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 Newtwork (**SAWIN**).

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.

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.

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.

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.

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.

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.

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.

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.

- 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.

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

- 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.

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.

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.
- 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.
- Additionally, providers may identify opportunities to collaborate with other market participants to provide a wholistic solution.
- 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.

- Importantly, <u>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</u>. There will be no prescribed requirement in the RFP for providers to respond for more than one Service Stream or Participating Council.

- As stated above, doing so would likely result in a poor commercial outcome for the Participating Councils which contradicts the public benefits sought.

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.

- 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.

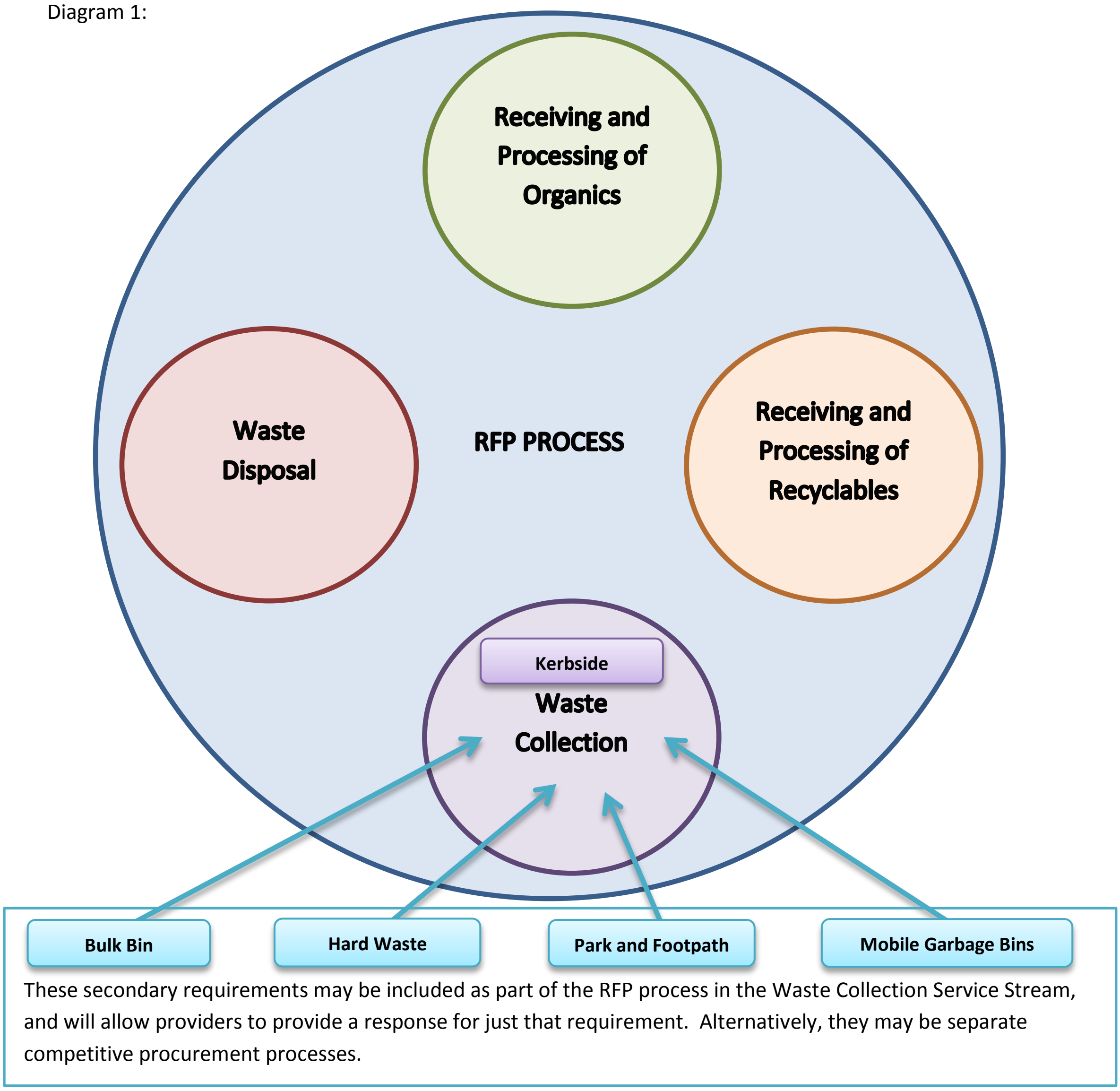
- As such, if a small business responded for a Service Stream or a specialist requirement within a Service Stream, as they might currently do, then the requirements are unlikely to be different from what is currently required.

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. <u>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</u> (see Diagram 1 below). Where they currently provide this service through subcontract arrangements, this is also a possible outcome.

<u>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.</u>

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.

Diagram 1:



3.2.2 *Application of the SAIPP*

There have also been recommendations by interested parties that the South Australian Industry Participation Policy (**SAIPP**) or a similar framework should be applied.

Council Solutions notes the SAIPP applies to State Government procurement only and does not extend to local government procurement, however Council Solutions and a number of the Participating Councils (as well as other local governments individually and as groups) have been engaging with the Office of the Industry Advocate to discuss how Industry Participation Principles (**IPPs**) could apply to local government generally.[1] This includes investigating how Industry Participation Plans could be tailored for local government requirements. Part of this

[1] *cf* Adelaide Advertiser 19 May 2016 "Council aims to lift local spend" re Adelaide City Council's proposed amendment to their procurement policy.

consideration includes defining what the "local industry" is where local governments are procuring and whether that descriptor should be as broad as South Australia or restricted to the relevant local government's area.

The SAIPP requires specific interaction with the Office of the Industry Advocate which is not applicable to local government procurement and, as such, Council Solutions submits wholesale application of the SAIPP to this project is not appropriate. However, in the development of the procurement project Council Solutions will be seeking input from the Office of the Industry Advocate and will be looking to establish IPPs that could apply to this procurement with the objective that '*capable South Australian small and medium enterprises are given full, fair and reasonable opportunity to tender and participate*'. The opportunities for small businesses outlined above could be monitored through the use of IPPs.

3.3 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) a contract term should align with the life of a collection vehicle (e.g. 10 years); and

(b) 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 6.2 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 <u>remove the ability to accept a longer term contract</u> and will only approach the market for a standard operating term of up to <u>a maximum of 10 years (including all extensions)</u>.

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;

- 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:
  - a thorough, robust, transparent procurement is undertaken; and
  - all responses are carefully considered and evaluated.

- 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.

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.

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.

- 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.[2]

[2] See Presentation slides at Annexure B, particularly slide 20. Further information regarding the Industry Briefing is also provided at Annexure B.

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

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. 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;
- regardless of whether the Participating Councils approach the market collaboratively or independently, the Future Tender Horizon would remain the same;
- each of the Participating Councils would have need to enter into contractual arrangements for at least the same length of term and, furthermore, in the future without the Proposed Conduct, they could independently enter into arrangements for even longer periods; and
- 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.

Therefore, the future <u>***without***</u> the Proposed Conduct may not be any different from the future <u>***with***</u> 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.

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.

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.

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.[3] 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.

[3] 'A Cost Benefit Assessment of the Council Solutions Proposal for Single Tendering of Multiple Councils in Adelaide'. Prepared by Barry Burgan, representing Economic Research Consultants 11 March 2016, presented by the Waste & Recycling Association of South Australia at the pre-decision conference, page 4.

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.

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.

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.

3.4.3 Greater economies of scale and efficiency

(a) <u>Optimum number of households</u>

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 50,000 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*".[4] 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.[5]

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.

