

## Response to submission from interested party AA1000420

### Opening Statement

The following submission is provided regarding the *Waste & Recycling Association of South Australia's (WRASA) submission in response to Council Solutions Application AA1000420*, dated 18 June 2018.

A large proportion of the matters raised in the submission from WRASA have been addressed in the Council Solutions' submission "*AA1000414 Response to submissions from interested parties 18 May 2018*". Accordingly, Council Solutions responds in this submission to selected statements from the WRASA submission to AA1000420.

WRASA's submission makes many statements in opposition to AA1000420, regardless of whether one argument contradicts the next. For example:

- WRASA claim an RFT that allows a potential supplier to tender for a single Ancillary Service Stream (e.g. Hard Waste Collection) is too large and will limit competition:

*"a tender of this size may in fact deter companies from tendering due to smaller organisations having limited access to the large capital requirements and bank guarantees required to be competitive for a tender of this magnitude." (WRASA submission, pg 5).*

- WRASA then go on to argue that the scope of the RFT is too small and should combine all Ancillary Service Streams in a contract with kerbside 3 bin collection:

*"Council Solutions have mistakenly separated multi unit dwelling bulk bins, hard waste and public bins from kerbside collection services instead of the most efficient solution of combining each respective Councils' ancillary services with its own kerbside collection services." (WRASA submission pgs 7-8)*

- WRASA however then go on to state that Ancillary Service providers should not be compelled to tender for other services (such as kerbside 3 bin collection):

*"We agree that companies should be able to tender for any of the ancillary services alone..." (WRASA submission, pg 26).*

Based on the above, WRASA may in fact support the Proposed Conduct, as AA1000420 and AA1000414 afford the potential suppliers in the market the following options:

- Under AA1000420, potential suppliers can tender directly to the Participating Councils as prime contractors for of any one or more of the Ancillary Service Streams; and
- A potential supplier who tenders for kerbside 3 bin collection under AA1000414 may choose to also submit a tender for any of the Ancillary Service Streams under AA1000420.

**WRASA SUBMISSION (PART A) IN RESPONSE TO COUNCIL SOLUTIONS APPLICATION AA1000420-1 TO THE ACCC DATED MAY 4, 2018**

(Page 3) Two very important faults exist with the new Application for Ancillary Services relating to Tendering Costs;

(1) the 3 services; bulk bins, hard waste and public litter, all use completely different vehicle equipment for lifting and loading. This is front lift or rear lift for bulk bins, manually loaded rear loader or tray truck for hard waste and side loaders for public litter. I.e., the 3 Ancillary services have no reason to be grouped together in one Application or tender process with the services often being provided by 3 separate companies.

As per AA1000420, Council Solutions confirms that potential suppliers are not required to tender for all 3 Ancillary Service Streams and are free to tender only for the stream or streams(s) that they choose.

(2) the participating Councils may choose to take the disposal/processing component of each of the Ancillary Services providers. With 3 services and 3 (garbage, recycling and organics) waste streams a simple tender price for collection of a waste stream now needs to include combinations for inclusion or exclusion of disposal or processing for garbage, recycling and organics, for each of hard waste, multi-unit bulk bins and public bins. This becomes incredibly complex for relatively small contracts with highly variable risk profiles for tenderers and difficult to assess and compare submissions.

The approach to pricing for tenderers is not complicated and will be as follows:

- Hard Waste: \$ per collection + \$ per tonne for processing and disposal
- Street Litter: \$ per lift for collection + \$ per lift for processing and disposal
- Bulk Bins: \$ per lift for collection + \$ per lift for processing and disposal

It is expected that the Ancillary Service provider(s) will be contracted for both collection and processing and disposal of each service stream. In the event that an Ancillary Service provider was not contracted to provide processing and disposal for a service stream then only the “\$ per lift for collection” would apply.

(Page 3) Council Solutions have made a major mistake by separating the public bins from the kerbside collection services as they both use the same trucks in the same streets, often on the same collection days. Any environmental outcome is lost as kerbside collectors do not know if they can combine the similar residential kerbside and public bin services.

Potential suppliers who tender for kerbside 3 bin collection under the Proposed Conduct for AA1000414 (Collection Services) are not precluded from tendering for any of the Ancillary Service Streams under the Proposed Conduct for AA1000420.

Council Solutions also provides the following from the submission made by the Environmental Protection Agency (**SA EPA**) with regard to AA1000420, dated 22 June 2018:

*“The Council Solutions application offers significant environmental benefits that align with South Australia's Strategic Plan target of a 35% reduction of waste to landfill by 2020... In particular the application has the potential to result in improved resource recovery by:*

- ***better management of collected waste streams driven by secure contracts of larger volumes and an improved focus on the processing of recyclables, organics and residuals from these waste sources due to ancillary services being contracted separately, rather than as an add-on to kerbside waste contracts...***

(Page 4) For education purposes, multi-unit dwelling bulk bins should obviously be part of the education campaign being delivered to other dwellings in each street. By separating it from the waste collection services tender and combining it with incompatible hard waste, tenderers cannot assume they are providing both services and therefore delivering an education service that is consistent from property to property along each street and to public street and park bins and hard waste. This Application is worse off for environmental outcomes than all other previous Applications.

Under the Proposed Conduct, suppliers will know well before the commencement of service delivery which service stream(s) they have been awarded a contract for and will work in partnership with the Participating Councils to plan and coordinate consistent messaging and education.

Currently each Participating Council has its own independently generated educational material available for their community, however this educational material tends to focus on the 3-Bin System and is less likely to address residents in multi-unit dwellings who may be using Bulk Bins. There is some consistency across the Hard Waste Collection material, however there are also differences in presentation, content and detail – often relating to permissible items for disposal, the quantum of waste permitted and set-out conditions. Street Litter information not only varies between the Participating Councils, but also between different locations within each Participating Council area. This lack of consistency and confusion can result in contamination of source separated systems, such as Bulk Bins or Street Litter Bins that provide a recycling option. Contamination can reduce the value of the recovered resources or, where contamination is too high, result in loads of potentially recoverable wastes being abandoned to landfill. One contaminated Bulk Bin can significantly degrade the recyclable or, where applicable, organic wastes collected for a whole run so consistency of message is highly desirable.

Under the Proposed conduct a consistent message that recognises the cross-Council nature of the collections and that is reinforced across the Participating Councils can help increase diversion of waste and improve the quality of recovered resources. With the focus on collaboration as a result of the Waste Management Services Project, the Participating Councils will work together to develop targeted educational material relevant for Bulk Bins, Hard Waste and Street Litter Bins respectively. This could include translated consistent messaging on Street Litter Bins for visitors to the area, targeted resource recovery drives for Hard Waste or combined messaging for Bulk Bins.

