board of management and is set at a time when the value and commercial terms of each contract are known. The board can also lower the administration fee during the life of a contract based on cost recovery of the procurement and ongoing contract management costs. Whilst 1% has been considered internally as an appropriate initial benchmark for consideration by the Participating Councils, it is on no account decided or fixed, and is not designed to grow an excessive surplus of funds. It should also be noted that this fee is to be paid by the Participating Councils via the Contractor and will not come out of the Contractor's service charge or margin.*

#### **[WRASA]**

**Council solutions state that the administration fee will “be paid by the Participating Councils via the Contractor and will not come out of the contractors service charge or margin”. By definition, all costs incurred by a contractor will have a margin added otherwise their shareholders will need to accept a lower gross margin percentage. Hence the 1% administration fee will increase service charges to Councils and Residents by more than 1% based on industry average margins, despite not being offered any additional services. We have seen how this system works with WALGA in Western Australia and we can confirm that it adds the additional cost to Council and the ratepayer.**

- **Council Solutions states in a tender that a 1% charge will be applicable**
- **Contractor required to pay the 1% charge to Council Solutions**
- **Contractor develops a tender price and adds the Council Solutions 1% charge as one further contract cost before adding margin.**
- **The contractor invoices the Council the full amount including the 1% charge Plus margin.**
- **The Council pays the 1% charge plus margin**
- **Ratepayers pay the 1% charge plus margin**

**Council Solutions go to great lengths to say the fee will not be 1% but the only possible fee they do mention is 1%.**

*The implementation of the administration fee should also have balanced consideration in relation to the public benefit of collaborative procurement and ongoing contract management. Effective contract management is a time consuming and costly enterprise for councils that can often be overlooked in the desire to reduce costs, however contract management is key to extracting value from the contracts for both councils and Contractors.*

*While it is envisaged that the day to day operational contract management will be carried out by the Participating Councils, any contract extension negotiation, price review, contract addendum or review of contract conditions will be undertaken by Council Solutions on behalf of all Participating Councils. Additionally, Council Solutions can oversee delivery of value added propositions and provide an informal dispute resolution role to maintain effective relationships. As this will be able to be done collectively (where common providers are awarded), there will be efficiency gains and cost savings, as well as releasing those within the Participating Councils to focus on operational delivery, ensuring the highest service levels to the community.*

#### **[WRASA]**

**As Council Solutions state that councils will retain the day to day operational contract management, it is difficult to see where councils will make a saving to offset the additional administration fee. While industry centralisation is not new, in most cases job losses occur in the existing decentralised offices to fund increases in centralised roles resulting in an overall net savings. This proposal seems to simply increase the manpower and wages required to manage the existing contracts.**

**Our member's experience is that the substance of contract extensions, value add propositions, etc are waste related and generally specific to a Council. To use procurement staff would complicate and stifle the process, as has been the case with this tender.**

#### **4.4 Value of the Service Streams**

##### **4.4.1 Discrepancy in estimations**

*The interested parties have made varying submissions about the estimated annual spend of the Participating Councils on waste services, varying between \$30 million and \$42 million, and the ACCC has recommended that this discrepancy be clarified.*

*Council Solutions has not referred to a potential value of any resulting contracts in the Application as it is not a fixed or certain measure. While an estimation has been made by Council Solutions of \$30 million per annum for the 2014/2015 Annual Report, this is based on historical contract values, where known, of the Participating Councils. Historical spend is no guarantee of future spend and, as has occurred recently, some pricing methods have changed in the Receiving and Processing of Recyclables Stream that may alter this further. Additionally, this may be misleading as it represents the total value of all Service Streams for all Participating Councils, which are (and may continue to be) awarded to multiple Contractors. To extrapolate any financing or bank guarantee requirements based on a total value of \$30 million when a potential contract may only be a portion of that value is problematic and potentially distorted.*

*Putting aside the above, if a value is useful to the ACCC in considering the Application, Council Solutions suggests that an estimated value of \$30 million per annum is a reasonable approximation of the total value of any resulting contracts from the Proposed Conduct. This figure is supported in the CONFIDENTIAL<sup>9</sup> table in Annexure G.*

**[WRASA]**

WRASA respects the confidentiality of the individual contracts and their terms and conditions, however we believe an accurate historic total value of all waste services does not compromise any Councils or Contractors confidentiality and is an essential factor to be considered in determining competition issues. We believe that to accurately assess the impact of an application that will have a distortionary impact on a market, that a baseline position must first be established, that being a clear market definition and valuation. Council Solutions have stated that the market valuation they provided “may be misleading” and have included irrelevant industry sectors in the market definition.

With all due respect to the Council Solutions organisation, WRASA members are rightfully nervous that the organisation does not understand waste management and has naively underestimated the complexities of the industry and the level of detail required in an ACCC application of this scope.

*The \$42 million figure represented by some of the interested parties is not reflective of the value of the services to the market but, rather, Participating Councils' total operating expenses, including overheads, staffing and other costs. However, as assumptions and overhead allocation models differ from council to council, comparison between councils based on this data is difficult. Indeed, note 2 to the report (attached at Annexure H) states*

*Care should be taken when comparing or interpreting the figures of individual Councils. Also it is often not meaningful to view data without an understanding or explanation of the differing financial and asset management strategies and targets of each Council. Interested readers are encouraged to contact individual Councils for further information.*

**[WRASA]**

It is noteworthy that Council Solutions have omitted the first of 2 notes above. The Grants Commission state in note 1, “*there maybe differences from Council financial statements and amounts shown in supplementary returns so as to enhance data consistency and comparability.”*

WRASA recognises and appreciates that care needs to be taken when interpreting financial reports and that it is also useful to have an understanding of the drivers of the information and the industry they relate to. However, as this information is provided to the South Australian Government \* as a basis for them to compare and assess each Councils costs and then distribute funding, one must believe that the information is robust and meets auditing controls.

Please see below an excerpt from the South Australian Government website clarifying the use of the data:

*\* The South Australian Local Government Grants Commission makes recommendations to the Minister for Local Government on the distribution of untied Commonwealth Financial Assistance Grants to local governing authorities in South Australia.*

*Grants are distributed to support councils in providing an average level of service to their communities. They are assessed by the Commission based on the differences in the costs of providing services and differences in revenue-raising capacity compared to the average across the state.*

**It is ironic to state that whilst this cost data is robust enough for Councils to supply the State Government for the purpose of obtaining funding (based on the comparison of the data) that the same data should not be used to assess or compare each Councils costs.**

**WRASA therefore believes that while there may be some level of reporting variations from Council to Council it would be of an immaterial level. As it is robust enough for the SA Government to use as a basis for funding Councils, the same data can be relied upon by the ACCC to accurately compare Council waste service costs.**

#### **4.4.2 Value of data**

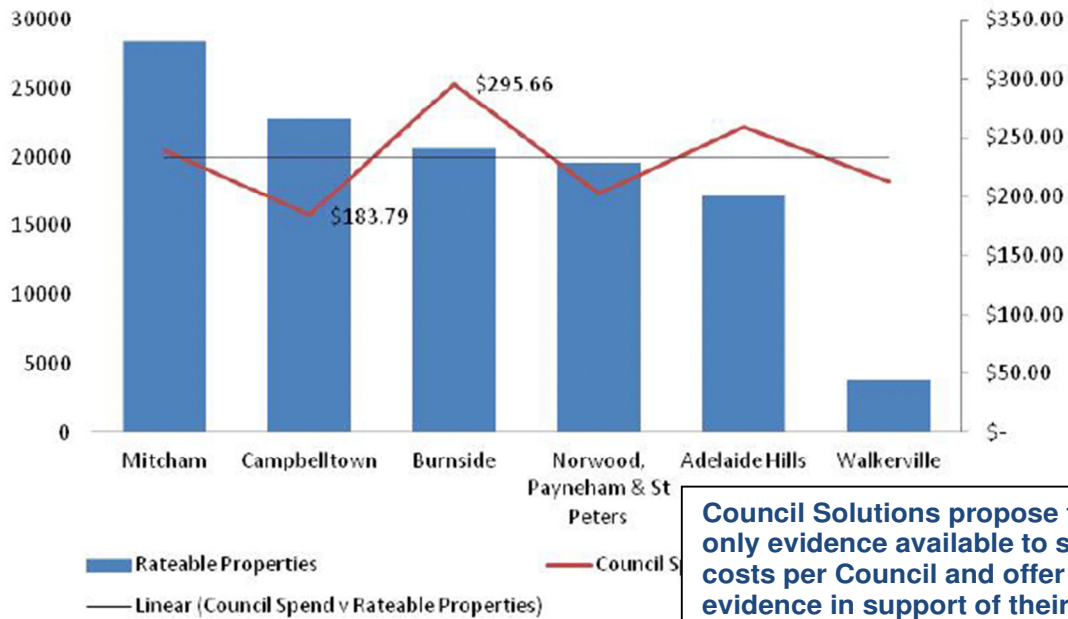
*The problematic nature of relying on this data is highlighted when used to try and demonstrate, for example, economies of scale by comparing waste expenditure by rateable properties.*

*Chart A below carries out such an analysis, using the member councils of East Waste as an example { viz which all have the same contracts for the Service Streams). With only a 2,155 difference in rateable properties between the Cities of Campbelltown and Burnside with both around 20,000 properties (submitted by the interested parties to be the point at which economies of scale commence), the expenditure per property fluctuates from a group low of \$183.79 to a group high of \$295.66. Both have a similar land area of 24km<sup>2</sup> and 28km<sup>2</sup> respectively and are predominately flat urban areas with minor fringes of elevated terrain. The reasons for this \$2 million per annum difference in waste expenditure cannot be readily accounted for by idiosyncrasies with service delivery, and must be attributed to financial management strategies and subsequent reporting within each council. This discrepancy is not an isolated incident but, rather, throughout the East Waste councils the spend per property fluctuates with little relevance to the total number of rateable properties.*

#### **[WRASA]**

**This is precisely the point we have made. The data shows that on average Councils that are part of a regional subsidiary have waste costs 22% higher than those that are not.**