(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

[4] Stevens, Barbara J., "Scale, Market Structure, and the Cost of Refuse Collection", *The Review of Economics and Statistics*, Vol. 60, No.3, Aug., 1978 pg 438, available at https://www.jstor.org/stable/1924169?seq=1#page_scan_tab_contents

[5] Bel, Germá and Fageda, Xavier, "Empirical analysis of solid management waste costs: Some evidence from Galicia, Spain" *Resources, Conservation and Recycling*, 29 July 2009, pg 1, available at http://www.ub.edu/graap/bel_fageda_RCR.pdf

outlined in Annexure D, the common boundaries are in fact 10.4%. 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.

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.

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.

All these factors must be taken into consideration when comparing relative achievements between the States and Territories. Additionally, Council Solutions and the Participating Councils do not accept that being the leader in this space is enough – there is still more to be achieved. As stated in paragraph 8.4 of the Supporting Submission, the diversion rate for Metropolitan Municipal Solid Waste is only 59.4% as compared to the target of 70%. South Australia also generates more waste per capita than any other state at 2,677 kilograms per person a year.[6] Collaboration in this space to streamline policy, service delivery and education will provide a real opportunity for diversion and reduction in generation targets to eventuate.

Some of the interested parties have raised the issue that one of the market participants in the Receiving and Processing of Recyclables Service Stream currently transports its recyclables interstate for processing, thereby removing eligible containers from the operation of the CDL. It has been claimed this results in a flow-on effect to those recycling centres that have relationships with (or which are) the super collectors. Council Solutions noted at the Pre-decision Conference that this market participant had made public statements about building a Material Recovery Facility in Adelaide, the establishment of which would end the transportation of recyclables interstate and create job opportunities within South Australia. As evidenced in Annexure E, this is a genuine intention with a site already identified and Development Application submitted for approval. Additionally, Council Solutions submits that should another provider (that does not have these facilities) wish to enter the market, this concern can still be addressed through the use of IPPs in the RFP.

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”[7] (**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.

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.

[6] *South Australia’s Recycling Activity Survey: 2013-14 Financial Year Report*, February 2015, Zero Waste SA, page 31

[7] Prepared by Water + Waste Innovations Pty Ltd, presented by the Waste & Recycling Association of South Australia at the pre-decision conference.

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 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.

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 ACCC. 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.

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.[8] 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.

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.

[8] As outlined in the Adelaide Market Review and as sourced from each provider's website.

4.3.2 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.

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.

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[9] table in Annexure G.

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

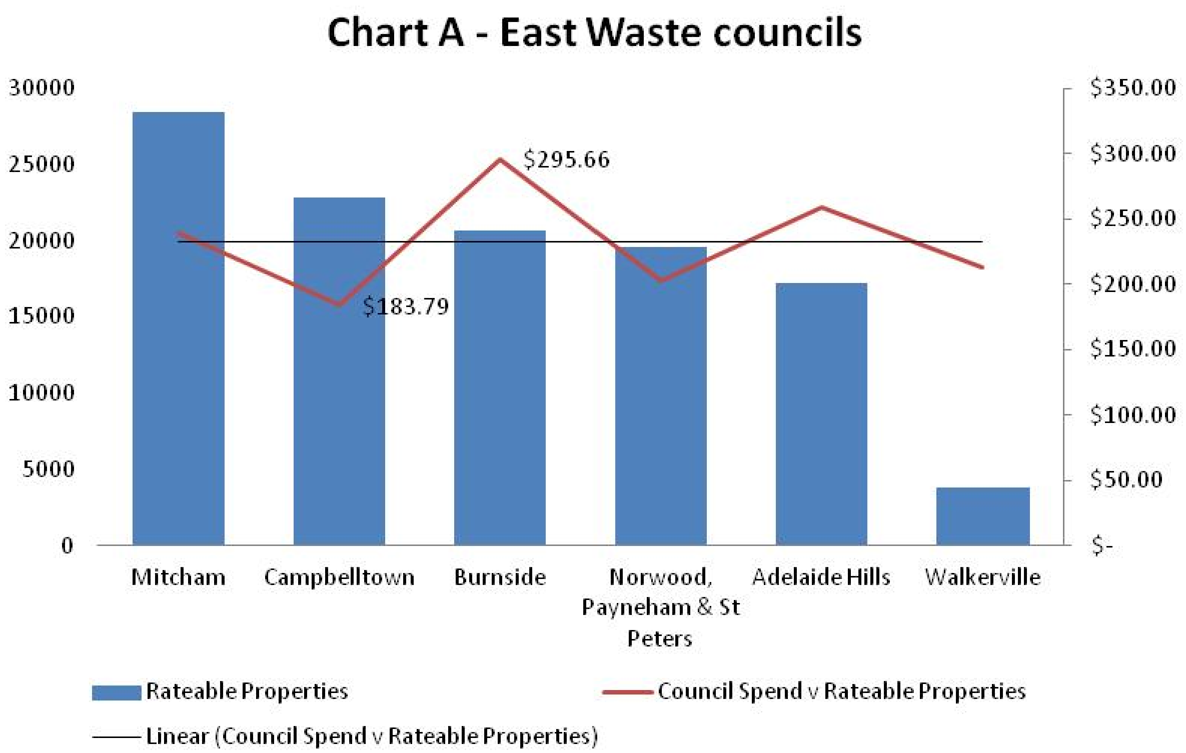
> *Care should be taken when comparing or interpreting the figures of individual Councils. Also, it is often not meaningful to view data without an understanding or explanation of the differing financial and asset management strategies and targets of each Council. Interested readers are encouraged to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

4.4.2 Value of data

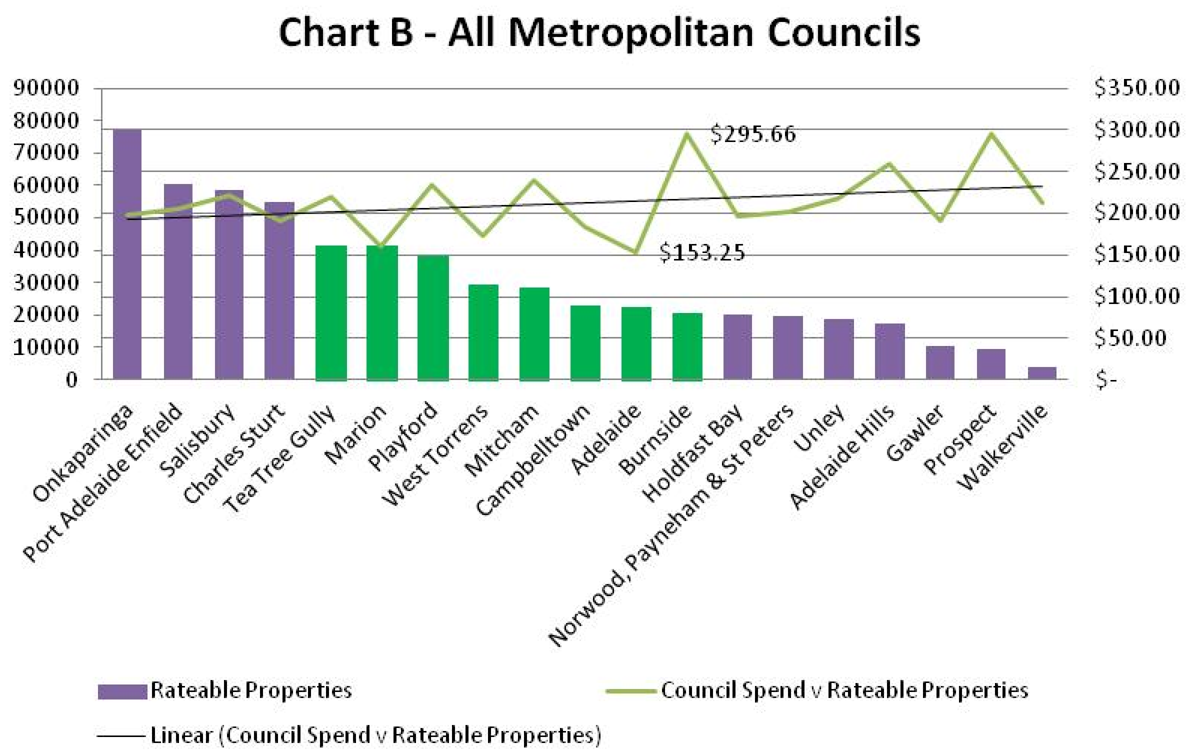
The problematic nature of relying on this data is highlighted when used to try and demonstrate, for example, economies of scale by comparing waste expenditure by rateable properties.