Education is one of the key tools available to governments at all levels to increase diversion and reduce generation. Where Bulk Bins are utilised, diversion can be harder to achieve due to reduced diversion options (e.g. no organic waste option for food waste). Similarly, for Street Litter Bins where there are no diversion options all waste will end up in landfill for processing. This is where education can play a critical role in raising awareness regarding alternate options to ensure diversion is not 'dragged down' as a result. For sites with Bulk Bins, this may be supplying information to encourage community composting. For Street Litter Collection, it may be reinforcing the reduction of waste by encouraging 'take home and separate' to ensure diversion, or promoting the concept of 'nude food' when attending public spaces. By promoting the other reuse opportunities available for Hard Waste, such as donation or 'buy, swap, sell' sites and groups, waste that would end up in landfill or would be recycled may have a new life through reuse, reinforcing the waste management hierarchy.

Council Solutions also provides the following from the submission made by the Environmental Protection Agency (**SA EPA**) with regard to AA1000420, dated 22 June 2018:

*"The Council Solutions application offers significant environmental benefits that align with South Australia's Strategic Plan target of a 35% reduction of waste to landfill by 2020... In particular the application has the potential to result in improved resource recovery by:*

- ***reduced waste production and less contamination of recyclable, organic and residual waste streams, by better informed ratepayers due to combined education materials and better targeted and managed communication strategies,***

*The application also supports the waste management objective of the Environment Protection (Waste to Resources) Policy 2010 to achieve sustainable, best practice and accountable waste management by:*

- *having effective recording, monitoring and reporting systems for waste transport, resource recovery and waste disposal, and*
- *within the community promoting environmental responsibility and involvement in waste avoidance, waste minimisation and waste management."*

(Page 5) The Council Solutions combined Ancillary Services will definitely reduce a competitive environment. Smaller to medium sized businesses may tender but they will find it very difficult to win....The proposed conduct will definitely not attract additional players to the market, or, to be more relevant, give a new player a good chance of being successful so they can bring more competition to the market.

As with the Waste Collection Services Application, Council Solutions does not address the industry concerns raised in 2016 that a tender of this size may in fact deter companies from tendering due to smaller organisations having limited access to the large capital requirements and bank guarantees required to be competitive for a tender of this magnitude.

The Participating Councils will not require the provision of bank guarantees for any of the Ancillary Service streams.

The Ancillary Service Streams have been specifically separated out from the more mainstream kerbside 3 bin collection tender for the specific purpose of opening up the tender opportunity to a wider number of potential tenderers, in particular small businesses. Many small and medium sized waste service providers are excluded from tendering for these services because in traditional tenders these service streams are bundled with kerbside collections, which are out of reach of the smaller industry participants. In addition, with the bulk bin and hard waste service streams, the separated tender opportunities will open the market to a number of service providers which would otherwise not participate in local government waste collection services tenders.

The claim relating to “large capital requirements” is factually incorrect and misleading. The service streams relevant to this application (A1000420 Ancillary Services) are in no way as capital intensive as those associated with the other two applications and capital investment capacity does not present a barrier to entry for interested potential tenderers – as is the case with kerbside collections and waste processing.

Regarding the **collection of bulk bins** the following should be noted. In the Adelaide market there are multiple service providers of varying size and financial capacity that will be interested to tender for this service stream – including the largest of the service providers in the Adelaide market. The vast majority of those parties are not sufficiently resourced or experienced to participate if the tenders were bundled into a comprehensive collection suite, as is commonly the case for many local council tenders. On this basis, this approach to offering un-bundled tenders will increase competition and increase the number of parties interested in tendering – quite the reverse of the stated claim. It is also worth noting that with bulk bin services capital is not a barrier to entry and the quantum of services being offered for tender in this instance is relatively small when compared with the wider market for bulk bin services. In addition, with the quantum of the services being small at commencement and growing over the term, this tender affords a unique opportunity for small to medium suppliers to participate and grow their capacity at a pace which is neither capital nor resource intensive.

Regarding the **collection of street litter** the following should be noted. Under traditional tendering arrangements street litter collection is bundled with kerbside collections and therefore out of reach of a number of smaller service providers that are capable of, and suitably resourced to, provide these services. As is the case with bulk bins and hard waste, this arrangement for tendering these services opens the market to competition and ensures more participants can tender that is usually the case.

Regarding the collection of **hard waste** the following should be noted. Whilst the same arguments refuting the claim in respect of hard waste collection can be made as for both bulk bins and street litter, the hard waste market is seeing changes that could well be lost if tendering along traditional lines were followed. In separating out hard waste from the other collection services one aim is to seek opportunities and proposals for higher levels of diversion from landfill than is currently achieved. There is a small number of small business specialist service providers already in this market, and there is opportunity for more to emerge – both from existing small and medium sized providers and from possible new entrants into the market.

For existing service providers, the offer of an aggregated amount of hard waste from all Participating Councils is likely to be sufficient to encourage investment in new collection vehicles which are better suited to separating collected materials along the collection route, increasing the potential for greater diversion from landfill than is currently achieved.

For the new entrant, there is opportunity that dedicated facilities producing manufactured fuels might seek to secure supplies of hard waste if the size of the waste stream on offer is sufficient to warrant attention. There is already one successful fuel manufacturer in the Adelaide market, which has recently entered the Sydney market specifically targeting suitable waste streams including hard waste; and there is potential that other providers may consider entering the Adelaide market as energy policies change and alternative sources of energy become financially attractive.

Accordingly, Council Solutions re-affirms that the opportunity presented by the Participating Councils under the Proposed Conduct will encourage all potential suppliers capable of providing any or all of the Ancillary Services to compete and submit tenders when the RFT is called

The tendering of the Ancillary Service Streams by the Participating Councils under the Proposed Conduct increases the opportunity for competition as it allows potential suppliers who are capable of providing any or all of the Ancillary Service Streams to tender for that Service Stream/s **without also being required to provide 3-Bin System collection services**. This will open up the Ancillary Service Stream opportunities to potential suppliers, large and small, generalist and specialist, to tender.

Council Solutions confirms that as per AA1000420, a tenderer can choose to bid only for the service stream(s) that is their core business/ speciality and tenderers are not required to offer all service streams.

(Page 7) ...due to the “geographic spread of councils” improved efficiencies are unlikely....the “small degree of shared boundaries” make it unlikely that improved efficiencies will result... This is magnified for the separated Ancillary Services as the work volume is much lower than the larger Waste Collection services.