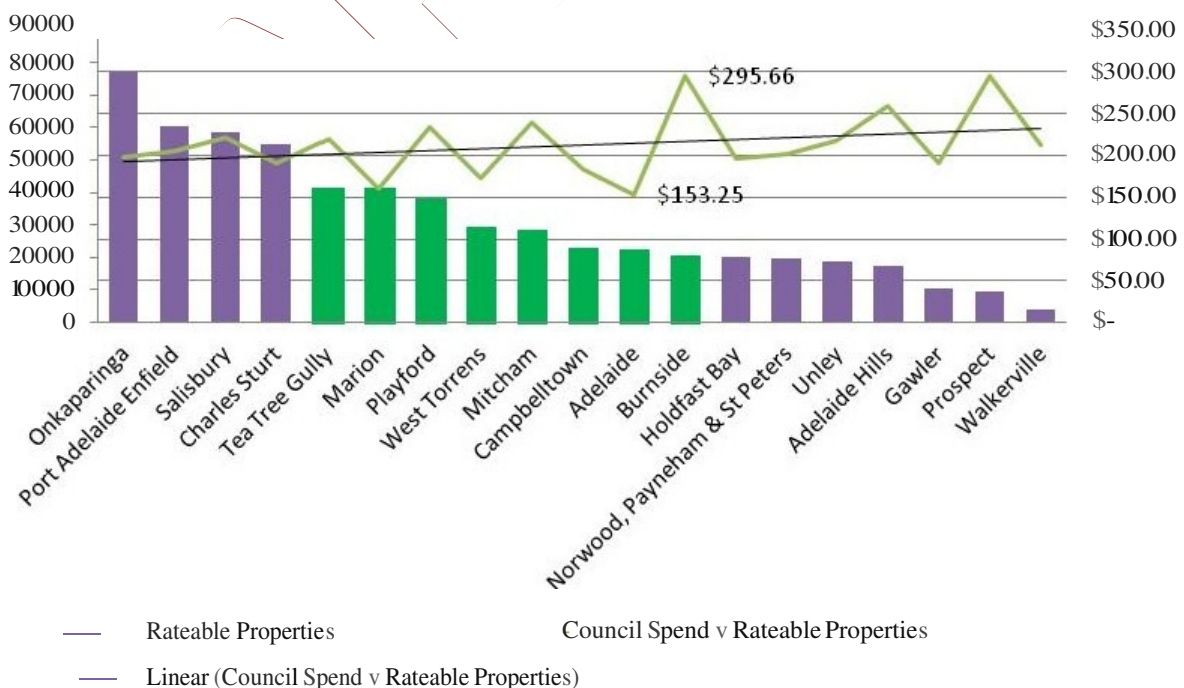
### Chart A - East Waste councils



**Council Solutions propose to dismiss the only evidence available to show waste costs per Council and offer no other evidence in support of their hypothesis. In fact, they offer no information on whether regional subsidiary councils or larger Councils spend more or less on waste services.**

Similarly, in looking at all 19 councils in Chart B, there are large fluctuations in the number of rateable properties between councils where there is very little fluctuation in the number of rateable properties, and these fluctuations are greatest as the number of rateable properties decrease. These charts are not presented to provide evidence in support of this submission but, rather, to highlight the problematic nature of the data it is based upon. To this end, Council Solutions submits this analysis to highlight any perceived public detriment or challenge to the public benefit claims raised by the interested parties relying on this data is dangerously misleading and mistaken.

### Chart B - All Metropolitan Councils



[WRASA]

While Council Solutions go to some lengths to discredit the Councils data supplied to the SA Grants Commission, the 200+ years of experience from WRASA members aligns with the conclusions that we have previously drawn from the data. As Council Solutions state on page 18 *“the spend per property fluctuates with little relevance to the total number of rateable properties”* which supports the experience of WRASA members and the research of Professors Burgan and Dollery.

Council Solutions offer no data at all to support their claims of economies of scale and given they are seeking an exemption so they can break the law the South Australian waste industry are unanimous is supporting a rejection of their application.

## 5. ENGAGEMENT WITH INDUSTRY PARTICIPANTS

*Some interested parties have raised issues with the perceived lack of industry consultation, however, Council Solutions respectfully disagrees on this point. Rather, it has always been Council Solutions' intention to engage with the industry as part of the Project and the RFP process.*

[WRASA]

The question must be asked that if it *“has always been Council Solutions' intention to engage with the industry as part of the Project and the RFP process”*, then why did Council Solutions request 2x two months extensions from the ACCC in order to “Consult with Industry”? (See Appendix 1.1) Furthermore, why did Council Solutions go through the apparent charade of meeting with industry if they had no intention of actually consulting?

Not only has this drawn out the ACCC process it has consumed countless hours of contractors, Councils and the ACCC's time. Additionally, WRASA members have been forced to incur increased legal fees as no WRASA members have in-house legal staff. This unnecessary cost incurred by the WRASA members comes at the cost of their core business operations and would have been more productive had it been invested in the innovation sought by Council Solutions member Councils to improve the states environmental outcomes or increase services to residents.

The consultation sessions involved a basic agenda delivered late and the meeting content involved no substantiation of their claims or proposal.

WRASA also wishes to point out that standard tender practice is for Councils to ensure no one on one discussion occurs between Council Staff and contractors when tenders are in progress. As *“the RFP process will solicit legal and binding offers from providers with the intention and expectation [that a] contract will be awarded at the end”* (Council Solutions submission p3) Council Solutions are risking the integrity of the tender process. WRASA members have grave concerns regarding this approach to a tender of this magnitude.

*As further set out in Annexure B, an Industry Briefing was held on 21 December 2015, which was advertised through both the SA Tenders and Contracts website and the Waste Management Association of Australia. Further, the Applicants continue to consult with Industry with the view to a collaborative approach, and to this end, have recently met with representatives from the Office of the Small Business Commissioner, WRASA and SAWIN, and consultation will continue to occur throughout the project, where appropriate. Council Solutions has further provided to the Industry, through these representatives an information pack designed to succinctly provide further information and clarification to the interested parties regarding the RFP process. This information pack is attached at Annexure 1 and has also been made available on the SA Tenders and Contracts website.*

**[WRASA]**

**As stated previously, WRASA met with Council Solutions who as stated above and in email (see Attachment 1.1) elected not to consult or discuss any issues raised but rather chose only to discuss the ACCC authorisation process and their application position. We feel this falls far short of a “collaborative approach”.**

*Council Solutions and the Participating Councils recognize industry input will be a key factor to not only the project's success, but also in the achievement of strategic targets on waste reduction and diversion set by the State Government. Council Solutions will engage with the Industry throughout the procurement process on key aspects, including:*

- development and finalisation of the RFP document package; **(as detailed by MRA this is typically completed prior to application to the ACCC to enable the ACCC to make an informed decision about the impact of the proposed conduct)***
- early notification to the market of the upcoming release of the RFP to ensure the broadest awareness of the opportunity; and **(this is standard practice and given the interest in the application we are sure all parties will be aware of its progress)***
- an industry briefing session during the RFP open period to explain the objectives, evaluation criteria, layout and structure of the RFP. **(this is standard practice)***

**[WRASA]**

**We note that Council Solutions do not include a plan to discuss any of the issues raised by industry. All three items listed above relate only to Council Solutions original plans and totally ignore input from industry. If past experience is any guide Council Solutions consultation will be token, dismissive of industry input and queries and unclear in its articulation of requirements.**

## SUMMARY

*In summary:*

### *6.1 Interested party concerns*

*By way of summary response to the interested parties' concerns, Council Solutions submits that:*

- *Council Solutions will not be dictating the amalgamation of Participating Councils and/or Service Streams providers must respond for. The fundamental objective of the RFP process is to allow the market the freedom to propose the service delivery options that will deliver the best outcomes for the Participating Councils and their communities.*

### **[WRASA]**

- **WRASA understand the RFP is totally undefined meaning tenderers are free to tender as they choose, Council Solutions can select any option presented and therefore the impact on the community cannot be defined or assessed at this point in time.**
- **It is also worth noting that RFP's are generally only used for procurement where a single defined service is being procured and the outcome is defined. In these cases only the methodology of providing the service is left to the market to determine versus the outcome being undefined in this case. Please refer to the MRA report attached which provides information on the vastly different methodologies used throughout the rest of the waste industry for effective results.**
- **The RFP process will be flexible with no prescribed requirement for:**
  - o *service provision across all Participating Councils – respondents may offer services to any or all Participating Councils; or*
  - o *responses to be submitted for more than one Service Stream – respondents may offer services for any or all Service Streams*

*in order to participate.*

**Without discussing the number of tender prices for each submission, any alternative tenders or any ancillary services such as hard waste, litter bins, etc, the number of submissions that a tenderer will be required to put in for each stream is 31 based on Councils being able to opt out. As there are 4 service streams (collection, recyclables processing, organics processing and garbage disposal, 15 stream combinations are possible. If a tenderer wanted to submit for all services they would need to submit  $15 \times 31 = 465$  separate submission combinations to ensure they did miss any possible combination, with a few removed for the Councils that don't want garbage disposal.**

**If a tenderer was only interested in collection, for example, they would need to allow for Councils being able to opt out and have to provide 31 different scenarios (with on averages 20 prices in each) for Council Solutions and each individual Council to consider on their own and as a group. Alternative tenders will increase this number exponentially.**

- *It is highly unlikely that all four Service Streams for all five councils will be awarded to one provider, however, the Application requires disclosure of the broadest possible outcome.*

**[WRASA]**

WRASA appreciates the flexibility offered but this does not discount the overall intent of the application is to gain lower prices through increased purchasing power. As all Councils are large enough in their own right to secure optimal economies of scale, savings will not eventuate from the merged tender. Therefore it is our belief that Council Solutions will (as stated) endorse savings through vertical integration from multinational contractors at the expenses of small businesses and reduced competition and innovation in the long term. This has been the normal outcome elsewhere.

- *The impact of the RFP process on small businesses will be materially the same in the futures with and without the Proposed Conduct. Subcontracting will continue to be permitted by the Participating Councils. Notwithstanding this, the businesses which regularly tender directly for local government requirements in the proposed Service Streams are not actually 'small businesses'.*

**[WRASA]**

In addition to the risk posed by vertical integration listed above, small businesses face extreme risk gaining access to increased capital so they can compete with multinationals by providing services across all Councils for at least one service stream, for example, hard waste.

- *The operating term of a contract will not exceed the standard term for a Service Stream, being 10 years including all extensions.*

**[WRASA]**

The ten year term aligns with industry best practice for waste collection but is not appropriate for processing contracts or infrastructure projects. In short, if approved it will result in less than optimal tenders to the detriment of Councils and ratepayers.