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^2 and 28km^2 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.

[9] Council Solutions notes the concern of the interested parties when information is provided in a confidential manner and, in both the Application and this submission, has minimised the use of confidentiality to the absolute minimum. As the table attached provides a breakdown of the cost of existing contracts to each Participating Council, which is also the value to those interested parties who currently have contracts with the Participating Councils, we appreciate their understanding of the need to keep such data commercial in confidence.



Similarly, in looking at all 19 councils in Chart B, there are large fluctuations in the spend per property 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.



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.

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 I and has also been made available on the SA Tenders and Contracts website.

Council Solutions and the Participating Councils recognise 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;

- early notification to the market of the upcoming release of the RFP to ensure the broadest awareness of the opportunity; and
- an industry briefing session during the RFP open period to explain the objectives, evaluation criteria, layout and structure of the RFP.

6. 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.
- The RFP process will be flexible with no prescribed requirement for:
  - service provision across all Participating Councils – respondents may offer services to any or all Participating Councils; or
  - responses to be submitted for more than one Service Stream – respondents may offer services for any or all Service Streams

  in order to participate.
- 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.
- 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'.
- The operating term of a contract will not exceed the standard term for a Service Stream, <u>being 10 years including all extensions</u>.
- 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.

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.
- 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.
- 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.

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.

Date: 30/06/16

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”[10] 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[11]	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[12]	Waste Collection
Integrated Waste Services	50+	Medium	Waste Disposal, Receiving and Processing of Organics

[10] Catalogue number 8165.00, Jun 2011 to Jun 2015.

[11] Sourced from each organisation’s website where possible, otherwise calculations and/or designation as noted.

[12] 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.

Adelaide Metropolitan MSW participant	Number of Employees[11]	Classification	Primary Service Stream/s
Southern Waste ResourceCo	400+ nationally for ResourceCo, this is a JV between SRWRA & ResourceCo	Large	Waste Disposal
SKM Recycling	100+	Medium[13]	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
Adelaide Metropolitan Operators	**Number of Employees**	**Classification**	**Primary Service Stream/s**
Remondis	900+ Australia wide	Large	Waste Collection
Veolia	4,000+	Large	Waste Disposal
JJ Richards	2,000+ Australia wide	Large	Waste Collection
Regional Subsidiary	**Number of Employees**	**Classification**	**Primary Service Stream/s**
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

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

[13] SKM Recycling run a Materials Recycling Facility in Collaroo 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	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. 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.
Mastec Australia	Waste Collection	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). 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.
Just Co Services	Waste Collection	Just Co Services' business size cannot be easily identified. Council Solutions submits they are likely to be a small business. 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.
Signal Waste	Waste Collection	Signal Waste's business size cannot be easily identified. Council Solutions submits they are likely to be a small business. 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.

Interested Party	Service Stream	Comments
Oz Bin Cleaning (SA)	Waste Collection	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. 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.

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.

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.

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 Mininskips	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

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

Presentation Disclaimer

Important Information

This presentation is prepared solely for an industry briefing session to be facilitated by Council Solutions on 21 December 2015 regarding potential proposals for waste collection, processing and disposal services for certain nominated South Australian local councils (**Briefing Session**). This presentation and the Briefing Session do not amount to, or form part of, any request for tender or request for proposal process.

The information contained in this presentation and provided by or on behalf of Council Solutions during the Briefing Session (**Briefing Information**) is provided by Council Solutions for general information and discussion purposes only. The Briefing Information is provided solely as part of Council Solutions' briefing of industry regarding potential proposals for waste collection, processing and disposal services for certain nominated South Australian local councils. Council Solutions does not warrant the accuracy of the Briefing Information and any information provided by Council Solutions is not to be used or relied on for any tender or proposal, or for any other purpose. Agreed information procedures will be available as part of any formal tender or request for proposal process.

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. Agreed confidentiality procedures will apply as part of any formal tender or request for proposal process.

Waste Management Services Procurement

Industry Brief
21 December 2015

Welcome

Ian Thompson
Senior Procurement Officer
Council Solutions

House Keeping

- Utilities
- Fire Alarm
- Mobile Phones
- Questions?

Council Solutions™

Todays agenda

- Introduction to Council Solutions
- Overview of the Australian Competition & Consumer Commission (ACCC) authorisation process
- Overview of external support of the waste services project
- Project overview

Todays agenda cont..

- Jan Cornish - General Manager Asset Management Services City of Charles Sturt, speaking on behalf of the Participating Councils

- Scope of the procurement exercise

- Option for feedback from the waste industry participants

- Questions and Answers

Council Solutions

- Regional Subsidiary

- High level strategic procurements
  - **Roadwork's**
  - **Temporary Labour Hire**
  - **Facilities Management and;**
  - **Legal Services**

- Delivering benefit for Constituent Councils and Non-Constituent Councils

ACCC authorisation

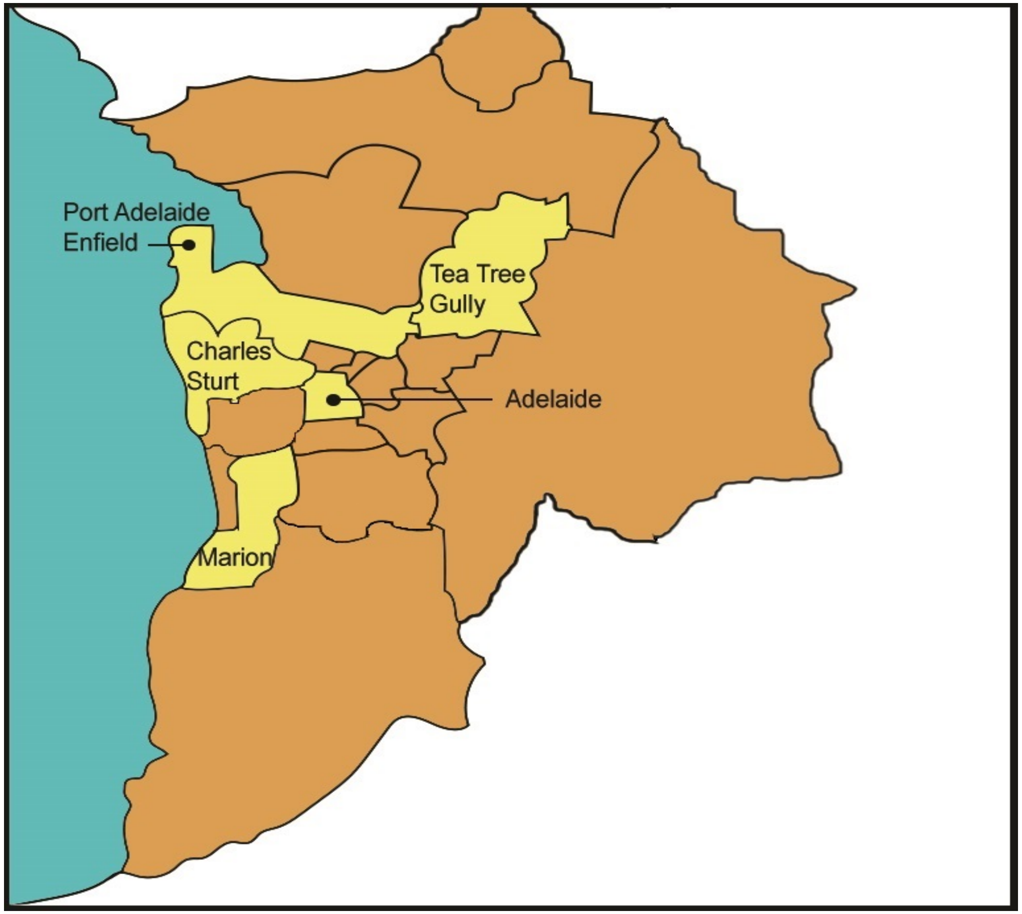
- Council Solutions has submitted an application for authorisation to the ACCC;
  - It can be viewed on the ACCC website: www.accc.gov.au/public-registers
- It is currently at the consultation stage;
- All queries regarding the application should be submitted through to the ACCC.

