



**Small Business
Commissioner**
SOUTH AUSTRALIA

SBC201804372

Mr Gavin Jones
Director, Adjudication
ACCC
GPO Box 520
MELBOURNE VIC 3001

BY EMAIL: adjudication@accc.gov.au

T 08 8303 2026
Toll Free 1800 072 722
F 08 8303 0943
E sasbc@sa.gov.au
GPO Box 1264,
Adelaide SA 5001
ABN 34 643 517 562
www.sasbc.sa.gov.au

Dear Mr Jones

AA1000419 and AA1000420 – Council Solutions – Submission

I refer to your letters dated 17 May 2018 inviting interested parties to comment on two applications for authorisation received from Council Solutions on 4 May 2018 (AA1000419 - processing service streams and AA1000420 - ancillary service streams).

I also refer to my previous submission in relation to AA1000414 dated 26 April 2018.

I have considered the two further applications lodged by Council Solutions.

I note from the two applications that the Applicants seek authorisation to the extent the Proposed Conduct may constitute a breach of the provisions of *the Competition and Consumer Act 2010* outlined below:

- cartel conduct (s 45AD)
- anti-competitive agreements (s 45)
on the following grounds:
 - there will be a net public benefit; and/or
 - there will be no substantial lessening of competition as a result of the Proposed Conduct.

The public benefits from the three proposals remain unclear, particularly in light of Council Solutions' request to keep certain documents in the submission confidential.

Further, there is no evidence to support the proposition that there will be no substantial lessening of competition.



It is clear from submissions made by small businesses and a number of industry representatives in response to AA1000414, as published on the ACCC website, that there remain significant concerns about the impact of these applications on business and the lack of transparency with the applications.

The Waste & Recycling Association of South Australia (WRASA) represents small and medium size businesses in the State's waste industry. Members of WRASA are as follows:

- Bettrans / Bettabins
- Budget Mini Bins
- City Skips
- Dial A Bin
- Ecobins
- Fluro Skips
- Hop Skip N Dump
- JJ Richards
- Just Skips
- Oz Bin Cleaning
- Peats
- Remondis
- Scouts Recycling Centre
- Signal Waste
- Solo
- Sterihealth
- Trevor Hatch Waste & RC
- Vacuum Waste
- Wasteaway
- Western Refuse Service
- Zoom Skips
- Zoom / Trailer Trash

I have been made aware of the following concerns which WRASA has with the applications lodged by Council Solutions:

- *“Adelaide is already among the most competitive markets as all national companies listed in already operate in the market. Hence, no new entrants.*
- *Council Solutions state that Adelaide is already serviced by a high number of facilities. Hence no savings will result from a joint tender. If new facilities are required (eg; Alternate Waste Treatment facilities) Councils are already able to work together collaboratively on facility development initiatives.*
- *A joint tender focused on lower prices will not result in improved environmental outcomes as Councils are already able to share resources on environment initiatives.*
- *A joint tender does not produce any transport efficiencies or savings. Costs will rise due to the unusual geographical spread of the Councils if distances travelled in performing waste collection and disposal services are increased.*
- *A joint tender does not result in a more efficient tender submission as all Council tenders require individual costings which is the major time component of tender*

preparation. Joint tenders are often more complicated as Councils needs vary resulting in an increased number of tender proposals.

- *A joint tender does not result in administration savings as individual Council billing and administration remains unchanged.*
- *Excluding Marion and Port Adelaide/Enfield Councils from the landfill tender will not result in savings as they represent 52% of the annual volume.*
- *Due to the promised savings, that we feel will not eventuate, some Councils are rejecting contract extensions that would save Councils and ratepayer considerable amounts. Yet other Councils are accepting contract extensions for collections and processing that undermines the Council Solutions premise of increased buying power. Tea Tree Gully have exited entirely from the 2016 application showing uncertainty, even though they are part owner of Council Solutions.*
- *A joint tender will not result in greater innovation as contractors do not hold back innovation with individual Council contracts. Innovation has been proven to occur in lower risk small to medium contracts."*

In my view, WRASA raises some valid concerns that warrant examination and full investigation by the ACCC.

From the information provided in these applications, it appears that businesses of all sizes will be able to tender for some, if not all, of the work under the various streams. This may maintain a level of competition in the Adelaide Metropolitan waste collection market, and provide suitably qualified and experienced small businesses with the opportunity to tender for work. However, I would ask that if the ACCC does approve these applications, then it must seek an undertaking from the Applicants that will apply the SA Industry Participation Policy (SAIPP) to ensure local companies are given a fair and reasonable chance of competing for these contracts.