- *The public benefits claimed (i.e. transaction cost savings, improved purchasing power, greater economies of scale and efficiency, environmental efficiencies and improved incentives for new market entrants or expansion) do exist.*

**[WRASA]**

Again, Council Solutions have provided no evidence to support their claimed public benefits, despite being presented with expert independent evidence in March. It appears the best they can do is to state that public benefits “do exist”, to which we respond they ‘don’t exist’ based on proven industry experience and independent academic research. Given that they are applying to break the law they are obliged to provide evidence that there will be a net public benefit not just unsubstantiated claims

## 6.2 Clarification

*Council Solutions provides the following clarifications in relation to inaccurate or misleading aspects of interested parties' submissions:*

- It is not requested, or envisaged, that the City of Onkaparinga or the City of Salisbury be parties to the Application.*
- The indicators Council Solutions has used to identify the relevant market of competition are based on independent third party sources that can be independently verified by the ACCC and the assessment of the Participating Councils' market share to include all source sectors is appropriate given the breadth of services providers deliver across all source sectors.*

### **[WRASA]**

As detailed earlier in our response the market definitions supplied by Council Solutions are misleading and we respectfully request that the ACCC thoroughly audit these figures as our members' operational figures, ratified by the Councils, suggest very different quantum. The Council market definition should exclude Councils that are not open to tender. Furthermore, the sectors used to define the general waste, recyclables and organics markets must exclude C&I and C&D as the materials, collected and processed vary dramatically as do the infrastructure requirement to service these independent sectors. Historically, the industry did not simply give these sectors different names for as an exercise in semantics, but rather to differentiate unique and independent markets.

- Criticism directed at Council Solutions' experience is ill-conceived, and fails to take into account that the Applicants Include five councils that are already experienced in waste management delivery.*

### **[WRASA]**

WRASA was initially reluctant to make these comments in relation to Council Solutions experience, but as their limited experience became more evident through the process so did the concern of WRASA members that the oversights and lack of understanding would be detrimental to the industry and in turn to their Council customers and ultimately the ratepayer. It is important to note that Council Solutions, the Councils as a group and the Councils on their own or any combination will have conflicting interests that they must resolve.

- The use of empirical data and economic analysis to lend support to public benefit or detriment arguments can only be helpful where the source does not pertain only to a specific set of circumstances and is robust enough to be meaningful. Where this is missing, reliance on any such data is problematic.*

### **[WRASA]**

WRASA would consider alternate data if Council Solutions presented some to consider. We believe simply criticising industry experience and academic experts without providing alternate or opposing data to assess shows a lack of respect for the industry, the academics and the ACCC. Respectfully, we believe that an application to apply for an exemption from competition law should not be allowed without supplying any credible supportive data whatsoever.

## 7. CONCLUSION

*The Participating Councils are committed to delivering best value to their ratepayers. They also appreciate that value is not limited to the concept of cost, but also includes quality of services, innovation, support to local industry and achieving council's environmental goals. The best way to carefully balance these considerations to produce the optimal result is through robust, transparent, competitive procurement processes. Where this is done collaboratively, there is a reduction in costs that each Participating Council bears for the process, there can be streamlining of specifications and mutual learning, and the greater opportunity can increase competition in the marketplace. In collaborating together, the Participating Councils can more fully realise best value.*

*Council Solutions maintains there is a real prospect that the public benefits of the proposed conduct will occur, and will significantly outweigh any public detriment.*

### **[WRASA]**

**WRASA agrees that the best environmental, service and value outcomes are achieved through open collaboration between Councils and waste management experts.**

**Historically, this has been the practice in South Australia and we hope for this to continue into the future to ensure best in nation outcomes for the general public.**

**WRASA and its members believe that Council Solutions assertion that their proposal provides a “real prospect” of delivering public benefits fails on all fronts as it:**

- **Is unprecedented in terms of market power (Council size and all services)**
- **Does not offer residents any new services**
- **Fails to define the scope of the tender**
- **Has failed to genuinely consult with experienced industry participants**
- **Does not provide any detailed economic impact analysis or cost benefit analysis to support their public benefit assertions**
- **Seeks to allow the market to determine the outcome and public impact**

**The Council Solutions proposal will ultimately distort the market and should be rejected outright as Council Solutions have not provided any evidence to sufficiently prove a public benefit will result.**

**Based on the evidence supplied by experienced WRASA members and third party experts no public benefit can be expected and on balance a public detriment will result if the application is approved. Therefore, we request the ACCC reject the proposal and application outright.**

Date: 30/06/16



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**Taryn Alderdice**

Contract Management Officer  
Council Solutions

## ANNEXURE A: SIZE OF MARKET PARTICIPANTS

While there is no consistent definition of what comprises a "small business", the Australian Bureau of Statistics (ABS), for the purposes of "Counts of Australian Businesses, including Entries and Exits"<sup>10</sup> uses employment size ranges of 1-4, 5-19, 20-199 and 200+ employees. For the purposes of the South Australian Industry Participation Policy, the Office of the Industry Advocate defines Small and Medium Enterprises as businesses employing less than 200 people.

As such, Council Solutions submits a small business would be less than 20 employees, with a medium enterprise being 20 - 199 employees. This is also consistent with the definition of a "small business" for the purposes of the unfair contract terms provisions under the Australian Consumer Law that will take effect from 12 November 2016.

In the Adelaide Market Review the providers in the Adelaide Metropolitan Municipal Solid Waste (MSW) market, including those that don't currently participate in the MSW market but have an Adelaide presence in other waste markets, were identified. This included four regional subsidiaries formed and owned by member councils for the provision of waste management services to their member councils. It is unclear how these subsidiaries would be affected competitively by the Proposed Conduct.

The interested parties have submitted the Proposed Conduct is likely to have a severe impact on competition, particularly on small businesses, including that some may be 'pushed out' of the market and there may be a direct impact on employment in the small businesses. However, in assessing the number of employees for these identified participants, Council Solutions submits there are few "small businesses" which directly engage with local government in the Service Streams.

Table 1

Adelaide Metropolitan MSW participant	Number of Employees <sup>11</sup>	Classification	Primary Service Stream/s
Suez Environment	80,000 internationally, 2,600 Australia wide	Large	Waste Collection
Transpacific Cleanaway	4,000+ Australia wide	Large	Waste Collection, Waste Disposal
Solo Resource Recovery	At least 80 in SA alone	Large <sup>12</sup>	Waste Collection
Integrated Waste Services	50+	Medium	Waste Disposal, Receiving and Processing of Organics

<sup>8</sup> Catalogue number 8165.00, Jun 2011 to Jun 2015.

<sup>11</sup> Sourced from each organisation's website where possible, otherwise calculations and/or designation as noted.

<sup>12</sup> The Adelaide Market Review indicates Solo currently holds 8 local government contracts. Our external Industry Expert estimates the minimum number of employees required to service each contract, including drivers, customer service, operations management and maintenance is 10. Therefore, our calculations indicate there are at least 80 employees in South Australia to service these contracts alone, however Solo also provide Household and Business Waste services. Additionally, they are a national company who have recently added 75 staff (<http://www.solo.com.au/employment-at-solo-defies-current-trends/>). As such, Council Solutions believes their total number of employees would be over 200 and have designated them as large.

<b>Adelaide Metropolitan MSW participant</b>	<b>Number of Employees<sup>11</sup></b>	<b>Classification</b>	<b>Primary Service Stream/s</b>
Southern Waste ResourceCo	400+ nationally for ResourceCo, this is a JV between SRWRA & ResourceCo	Large	Waste Disposal
SKM Recycling	100+	Medium <sup>13</sup>	Receiving and Processing of Recyclables
Visy Recycling	5,500+ across Australia, New Zealand and Asia	Large	Receiving and Processing of Recyclables
Peats Soil & Garden Supplies	80	Medium	Receiving and Processing of Organics
Jeffries	70+	Medium	Receiving and Processing of Organics
<b>Adelaide Metropolitan Operators</b>	<b>Number of Employees</b>	<b>Classification</b>	<b>Primary Service Stream/s</b>
Remondis	900+ Australia wide	Large	Waste Collection
Veolia	4,000+	Large	Waste Disposal
JJ Richards	2,000+ Australia wide	Large	Waste Collection
<b>Regional Subsidiary</b>	<b>Number of Employees</b>	<b>Classification</b>	<b>Primary Service Stream/s</b>
East Waste	38	Medium	Waste Collection internally, outsource other 3 Service Streams
NAWMA	7	Small	Waste Disposal, Receiving and Processing of Recyclables internally, outsource other 2 Service Streams
SRWRA	10	Small	Waste Disposal
AHRWMA	10	Small	Waste Disposal

[WRASA]

Based on council solutions business size assessment above all the new contractors listed in Council Solutions initial application are classified as large (See page 16 of the original application).

A summary of the data set out in Table 1 is set out below, by Service Stream:

<sup>13</sup> SKM Recycling run a Materials Recycling Facility in Collaroy which is the largest in Australia. Our external Industry Expert estimates that site, in operations and administration, would require at least 70 employees. They also run other sites in South Australia and regional Victoria; together with transfer drivers these are likely to require another minimum 30 employees. Therefore Council Solutions have designated them as a medium enterprise but given their recent growth they are more likely to be a large business.

Table 2

Service Stream	Number of Participants	Number in Each Business Classification		
		Small	Medium	Large
Waste Collection	6	0	1*	5
Receiving and Processing of Recyclables	3	1*	1	1
Receiving and Processing of Organics	3	0	3	0
Waste Disposal	7	3*	1	3

\* Local Government Subsidiary

Council Solutions submits that the only small businesses identified are Local Government Subsidiaries which are focused on providing services to their members and, as such, should be excluded from consideration on the impact on small businesses. The only Service Streams where large and medium providers compete against each other are Receiving and Processing of Recyclables and Waste Disposal and, as the Adelaide Market Review demonstrates, the medium enterprises successfully compete against the large businesses. Even if responding for all five Participating Councils, the interested parties have represented that there is a genuine possibility the medium enterprise in Receiving and Processing of Recyclables could win.

Council Solutions acknowledges there have been interested party submissions from providers that are not identified in the Adelaide Market Review as market participants.

Table 3

Interested Party	Service Stream	Comments
Scout Recycling Centre	Receiving and Processing of Recyclables	There are 10 Scout Recycling Centres across Adelaide, predominately in the northern Adelaide Metropolitan area. They would likely be classified as a medium enterprise.  Scout Recycling Centre does not engage directly with councils but, rather, has arrangements in place with Suppliers in this space to accept the containers under the Container Deposit Legislation. As a subcontract arrangement, this can still continue under the Proposed Conduct.
Hatch Waste & Recycling	Waste Collection	Hatch Waste & Recycling has self-identified as a small business. Council Solutions accepts this classification.  Hatch Waste & Recycling operate in the Hard Waste area of the Waste Collection Service Stream. Currently for Hatch Waste & Recycling this is through subcontractor arrangements, which can continue under the Proposed Conduct. However, Hard Waste may also be a separable portion of the service requirement and Hatch Waste & Recycling may now have the opportunity to tender directly for this specialist area.