The Ancillary Services RFT comprises three elements and the claim above makes no differentiation in its objection between those three services. In the case of Bulk Bins, shared boundaries are unlikely to be a key factor. In the C&I bulk bin market notional geographical boundaries, such as LGA boundaries, do not feature in the planning and scheduling of collection runs. Using sophisticated software systems, service providers juggle location, waste type, collection days and fleet dynamics to arrive at the most efficient collection run at the time – with no consideration of who the owner (council or business enterprise) might be.

In the case of Street Litter and Hard Waste, shared boundaries is only one of a number of benefit areas associated with service efficiency – the others include shared overheads, shared maintenance, shared garaging, shared management and supervision, shared customer service – all of which contribute to service efficiency and will be available to the City of Marion.

Whilst Marion does not have shared boundaries with the other Participating Councils, it is acknowledged that route-related service efficiencies for Street Litter and Hard Waste may not be achieved in respect of Ancillary Services delivered to Marion. However, the other Participating Councils do have shared boundaries and route-related service efficiencies will be realised in respect of the Street Litter and Hard Waste services delivered to those Councils

In respect of bulk bins, street litter and hard waste collection, lower costs for Participating Councils through improved purchasing power and improved service efficiency are outcomes that will be maximised under the Proposed Conduct where the market is afforded the opportunity to tender and secure a greater volume of work that is consolidated and assured under a combined Council contract for an attractive period, compared to the fragmentation that occurs currently.

A key stated objective in offering **street litter** and **hard waste collection** services to the market as separable and standalone service is to foster the participation of small business. And through bundling the services from all Participating Councils, to provide a level of surety of cash flows to small businesses that would encourage those businesses to invest in appropriate fleet infrastructure.

Traditionally local government contracts out street litter services as part of the kerbside collection package, which means small businesses are excluded from tendering as the prime contractor and relegated to a subcontract role, if such a role is offered by the prime contractor. As a subcontractor, small business would be a price taker and would likely see margins squeezed to fit within the cost and margin profile of the head contract. In these circumstances the small business operator would be in a less advantageous position than one might reasonably expect if the same small business were the prime contractor for the street litter services in their own right.

(Pages 7-8)... nor has Council Solutions addressed the invoicing concerns raised by the ACCC in paragraph 142.

We note that on the one hand WRASA highlight the point in bold text on page 7 of their submission that ***“cost savings depend upon participating councils being prepared to share services across council boundaries, which may involve complexities in identifying costs relevant to their ratepayers”***;

and then go on to state on page 8, ***“it is currently standard practice of collection contractors to use trucks that are shared across council areas for front loaders, rear loaders and tray trucks”***.

In the case of Bulk Bins the services are, in all probability, likely to be delivered by a service provider already deploying bulk bin services across metropolitan Adelaide to the C&I sector. In the C&I bulk bin market notional geographical boundaries, such as LGA boundaries, do not feature in the planning and scheduling of collection runs. Using sophisticated software systems, service providers juggle location, waste type, collection days and fleet dynamics to arrive at the most efficient collection run at the time – with no consideration of who the owner (council or business enterprise) might be.



In all collection service contracts it is common practice that the service provider record relevant data relating to each and every collection, such as location and number of bins collected. This practice has been in place for many years, primarily for managing customer service complaints and minimising the potential for fraudulent collections being included in collection routes (i.e. collections made from non-permitted premises). With this information relating to individual services it is a straight forward matter of streaming collections data from multiple councils into sets relating to individual councils for the purposes of reconciling tonnages to each council and invoicing each council.

Where bins are not weighed individually, a common situation in collections from residential services, the number and size of bins collected is used as a basis for reconciling tonnes and charges back to individual source owners – in this instance the Participating Councils.

Similar systems also operate in the C&I market, where a contractor may collect multiple bins from multiple sites for the one client. In-house software then collates the relevant data on a client-by-client basis for the purposes of reporting and invoicing.

#### **PREVIOUS COMMENTS MADE IN OUR OTHER SUBMISSIONS RE INVOICING**

- Where the truck collects from premises in multiple Participating Councils' areas, the Contractor will only charge each Council for those bins collected within the respective Council's area. Collection vehicles will identify where collections are made, the Council in question responsible for payment and the number of bins for that Council. Periodic invoicing will be on a business as usual basis with invoices identifying the number of bins collected per Council times the rate for collection for each Council. This process is as per today and in no way differs from usual custom.
- the arrangements established between Participating Councils and the processors regarding invoicing are outside the scope of the Proposed Conduct and will have no bearing on the services provided, or the fees charged, by the collection contractor. Notwithstanding this lack of relevance, for clarity, where bins from multiple Councils are loaded into the same collection vehicle, Councils will split payment to the disposal or processing contractor on a pro-rata basis using the numbers of bins collected from each Council – on the assumption that bins with the same material stream but from different Councils are most likely to yield the same or close to weights per bin lift:

(Pages 7-8)...to reaffirm, Council Solutions have mistakenly separated multi unit dwelling bulk bins, hard waste and public bins from kerbside collection services instead of the most efficient solution of combining each respective Councils' ancillary services with its own kerbside collection services.

On the one hand WRASA assert in this submission that *"a tender of this size may in fact deter companies from tendering due to smaller organisations having limited access to the large capital requirements."* and then as above advocate for an increase in the scope that combines the Proposed Conduct under AA1000420 and AA1000414 into a single RFT process for kerbside 3 bin collection and all Ancillary Services.



As stated previously, potential suppliers who tender for kerbside 3 bin collection under the Proposed Conduct for AA1000414 (Collection Services) are not precluded from tendering for any of the Ancillary Service Streams under the Proposed Conduct for AA1000420.

(Page 8) 3. Further to point 2 above, the ACCC refers to “evidence presented as to the optimal size for efficient waste collection services” that was supplied by Professors Dollery and Burgan in 2016 confirming the optimal council size for collections is between 20000 and 50000 households and that diseconomies of scale are present in larger contracts, proving “bigger is not always better”.

This “evidence” has been addressed in depth in the response provided in Council Solutions’ previous submission “AA1000414 *Response to submissions from interested parties 18 May 2018*”. Provided below is an extract of elements from this submission.

WRASA’s submission that the optimal council size for collections is between 20000 and 50000 households cites multiple reference documents as the source of this number, all of which can be traced to an academic paper authored by Barbara J Stevens, first submitted for publication in September **1976**, with a revised edition in April **1977**.

