

Waste & Recycling Association of South Australia Inc.

25 October 2016

Ms Elizabeth Batten
Senior Project Officer

Australian Competition and Consumer Commission GPO Box 3131
Canberra ACT 2601

By email: elizabeth.batten@accc.gov.au; adjudication@accc.gov.au

Dear Ms Batten

Re: A91520 Council Solutions & Ors – Submission

In relation to the Council Solutions Application, we provide for the ACCC's consideration a summary of community responses to other waste related applications to the ACCC compared to the response relating to the Council Solutions proposal.

We have reviewed the submissions relating to the Council Solutions application and those relating to other waste management related applications to ACCC for authorisation in recent years. It is clear that the Council Solutions is notably lacking in any support whatsoever, while there is opposition from a broad range of relevant interests, including not only industry and individual industry participants but also community organisations and State and Commonwealth Government industry advocates.

Previous 15 Waste Management Applications	
Number of submissions supporting the Application	13
Number of Applications receiving support	9 out of 15
Number of submissions objecting to the Application	7
Number of Applications receiving objections	5 out of 15
Council Solutions Application	
Number of submissions objecting to the Application (as at Oct 19 th) (the average is 0.47 objections per Application – Council Solutions = 26)	26
Number of submissions supporting the Application (the average is 0.87 supporting per Application – Council Solutions = 0)	0



From these statistics, as well as the other points made in submissions presented to date, our Members believe that the Council Solutions Application should be regarded as significantly different from the other Applications made to the ACCC for waste, as having no precedent for comparison amongst prior applications. In particular, it is the subject of unprecedented and unanimous opposition, as well as a notable lack of any support from other adjacent local councils.

Yours sincerely

John Fitzpatrick

Public Officer

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Dear Ms Batten

A91520 Council Solutions & Ors - Supplementary Submission - Procurement Methodology

Several of our Members have identified what they consider is a fundamental flaw in the Council Solutions methodology- in that Council Solutions are seeking Authorisation from ACCC **prior to** developing their procurement plan.

In that regard, our Membership has sourced the Sustainability Victoria Collaborative Procurement Guidelines, a copy of which is attached.

In our Members' view, these represent an impartial and objective summary of good practice for collaborative procurement projects.

The attached diagram and table shows that a contract specification should be developed prior to an application being submitted to the ACCC for an exemption from the Competition Law. This prerequisite step is often the most complex part of the project, exponentially so if there is more than one Council to which to tailor services requirements.

The specification also provides each participating Council with the details of the contract to be released to the market so that it can ensure that the contents are in the best interest of its individual Council and it can commit to the process.



As you can see, based on this approach, Council Solutions has not completed this critical and difficult initial step by developing a contract specification to allow the Councils and ACCC to be able to properly assess a clear and definitive proposal.