Interested Party	Service Stream	Comments
Blue Bins Waste	Waste Collection	<p>Blue Bins Waste's business size cannot easily be identified. Council Solutions submits they are likely to be a medium enterprise (as they currently run 12 trucks), however acknowledges they would be at the lower end of this categorisation.</p> <p>Blue Bins Waste is a skip bin hire business. There are no plans to include the provision of skip bins in the Waste Collection requirement. Should it be included in any procurement process, it would likely be a separable portion of the service requirement and Blue Bins Waste would have the opportunity to tender directly for this specialist area.</p>
Mastec Australia	Waste Collection	<p>Mastec's business size cannot be easily identified. Council Solutions submits they are likely to be a medium enterprise (as they have offices in 3 States).</p> <p>Mastec is a Mobile Garbage Bin (MGB) supplier who currently provide this service directly to one Participating Council and through subcontract arrangements to other local governments. The subcontract arrangements can continue under the Proposed Conduct, however MGB may also be a separable portion of the service requirement and Mastec may have the opportunity to tender directly for this specialist area.</p>
Just Co Services	Waste Collection	<p>Just Co Services' business size cannot be easily identified. Council Solutions submits they are likely to be a small business.</p> <p>Just Co Services is a skip bin hire business. There are no plans to include the provision of skip bins in the Waste Collection requirement. Should it be included in any procurement process, it would likely be a separable portion of the service requirement and Just Co Services would have the opportunity to tender directly for this specialist area.</p>
Signal Waste	Waste Collection	<p>Signal Waste's business size cannot be easily identified. Council Solutions submits they are likely to be a small business.</p> <p>Signal Waste provides services for Bulk Bins. Where these services are provided through subcontract arrangements, this can continue under the Proposed Conduct, however Bulk Bins may also be a separable portion of the service requirement and Signal Waste would have the opportunity to tender directly for this specialist area.</p>

Interested Party	Service Stream	Comments
Oz Bin Cleaning (SA)	Waste Collection	<p>Oz Bin Cleaning has an Australian presence and is a part of VIP Bin Cleaning located in the UK, however Council Solutions acknowledges it is founded on a licence model and submits Oz Bin Cleaning (SA) is likely to be a small business.</p> <p>Oz Bin Cleaning is a bin cleaning business. There are no plans to include the cleaning of bins in the Waste Collection requirement. If this service is investigated and included in any procurement process, it would likely be a separable portion of the service requirement and Oz Bin Cleaning would have the opportunity to tender directly for this specialist area.</p>

**[WRASA]**

WRASA appreciates that smaller companies will be able to tender. However, being able to tender does not remove the likelihood that these small businesses are likely to either win all or lose all their Council Solutions contracts at a single point in time. Council Solutions states they may select different providers for each Council, however this contradicts the basis underpinning their application that they expect to receive lower prices due to the combined volume and buying power of all councils.

Furthermore Council Solutions state that hardwaste, bulk bins, bin maintenance and bin supply may be separable portions of the RFP process however as they are in scope it is likely these will be incorporated into the tenders of many large service providers.

*Council Solutions appreciates the table above is not an exhaustive list of providers in the waste management industry, however also agrees with the interested parties' submission that small businesses tend to specialise in certain areas rather than having the capacity to provide services that encompass a Service Stream in its entirety. Council Solutions also acknowledges there are other services the businesses in Table 3 can provide and that they may engage with the Participating Councils directly currently to provide some of these other services (e.g. collection and disposal of liquid waste, hazardous material collection), however this is outside the contemplated scope of the Service Streams.*

*As set out in the Authorisation Guidelines, the ACCC, in determining the likely public benefits resulting from an authorisation must consider the future with and without the Proposed Conduct. Council Solutions submits that outside of the specialist areas in Table 3, the future without the Proposed Conduct may still result in a single Supplier providing the services to all the Participating Councils through separate tender processes, all of which are medium or large businesses. For the specialist areas within a Service Stream, where any small business currently engages with the Participating Councils via subcontract arrangements, this can continue in both futures with and without the Proposed Conduct, however the amalgamation of some of these specialist services into a separable portion may in fact increase the likelihood that some of the specialist providers can engage with the Participating Councils directly rather than through subcontract arrangements.*

**[WRASA] Council Solutions suggest that the future without the proposed conduct may still result in a single Supplier. We currently have the future without Council Solutions and we have twelve (12) suppliers, excluding Councils providing in house services.**

## ANNEXURE B: INDUSTRY BRIEFING

*An Industry Briefing was held on 21 December 2015 which was advertised through both the SA Tenders and Contracts website and the Waste Management Association of Australia to its 8,500 members. It was open to all participants in the waste industry, both in South Australia and nationally. 27 organisations responded to the invitation with representatives from 24 organisations attending, in addition to representatives from Council Solutions, the Participating Councils, the Commercial Advisors and Legal Advisors.*

*It was outlined as part of the presentation that Council Solutions was looking for input into the project process and, as such, industry participants were invited to provide feedback either on the day or over the next six weeks in writing. Only two responses were received.*

### [WRASA]

WRASA agrees that only 2 submissions were supplied to the ACCC within the initial 6 week response period. Feedback gathered from members indicates this was primarily due to the timing coinciding with Christmas which is a peak period for waste service providers that must be delivered while many regular staff members take leave with their families, leaving the companies running on reduced staffing.

Furthermore members were concerned with supplying information as Council Solutions confirmed that information provided would not be treated as confidential and may be shared in any manner (see extract below). Despite raising the question of confidentiality and the PDC and in writing, it still remains ambiguous if Council Solutions will offer any confidentiality at any stage after the briefing session.

Industry participants are advised that any documents or information provided to Council Solutions as part of the Briefing Session (including after the Briefing Session) will generally not be received or treated as confidential. Council Solutions may share any such information with industry participants and other parties in any manner it chooses.

*Attached are the slides from the presentation as well as the list of industry organisations which registered and which attended.*

List of Registered Attendees for Industry Briefing 21 Dec 2015				
	Organisation	Location	Waste Services	Attended
1	Remondis Australia Pty Ltd	Mascot, NSW	All waste collection services	Yes
2	BioBag World Australia	Fullarton, SA	Manufacture of waste bags and waste caddies	No
3	KESAB	Flinders Park, SA	Waste resource and education	Yes
4	East Waste	Ottoway, SA	Regional Waste Subsidiary	Yes
5	SUZE / SITA Australia Pty Ltd	Wingfield, SA	All waste collection services	Yes
6	Trident Plastics	Clare, SA	Mobile Garbage Bins	Yes
7	Superior Pak	Regency Park, SA	Vehicle Suppliers	Yes
8	Solo/RICO Enterprises	North Plympton, SA	All waste collection services	Yes
9	FWS (Finding Workable Solutions)	Victor Harbor, SA	Hard waste	Yes
10	Transpacific Cleanaway	Port Adelaide, SA	All waste collection services	Yes
11	Veolia Australia and New Zealand	Kilburn, SA	All waste collection services	Yes
12	Water + Waste Innovations Pty Ltd	Encounter Bay, SA	Waste management consulting and advisory services	Yes
13	Adelaide Resource Recovery	Dry Creek, SA	Recycling Services	Yes
14	Phoenix Energy	Elphinstone, VIC	Waste to Energy Specialists	Yes
15	ClosetheLoop	South Melbourne, VIC	Recycling services	Yes
16	Jeffries	Wingfield, SA	Organics Services	Yes
17	City of Onkaparinga	Onkaparinga, SA	Kerbside Collection	Yes
18	Moreton Bay Regional Council	Caboolture, QLD	Kerbside Collection	No
20	SRWRA	Morphett Vale, SA	Waste Recycling and Disposal services	No
21	Kartaway Miniskips	East Brunswick, VIC	Waste collection services	Yes
22	JJ Richards	Cleveland, QLD	Waste collection services	Yes
23	SKM Recycling	Coolaroo, VIC	Waste Recycling services	Yes
24	Mineral Processing Solutions	Burton, SA	Waste Equipment	Yes

List of Registered Attendees for Industry Briefing 21 Dec 2015				
	Organisation	Location	Waste Services	Attended
25	Intergrated Waste Services	Wingfield, SA	Transfer, recycling, landfill and processing	Yes
26	Cardio Bioplastics	Waverley, VIC	Manufacture of waste bags and waste caddies	Yes
27	ResourceCo	Wingfield, SA	Transfer, recycling, landfill and processing	Yes
27	Visy Industries	Wingfield, SA	Waste Recycling services	Yes

[WRASA]

An analysis of the attendees is supplied in Attachment B highlighting that attendees can be divided into 3 groups:

#### Attachment B:

Number of attendees out of Scope	10	37%
Number of attendees within Scope that currently operate in SA	16	59%
Number of attendees within Scopethat do not currently operate in SA	1	4%
<b>Total Attendees</b>	<b>27</b>	<b>100%</b>

Attendees who supply services that are out of scope					
No.	Company	Services	In Scope to provide services / tender directly Y or No	Address Listed in Council Solutions	SA Address Omitted
1	Bio Bag World Australia	Manufacture of waste bags and waste caddies	No	Fullarton SA	
2	KESAB	Waste resource and education	No	Flinders SA	
3	Superior Pak	Vehicle Suppliers	No	Regency Park SA	
4	Water + Waste Innovations Pty Ltd	Waste management consulting and advisory se	No	Encounter Bay SA	
5	Adelaide Resource Recovery	C&D Recycling (Concrete, bricks, scrap steel)	No	Dry Creek SA	
6	Closetheloop	Printer cartridge recycling	No	South Melbourne Vic	
7	Onkaparinga Council	Council	No	Onkaparinga SA	
8	Moreton Bay Regional Council	Council	No	Caboolture Qld	
9	Mineral Processing Solutions	Waste Equipment Suppliers	No	Burton SA	
10	Cardio Bioplastics	Manufacturer of waste bags and caddies	No	Waverley Vic	

Attendees who supply services that are in scope & operate within SA													
No.	Company	In Scope Services								In Scope to provide services / tender directly Y or No	Address Listed in Council Solutions	SA Address Omitted	
		Bin Supply	Bin Maintenance	Bin Collections	Hard Waste	Bulk Bins	Processing - Recyclables	Processing - Organics	WtE				Landfill & Transfer Stations
11	Trident Plastics	Y									Yes	Clare SA	
12	FWS (Finding Workable Solutions)				Y						Yes	Victor Harbor SA	
13	Jeffries							Y			Yes	Wingfield SA	
14	Visy Industries						Y				Yes	Wingfield SA	
15	East Waste		Y	Y							Yes	Ottoway SA	
16	SUEZ / SITA Australia Pty Ltd		Y	Y	Y	Y			Y		Yes	Wingfield SA	
17	Resource Co								Y	Y	Yes	Wingfield SA	
18	Transpacific Cleanaway		Y	Y	Y	Y				Y	Yes	Port Adelaide SA	
19	Veolia Australia and New Zealand		Y	Y	Y	Y				Y	Yes	Kilburn SA	
20	Integrated Waste Services									Y	Yes	Wingfield SA	
21	SRWRA									Y	Yes	Morphett Vale SA	
22	Solo/RICO Enterprises		Y	Y	Y	Y					Yes	North Plympton SA	
23	Remondis Australia Pty Ltd		Y	Y	Y	Y					Yes	Mascot NSW	32 Wingfield Rd, Wingfield SA
24	JJ Richards		Y	Y	Y	Y					Yes	Cleveland Qld	Lot 11 Elder Road Largs North SA
25	SKM						Y				Yes	Coolaroo Vic	19 Christie Road , Lonsdale SA
26	Kartaway Miniskips					Y					Yes	East Brunswick Vic	65 Stephens Ave. Torrensville SA

Attendees who supply services that are in scope & do not currently operate within SA													
27	Phoenix Energy								Y		Yes	Elphinstone Vic	No SA Operation

- Of all attendees 37% will not be tendering as they supply services outside the scope of the RFP
- 59% of the attendees already have depot's and operate in the Adelaide market (please see addresses Attachment B)
- Only 1 attendee who is in scope and may tender currently do not operate in South Australia. These two companies are:
  - Phoenix Energy who construct waste to energy (WtE) plants. As mentioned previously, WRASA welcome the entry of WtE in Adelaide but wishes to stress that the introduction of this scale of infrastructure requires:
    - State government support and funding
    - State LGA support
    - More volume than the 3 participating Councils could supply to be financially viable
    - EPA approvals and support which are unlikely to be granted within the proposed RFP time period
    - More than a twenty year term to be financially viable (See articles below).