Project overview

Council Solutions intends to facilitate procurements for waste management and resource recovery services on behalf of five of the largest metropolitan Councils in South Australia:

- **Adelaide City Council**
- **City of Charles Sturt**
- **City of Marion**
- **City of Port Adelaide Enfield**
- **City of Tea Tree Gully**

Council Geographical Boundaries



External project support

Council Solutions has engaged the services of the following organisations to support the waste services project.

- **BDO** for Commercial and Financial services
- **Rawtec** for Technical and Compliance services
- **Edwards Marshall** for Probity services
- **Cowell Clarke** for Legal Services

Jan Cornish

General Manager

Asset Management Services
City of Charles Sturt

Waste Services

Potentially all Council collection, processing & disposal services

Potential for single or multiple provider arrangements

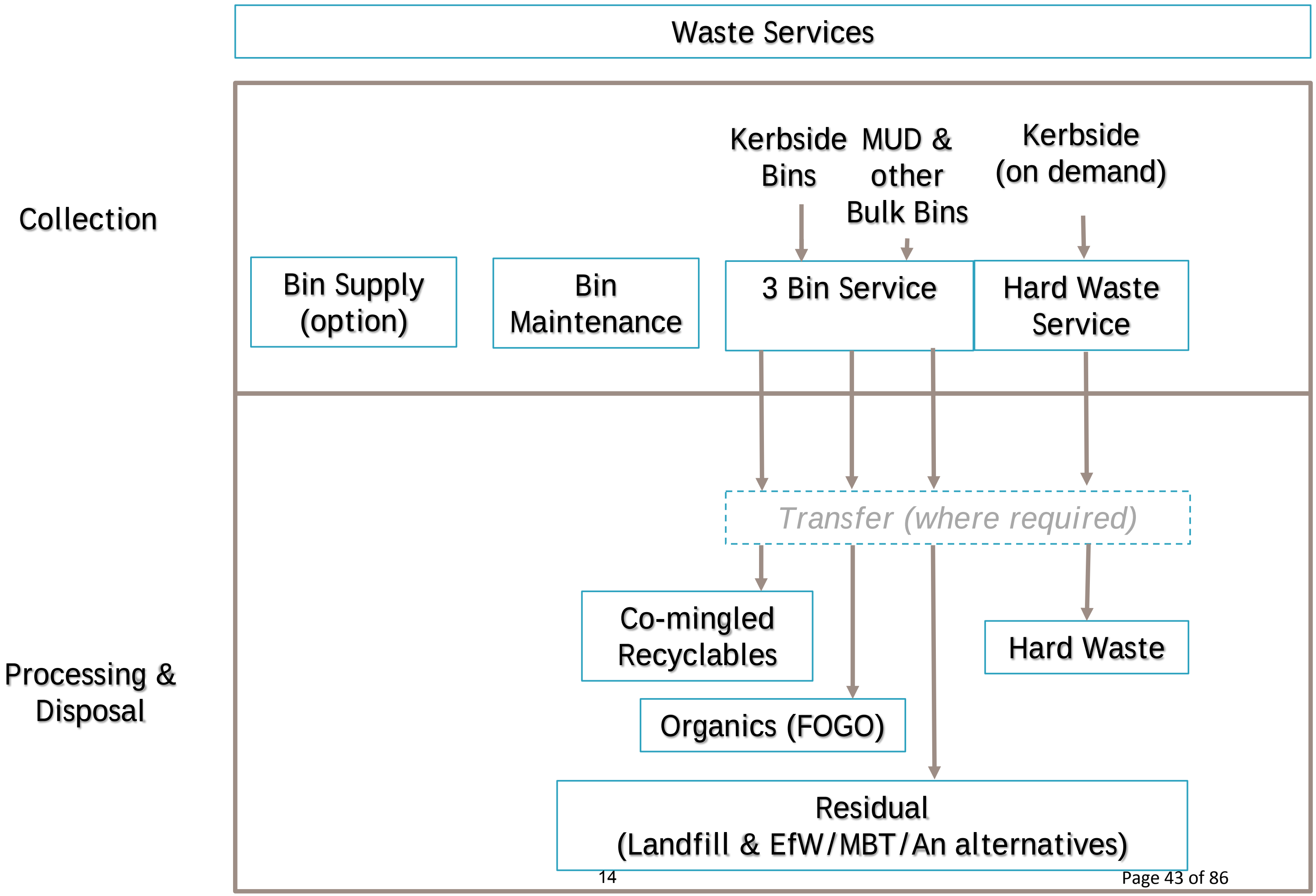
Key Services

- Collection (Household, MUD, Council)
- Processing and Disposal

Other Services

- Call Centre
- Hard Waste
- Street Bins
- Bin Supply and Maintenance

Scope


Waste Services
Collection
Processing & Disposal
Kerbside Bins
MUD & other Bulk Bins
Kerbside (on demand)
Bin Supply (option)
Bin Maintenance
3 Bin Service
Hard Waste Service
Transfer (where required)
Co-mingled Recyclables
Organics (FOGO)
Hard Waste
Residual (Landfill & EfW/MBT/An alternatives)

Council Solutions™

Some Expectations

Improved efficiency:

- Ability to cross boundaries / optimise collection areas
- Optimise processing / disposal locations
- Scale (bulk bins)
- Scale

Better information

- Cost / Price / Yield
- Street level
- Change

Innovation

- Enable not inhibit change (operating environment and markets)
- Service delivery to residents
- Sustainable service

Council Solutions™

Current Details

Scope and Tonnages:

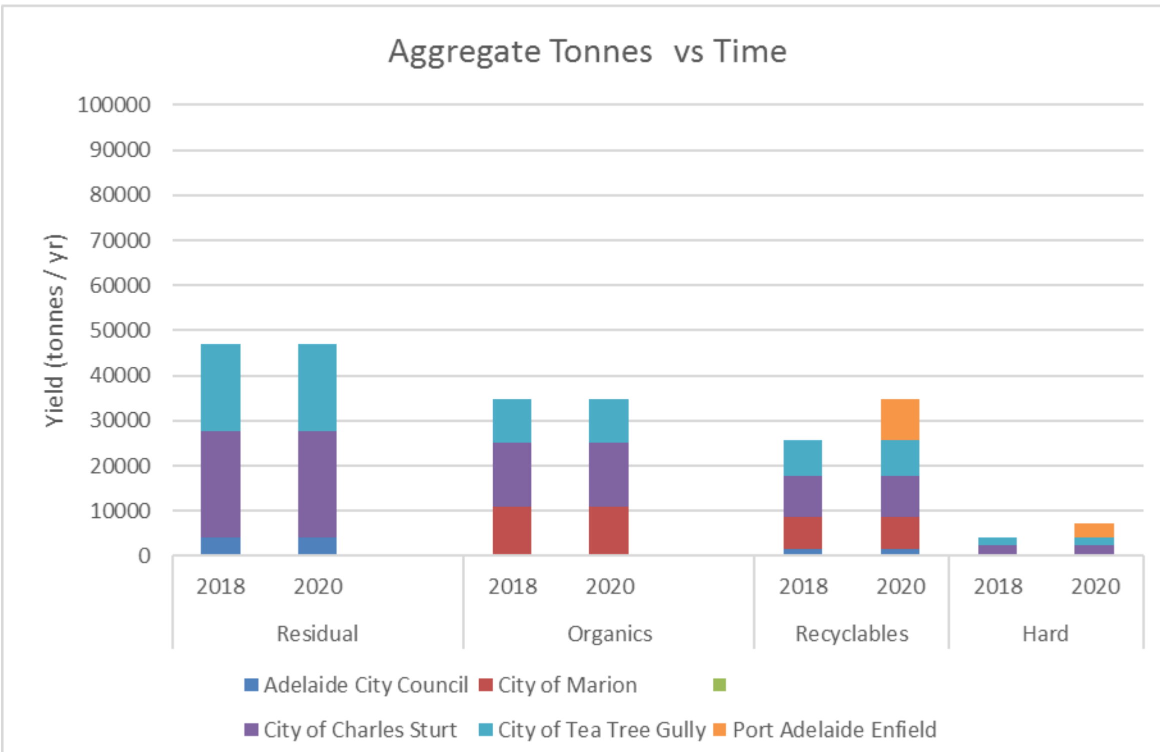
Council	Population	Land area (km2)	Roads (km)	Rateable Properties	Bins in Circulation	Forecast MUD Growth	Forecast Pop Growth 2018/28
Adelaide City Council	22,690	16	130	22,735	16,933	currently 52% of services	N/A
City of Marion	88,292	56	490	41,011	86,201	0	5,000
City of Charles Sturt	112,714	56	686	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