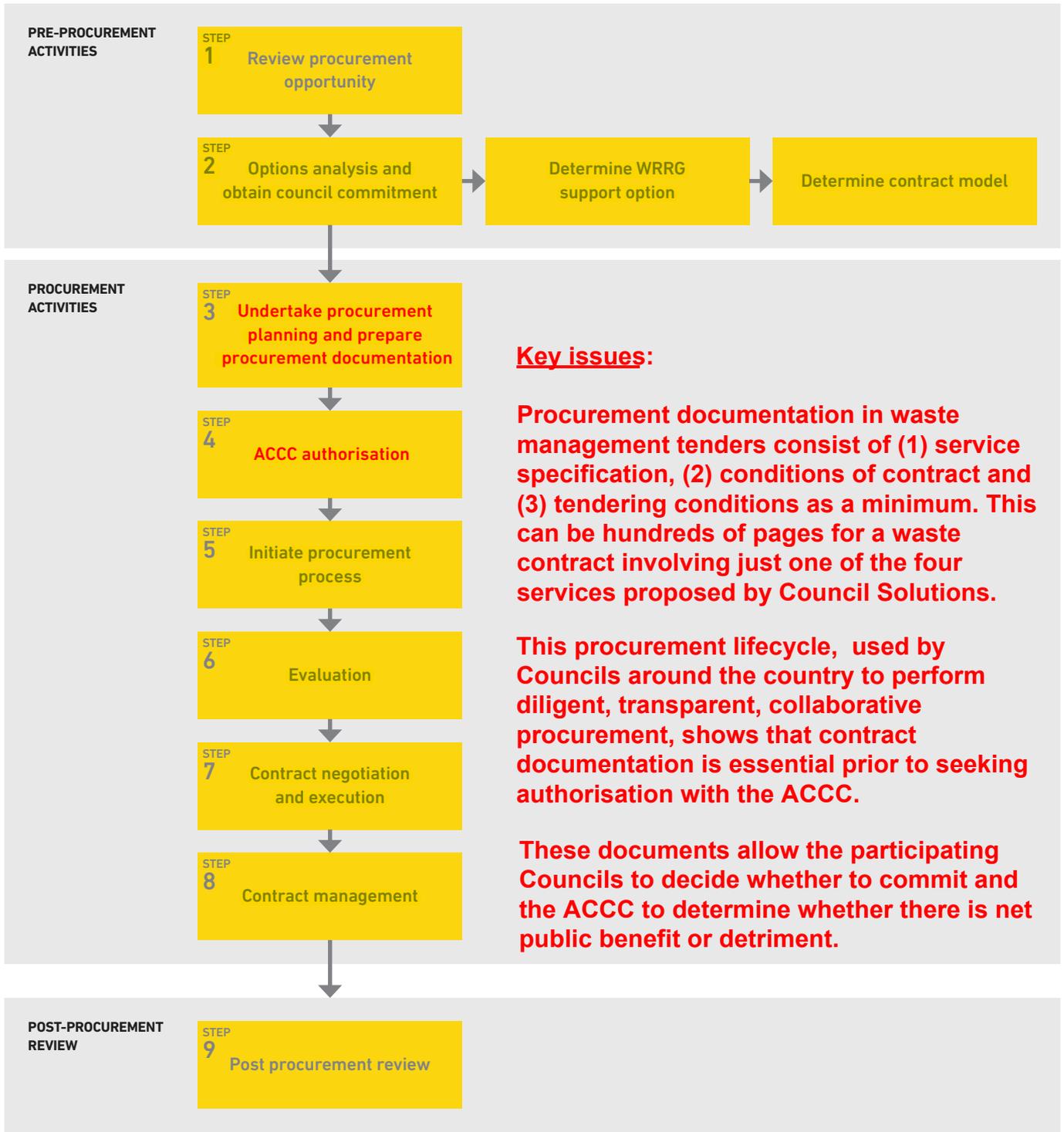
Yours sincerely

John Fitzpatrick
Public Officer

Collaborative procurement lifecycle

This section provides an overview of the lifecycle of a collaborative procurement process.⁴ The lifecycle is divided into three stages made up of nine steps as shown in Figure 3. Table 6 outlines the outcomes and templates available for each step in the collaborative procurement process.

FIGURE 3: COLLABORATIVE PROCUREMENT PROCESS LIFECYCLE



⁴ This lifecycle is based on the Metropolitan Waste and Resource Recovery Group (MWRRG) Procurement Procedures Manual (Metropolitan Council Collective Procurements) Version 6, September 2014.

Page 2 - Table showing sequential step activities

TABLE 6: STAGES, STEPS AND TEMPLATES IN A COLLABORATIVE PROCUREMENT PROCESS

Steps	Outcomes	Templates
Pre-procurement		
Step 1: Review procurement opportunity	<ul style="list-style-type: none"> › Brief prepared by WRRG for consideration and support of procurement by the WRRG Board 	<ul style="list-style-type: none"> › Brief
Step 2: Options analysis and council commitment	<ul style="list-style-type: none"> › Analysed options › Determined WRRG support options and contract model › Prepared the Business Case › Prepared the Management Agreement › Obtained council commitment 	<ul style="list-style-type: none"> › Business Case › Management Agreement › CEO Report / Presentation Brief
Procurement activities		
Step 3: Procurement planning and procurement documentation	<ul style="list-style-type: none"> › Established Working Group › Determined sourcing approach › Prepared the Procurement Plan and timeline › Prepared the Risk Management Plan › Prepared the procurement documentation including: <ul style="list-style-type: none"> – Sourcing documents – Evaluation Plan – Probity Plan › Council approved all procurement documents prior to release to market 	<ul style="list-style-type: none"> › Procurement Plan (including timeline) › Risk Management Plan › Sourcing templates › Draft Services Agreement › Evaluation Plan › Probity Plan (includes Conflict of Interest Declaration and Deed of Confidentiality) › Procurement documentation approval
Step 4: ACCC authorisation	<ul style="list-style-type: none"> › Council consented to apply for ACCC authorisation › Completed and submitted the required forms to the ACCC 	<ul style="list-style-type: none"> › ACCC – Form A › ACCC – Form B
Step 5: Initiate procurement process	<ul style="list-style-type: none"> › Publicly released the sourcing documents › Held a procurement briefing › Responded to clarification questions 	<p>Step 3 and 4 above shows that the Councils should approve a draft services agreement (contract specification) before an Application is lodged with the ACCC. Council Solutions have not yet produced a services agreement/specification (or the other documents required).</p>
Step 6: Evaluation	<ul style="list-style-type: none"> › Convened the Evaluation Panel › Evaluated the responses received against procurement documents › Prepared Evaluation Report and draft recommendations › WRRG Board and councils endorsed the Evaluation Report and Probity Report 	
Step 7: Negotiation and contract execution	<ul style="list-style-type: none"> › Appointed the Negotiation Team › Negotiated the contract › Executed the contracts › Notified unsuccessful respondent/s 	<ul style="list-style-type: none"> › Negotiation Plan › Invitation to Negotiate › Contract Award Letter › Notice to Unsuccessful Respondents › Tender Debrief
Step 8: Contract management	<ul style="list-style-type: none"> › Appointed a Contract Manager › Finalised the Contract Management Plan › Commenced contract management 	<ul style="list-style-type: none"> › Contract Management Plan
Post-procurement review		
Step 9: Review procurement process	<ul style="list-style-type: none"> › Reviewed the procurement process and captured any lessons learned for future procurement 	<ul style="list-style-type: none"> › Lessons learned template