### **Making news**

#### **City of Kwinana and Phoenix Energy sign historic Waste Supply Agreement**

The City of Kwinana (WA) and Phoenix Energy Australia Pty Ltd are pleased to announce that they have agreed to enter into a 20 year Waste Supply Agreement for the supply of residential residual waste to the proposed \$380million, Kwinana Waste to Energy facility.

<http://www.phoenixenergy.com.au/latest-news/>

Phoenix Energy has signed 20-year waste supply agreements with the Rivers Regional Council, representing six local governments, and the City of Kwinana.

<http://www.perthnow.com.au/news/western-australia/perths-bgc-contracting-preferred-contractor-for-kwinana-waste-to-energy-project/news-story/7a9856437823a864bd8f54dbc112ccd6>

*The slides below represent the information presented at that time; where this is in conflict with this written submission, this written submission takes precedence.*

#### **[WRASA]**

The above comments raises concerns for WRASA members as the scope and specifications of the RFP have changed throughout the ACCC approval process. As this final submission takes precedence over previously supplied information, this does not allow any time for Council Solutions to engage, consult or clarify with interested industry parties.

# Current Details

## Scope and Tonnages:

Council	Population	Land area (km2)	Roads (km)	Rateable Properties	Bins in Circulation	Forecast MUD Growth	Forecast Pop Growth 2018/28
Adelaide City Council	22,690	16	130	22,735	16,933	currently 52% of services	N/A
City of Marion	88,292	56	490	41,011	86,201	0	5,000
City of Charles Sturt	112,714	56	686	54,067	103,631	N/A	16,000
City of Tea Tree Gully	98,575	95	678	39,393	80,852	N/A	1,844
Port Adelaide Enfield	122,205	97	831	59,579	115,000	5314	22,400
Total	444,476	320	2,814	216,785	402,617		45,244

Stream	2015 Tonnes	
	Total (est.)	Total (RFP) (Disposal / Processing)**
Residual	74,970	46,999
Organics (FOGO)	45,880	34,878
Recyclables	33,580	33,580
Hard Waste	7,984	7,984
Total	162,414	123,441

An audit of these figures is necessary as they conflict with our members' actual operational figures forming the basis for invoicing.

## ANNEXURE D: SHARED BOUNDARY CALCULATION

### SHARED BOUNDARY CALCULATION

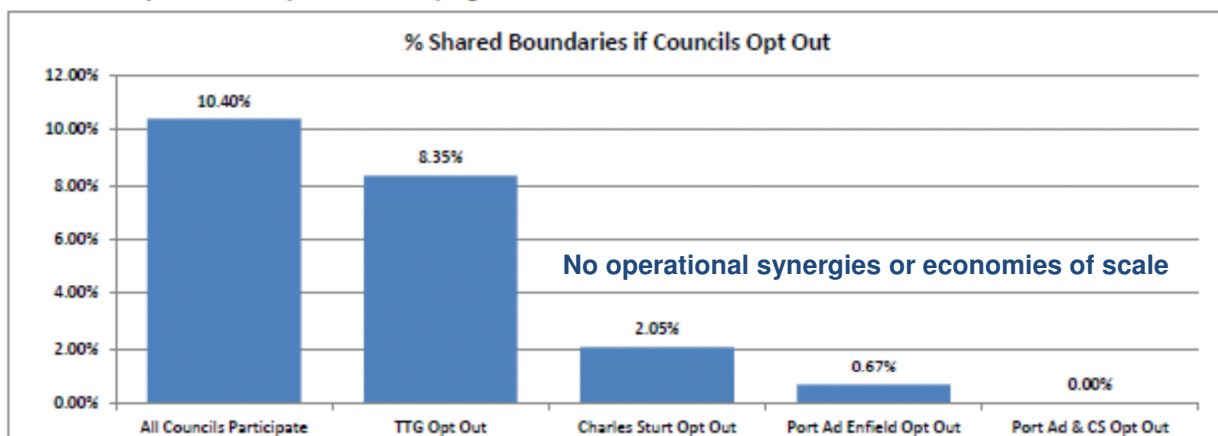
Participating Council	Common Boundaries	Kilometres <sup>14</sup>
City of Charles Sturt:	With the City of West Torrens	13.118
	With Adelaide City Council	1462
	With the City of Prospect	134
	With Port Adelaide Enfield	1639
	Coastal	1542
	TOTAL:	44.295
	TOTAL (excluding Coastal):	32.753
Adelaide City Council:	With the City of West Torrens	3.694
	With the City of Unley	2.969
	With the City of Burnside	2.138
	With the City of Norwood Payneham & St Peters	2.383
	With the Town of Walkerville	2.108
	With the City of Prospect	0826
	TOTAL:	14.118
City of Port Adelaide Enfield:	With the City of Prospect	7.288
	With the Town of Walkerville	1978
	With the City of Norwood Payneham & St Peters	1535
	With Campbelltown City Council	4052
	With the City of Tea Tree Gully	4.493
	City of Salisbury	1104
	Coastal	28402
	TOTAL:	58788
	TOTAL (excluding Coastal):	3086
City of Marion:	With the City of West Torrens	3.688
	With Holdfast Bay City Council	1112
	With the City of Onkaparinga	14607
	With the City of Mitcham	6686
	With the City of Unley	0999
	Coastal	6297
	TOTAL:	43.397
	TOTAL (excluding Coastal):	37.1
City of Tea Tree Gully:	With the City of Salisbury	12.523
	With the City of Playford	17.601
	With Adelaide Hills Council	21223
	With Campbelltown City Council	7.31
	TOTAL:	58557
	Total Boundaries	219.255
	Total Shared Boundaries	22.794
		1040%
	Total Boundaries (excluding Coastal)	173.014
	Total Shared Boundaries	22.794
		13.17"

<sup>14</sup> Calculation of boundary kilometres was done using <http://location.sa.gov.au/viewer/> as a tool and are as close as an approximation as possible

#### [WRASA]

As confirmed by the academic research and the 200+ years of WRASA members experience, geography and the distance between Councils centre of density and their waste or processing facilities is central to cost control in supplying waste services.

Despite this evidence Council Solutions maintain their assertion that geography is not critical and that economies of scale will still result from the joint tender. However, as the proposal allows for Councils to opt out at anytime this situation will worsen dramatically if Councils opt out. Please find below a chart highlight the shared boundaries percentage as Councils opt out.



Participating Council	Common Boundaries	All Councils Participate	TTG Opt Out	Charles Sturt Opt Out	Port Ad Enfield Opt Out	Port Ad & CS Opt Out
City of Port Adelaide Enfield:	With the City of Prospect	7.288	7.288	7.288	7.288	7.288
	With the Town of Walkerville	1.978	1.978	1.978	1.978	1.978
	With the City of Norwood Payneham & St Peters	1.535	1.535	1.535	1.535	1.535
	With Campbelltown City Council	4.052	4.052	4.052	4.052	4.052
	With the City of Tea Tree Gully	4.493		4.493		
	City the City of Salisbury	11.04	11.04	11.04	11.04	11.04
	Coastal	28.402	28.402	28.402	28.402	28.402
	<b>TOTAL:</b>	<b>58.788</b>	<b>54.295</b>	<b>58.788</b>	<b>54.295</b>	<b>54.295</b>
	<b>TOTAL (excluding Coastal):</b>	<b>30.386</b>	<b>32.386</b>	<b>30.386</b>	<b>31.386</b>	<b>32.386</b>
City of Charles Sturt:	With the City of West Torrens	13.118	13.118	13.118	13.118	13.118
	With Adelaide City Council	1.462	1.462		1.462	
	With the City of Prospect	1.334	1.334	1.334	1.334	1.334
	With Port Adelaide Enfield	16.839	16.839			
	Coastal	11.542	11.542	11.542	11.542	11.542
	<b>TOTAL:</b>	<b>44.295</b>	<b>44.295</b>	<b>25.994</b>	<b>27.456</b>	<b>25.994</b>
	<b>TOTAL (excluding Coastal):</b>	<b>32.753</b>	<b>35.753</b>	<b>33.753</b>	<b>34.753</b>	<b>35.753</b>
Adelaide City Council:	With the City of West Torrens	3.694	3.694	3.694	3.694	3.694
	With the City of Unley	2.969	2.969	2.969	2.969	2.969
	With the City of Burnside	2.138	2.138	2.138	2.138	2.138
	With the City of Norwood Payneham & St Peters	2.383	2.383	2.383	2.383	2.383
	With the Town of Walkerville	2.108	2.108	2.108	2.108	2.108
	With the City of Prospect	0.826	0.826	0.826	0.826	0.826
	<b>TOTAL:</b>	<b>14.118</b>	<b>14.118</b>	<b>14.118</b>	<b>14.118</b>	<b>14.118</b>
City of Marion:	With the City of West Torrens	3.688	3.688	3.688	3.688	3.688
	With Holdfast Bay City Council	11.12	11.12	11.12	11.12	11.12
	With the City of Onkaparinga	14.607	14.607	14.607	14.607	14.607
	With the City of Mitcham	6.686	6.686	6.686	6.686	6.686
	With the City of Unley	0.999	0.999	0.999	0.999	0.999
	Coastal	6.297	6.297	6.297	6.297	6.297
	<b>TOTAL:</b>	<b>43.397</b>	<b>43.397</b>	<b>43.397</b>	<b>43.397</b>	<b>43.397</b>
	<b>TOTAL (excluding Coastal):</b>	<b>37.1</b>	<b>37.1</b>	<b>37.1</b>	<b>37.1</b>	<b>37.1</b>
City of Tea Tree Gully:	With the City of Salisbury	12.523	12.523	12.523	12.523	12.523
	With the City of Playford	17.601	17.601	17.601	17.601	17.601
	With Adelaide Hills Council	21.223	21.223	21.223	21.223	21.223
	With Campbelltown City Council	7.31	7.31	7.31	7.31	7.31
	<b>TOTAL:</b>	<b>58.657</b>	<b>58.657</b>	<b>58.657</b>	<b>58.657</b>	<b>58.657</b>
<b>Total Boundaries of Member Councils</b>		<b>219.255</b>	<b>219.255</b>	<b>219.255</b>	<b>219.255</b>	<b>219.255</b>
<b>Total Shared Boundaries</b>		<b>22.794</b>	<b>18.301</b>	<b>4.493</b>	<b>1.462</b>	<b>0</b>
		<b>10.40%</b>	<b>8.35%</b>	<b>2.05%</b>	<b>0.67%</b>	<b>0.00%</b>
<b>Total Boundaries (excluding Coastal)</b>		<b>173.014</b>	<b>173.014</b>	<b>173.014</b>	<b>173.014</b>	<b>173.014</b>
<b>Total Shared Boundaries</b>		<b>22.794</b>	<b>18.301</b>	<b>4.493</b>	<b>1.462</b>	<b>0</b>
		<b>13.17%</b>	<b>10.58%</b>	<b>2.60%</b>	<b>0.85%</b>	<b>0.00%</b>