It is regrettable that none of the authors of the submissions made by WRASA appear to have read the depth and breadth of the academic dissertation; rather they have grasped a number presented as a threshold tipping point in the paper, without interrogating the basis for either that number or indeed the rational of the study itself. For multiple reasons the paper by Stevens is inappropriate in the context in which it has been used in the submissions and in our view has no relevance to this Application and should carry no weight with the ACCC for the following reasons:

- the study is based on data from the waste collection industry in the **USA**;
- the study represents an academic attempt to develop regression analysis on cost data provided by the various authorities and does not delve into the costs themselves;
- by its own admission the paper states that the scale range of the study is constrained – “*All cost comparisons across market structures must hold the scale of operation constant, at least for the range of markets where scale economies may be reached*” – a statement on page 439 of the article in the section headed Theoretical Framework;
- the data must obviously pre-date the submission date for the paper (circa 1976) and is therefore **over 40 years old**;
- the waste collection industry in the USA in the years preceding 1976 is vastly different from the waste industry in the Greater Adelaide Region in 2018; and
- the study was a comparison between the costs for collection of monopoly government providers and monopoly private sector providers – which bears no relationship to a competitively tendered contract in the Greater Adelaide Region, whether procured collaboratively or independently.

For these reasons alone we contend this paper, and thus every subsequent paper citing the relevant data from this paper, has no relevance to this submission and should be completely disregarded by the ACCC in reviewing this application.

(Page 8) As with the waste collection services submission from WRASA, Council Solutions further presume that efficiencies will be gained via reduced spare vehicles. However, it is currently standard practice of collection contractors to use trucks that are shared across council areas for front loaders, rear loaders and tray trucks. I.e., businesses around Adelaide are currently permitted to use shared trucks and not new trucks for services such as hard waste or bulk bins. Combining 4 geographically spread councils into 1 contract cannot possibly provide a more efficient solution and will quite likely see higher prices, especially if Council Solutions broadly specify new trucks or exclusive use of trucks. Therefore, as this saving is already available to Councils who tender independently, a net public benefit cannot be claimed and a detriment is highly likely.

The Ancillary Services RFT comprises three elements and the claim above makes no differentiation in its objection between those three services. In the case of Bulk Bins, the service provider is most likely to be already providing bulk bin services in the C&I market and the tender specification is agnostic on the branding of the vehicles. On this basis, the service provider will be at liberty to provide any vehicle they consider suitable for the delivery of the Bulk Bin services and thus might draw on their commercial fleet for the purposes of spare vehicles in instances where maintenance and downtime render specific vehicles unavailable. Therefore, for the Bulk Bin element of the RFT, it is highly unlikely that tenderers will include pricing provisions for dedicated spare vehicles.

Again, the issue of shared boundaries is unlikely to be a key factor when it comes to spare vehicles. In the C&I bulk bin market notional geographical boundaries, such as LGA boundaries, do not feature in the planning and scheduling of collection runs. Therefore, any suitable vehicle from an existing C&I collection fleet that services a wide geographical area across Adelaide could be deployed for collections under the proposed RFT in the event of breakdown or vehicle maintenance.

In the case of Street Litter and Hard Waste, shared boundaries is not a pre-requisite for the service provider to gain service efficiencies in the area of spare vehicles. The vast majority of waste collection service providers service clients across the greater part of metropolitan area – including for the provision of hard waste and street litter collection services. With the tender specification being agnostic on the branding of the vehicles, the service provider will be at liberty to provide any vehicle they consider suitable for the delivery of the Hard Waste or Street Litter services and thus might draw on any vehicles in their fleet for the purposes of spare vehicles in instances where maintenance and downtime render specific vehicles unavailable. Shared boundaries have been cited as only one of a number of benefit areas associated with service efficiency – the others include shared overheads, shared maintenance, shared garaging, shared management and supervision, shared customer service – all of which contribute to service efficiency and will be available to all Participating Councils, including the City of Marion, and the potential for not having to price in dedicated spare vehicles for these two service elements will deliver savings to all involved.

A key stated objective in offering **street litter** and **hard waste collection** services to the market as separable and standalone service is to foster the participation of small business. And through bundling the services from all Participating Councils, to provide a level of surety of cash flows to small businesses that would encourage those businesses to invest in appropriate fleet infrastructure and maximise the potential to draw on their wider fleet of vehicles in instances of specific vehicles being unavailable.

(Page 9) WRASA believe that although the Ancillary Services theoretically represent a small portion of the total waste services, due to the way Council Solutions have structured their Applications, a potentially crippling element exists which will see information sharing and cost savings not only improbable but likely to render the tender process and contract poisoned with an insurmountable hurdle. With all Councils required to agree on 1 contract for each of the Ancillary services, possibly combined with other Ancillary services and other waste services, and with each ancillary service either including or excluding garbage, recycling and/or organics disposal and processing, and some Councils having different arrangements for disposal in the Waste Disposal Application, the joint procurement exercise proposed by Council Solutions sets the scene for a lowest common denominator solution for the Councils arrived at through difficult and unsatisfying discussions amongst the participating Councils and Council Solutions.

The Applicants see no issues in being able to share information and we note in this submission WRASA state on page 8, *“it is currently standard practice of collection contractors to use trucks that are shared across council areas for front loaders, rear loaders and tray trucks”*.

Development of the RFT documents for the Ancillary Service Stream has been straight forward and is substantially complete and has been undertaken by Council Solutions in consultation with representatives from each of the Participating Councils, none of whom foresee difficulties or challenges in the area of information sharing

In its submission, WRASA shows a lack of understanding of the intent of the tender process for Ancillary Services, or is intentionally attempting to concoct a convoluted situation where multiple contractual arrangements might exist and thus lead to frustration in the area of information sharing.

The Ancillary Services RFT covers three primary service elements and only one service provider will be selected for Bulk Bin and Hard Waste Collection. For Street Litter Collection, the Participating Councils reserve the right to appoint up to two suppliers, but for each of the service streams, a single service provider will deliver the services to each Participating Council. Therefore, there will only be three (3) contracts involved at each Council.

The tender specification allows the option for tenderers to submit offers to collect only, and to collect and dispose/process. In the first instance, the successful tenderers will collect the relevant waste stream(s) and deliver those wastes to nominated facilities where contracts will already be in existence for the receipt and disposal/processing of those waste. In the latter instance, the successful tenderers will be responsible for both collection and disposal/processing of the respective waste streams at their discretion, subject to conditions relating to the efficacy of the disposal/processing arrangements tendered.

The reasons for this approach are as follows:

- for many of the small to medium businesses, for whom the separation of these Ancillary Services from the main kerbside collections has been designed, access to disposal/processing arrangements may not be easily or cost effectively negotiated thus inhibiting their potential of submitting a competitive tender for their primary strength area of collection;
- through RFT 2, Council Solutions will secure contracts for the receipt and disposal/processing of mixed waste, recyclables and organics for the kerbside collected waste streams. These will be substantial contracts and quite likely secured on favourable terms relative to prevailing market conditions. Therefore, these disposal/processing

arrangements may be preferred outcomes for the wastes collected under the Ancillary Services RFT3 than those which the Ancillary Services providers might achieve individually. Hence the option reserved to Council Solutions of accepting either a collect only or collect and dispose/process tender.