WRRGS can access templates (**in bold**) by contacting Sustainability Victoria directly.

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Dear Ms Batten

A91520 Council Solutions & Ors

We have recently received notice of the South Australian government's new Waste and Resource Recovery Plan Draft. It outlines 10 year and 30 year scenarios and infrastructure requirements for the state and "identifies potential future infrastructure needs and investment opportunities and provides intelligence for industry which will assist in informing investment decisions."

The complete plan can be found at:

http://www.zerowaste.sa.gov.au/upload/About%20Us/WasteResourceRecoveryInfrastructurePlan_ConsultationDraft.pdf

We note the following comments from the report in regards to the waste to be collected from the participating Councils:

Page 8, Para 2 - *"It is intended that the SAWRRIP be developed closely with the updated 30-Year Plan for Greater Adelaide (currently under development) to ensure sufficient buffer zones and adequate provision of suitable sites protected from encroachment by incompatible uses."*

Page 9, Para 2 - *"South Australia is currently leading the nation in levels of resource recovery, achieving the highest recycling rates out of all jurisdictions in Australia (Rawtec, 2015). The State has an integrated waste management system, which is supported by an extensive network of waste and resource recovery facilities."*

And from the Waste Strategy 2015-2020, Page 9 – *"Reducing the Cost of Living" - "Developing effective recycling systems has helped to reduce the costs of kerbside collection for South Australians, keeping council rates lower than they would otherwise have been. Good planning and strategic investment in resource recovery infrastructure has also reduced the costs of these*



waste and recycling services even further, for households and businesses alike. The waste and resources industry in South Australia is competitive, with diverse firms operating across the market.”

In fact, our research using the Commonwealth Government National Waste Mapping Reporting Tool