## ANNEXURE F: MARKET CLARIFICATION

### WASTE COLLECTION

*The interested parties have submitted that winning this opportunity will also allow the successful provider/s to dominate the Commercial & Industrial (C&I) and Constructions & Demolition (C&D) markets. Council Solutions respectfully rejects this submission given that the providers in this Service Stream as identified in the Adelaide Market Review already also provide services to these source sectors.<sup>15</sup> Additionally, Council Solutions submits the unsuccessful providers will look to opportunities outside of the Municipal Solid Waste (MSW) sector to the other source sectors where they already have a presence.*

#### [WRASA]

**As detailed earlier in our submission, the MSW sector requires totally distinct assets from the C&I and C&D sectors. The trucks can not be transferred from one to the other, nor can processing equipment.**

*The interested parties have also made submissions that the member councils of East Waste should be excluded from the consideration of the Participating Councils' market share as this group does not competitively tender for their Waste Collection and the apparent high exit cost make it prohibitive for a member council to leave. Council Solutions rejects this as member councils have shown a willingness to approach the market outside of the group and could exit where they found they would receive better value from the market.*

#### [WRASA]

**The East Waste constitution states the following about exiting. As can be seen a Council is liable for a further 2 years of full waste service costs and must be “allowed” to leave by a majority of the East Waste Board and the Minister. These are significant hurdles:**

##### 15. OUTGOING CONSTITUENT COUNCILS

- 15.1 A Constituent Council may resign if and only if:
  - 15.1.1 the Constituent Council gives at least 24 months' written notice of resignation to each Constituent Council, which notice is effective on the next 30 June on or after expiry of that period;
  - 15.1.2 the Board by majority vote approves; and
  - 15.1.3 the Minister approves.
- 15.2 A former Constituent Council remains liable to contribute to the debts and liabilities of the Authority incurred while it was a Constituent Council including by contributing to the depreciated value of any asset acquired during that time, and for a share of any future losses on contracts entered into whilst a Constituent Council.
- 15.3 A former Constituent Council:
  - 15.3.1 is not entitled to any refund of contributions made;
  - 15.3.2 relinquishes any beneficial interest in the assets of the Authority; and
  - 15.3.3 remains bound by any separate contract in force between the Authority and the former Constituent Council.
- 15.4 This Clause is to be read conjunctively with Clause 57 of this Charter.

*The Participating Councils' share of this market will be fully contestable and, even where a single provider may be appointed, this outcome is not significantly different from the current status.*

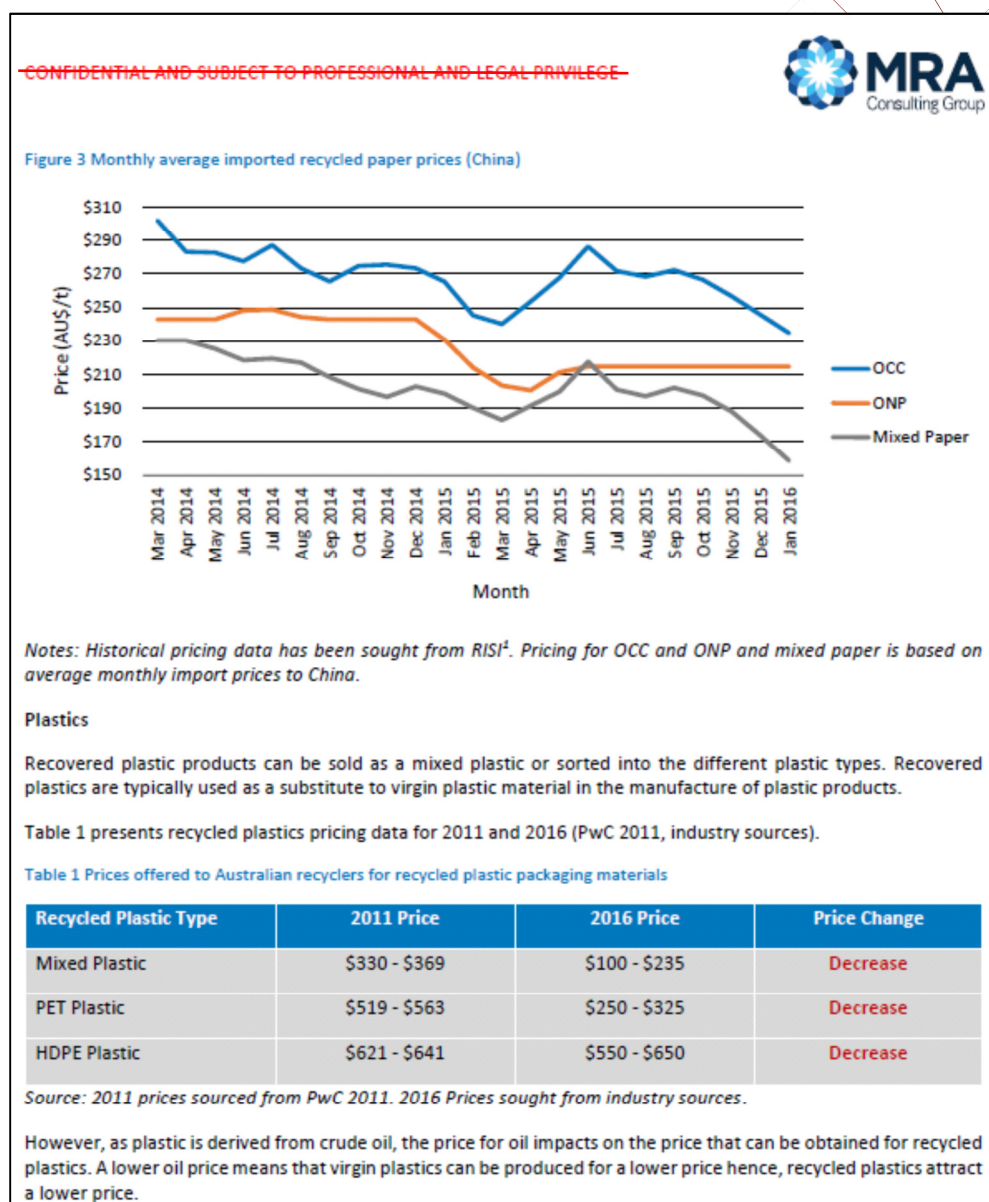
### RECEIVING AND PROCESSING OF RECYCLABLES

*Council Solutions notes that generally a provider for this Service Stream would separate the*

delivered material into the differing recyclable components and then generally onsell the recovered material to other market participants to be used in the production of goods. The market for the components can vary according to the cost of virgin material, an over-supply of a component in the market or the ability of a market participant to reuse the component. The interested parties have submitted that as this end market is currently experiencing low rates it would be a public detriment to approach the market and the Participating Councils should, rather, extend existing arrangements until the market recovers. Council Solutions respectfully rejects this interpretation of a public detriment. All levels of government have a responsibility to spend public money prudently and ensure they are receiving the best value for their ratepayers. It would, rather, be a public detriment if the Participating Councils did not do so based solely on the state of the market which resulted in a diversion of funds that could be directed to a number of other services.

## [WRASA]

Please find below excerpts from a report from MRA showing the downward price trend currently being experienced in the recycling sector which will be reflected in new contract pricing.



## Metals

Steel and aluminium are the most commonly recovered materials from kerbside collected waste. Again, recovered steel and aluminium are typically used as a substitute to input material to virgin material and must compete on price.

Virgin metals are traded on the London Metal Exchange (LME). The LME typically reports the prices for virgin metal only (which is not fully representative of the market value placed on recycled steel and aluminium). However, price movements in the price of virgin metals can be used as a proxy for price movements in recycled metals.

Figure 4 and Figure 5 present price trends for virgin steel and virgin aluminium. Over the period 1 January 2014 to 1 January 2016:

- The price of steel has **fallen by 39%** from approximately US\$280/t to US\$170/t; and
- The price of aluminium has **fallen by 14%** from approximately US\$1,750/t to US\$1,500/t.

Figure 4 Historical price for virgin steel for the period 1/1/2014 to 1/1/2016 (LME).