This arrangement does not increase the number of contracts to be managed, and does not increase the number of service providers involved in the overall delivery of the services. This arrangement either:

- a) replicates what will pertain under RFT1 - collect and deliver to nominated facilities, or
- b) allows service provider of Ancillary Services the discretion (and responsibility) on the disposal/processing of the collected wastes.

---

**WRASA SUBMISSION (PART B) IN RESPONSE TO COUNCIL SOLUTIONS APPLICATION TO THE ACCC DATED MAY 2, 2018**

The majority of matters raised in Part B, of this submission have been addressed in AA1000420, in the Council Solutions' submission "*AA1000414 Response to submissions from interested parties 18 May 2018*" and/ or in earlier sections of this Council Solutions submission.

Accordingly, Council Solutions responds below to selected statements from Part B below.

**Executive Summary**

1. Page 1, Clause 1 -The proposed contract is now 3 single contracts which binds all Councils for each of the 3 Ancillary Services. This is being done in the absence of a tender specification or contract document discussion and agreement process between the Councils and Council Solutions.

Council Solutions has developed the specification in consultation with representatives from each of the Participating Councils and the development of the specification and contract documents has not been difficult and is well advanced. Copies of the specification for each of the Ancillary Services Streams have been provided to the ACCC in confidence. To ensure a fair and equitable tender process, all relevant RFT documentation will be released to the market as a whole at the same time and by the same method (that is via the SA Tenders and Contracts website).

2. Page 1, Clause 1 - Council Solutions proposes to be the agent for procurement, negotiation and contracting. They have provided no further detail about how they will address their lack of waste industry knowledge and experience.

AA1000420 clearly details the roles and responsibilities of Council Solutions, the Participating Council's waste specialists and the specialist waste industry advisors to the procurement.

**Description of the Proposed Conduct**

9. Page 7, Clause 4.1 - The new Application now requires that the Participating Councils commit to a joint contract for each of the 3 Ancillary Services. At this point, with no specification written (more advanced Victorian collaborative procurement guidelines require a specification for ACCC approval),

Council Solutions has developed the specification in consultation with representatives from each of the Participating Councils and the development of the specification and contract documents has not been difficult and is well advanced. Copies of the specification for each of the Ancillary Services Streams have been provided to the ACCC in confidence. To ensure a fair and equitable tender process, all relevant RFT documentation will be released to the market as a whole at the same time and by the same method (that is via the SA Tenders and Contracts website).

12. Page 8, Clause 4.2.2 – As was the case with the Council Solutions Application for processing services, they have been misleading in suggesting in this clause that C&I and C&D waste is relevant to the proposed conduct. All Ancillary Services only service households, both single and multi-units, public street and park bins. No commercial premises are served in the proposed conduct.

Section 4.2.2 of AA1000420 states:

*The first source sector, MSW, is “solid waste generated from domestic (household) premises and council activities such as street sweeping, litter and street tree lopping. May also include waste dropped off at recycling centres, transfer stations and construction waste from owner/occupier renovations.”<sup>1</sup> The wastes to be collected and processed under the Proposed Conduct are wholly within, but do not cover this entire source sector. However, for the purposes of market definition the size of MSW in its entirety will be used. The Proposed Conduct does not include the C&I and C&D source sectors, which are predominately managed by the private sector via separate contracts with generators of those waste types.”*

(Pages 17-18) Any ability for Council Solutions to gain any savings in education programs that may extend to Ancillary Services (which it should to align with standard household services in the Council area) is severely hampered as each of the Council areas have different arrangements for multi-unit dwellings, hard waste and public bins.

As was the case with the different bin systems for standard kerbside collection where all Councils had different coloured wheelie bin systems, systems refined over many years to suit each individual Council will need to be aligned to the lowest common denominator if Council Solutions are to be able to effect any sort of common education activity.

As was the case with the Collection Services Application significant additional cost would apply to the Councils to try to align the ancillary bin systems to allow not only common education activities but contract administration that is not incredibly confusing with different rules for different councils.

Community education relating to waste services is not a stream-by-stream stand alone effort. The education is an integrated, whole of community effort to focus behaviour and demonstrate how choices made by the community on how they discard their wastes between the various streams available will influence the final outcome and environmental impact. An obvious example is the effect of contamination on outcomes that can be achieved through processing the recycling and organic waste streams. The message that community education seeks to deliver is that wastes and plastic bags (which should go to the mixed waste stream) are detrimental when placed in either the organics or recycling bins.

The Ancillary Services streams are no different – particularly when it comes to Bulk Bins and Hard Waste. With Bulk Bins the same messaging applies as is seen for other kerbside collections. With Hard Waste, the messages are about what is safe and correct to dispose via the kerbside hard waste collection system and how challenging waste should be disposed.

<sup>1</sup> Recycling Activity Survey, page 84.

Whilst some operational aspects of service delivery may differ between the Participating Councils e.g. collection days, modes for ordering hard waste collection, etc. the core messages relating to wastes will remain constant –

- contamination remains contamination irrespective of collection days,
- hazardous wastes set out on the kerbside for a hard waste collection pose dangers to all parties irrespective of how the services are ordered by the customer or on what day the collections are made,
- some wastes, such as mattresses and electrical wastes are not suitable for hard waste collections,
- uncontrolled dumping of waste in isolated areas around the community are dangerous, unwanted and costly to remedy, irrespective of how many hard waste collections are available to residents,
- some chemical wastes, such as pool chemicals, lead acid batteries, paints and solvents – are not suitable for disposal in the mixed waste bin no matter what colour the bin lid,
- every item of waste that can be re-processed, recycled or beneficially processed that is discarded in the correct bin, will reduce the amount of waste sent to landfill, improve environmental amenity and deliver a more sustainable future for society.

On this basis, the claim that the educative messages will be severely hampered because there may be some differences between Participating Councils in the operational configuration and delivery of some services is rejected.

Pages 18-19 of WRASA Submission state:

Council Solutions note that the processing/disposal of collected material is included, which is highly unusual if Council has a processor. Council Solutions detail later how they may decide to have their processing/disposal contractors accept the material if that is deemed better.

**This issue was addressed above on pages 11 & 12 with the following comment.....**

The tender specification allows the option for tenderers to submit offers to collect only, and to collect and dispose/process. In the first instance, the successful tenderers will collect the relevant waste stream(s) and deliver those wastes to nominated facilities where contracts will already be in existence for the receipt and disposal/processing of those waste. In the latter instance, the successful tenderers will be responsible for both collection and disposal/processing of the respective waste streams at their discretion, subject to conditions relating to the efficacy of the disposal/processing arrangements tendered.