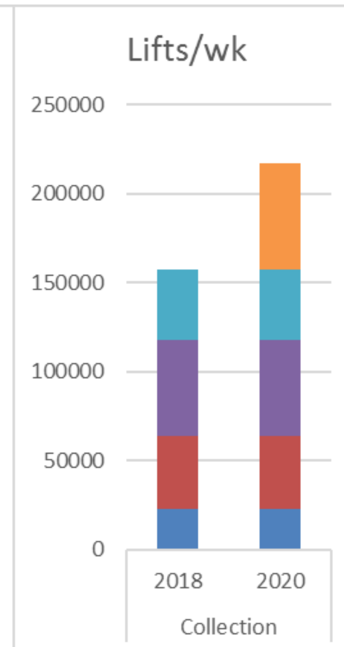
Stream	2015 Tonnes	
	Total (est.)	Total (RFP) (Disposal / Processing)**
Residual	74,970	46,999
Organics (FOGO)	45,880	34,878
Recyclables	33,580	33,580
Hard Waste	7,984	7,984
Total	162,414	123,441

Estimates from LGA directory, LGGC, Councils

Anticipated timing

Staged commencement





Waste Management Services RFP

Councils Solutions proposes to use a Request for Proposal (RFP) process for the procurement of waste services containing aggregated services for all participating Councils.

Collection and Processing / Disposal

The targeted release date for the RFP is July 2016.

Council Solutions™

Proposed RFP process

- Qualitative:
  - Complying vs non-complying bids
  - Ability to submit for 1 or more services
- Pricing:
  - Per service
  - Per Council
  - Transparent (inc. price review)
- Value added innovative services

Proposed Contractual terms

- Collection contract 7-10 years
  - expected minimum of 9 year total term

- Processing services
  - X years + extensions
  - Align with collection

Opportunity Summary

- To provide waste services to a significant proportion to the Metropolitan Adelaide area
- Provide services with the ability to cross Council boundaries
- Consolidation services to access economies of scale
- Potential for single or multiple provider arrangements for the delivery of waste services
- Provide innovation in waste services space
- To provide <u>input</u> to the project process

Comments from Industry

- Industry participants interested in providing feedback regarding the proposed process should do so by 31 January 2016 contacting Council Solutions by email **Tenders@councilsolutions.sa.gov.au**

- 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.

Project Communication

- All communication in relation to this project will be managed by Council Solutions.

- It would be deemed as inappropriate for Industry participants to speak directly to participating Councils regarding this project

- Any questions or requests for information should be sent to: **Tenders@councilsolutions.sa.gov.au**

Industry brief presentation slides

Council Solutions will make available the slides from todays presentation for reference on the SA Tender and Contracts website for download by Industry participants

