

In reply please quote our reference: ECM 661739 EHS/AL

6 June 2018

Mr Gavin Jones
Director Adjudication
Australian Competition and Consumer Commission
GPO Box 520
Melbourne VIC 3001
Emailed: adjudication@accc.gov.au

Dear Mr Jones

AA1000419 – Council Solutions (Waste Processing Service Streams) – submission

Thank you for the opportunity to comment on the application by Council Solutions and the Cities of Adelaide, Charles Sturt, Marion and Port Adelaide Enfield to collaboratively procure Waste Processing Service Streams.

I note that the application relates to three waste processing service streams, being the recyclables processing, organics processing and residual processing service streams.

The Local Government Association of South Australia (LGASA) is the peak representative body for Local Government in South Australia. The LGASA is established by the Parliament of South Australia in Schedule 1 of the *Local Government Act 1999*. The mission of the LGASA is to provide leadership to councils for the benefit of the South Australian community.

Context

Councils in South Australia are facing increasing financial pressures for a range of reasons. State governments have continued to place new and more demands on local government, often without increasing the revenue available to councils to deliver responsibilities. This constitutes cost shifting from state to local government and adds millions of dollars to council costs, resulting in increases to rates.

As the only tax available to local government, council rates are set in consultation with local communities to deliver the infrastructure and services that local communities expect. It must be remembered that council rates comprise only 4% of the total taxes paid by Australians. However, despite the efficiencies that can be demonstrated across the sector, the new Marshall Liberal Government has committed to introducing rate-capping in South Australia, placing further pressure on council budgets.

In addition to the general financial pressures being experienced by South Australian councils, the impacts of China's National Sword Policy are substantial and have the potential to add millions of dollars to recycling costs for councils in South Australia. The LGA commissioned "Market Analysis of South Australian Recyclables" report (Rawtec, May 2018) concludes that at this point in time councils are facing increases in costs of up to \$8.8 million per annum as a result of China's National Sword Policy.

Whilst there are opportunities associated with this change in policy, it will take time for the industry to adjust to the new market conditions and it is likely that, in the meantime, it will fall to councils to manage the increase in recycling costs.

I note that, in relation to the Recyclables Processing Service Stream, Council Solutions' application states (at page 14):

"There is currently instability in the recyclables commodity markets that makes the returns on the sale of recovered material by the processors unpredictable. Accordingly, a shorter initial term is planned, supported by extension options which provide greater flexibility, along with appropriate risk sharing mechanisms (e.g. rise and fall)".

To ensure the continuation of efficient and effective waste management services during this time of industry transition, the LGASA supports both the use of shorter initial contract terms and consideration of appropriate risk sharing mechanisms (i.e. the inclusion of a rise and fall clause specifically linked to recyclables commodity markets).

The LGASA is currently working towards providing consistent advice to all South Australian councils on any re-negotiation of recyclables processing contracts in this regard.

The role and function of councils generally

The LGASA notes that the role and function of councils are generally established under Chapter 2 of the *Local Government Act 1999* (Act). In particular, section 6 of the Act states that it is a principal role of a council "(b) to provide and co-ordinate various public services and facilities and to develop its community and resources in a socially just and ecologically sustainable manner".

Section 7 of the Act states that the functions of a council include "(b) to provide services and facilities that benefit its area, its ratepayers and residents, and visitors to its area (including... waste collection...)".

Section 8 of the Act states that a council must, in the performance of its role and function, "(k) ensure the sustainability of the council's long-term financial performance and position".

Further, the LGASA notes that the role of elected members of councils is set out in Chapter 5, Part 3 of the Act. In particular, section 59 of the Act states that the role of a member of a council is "to keep the council's resource allocation, expenditure and activities and the efficiency and effectiveness of its service deliver, under review".

Therefore, the LGASA's view is that it is incumbent upon councils (both elected members and staff) to adopt a process of continuous review, evaluation and improvement in the delivery of its services and facilities and that this process should seek to identify improvements not just in cost-effectiveness but also towards the triple bottom line of social, environmental and economic outcomes.

Council Solutions application

The LGASA understands that Council Solutions' application for authorisation to collaboratively procure waste processing service streams on behalf of four metropolitan councils represents the culmination of a long and considered process to source the most efficient and effective services for the councils involved that also seeks to achieve (where possible) social, environmental and economic objectives.

The LGASA's view is that Council Solutions' objectives in this regard are consistent with the role and functions of councils generally and accord with the responsibilities conferred on councils under the Act. Additionally, the LGASA's view is that, given the significant transition currently underway in the recycling and waste management industry generally, collaborative procurement processes may in fact offer a number of public benefits that may help to provide stability during this time of change.

In particular, collaborative procurement processes may help to provide the critical mass necessary to ensure the ongoing viability of smaller waste management entities and/or may help to provide the certainty necessary to secure investment in new technology or infrastructure that can open up local markets for recycled materials.

If you have any queries in relation to these comments, please do not hesitate to contact me.

Yours sincerely



Lisa Teburea
Acting Chief Executive Officer

Telephone: (08) 8224 2039

Email: lisa.teburea@lga.sa.gov.au