The reasons for this approach are as follows:

- for many of the small to medium businesses, for whom the separation of these Ancillary Services from the main kerbside collections has been designed, access to disposal/processing arrangements may not be easily or cost effectively negotiated thus inhibiting their potential of submitting a competitive tender for their primary strength area of collection;
- through RFT 2, Council Solutions will secure contracts for the receipt and disposal/processing of mixed waste, recyclables and organics for the kerbside collected waste streams. These will be substantial contracts and quite likely secured on favourable terms relative to prevailing market conditions. Therefore, these disposal/processing



arrangements may be preferred outcomes for the wastes collected under the Ancillary Services RFT3 than those which the Ancillary Services providers might achieve individually. Hence the option reserved to Council Solutions of accepting either a collect only or collect and dispose/process tender.

**The material below is one long ramble of mixed issues so I have attempted to break them into reasonably coherent segments addressing similar concerns.**

Bulk bins for recycling and organics have generated major issues to date as the anonymity tied to bulk bins at apartment blocks sees contamination rates that are of concern to MRF operators. Combinations of bulk bins for garbage and 2 wheeled bins for recycling and organics is sometimes used but our concern is that Council Solutions have glossed over the complexity of what they are proposing by submitting what sounds like a basic operational activity. In reality for bulk bins Council Solutions will have to manage:

- Alignment of bulk bin services between the participating councils in a service where some properties are developed to allow for specific bulk bin or wheelie bin storage and access space, i.e., it's not easy to change the bins for most locations
  - Contamination in bulk bins, especially recycling and organics but also bulk items being thrown in the garbage bin
  - Education to apartment blocks from the Adelaide CBD to the suburbs for 4 different systems
  - Complaints from residents who have an established and effective waste system when it is changed for the purpose of "alignment"
  - Working out disposal costs for each separate Council for truck loads that include material collected from other areas as well
  - Disputes between the bulk bin contractor and the waste collection services contractor when services for new or changing properties are taken off one and given to the other<sup>14</sup>. Page 9, clause 4.2.4 – Again, the disposal/processing is included. But it may be taken away if Council Solutions' garbage disposal processing contractor works better. For hard waste though it must go to a transfer/resource recovery centre first before going to landfill to allow for extraction of recyclable materials.

The Application A1000420 is to undertake a collaborative procurement tender for Ancillary Services, one element of which is Bulk Bins. As with all new waste services contracts, it is reasonable to expect that changes from previous practices may result in necessary changes to community habits – and the proposed Bulk Bin arrangements for multi-unit dwellings are one such area where changes will be required and must be worked through. However, the fact that change may be needed and that communities may need targeted education and specific intervention initiatives to support that change, is not a valid reason to preclude change where that change can be demonstrated to be desirable and beneficial to the community.

The proportion multi unit dwellings relative to single unit dwellings is increasing in most metropolitan centres across the country as urban densities are increased in response to population pressures, and metropolitan Adelaide is no exception. The initial response for waste services to multi unit dwellings was to continue with the roll-out of conventional 240 litre MGBs as the standard bins for disposal and collection of waste streams. With larger multi unit complexes, this results in many tens of MGBs being set out at kerbside on collection days, creating a number of health and safety hazards as well as productivity issues, including:

- a requirement for large bin areas at each development, typically in a closed room, underground or in a location that does not distract from the amenity of the building and environs,

- kerbside clutter and congestion with multiple bins set out for collection,
- unsafe pedestrian and vehicular obstruction of the footpaths and roadways,
- inefficiencies within the units where a maintenance person has to move all bins from designated bin areas to kerbside, and return them after collection – but not always immediately after collection, resulting in empty bins sitting around the kerbside for many hours,
- a requirement that bins set out at kerbside are collated into alike clusters (i.e. all garbage together, all recycling together etc.) to facilitate collection,
- significant inefficiencies and congestion at kerbside at the time of collection as the collection vehicle remains essentially stationary for excessive periods of time emptying multiple bins at the one address, causing delays, disruptions and safety issues on the roadside – sometimes also requiring the driver to dismount the vehicle during collections to present bins to collection callipers correctly and minimise toppling of full and/or empty bins.

To address these challenges, councils across the country have been implementing design requirements on new developments to ensure that adequate provisions are made at the design stage to facilitate effective collection and clearing of garbage from increasingly congested multi unit dwelling areas. Called development control plans, these design requirements seek to balance the desire for maximum uplift on the part of the developer with efficient and effective collation of wastes on-site during the week and the efficient collection of those bins on designated collection days. Progressively this has required the introduction of larger bins for disposal of wastes than the typical 240 Litre MGBs, for a number of reasons, including to minimise the size of the bin storage area (i.e. unproductive area from the developers' perspective) and to minimise the number of bins to be manipulated at collection and facilitate efficient handling for both the maintenance person and the collection driver.

For the community in the multi-unit development their behaviour in discarding wastes into the correct bin has, and will not, change – red bin for mixed waste, green bin for organics and yellow bins for recyclables. And there is often a need for additional internal (by the owners' corporation) and external (by the councils and collection contractors) involving increased signage, separation of bins in bin areas, educative material within apartments and effective small bins within apartments, to make segregation of streams easier for residents and reduce the "convenience" of dumping waste in incorrect bins. These initiatives may also be extended to offering additional hard waste services in multi-unit areas to afford many opportunities for residents to dispose of bulky items appropriately and not in the conventional waste stream bins.

As has been pointed out earlier, the Bulk Bin services are likely to be delivered by a service provider already delivering bulk bin services to the C&I sector. These service providers already own and operate appropriate vehicle fleets and have multiple collection runs that criss-cross metropolitan Adelaide. It is reasonably anticipated that the collection of bulk bins from designated multi unit dwellings on the days nominated in the tender documentation, will be either "slotted in" to existing collection runs, or form part of new collection runs as the contractor perceives and manages the demand. In refute of claims made by WRASA –

- the collection day for a specific building will not change either sporadically or, without good reason, periodically,
- within the term of the contract there will be no changes to the service provider contracted to collect all three of the waste streams – mixed waste, organics and recyclables,
- with a single collection contractor there will not be any disputes between contractors,

- where the collection contractor collects from multiple LGAs of the Participating Councils, separate billing will be facilitated as outlined earlier, and
- it will be immaterial and of no consequence to the collection process, and the residents in multi-unit dwellings, whether the collection is awarded as a bundle with disposal/processing or left as stand alone collection.