Questions & Answers from Industry Participants

Council Solutions™

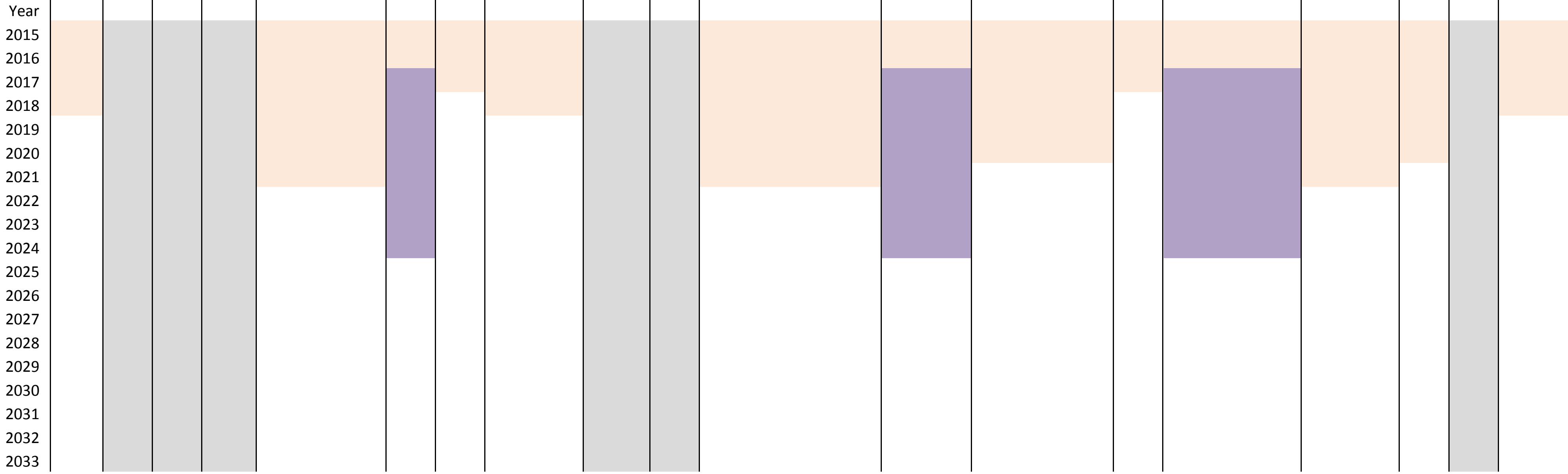
The End

Thank you for your attendance

ANNEXURE C: TENDER HORIZONS

CURRENT TENDER HORIZON

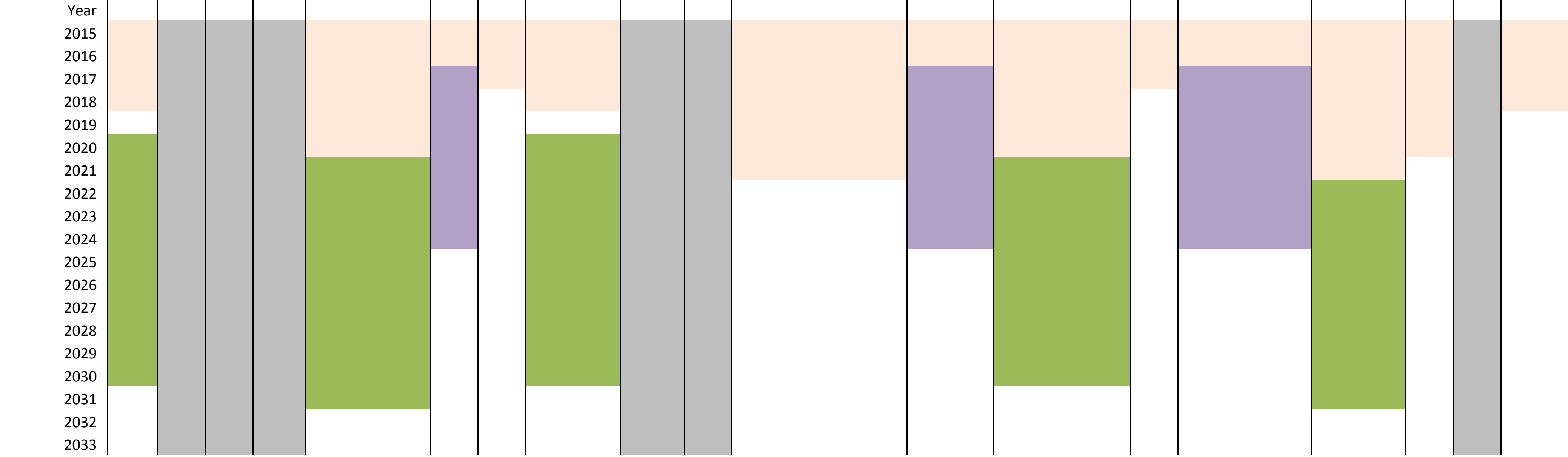
Council	Adelaide	Adelaide Hills	Burnside	Campbelltown	Charles Sturt	Gawler	Holdfast Bay	Marion	Mitcham	Norwood, Payneham & St Peters	Onkaparinga	Playford	Port Adelaide Enfield	Prospect	Salisbury	Tea Tree Gully	Unley	Walkerville	West Torrens
Rateable Properties	22,512	17,253	20,676	22,831	54,896	10,675	20,167	41,419	28,457	19,545	76,897	38,055	60,584	9,656	58,462	41,499	18,662	3,861	29,604
% of Adelaide Metro	3.78%	2.90%	3.47%	3.83%	9.22%	1.79%	3.39%	6.95%	4.78%	3.28%	12.91%	6.39%	10.17%	1.62%	9.81%	6.97%	3.13%	0.65%	4.97%



- Members of East Waste
- Members of NAWMA
- Current arrangements in place
- New arrangements awarded
- Collection arrangements in place, will still be opportunity for Waste Disposal and Processing contracts

FUTURE TENDER HORIZON

Council	Adelaide	Adelaide Hills	Burnside	Campbelltown	Charles Sturt	Gawler	Holdfast Bay	Marion	Mitcham	Norwood, Payneham & St Peters	Onkaparinga	Playford	Port Adelaide Enfield	Prospect	Salisbury	Tea Tree Gully	Unley	Walkerville	West Torrens
Rateable Properties	22,512	17,253	20,676	22,831	54,896	10,675	20,167	41,419	28,457	19,545	76,897	38,055	60,584	9,656	58,462	41,499	18,662	3,861	29,604
% of Adelaide Metro	3.78%	2.90%	3.47%	3.83%	9.22%	1.79%	3.39%	6.95%	4.78%	3.28%	12.91%	6.39%	10.17%	1.62%	9.81%	6.97%	3.13%	0.65%	4.97%



Members of East Waste
Members of NAWMA
Current arrangements in place
Standard operating term
New arrangements awarded
Collection arrangements in place, will still be opportunity for Waste Disposal and Processing contracts

ANNEXURE D: SHARED BOUNDARY CALCULATION

SHARED BOUNDARY CALCULATION

Participating Council	Common Boundaries	Kilometres[14]
City of Charles Sturt:	With the City of West Torrens	13.118
	With Adelaide City Council	1.462
	With the City of Prospect	1.334
	With Port Adelaide Enfield	16.839
	Coastal	11.542
	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	0.826
	TOTAL:	**14.118**
City of Port Adelaide Enfield:	With the City of Prospect	7.288
	With the Town of Walkerville	1.978
	With the City of Norwood Payneham & St Peters	1.535
	With Campbelltown City Council	4.052
	With the City of Tea Tree Gully	4.493
	City the City of Salisbury	11.04
	Coastal	28.402
	TOTAL:	**58.788**
	TOTAL (excluding Coastal):	**30.386**
City of Marion:	With the City of West Torrens	3.688
	With Holdfast Bay City Council	11.12
	With the City of Onkaparinga	14.607
	With the City of Mitcham	6.686
	With the City of Unley	0.999
	Coastal	6.297
	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	21.223
	With Campbelltown City Council	7.31
	TOTAL:	**58.657**
	Total Boundaries	**219.255**
	Total Shared Boundaries	22.794
		10.40%
	Total Boundaries (excluding Coastal)	173.014
	Total Shared Boundaries	22.794
		13.17%

[14] 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

ANNEXURE E: SKM RECYCLING DEVELOPMENT APPLICATION

As the Development Application has file protection, a screenshot of the first page of the Development Application is provided below. The full file has been provided electronically to the ACCC.

Category 2
Development Application Notice
Pursuant to Section 38(4) of the Development Act 1993

CITY OF Port Adelaide Enfield

Notice is hereby given that a development application requiring Category 2 Public Notification has been lodged with Council for development assessment. **Details of the application are as follows:**

Development Application No.	040/0680/16
Applicant	SKM Corporate C/- Calabrese Partners 72 Kermode Street North Adelaide SA 5006
Description of Development	Change of use to materials recycling facility
Subject Land	2 Francis Road Wingfield SA 5013
Certificate of Title	Allotment 1 D 18720 CT Vol 5424 Folio 763
Zone	Industry

The application may be examined at the Office of the Council located at 163 St Vincent Street, Port Adelaide during normal business hours, Enfield Library – Council Office at 1 Kensington Crescent, Enfield or alternatively it can be viewed online via Council's website at http://www.portenf.sa.gov.au/PublicNotification. **The notification period commences on Wednesday 13 April 2016.** Any person or body may make relevant representations in writing concerning this application to reach the Chief Executive Officer at the City of Port Adelaide Enfield, PO Box 110 Port Adelaide SA 5015 by post or via email to customer.service@portenf.sa.gov.au **not later than 11:59 pm on Thursday 28 April 2016**.

Each person making a representation should indicate whether that person wishes to appear personally or be represented by another party before the Development Assessment Panel in support of the representation. If a request to appear before the Development Assessment Panel is granted the representor or their agent will be allowed to be heard in support of their written representation but will not be allowed to submit any additional documents at the relevant meeting. **Please note if you are intending to submit a representation, with changes to delivery timeframes for Australia Post, please allow 2 working days for local deliveries or 6 working days for country or interstate deliveries. Alternatively Council encourages the use of electronic (email) submissions to avoid delays.**

Please note that, pursuant to Section 38(8) of the Development Act 1993, a copy of each representation received will be forwarded to the applicant for a written response. **It will also form part of the publicly available Agenda papers** for the meeting of the Development Assessment Panel when the application is to be considered, therefore will be available to the applicant, agencies and other bodies pursuant to the Development Act 1993, and may be uploaded onto the Council's website as an attachment to the report item in the Agenda of Council's Development Assessment Panel. If you have any concerns over the confidentiality or security content of such documents or information, you should discuss these with a member of Council's planning staff **prior to lodging your representation**.

The Agenda, which will include any representations that have been made, will be available for inspection at the offices of the Council at least 3 clear days before the date of the relevant meeting and online via Council's website from that time onwards.

Please note that no right of appeal against a Council's decision on a Category 2 Development exists to the Environment, Resources and Development Court.

Mark Withers
Chief Executive Officer

City of Port Adelaide Enfield • **T (08) 8405 6600** • **E** customer.service@portenf.sa.gov.au • www.portenf.sa.gov.au
Civic Centre 163 St Vincent Street Port Adelaide South Australia • PO Box 110 Port Adelaide SA 5015
Regional Offices Enfield Library - Council Office • Greenacres Library - Council Office

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.[15] 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.

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.

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.

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.

[15] 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 onsale 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[16] (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%

[16] Tonnages 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.

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.