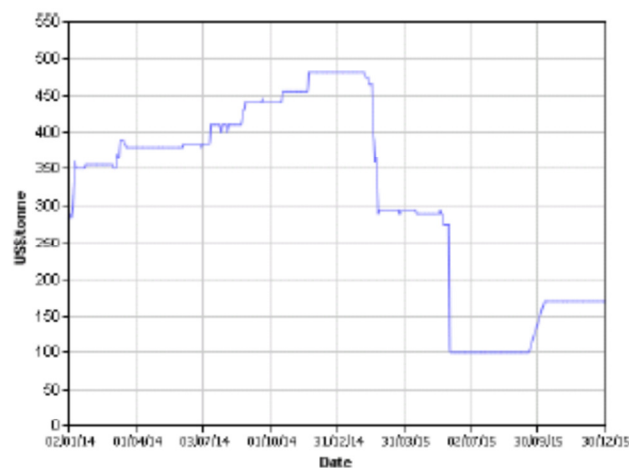
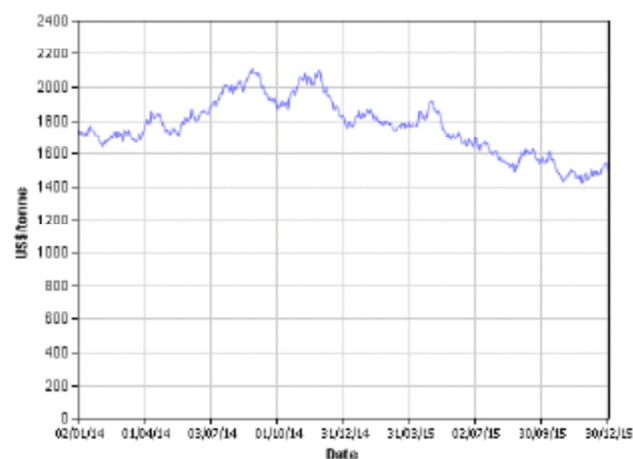


Figure 5 Historical price for virgin Aluminium for the period 1 January 2014 to 1 January 2016 (LME)



#### Glass

Compared to other recovered materials, glass is typically heavy, low in value and subject to stringent quality specification for reuse meaning that it is generally not viable to export glass (PwC 2011). The price obtained for recovered glass is highly dependent on the quality in terms of colour separation and concentration of contaminants (ceramics, stones and pyroceramics). The 2011, the reported average price for recovered glass was \$30/t.

More recent industry knowledge suggests that recyclers are no longer able to attract a price for recovered glass and that most recyclers now dispose of glass at a cost of approximately \$50/t.

#### Implications for the recycling industry

Falling commodity prices threaten the financial viability of recycling operations as it becomes increasingly uneconomical to process recyclables.

*As outlined in paragraph 4.2.2 above, Council Solutions does not accept that the definition of the Participating Councils' market share should be restricted to the MSW source sector only as there are broader opportunities for providers in this Service Stream through their current service provision. However, even if the market definition was restricted to the MSW source sector only, the Participating Councils would only comprise 13.01% of the market.*

#### [WRASA]

WRASA members wish to reiterate that MRFs do not process any materials from the C&I or C&D sectors. Simply put, if a MRF loses its feedstock from kerbside collections it will close

C&D materials generally comprise building waste (timber and concrete) which would terminally damage a MRF should they be attempted to be processed.

C&I materials are generally source separated and therefore do not require processing through a MRF. Eg: commercial cardboard is collected and baled and sent to the relevant paper recycler.

WRASA also wishes to advise that the 13.01% figure quoted above by Council Solutions cannot realistically be considered as the numbers are blatantly incorrect. They state that the Total Metropolitan Councils Recyclables and Residual Waste are 258,087 tonnes and 262,228 tonnes respectively. Expressed as a percentage it equates to 98.4%.

Added to this is the well known fact that general waste is heavier per cubic metre than recyclables.

Additionally, when analysing the above we noted the following errors in Council Solutions figures provided in Annexure 1:

1. The City of Adelaide is listed as having a population of 22690 and rateable properties of 22735. This is a 1:1 ratio whereas all other Councils have a 2:1 population which is logical based on an average household having 2 occupants. We assume Council Solutions have erroneously used two population numbers rather than the rateable properties number.
2. The general waste tonnage has been significantly underestimated

Based on the above, we respectfully ask the ACCC to disregard the general waste and recyclables values and market share percentages supplied by Council Solutions or conduct a thorough audit. WRASA's figures are available for independent audit.

Supporting Submission  
Public register version

#### DATA FOR PARTICIPATING COUNCILS, METROPOLITAN ADELAIDE COUNCILS & ALL METROPOLITAN SOURCE SECTORS

Council	Population		Rateable Properties		Land Area		Estimated quantity residual waste		Estimated quantity recyclables		Estimated quantity organics	
	People	% of All Metro Councils	Properties	% of All Metro Councils	Land area	% of All Metro Councils	Tonnes	% of All Metro Sectors	Tonnes	% of All Metro Sectors	Tonnes	% of All Metro Sectors
Corporation of the City of Adelaide	22,690	1.80%	22,735	3.88%	15.6	0.65%						
City of Charles Sturt	112,714	8.94%	54,067	9.23%	54.8	2.29%						
City of Marion	88,292	7.00%	41,011	7.00%	55.6	2.33%						
City of Tea Tree Gully	98,575	7.82%	39,393	6.73%	95.2	3.99%						
City of Port Adelaide Enfield	122,205	9.69%	59,579	10.18%	91.7	3.84%						
<b>TOTAL</b>	<b>444,476</b>	<b>35.25%</b>	<b>216,785</b>	<b>37.03%</b>	<b>313</b>	<b>13.10%</b>	<b>74,970</b>	<b>8.20%</b>	<b>33,580</b>	<b>1.30%</b>	<b>45,880</b>	<b>4.60%</b>
All Metropolitan Councils	1,261,033		585,473		2,388		262,228		258,087		126,121	
All Metropolitan Sectors*							914,000		2,591,000		997,000	

\* Municipal, Commercial & Industrial and Construction & Demolition; Recyclables excludes Fly Ash and Clay, Fines, Rubble & Soil

<sup>15</sup> As outlined in the Adelaide Market Review and also on their websites.

## RECEIVING AND PROCESSING OF ORGANICS

In comparison to the Receiving and Processing of Recyclables Service Stream, the providers identified in the Adelaide Market Review rely on organic material inputs to produce their own end products for open sale. The on sale of these end products is a key component of the providers' business models and, as such, input surety has been submitted as an issue by the interested parties. Council Solutions notes, however, that these market participants do have arrangements with other sources in the C&I source sector that contribute to this input surety.

The interested parties have submitted that the result of the Proposed Conduct is that the market share would be built around 3 long term contracts, i.e. East Waste, NAWMA and the Participating Councils, and the remaining volume. Council Solutions refutes the suggestion that the market would be tied up by several long term contracts, noting East Waste awarded a 5 year (plus extensions up to another 5 years) contract, which is the standard term for these services. NAWMA recently awarded a contract for just under 9 years, however this has been linked to the construction of infrastructure and is unusual in its length solely for that reason. As outlined in paragraph 3.3.2, Council Solutions is looking for a standard operating term and in any event will not extend beyond 10 years. This service will be fully contestable by the market.

The Adelaide Market Review has presented a market split, based on population numbers, for Organics Processors. However, the recent award of the NAWMA contract to Peats has altered this market split. Based on population and estimated tonnage<sup>16</sup> (which is a more appropriate allocation of market share for this Service Stream), the current position is as follows:

Entity	Councils	Market Share (population)	Market Share (tonnage)
Peats	8	50%	43%
Jefferies	10	40%	50%
IWS	1	10%	7%

In considering the future with and without the proposed conduct, without pre-empting the RFP process, the Participating Councils' share of the market (noting the City of Port Adelaide Enfield does not expect to require this Service Stream due to existing arrangements) could be expressed as follows:

Entity	Councils	Market Share (population)	Market Share (tonnage)
Peats	7	43%	34%
Jefferies	7	21%	29%
IWS	1	10%	7%
Adelaide City Council, City of Charles Sturt, City of Marion, City of Tea Tree Gully	4	26%	30%

<sup>16</sup> Tonnes for 2012/2013 provided by Green Industries SA.

*This table highlights that while one provider could end up with over 50% of the market share, this is not dissimilar to what has occurred previously in this market, demonstrating that the future without the Proposed Conduct could result in the same market distribution, without any of the associated public benefits also occurring. Council Solutions submits the market is broad and dynamic enough within the MSW and C&I source sectors for the providers to have opportunities in addition to the Proposed Conduct.*

**[WRASA]**

**WRASA agrees with the content of the above tables, however, the conclusion that they draw from these tables is naive; “This table highlights that while one provider could end up with over 50% of the market share, this is not dissimilar to what has occurred previously in this market, demonstrating that the future without the Proposed Conduct could result in the same market distribution, without any public benefits also occurring.” There is a world of difference between a business winning or losing 30-40% of the available market in one stroke compared with winning or losing market share by increments of 5-10% at a time. Losing 30-40% of the market will result in a sudden shock to any business, resulting in significant job losses, redundant capital and, in the case of an organics processor, a shortage of feedstock to manufacture end products. Incremental losses and gains allow for manageable business change.**

**WRASA therefore asserts, that the future with Council Solutions market distorting proposal is vastly different and detrimental versus the current situation.**

#### **WASTE DISPOSAL**

*As outlined in paragraph 4.2.2 above, Council Solutions does not accept that the definition of the Participating Councils' market share should be restricted to the MSW source sector only, as there are broader opportunities for providers in this Service Stream through their current service provision. However, even if the market definition was restricted to the MSW source sector only, the Participating Councils would only be 28.59% of the market, or 17.59% when the Cities of Marion and Port Adelaide Enfield, which have indicated they will not require this Service Stream in the first instance, are excluded.*

**[WRASA]**

**As outlined previously, it is difficult to understand how the claimed economies of scale will be achieved, or any attraction for the only company not already participating in the Adelaide waste market that attended the briefing (Phoenix) will be present.**