The Hard waste Ancillary Services contract would pose an incredible challenge for Council Solutions. Managing one hard waste contract, often as part of the kerbside collection contract, but sometimes separately, is challenging given the fluctuating demand during the year, placement of illegal items, excess material and managing the lead times for collection. If Council Solutions were to extract the smallest efficiency from administration perhaps, they would need to align services from 4 Councils that are currently completely different:

Council	Name of Service	Collections per year	Amount allowed	Extra collections
Port Adelaide Enfield	Hard Refuse	4	2 cubic metres (described as 2 x 6x4 trailers)	No
Charles Sturt	Hard Waste	2	2 cubic metres (described as 2 x 1 x 1 metres)	No
Adelaide City	Residential Hard Waste (due to large commercial activity in CBD)	2 per dwelling for blocks with 6 dwellings or less 12 per site for blocks with 7 dwellings or more	2 cubic metres	Yes \$70
Marion (provided in house so may not be included)	Hard Rubbish	2	1 cubic metre	No

The delivery of Hard Waste services is acknowledged to have its challenges under any circumstances, and under the Proposed Conduct those challenges will not disappear. Hard Waste services are provided to communities for a number of reasons, including:

- there are some wastes that should be excluded from all of the 3-bin kerbside collection services (mixed waste, organics and recyclables) by virtue of their physical and/or chemical nature – e.g. e-waste, non-recyclable plastic products such as sheet plastic, treated timber etc.;
- some waste is unsuited for 3-bin kerbside collection due to size and bulk density- e.g. large metal objects, tree stumps, plumbing pipes, mattresses etc.;
- for some residents in the community self-haul to a drop-off point using a trailer or car boot is not an option – e.g. many residents in multi-unit dwellings do not have access to suitable vehicles;

- commercial services are typically suited to relatively large quantities of hard waste and considerably costly when procured by individuals for small quantities of hard waste; and
- in the absence of reasonably convenient and reasonably priced hard waste services, there has been demonstrated to be a significant increase in illegal dumping, with the consequential cost to councils for clean-up considerably greater than the cost of implementing a hard waste service.

These challenges are compounded by the circumstances of individual residents, for example:

- residents in multi-unit dwellings rarely have appropriate areas within unit complexes to temporarily store hard waste between the time it arises and the time when collection can be arranged;

there is a considerable degree of churn with residents in rental accommodation (in either single unit dwellings or multi unit dwellings) resulting in a demand for hard waste services that cannot be met simply through cyclical or periodic services, since these services will rarely coincide with vacating and move-in times.

To accommodate some of these challenges councils have devised a number of service delivery models, each with its respective strengths and weaknesses; and to date it is broadly recognised across most metropolitan communities, that none fully satisfy all residents and all councils.

These challenges do not mean that the Participating Councils should not attempt to deliver Hard Waste services – either individually or collectively. And the delivery of Hard Waste services either through individual contracts on a council-by-council basis or collectively will neither remove nor exacerbate the challenges. However, with a collaborative service delivery model it will be significantly more feasible to adapt service delivery to better suit circumstances as they arise and as they change – especially the challenges such as:

- the different demands between single unit dwellings and multi-unit dwellings,
- the different demands between renting residents and permanent residents, and
- to arrange special dedicated Hard Waste collection services for frequently arising wastes such as mattresses and e-waste if demand is appropriate.

With a collaborative collection approach, the Participating Councils will be better able to “segment” the broader community on the basis of needs and demands on Hard Waste service delivery and better meet the needs of the community.

15. Page 9, clause 4.2.5 – Again, for street litter, disposal and processing is included, which is highly unusual. We would suggest this is being done to avoid the issue where a contractor may collect material from more than 1 Council in a load making accurate invoicing impossible. However, because the public litter has not been grouped with waste collection services (with the same truck on the same collection schedule generally the case) the street litter contractor must now add in disposal to their collection rates, which will of course be increased for the risk of high disposal costs. We doubt also that the Council Solutions contract would allow for increases in disposal gate fees (on top of CPI and the levy).

Regarding smart bins, the data proves that innovation is more readily and successfully introduced into individual or sweet spot contracts rather than larger contracts. As Council Solutions say, they have already been trialled. They are more likely to succeed for the ratepayers of each Council area if the Council has its own contract rather than having to coordinate addition, payment, maintenance, performance and supply with Council Solutions and three other councils.

This claim by WRASA has no basis and is not correct. The use of tagged bins (using RFID tags on individual bins) to collect data on bin use and service delivery has been used variously across the country, and the success or applicability of the roll-out of RFID tags has nothing to do with the size of the contract.

The success or otherwise of the application of RFID tags lies in the preparedness of the councils to collect and analyse the data that can be derived from the tags. Where tags have been introduced and the councils have diligently interrogated the data, service delivery and fault/problem rectification has been demonstrated to be improved.

### **Proposed Tender Response**

... the workload for each Council to prepare and assess the tenders will be the same as the current situation...

AA1000420 and Council Solutions' submission "*AA1000414 Response to submissions from interested parties 18 May 2018*" clearly explain the roles and responsibilities of Council Solutions and the Participating Councils during the procurement process, including tender evaluation, and the tasks that Council Solutions will perform that will not need to be performed by each Participating Council, as would be the case if they are required to each undertake their own separate processes.

If there is a problem with the operations, instead of the Council going direct to the Contractor, the Council may need to go to Council Solutions, who may need to seek agreement from all other Councils on some issues.

Any customer complaints during contract delivery will be managed by each Participating Council. A Participating Council may choose to escalate a performance issue with a service provider to Council Solutions for advice and assistance. There is no need to involve any other Participating Council.

Persistent performance issues will be captured in the reporting and monitoring of the contract KPIs. If multiple Participating Councils are experiencing performance issues, then a benefit of the collaboration is that these matters can be addressed as a collective by Council Solutions.

...a "Negotiation Plan" will be required which will (1) increase an individual Council's workloads surpassing an individual Council tender submission and (2) reduce each Council's ability to customise and refine their service requirements.

It is standard practice within the Participating Councils to develop a Negotiation Plan before undertaking tender negotiations. Accordingly, under the Proposed Conduct instead of four Participating Councils each developing four separate Negotiation Plans for their own tender processes, Council Solutions will develop a single Negotiation Plan. This plan will ensure the negotiation requirements of all Participating Councils are addressed.

#### **Rationale for the Proposed Conduct**

20. Page 12, Clause 6.1 – As with the 2016 Application, Council Solutions have tried to make the link between the state's targets and their existence and objectives.