ALL SERVICE STREAMS

Council Solutions further reiterates that the respective markets for all the Service Streams are dynamic, with new entrants to both Receiving and Processing Service Streams in recent years and a potential new entrant to Waste Disposal with the ongoing investment in Waste to Energy. Additionally, there are providers in Waste Collection established in South Australia but not currently providing MSW services. Council Solutions submits by utilising a RFP process, the competition will be further stimulated and the respective markets are broad and dynamic enough across all three source sectors for the providers to have opportunities in addition to the Proposed Conduct.

ANNEXURE G: CONTRACT VALUES **CONFIDENTIAL**

ANNEXURE H: LOCAL GOVERNMENT GRANTS COMMISSION REPORT

Report 9 – Operating Expenses Summary
Glossary

Business Undertakings
Total Operating Expenses
As per SA LGGC Supplementary Return

Public Order and Safety
Total Operating Expenses
As per SA LGGC Supplementary Return

Health Services
Total Operating Expenses
As per SA LGGC Supplementary Return

Community Support
Total Operating Expenses
As per SA LGGC Supplementary Return

Community Amenities
Total Operating Expenses
As per SA LGGC Supplementary Return

Library Services
Total Operating Expenses
As per SA LGGC Supplementary Return

Cultural Services
Total Operating Expenses
As per SA LGGC Supplementary Return

Economic Development
Total Operating Expenses
As per SA LGGC Supplementary Return

Agricultural Services
Total Operating Expenses
As per SA LGGC Supplementary Return

Waste Management
Total Operating Expenses
As per SA LGGC Supplementary Return

Other Environment
Total Operating Expenses
As per SA LGGC Supplementary Return

Recreation
Total Operating Expenses
As per SA LGGC Supplementary Return

Regulatory Services
Total Operating Expenses
As per SA LGGC Supplementary Return

Transport
Total Operating Expenses
As per SA LGGC Supplementary Return

	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)
Adelaide	38,361	734	1,518	7,721	1,716	5,769	6,448	15,625	990	3,450	19,366	36,109	9,179	17,200
Adelaide Hills	1,159	1,548	817	4,680	307	3,548	34	878	816	4,470	2,595	2,981	3,175	8,996
Alexandrina	3,887	250	487	2,514	645	2,111	591	1,628	289	2,222	3,717	3,454	2,291	10,752
Barossa	3,503	138	533	2,371	1,068	2,102	366	955	793	2,060	2,578	4,166	2,696	5,324
Barunga West	316	36	0	375	150	34	0	85	14	531	288	464	346	1,790
Berri Barmera	2,964	38	15	661	606	1,054	55	449	0	1,251	749	1,880	852	3,084
Burnside	111	1,642	1	6,898	15	3,482	480	3,210	14	6,113	6,891	3,600	5,596	1,352
Campbelltown	192	46	521	2,551	274	3,126	155	284	0	4,196	5,888	6,968	2,241	6,687
Ceduna	1,564	446	20	325	156	36	75	643	0	406	422	812	281	2,912
Charles Sturt	218	387	825	7,818	4,291	7,296	715	632	0	10,453	18,435	15,343	10,451	20,756
Clare & Gilbert Valleys	885	70	41	873	293	648	85	455	0	892	1,208	3,276	715	4,338
Cleve	141	18	0	232	71	22	0	72	24	390	177	446	161	1,419
Coober Pedy	11,646	0	0	652	44	23	0	328	0	404	492	516	49	1,622
Coorong	830	127	162	946	388	81	0	92	2,386	1,477	360	1,208	908	4,683
Copper Coast	2,638	136	446	1,093	396	775	229	1,037	1	7,698	1,417	2,807	1,477	5,353
Elliston	155	46	3	231	193	27	0	63	10	523	242	325	58	1,876
Flinders Ranges	98	48	(2)	102	221	18	33	396	3	345	276	1,086	85	945
Franklin Harbour	203	15	0	67	105	0	0	41	0	288	105	223	134	2,107
Gawler	228	46	264	3,558	298	2,149	32	1,586	2	2,046	3,557	7,475	4,134	4,624
Goyder	688	85	25	441	129	60	16	134	159	373	649	1,011	216	5,205
Grant	1,964	95	1	167	230	492	69	443	29	963	397	611	999	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	5,387	4,572
Kangaroo Island	1,550	284	150	716	500	221	4	48	4	2,100	574	557	653	4,578
Karoonda East Murray	107	41	8	124	97	11	22	61	0	105	123	220	42	1,604
Kimba	379	36	38	74	85	13	0	104	0	226	111	299	39	1,160
Kingston	527	21	0	60	0	36	0	0	0	543	247	823	226	1,810
Light	1,172	48	163	544	171	1,154	308	636	0	1,388	1,054	1,889	2,934	5,717
Lower Eyre Peninsula	873	135	10	290	208	76	4	51	26	984	467	471	513	5,496
Loxton Waikerie	2,336	89	16	1,240	453	593	73	935	0	2,068	942	1,896	876	5,728
Mallala	137	72	61	673	243	335	155	198	59	1,054	943	766	1,685	2,380
Marion	521	570	109	8,261	1,411	6,200	3,553	982	140	6,664	8,118	14,567	7,326	11,583
Mid Murray	2,499	134	425	1,712	740	330	707	390	452	2,496	693	1,287	1,553	5,658
Mitcham	85	1,281	186	4,958	139	3,950	696	0	574	6,804	5,529	8,001	5,274	11,479
Mount Barker	7,837	671	197	1,954	367	1,923	0	859	0	3,487	2,217	4,073	5,012	7,459
Mount Gambier	20	78	157	808	1,253	2,698	1,432	1,806	0	2,151	2,517	2,894	1,600	3,418
Mount Remarkable	795	24	28	418	110	86	0	198	0	680	92	613	111	3,470
Murray Bridge	319	63	5,787	1,621	1,040	1,402	479	867	20	2,696	1,358	1,879	754	4,910
Naracoorte Lucindale	1,279	165	7	511	273	342	102	221	10	1,702	1,033	988	377	5,528
Northern Areas	675	40	258	370	170	335	0	80	51	624	707	977	816	4,643
Norwood, Payneham & St Peters	42	0	0	5,416	178	2,741	995	1,111	0	3,954	5,890	5,638	3,541	4,761
Onkaparinga	5,377	1,768	1,704	13,197	1,402	12,150	1,868	4,112	1	15,277	17,892	24,055	7,831	31,546
Orroroo Carrieton	339	32	0	89	151	17	15	68	38	422	124	403	117	1,755
Peterborough	8	80	1	291	130	108	8	866	0	370	149	251	22	1,034
Playford	1,689	595	2,571	8,507	225	4,484	2,143	5,276	61	8,929	14,934	12,832	5,775	9,814
Port Adelaide Enfield	32	736	1,328	6,947	1,907	7,259	603	4,965	472	12,419	21,813	14,674	6,237	20,988
Port Augusta	1,110	297	11,021	3,086	1,049	644	719	1,538	2,170	1,848	1,477	3,726	1,029	5,813
Port Lincoln	160	375	24	130	328	820	528	322	0	3,408	2,479	2,432	1,071	2,611

	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	294	1,900	1,227	1,176	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	1,286	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	56	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	468	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	7,256
Wakefield	1,105	74	60	491	256	76	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	196	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	586	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.

ANNEXURE I: INFORMATION PACK

Council Solutions™

Waste Management Services Procurement

Information Pack

Adelaide City Council

City of Charles Sturt

City of Marion

City of Tea Tree Gully

City of Port Adelaide Enfield

Contents

Purpose of this Information Pack

- This information pack has been designed to provide further information and clarification to stakeholders regarding the Waste Management Services Procurement as outlined in A91520 application for authorisation.
- This information pack does not amount to, or form part of, any request for proposal process. Any and all information to be relied upon as part of any request for proposal process will be provided in that documentation.

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.