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Undertakings	... Safety	Services	Support	Amerilities	Services	Services	Development	.....	Management	Enviromient	.....	.....	.....
Business	Public Order	Health	Community	Committy	Library	Cutb.Jral	Economic	Agricltlural	Waste	Ot""	Recreation	Reg""""	Transport
(\$000)	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)
Adelalado	38,361	734	1,518	7,721	1,716	5,769	6,448	15,625	990	3,450	19,366	36,109	17,200
Adelaide Hills	1,159	1,548	817	4,680	307	3,548	34	878	816	4,470	2,595	2,981	8,996
Alexandrina	3,887	250	497	2,514	645	2,111	591	1,628	289	2,222	3,717	3,454	10,752
Barossa	3,503	138	533	2,371	1,068	2,102	388	955	793	2,060	2,578	4,166	5,324
Barunga West	316	38	0	375	150	34	0	85	14	531	288	464	1,790
BerriBarmera	2,964	38	15	661	606	1,054	55	449	0	1,251	749	1,880	3,064
Burnside	111	1,642	1	6,898	15	3,492	490	3,210	14	6,113	6,891	3,600	1,352
campbelHown	192	49	521	2,551	274	3,126	155	264	0	4,196	5,888	6,968	6,887
Cod....	1,564	449	20	325	156	36	75	643	0	406	422	812	2,912
Cherles Sturt	218	387	825	7,818	4,291	7,296	715	632	0	10,453	18,435	15,343	20,756
Clara & Gilbert Valleys	885	70	41	873	293	648	85	455	0	892	1,208	3,276	4,338
a...	141	18	0	232	71	22	0	7	24	390	77	448	1,419
Coober Pedy	11,646	0	0	652	44	23	0	328	0	404	492	516	1,622
Coonmg	830	127	162	1149	388	81	0	92	2,386	1,4n	360	1,208	4,883
Copper Coast	2,638	136	446	1,093	396	775	229	1,037	1	7,698	1,417	2,807	5,353
Elliston	155	46	3	231	193	27	0	83	10	523	242	325	1,876
Flinders Ranges	98	49	(2)	102	221	18	33	396	3	345	276	1,086	945
Franklin Harbour	203	15	0	67	105	0	0	41	0	288	105	223	2,107
Gawler	228	46	294	3,558	298	2,149	32	1,586	2	2,048	3,557	7,475	4,624
Goyder	688	85	25	441	129	60	16	134	159	373	649	1,011	5,205
Gram	1,964	95	1	167	230	492	69	443	29	983	397	611	6,238
Holdfast Bay	1,875	933	7,429	16,233	138	2,590	1,225	1,564	0	3,944	5,006	3,812	4,572
Kangaroo Island	1,550	284	150	716	500	221	4	49	4	2,100	574	557	4,578
Karoonda East Murray	107	41	8	124	97	11	22	81	0	105	123	220	1,804
Kimba	379	36	38	74	85	13	0	104	0	226	111	299	1,160
Kingston	527	21	0	60	0	36	0	0	0	543	247	823	1,810
Light	1,172	49	163	544	171	1,154	308	636	0	1,388	1,054	1,889	5,717
Lower Eyre Peninsula	873	135	10	290	208	76	4	51	26	984	467	471	5,496
Loxton Walkerie	2,336	89	16	1,240	453	593	73	935	0	2,068	942	1,896	5,728
Mallala	137	71	61	673	243	335	155	198	59	1,054	843	766	2,380
Marion	521	570	109	8,261	1,411	6,200	3,553	982	140	6,664	8,118	14,567	11,583
Mid Murray	2,499	134	425	1,712	740	330	707	390	452	2,496	693	1,287	5,858
Mitcham	85	1,281	186	4,958	139	3,950	696	0	574	6,804	5,529	8,001	11,479
Mount Barker	7,837	671	197	1,954	367	1,923	0	859	0	3,487	2,217	4,073	7,459
Mount Gambier	20	76	157	808	1,253	2,698	1,432	1,806	0	2,151	2,517	2,894	3,418
Mount Remarkable	795	24	28	418	110	88	0	198	0	680	92	813	3,470
Murray Bridge	319	63	5,787	1,621	1,040	1,402	479	867	20	2,696	1,358	1,879	4,910
Naracoorte Lucindale	1,279	165	7	511	273	342	102	221	10	1,702	1,033	988	5,528
Northam Areas	875	40	258	370	170	335	0	80	51	624	707	977	4,643
Norwood, Paynaham & St Peters	42	0	0	5,416	178	2,741	995	1,111	0	3,954	5,890	5,638	4,761
Onkaparinga	5,377	1,768	1,704	13,197	1,402	12,150	1,868	4,112	1	15,2n	17,892	24,055	31,546
Orroroo Carrieton	3311	32	0	89	151	17	15	68	38	422	124	403	1,755
Peterborough	8	80	1	291	130	108	8	866	0	370	149	251	1,034
Playford	1,689	595	2,571	8,507	225	4,494	2,143	5,276	61	8,929	14,934	12,832	9,814
Port Adelaide Enfield	32	736	1,328	6,947	1,907	7,259	603	4,965	4n	12,419	21,813	6,237	20,988
Port Augusta	1,110	297	11,021	3,086	1,049	644	719	1,538	2,170	1,848	1,4n	3,726	5,813
Port Lincoln	180	375	24	130	328	820	528	322	0	3,408	2,479	2,432	2,611

SA Local Government Grants Commission  
Report 9 - Operating Expenses Summary for 2013-14 Financial Year

	Business Undertakings (\$000)	Public Order and Safety (\$000)	Health Services (\$000)	Community Support (\$000)	Community Amenities (\$000)	Library Services (\$000)	Cultural Services (\$000)	Economic Development (\$000)	Agricultural Services (\$000)	Waste Management (\$000)	Other Environment (\$000)	Recreation (\$000)	Regulatory Services (\$000)	Transport (\$000)
Port Pirie	232	191	9	875	447	1,048	0	1,270	0	3,441	2,217	2,708	1,191	6,438
Prospect	159	95	204	1,900	1,227	1,178	1,159	999	0	2,845	2,677	2,188	1,397	2,005
Renmark Paringa	1,144	23	155	644	288	396	251	475	0	1,178	1,407	1,713	678	1,949
Robe	480	50	99	822	60	83	3	264	0	701	249	796	276	1,437
Roxby Downs	6,258	0	59	252	37	39	584	43	0	1,421	1,858	4,636	112	839
Salisbury	760	1,288	1,813	9,254	1,073	7,940	606	2,145	24	12,974	14,773	22,103	6,538	19,716
Southern Mallee	487	58	18	972	123	47	103	314	2	329	228	774	223	2,300
Streaky Bay	1,633	58	222	150	220	23	99	208	0	308	286	676	210	1,835
Tatiara	997	311	104	759	488	452	69	402	348	1,159	488	2,779	605	5,187
Tea Tree Gully	2,882	257	474	6,392	829	4,350	760	1,174	2,551	9,146	5,833	19,372	5,802	10,887
Tumby Bay	663	110	79	231	190	46	14	130	73	508	326	1,023	320	2,247
Unley	49	0	643	5,077	1,200	3,231	913	1,547	0	4,066	6,997	5,429	3,027	6,443
Victor Harbor	276	89	57	764	483	822	72	2,964	0	1,528	1,877	2,229	2,265	7,266
Wakefield	1,105	74	60	491	256	78	1	4,382	0	909	641	1,138	734	5,641
Walkerville	257	73	129	417	237	621	85	160	125	823	1,127	729	905	1,152
Wattle Range	1,401	82	0	1,529	358	793	109	631	0	2,295	932	2,002	776	5,440
West Torrens	0	170	9,118	2,502	119	3,532	808	144	0	5,145	9,500	5,296	4,619	12,241
Whyalla	7	106	198	2,261	546	1,083	569	1,447	218	4,169	2,631	4,636	1,376	7,700
Wudinna	228	0	22	96	65	45	7	35	0	190	202	194	97	1,919
Yankalilla	2,165	22	2	662	313	71	7	494	0	881	820	588	864	4,913
Yorke Peninsula	3,683	187	9	1,468	766	240	817	613	0	2,389	2,095	3,123	1,139	9,805
State Totals	128,360	17,759	50,917	160,024	33,689	109,485	32,058	76,135	12,949	193,299	223,442	288,914	139,999	404,128

Source: South Australian Local Government Grants Commission - from Council submitted Supplementary Returns to the Annual Financial Statements.

Notes:

1. There may be differences from Council Financial Statements and amounts shown in Supplementary Returns so as to enhance data consistency and comparability.
2. Care should be taken when comparing or interpreting the figures of individual Councils. Also, it often is not meaningful to view data without an understanding or explanation of the differing financial and asset management strategies and targets of each Council. Interested readers are encouraged to contact individual Councils for further information.

**[WRASA]**

As detailed earlier, the SA Grants Commission clearly states that the above data may vary to Council Supplementary Returns “so as to enhance data consistency and comparability”. WRASA believe that as the data is robust enough for the purposes of Council comparison and funding allocation, then it also is robust enough for academic review.

## ANNEXURE I: INFORMATION PACK

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# Waste Management Services Procurement

## *Information Pack*



# Procurement Objectives

- Adelaide City Council and the Cities of Charles Sturt, Marion, Tea Tree Gully and Port Adelaide Enfield (Participating Councils) have chosen to collaborate in the procurement of waste management services to seek the best outcomes for their communities.
- Council Solutions has been tasked by the Participating Councils to facilitate this procurement.
- The outcomes sought include:
  - Improved service delivery to residents across the Participating Councils through alignment of waste management policy, strategy and service specifications;
  - Environmental benefits, including a reduction of traffic on the roads through streamlined collection and increased diversion from landfill; and
  - Best value service delivery through increased quality and reduced whole of life cost

**With all due respect to the aims detailed by Council Solutions we believe these are misleading for the following reasons:**

- 1. No new service is offered to residents. Without the proposal, there are no barriers preventing council alignment of waste strategies including either through the LGA or through Zero Waste**
- 2. Reduced traffic on roads is not addressed or substantiated in the proposal. The only way to achieve this is to build landfills and processing facilities closer to each council centre of density which is unrealistic and also not in the scope of the proposal as it is the domain of the EPA.**
- 3. Best value service has been achieved historically and no quantification is provided to suggest how this will be improved upon or a loss in value avoided.**

Page 73 of 86

- It is anticipated that the assurance of service volumes provided via this procurement will underpin opportunities for service providers including:
  - Service innovation;
  - Efficiencies of scale;
  - Unlocking value within and I or across Service Streams; and
  - Optimal utilisation of infrastructure, including collection vehicles.

**[WRASA]**

**The opportunities detailed must be questioned as council solutions state these are a by product of "the assurance of service volumes". However, annexure 1 confirms that all councils can opt out if they elect to. This directly contradicts the statement that volumes are assured.**

- The Waste Management Service Streams include:
  1. Waste Collection;
  2. Receiving and Processing of Recyclables;
  3. Receiving and Processing of Organics; and
  4. Waste Disposal.
- The scope of services required by the Participating Councils will be described in the market approach documentation.
- Not all Participating Councils will require all four Service Streams.

**[WRASA]**

The comment "not all participating councils will require all four service streams" directly contradicts the volume assurances made on the previous page calling into question their claimed economies of scale and public benefits.

# Procurement Method / Process

- The procurement method will be a publicly advertised (open) Request for Proposal (RFP) allowing any provider in the market the opportunity to submit a proposal.
- An RFP differs from a Request for Tender (or 'RFT'), with the latter typically utilised to prescribe the approach to service delivery.
- The RFP will:
  - describe the scope of services required by the Participating Councils;
  - include the minimum required service standards and performance levels;
  - allow suppliers to propose the optimal approach to delivery of the Waste Management Services in order to deliver the best outcomes for the Participating Councils' communities.

## [WRASA]

As Council Solutions state the RFP will "allow suppliers to propose the optimal approach to deliver the Waste Management Services in order to deliver the best outcomes for the participating councils communities" it seems they believe all companies will choose the public good over their company profitability when tendering .

This method also infers Council Solutions believe the assessment of a resultant public benefit or detriment rests with the contractors in the future and not with the ACCC during the approval process.

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