Details relating to the SAIPP can be found at:

[http://secure.statedevelopment.sa.gov.au/publications-reports/Publications/20180319-SA Industry Participation Policy.pdf?t=1527907151903](http://secure.statedevelopment.sa.gov.au/publications-reports/Publications/20180319-SA%20Industry%20Participation%20Policy.pdf?t=1527907151903)

While I accept that the relevant contract term has been reduced from the original and wider application lodged by Council Solutions in 2016, my concerns remain about the relevant contract term of 10 years in a dramatically changing market in the waste recycling and disposal area.

We have seen considerable market disruption caused in the recycling sector as a result of the rejection of Australian recyclables by international buyers and the subsequent requirement in South Australia for the State Government to provide additional financial support to councils to continue this part of the waste collection process. See article from www.adelaidenow.com.au "12 May 2018 - SA Government announces \$12m support package for councils and recycling industry to deal with China ban" (attached) for further details.

I respectfully ask that the ACCC fully considers the matters I have raised to ensure that the proposals by the Applicants to combine their waste stream management are in the best interests of the community and the small business sector.

Based on my assessment and the concerns which have been identified in relation to application AA1000420, I oppose applications AA1000419 - processing service streams and AA1000420 - ancillary service streams.

If you would like to discuss my submission in further detail, please do not hesitate to contact me on 08 8303 0927 or john.chapman@sa.gov.au.

Yours sincerely



John Chapman
Small Business Commissioner

6th June 2018

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Trash piling up in Europe as China refuses imports

SA NEWS

SA Government announces \$12m support package for councils and recycling industry to deal with China ban

Simeon Thomas-Wilson, The Advertiser

May 12, 2018 12:26pm

Subscriber only



MORE than \$12 million will go towards South Australian councils and the recycling industry to help them deal with the fallout of a Chinese rubbish ban threatening to cripple them.

The State Government today announced a \$12.4 million support package for the recycling industry and local government to counter what has been dubbed China's National Sword Policy.

[The change by China](#), banning imported paper and plastic, sent shockwaves through Australia's councils since it was announced in January.

SA Environment Minister David Speirs said the package would not only help councils and the recycling industry adjust to the changes, but could also allow them to drive innovation in the sector.

"Many people would be aware that several months ago China changed its policy around the types of waste that it would take from Australia," Mr Speirs said.

"China had previously taken about five per cent of Australia's recyclable waste and that has created a significant change in what has happened in Australia's recyclable industry.



📷 Northern Adelaide Waste Management Authority chief executive officer Adam Faulkner at their facility in Edinburgh, SA.

“That has had a big impact on the way that waste management is able to occur in an affordable way and there has been a need for Australia’s waste management sector to adjust to the new situation.”

The \$12.4m package will be over the next two financial years and applications for it will open this week.

It will be made up of \$5.8m in infrastructure grants for local government and industry to maintain and improve the capacity of South Australia’s recycling systems, a \$5m loan scheme to support projects with large capital requirements that can have an immediate impact on local reprocessing of targeted waste, \$500,000 to help transport of recycling in regional areas, \$300,000 for market development grants and \$800,000 towards a statewide education campaign around recycling.

Mr Speirs said the main goal was ensuring that [South Australia could avoid what took place in Queensland](#), where one of its biggest councils, Ipswich City, announced it would dump all recyclable materials from household yellow-top bins into landfill.

“What we saw with Ipswich City Council in Queensland was quite disgraceful, we don’t want to get into a situation where our residents are putting rubbish into their yellow bin and thinking that will end up in landfill because that will result in a loss of confidence in the industry more broadly,” he said.



📷 File photo: A Chinese labourer sorting out plastic bottles for recycling in Dong Xiao Kou village, on the outskirts of Beijing, in 2015 / AFP Photo/Fred Dufour

“We are putting money on the table to ensure that we don’t get into that situation.”

But Mr Speirs said the State Government would not do what was at the top of the Local Government Association SA’s wishlist to address the China crisis and freeze increases to the Solid Waste Levy.

“Many businesses have built the solid waste levy into their forward estimates it gives the industry certainty and allows them to innovate,” he said.

“That levy will not be changing but that package we have on the table now offers a range of ways to access funding.”



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