Procurement Objectives

- 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 / or across Service Streams; and
  - Optimal utilisation of infrastructure, including collection vehicles.

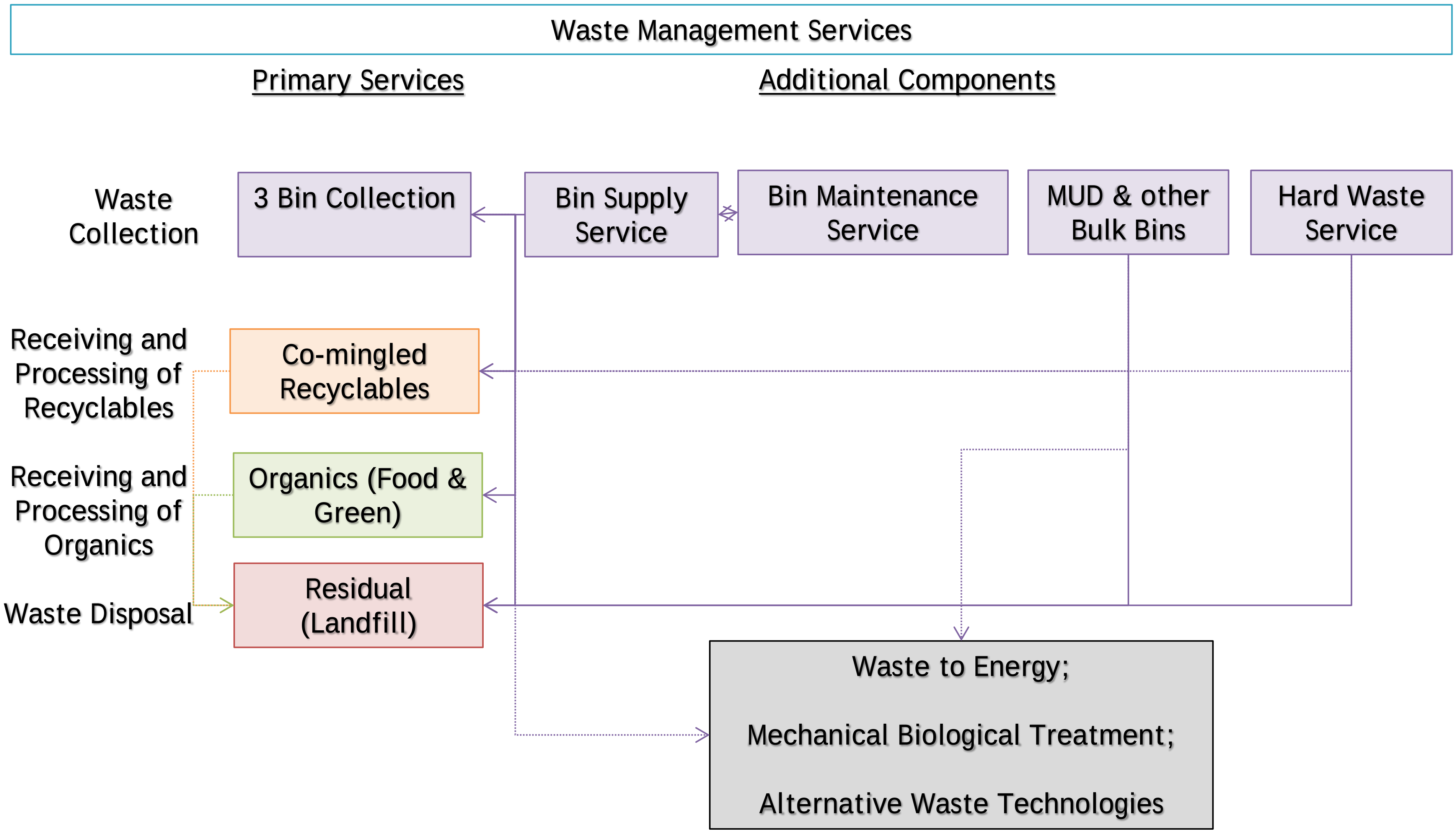
Scope of the Procurement

- 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.

Scope of the Procurement

- There is the potential for single or multiple providers to be awarded contracts, either within the individual Service Streams or across Service Streams
- Within the Waste Collection Service Stream there are smaller service components that may be awarded as separable portions to the three bin collection, such as Hard Waste, Park & Footpath collection and Supply & Maintenance of Mobile Garbage Bins

Scope of the Procurement



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.

Procurement Method / Process

- There will be no prescribed requirement in the RFP for service provision across multiple Participating Councils.
  - ***Providers may offer services to any or all Participating Councils.***
- There will be no prescribed requirement in the RFP for service provision across more than one Service Stream.
  - ***Providers may offer services for any or all Service Streams.***
- The RFP process will solicit legal and binding offers from providers to be utilised to enter into contracts.
  - ***The RFP process is not merely an information gathering exercise (such as a Request for Information) nor is it a pre-cursor to a subsequent procurement process.***

Procurement Method / Process

- The RFP process will:
  - be undertaken in a manner consistent with local government standards for governance and probity (it is anticipated that an independent probity advisor will be engaged to oversee the procurement).
  - include the evaluation of provider proposals against published evaluation criteria to determine the best value for money outcomes for Participating Council communities.
- The RFP evaluation criteria are anticipated to include (but are not limited to):
  - service levels / quality;
  - South Australian Industry Participation principles;
  - environmental outcomes;
  - whole of life cost; and
  - risk.

Contract Operating Terms

- The proposed operating term for each Service Stream will be detailed in the RFP documentation, however the maximum operating term (including extension options) that will be awarded for any Service Stream as a result of the RFP process is 10 years.
- There will no longer be the option to offer a longer operating term.
- The maximum contract operating term has been **reduced from 14 years to 10 years** following industry and stakeholder consultation.

Industry Engagement

- The project team for the Waste Management Services Project comprises members of the Council Solutions team, representatives of the Participating Councils and independent advisors.
- Following ACCC authorisation the project team, led by Council Solutions, will be engaging with industry throughout the project.
- Key aspects of industry consultation and engagement will include:
  - Development and finalisation of the RFP document package;
  - Early notification to the supply market of the upcoming release of the RFP to ensure the broadest awareness of the opportunity; and
  - Industry briefing session/s during the RFP open period to explain the objectives, evaluation criteria, layout and structure of the RFP.

Opportunities for Small Businesses

- The RFP will allow small businesses to determine how they would like to participate in the procurement process and any resultant contracts for service provision.
- Opportunities for small business may include:
  - Submitting a proposal for direct engagement for provision of services in an “additional component” or specialist service area (as there will be no prescribed requirement to provide a proposal for all Service Streams and/or all Participating Councils);
  - Partnering with other businesses to submit a joint proposal for provision of services; and/or
  - Provision of services via subcontract arrangements established with a primary service provider.

Opportunities for Small Businesses

- The industry engagement process and early notification to the market of the RFP process will provide small businesses with time to consider and plan for participation in a manner that best suits their business.
- As part of the industry briefing session during the RFP open period the objectives, evaluation criteria, layout and structure the RFP will be explained which will assist small to medium businesses in preparing a proposal submission.

Approach to Contract Management

- In addition to facilitating the procurement process on behalf of and in conjunction with the Participating Councils, Council Solutions will also have a role in the ongoing contract management.
- It is anticipated that the day-to-day operational contract management will be undertaken by representatives of each Participating Council (as currently occurs).
- The contract management role of Council Solutions is anticipated to be associated with aspects such as KPI / performance monitoring, resolution of any escalated issues, management of pricing reviews (if applicable), etc.

Summary & Close

- The Participating Councils have chosen to collaborate in the procurement of waste management services to seek the best outcomes for their communities.
- The RFP process will not prescribe or pre-empt the optimal approach to the provision of services.
- The RFP process will provide providers the opportunity to propose innovative approaches to Waste Management Service delivery in order to assist the Participating Councils to achieve these outcomes.