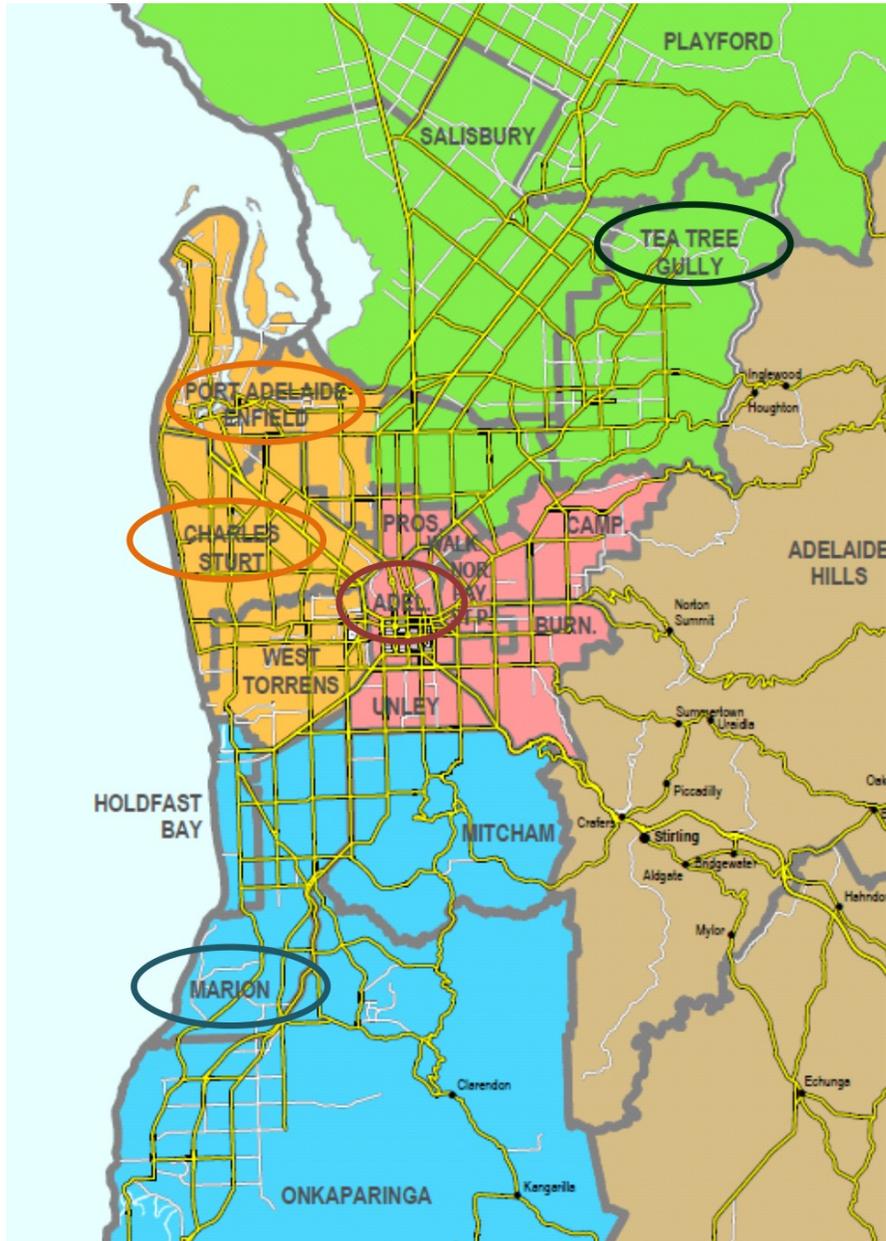
<http://www.environment.gov.au/webgis-framework/apps/nwr-wide/nwr-wide.jsf>

shows that the Adelaide metropolitan area is best serviced of all of the major metropolitan areas with waste infrastructure. Please refer to the table below which shows that Adelaide has the highest rate of waste facilities with 1 for every 40,000 residents.

Metropolitan Area	Population	Waste Facilities	Residents per Facility
Adelaide	1.31 million	33	40,000
Melbourne	4.09 million	84	48,000
Perth	2.04 million	34	60,000
Sydney	4.30 million	66	65,000
Brisbane	2.10 million	20	105,000

Page 9, Para 4 of the 30 year Plan states - *"The Review of South Australia's Waste Strategy 2011-2015" (RWA et al, 2015) identified that "attracting and coordinating investment into the sector represents a major future policy challenge. A well-coordinated strategic and tactical approach from and within state and local government is needed to deliver regionally distributed facilities with good economies of scale, protecting against over-capacity and securing the best value for money in procurement"*.

We concur with the State Government's approach using a planned program of infrastructure development and draw the attention to the ACCC to the attention of the State Government's metropolitan regions shown in different colours on the Government website below.



Source: https://www.sa.gov.au/_data/assets/pdf_file/0017/19502/SA_Government_regions_detailed_State_map.pdf

Council Solutions' nominated participating Councils are from four regions, which is the opposite of the geographic clusters that other States have achieved with their waste management regions and in conflict with the planned approach considering all Councils that the State Government are now working towards with their 30 year Plan.

The high number of facilities per person and the State's status as nation leading demonstrate that the facility contractors have been able to flourish and innovate in an environment where contract sizes are manageable, allowing optimal working conditions between contractors, Councils and the State Government.

Perhaps the best example of this is Peats Soils, a South Australian family company that has driven the South Australian and national organics industries to the innovative position they hold. The article weblink below provides a perfect example of how Peats have been able to incrementally add to their organics business to provide more value for both Council and commercial customers.

<http://indaily.com.au/news/local/2016/10/14/creating-biodiesel-out-of-dirty-water/>

Peats Soils are one of our members; they currently are contracted to Council Solutions member councils, and they are likely to be detrimentally affected by the Council Solutions proposal, which will in turn result in net public detriment to ratepayers.

Yours sincerely

John Fitzpatrick
Public Officer