Council Solutions also provides the following from the submission made by the Environmental Protection Agency (**SA EPA**) with regard to AA1000420, dated 22 June 2018:

*"The Council Solutions application offers significant environmental benefits that align with South Australia's Strategic Plan target of a 35% reduction of waste to landfill by 2020. It also aligns with South Australia's Waste Strategy 2015-2020 vision of a resource efficient economy with a culture enabling the community, businesses and institutions to strengthen zero waste strategies, and the strategy's target of diverting 70% of municipal solid waste away from landfill by 2020. In particular the application has the potential to result in improved resource recovery by:*

- *reduced waste production and less contamination of recyclable, organic and residual waste streams, by better informed ratepayers due to combined education materials and better targeted and managed communication strategies,*
- *better management of collected waste streams driven by secure contracts of larger volumes and an improved focus on the processing of recyclables, organics and residuals from these waste sources due to ancillary services being contracted separately, rather than as an add-on to kerbside waste contracts,*
- *supporting innovation within the resource recovery sector through economies of scale, including the potential trial and deployment of smart technology in public bins, and*
- *better performing residential hard waste collection to help combat illegal dumping."*

### **Term of Authorisation**

*21. Page 13, Clause 7 – The contract term has been revised from Council Solution’s original term of approximately 14 years to 1 x 10 year term over a 13 year period. More problems are created here by the way Council Solutions have split up the waste services. In the processing contracts, terms for recycling or garbage may only be 3 or 4 years however providers of ancillary services must provide prices for garbage(residual), recycling and organics processing or disposal for the 10 year contract term. This is obviously highly risky for contractors and will only add cost to pricing for these services for ratepayers and individual councils.*

To clarify, the requirement to offer processing and disposal for the Ancillary Service Streams will be optional for tenderers.

The tenders for Ancillary Services are first and foremost tenders for the collection of the nominated waste streams, with tenders invited to tender prices for disposal or processing at the discretion of the tenderer. This arrangement has been offered to the market for the following reasons:

- the Participating Councils are seeking medium- to long-term collection arrangements;
- through consultation with the industry, Council Solutions have formed the view that if contract terms up to ten years are offered to the market, then, especially in the case of Hard Waste and possible in the case of Street Litter, small to medium businesses will be more encouraged to commit to the modest capital investment needed to procure the necessary collection vehicles to service the combined group of Participating Councils than would be the case if the tenders were separate and/or the terms were shorter.

The decision to tender for disposal or collection services in conjunction with the collection tender is optional and at the discretion of the tenderer. This optional invitation by Council Solutions has been put on the table for the following reasons:

- there is a clear recognition that difficulties in the receipt, processing and marketing of recyclables are manifest and unlikely to be resolved in the short term, and most likely best managed by a major company already operating in the market for receipt and processing of recyclables – on this basis there is little likelihood that a tenderer for Bulk Bin services (which will include collection of recyclables) will take up the option to tender for processing of the recyclables;
- in the organics markets there are a number of well established processing operators, who by virtue of scale are most likely to be positioned to process organics at prices that are far more competitive than might be the case for the operator of the Bulk Bin collection services for organic waste – thus once again, it is not expected that tenderers for the Bulk Bin services (which will include organic wastes) will take up the option to tender for processing of the organics;
- in the case of mixed waste – under both the Bulk Bin and Street Litter service tenders, there is a strong possibility that one of the major service providers, already in the market for both bulk bin services and disposal of mixed waste, may determine to tender for the Bulk Bin and Street Litter services, and opt to include in their tender for the disposal of the mixed waste;
- in the case of Hard Waste there is a desire on the part of Council Solutions and the Participating Councils to secure a contract where the Hard Waste is collected and



beneficially processed to reduce the amount of waste destined to landfill. This position might be achieved through a number of avenues, such as:

- ✓ a small- to medium-sized service provider tendering to collect and sort through the collected materials to recover obviously valuable elements (metals, timber, organics, etc.) and then discard the residual at a suitable waste disposal facility, or
- ✓ a provider of energy from waste services tendering for the collection and processing of the Hard Waste (quite likely engaging a small- to medium-sized collection sub-contractor) in order to secure the hard waste as a source of high calorific material for fuel manufacture.

The primary objective of the Ancillary Services tender is to secure medium- to long-term collection arrangements, while securing of processing or disposal services is offered to the market on an opportunistic but optional basis, given that services for disposal and processing will be secured through the tenders procured under RFT2 and will be available to the Participating Councils should tenderers to RFT3 opt not to offer disposal or processing services.

#### Relevant Industry

23. Page 14, Clause 10.2 – We are unsure why Council Solutions has included C&I source sector in the relevant industry. The Ancillary services are services to households, not businesses. Some special exceptions may exist but we have only been able to identify a few Council properties with bulk bins.

In AA1000420, Bulk Bin collection is the only service where the relevant industry and market analysis for the Proposed Conduct includes C&I. It is expected tenders will be received from service providers already deploying bulk bin services across metropolitan Adelaide to the C&I sector.

As per Section 10.2 of AA1000420, *“The relevant industry for the Proposed Conduct is the provision of waste collection services, particularly:*

- *Bulk Bin Collection in the Adelaide Metropolitan Area (refer Map 2) for the MSW and C&I source sectors;*
- *Hard Waste Collection in the Greater Adelaide Region (refer Map 1) where Hard Waste Collection is offered, for the MSW source sector; and*
- *Street Litter Bin Collection in the Greater Adelaide Region (refer Map 1) for the MSW source sector.*

#### Market Share

24. Page 16, Clause 10.3. - WRASA notes the following regarding the information provided in this clause:

- a. for bulk bins, their Table 4 notes that the Councils have significantly different bulk bin services at present, which Council Solutions would seek to align, to the detriment of the ratepayers in each Council.

b. as mentioned previously, bulk bin services are currently performed by contractor trucks that can perform other services, due to Council bulk bin demand only being low. Although we don't believe the figure is important we note that Council Solutions have shown a low 1.04% of the bulk bin market but compared actual bins with the number of commercial properties. This obviously ignores collection frequency, the number of bulk bins at commercial properties (most use wheelie bins) and much shorter collection and disposal contracts associated with commercial services.

c. With regards to hard waste, using Council Solutions' figures, we believe that it will lessen competition if more than one third of available hard waste work is tendered together, once a decade. For hard waste many contracts are short, perhaps even 1 year. By conglomerating the work as well as extending the contract term by up to 1000% on some existing hard waste tenders, the opportunity to tender regularly over time is significantly reduced.

d. Street litter bins have the same circumstances and similar data to hard waste. The main mistake here though is not including street bin servicing with the household kerbside collections as the bins can be picked up on the same routes as the household bins and disposal can be performed with the household material, removing the difficult complexity in the proposed conduct where the disposal of street bin material is unknown.

(a) Bulk Bins Services – the delivery of Bulk Bin services is expected to increase significantly across metropolitan Adelaide over the next ten years (the term of the contract) as urban densities increase and in-fill developments are constructed. To address this growth in demand, Council Solutions is proposing to establish a new service regime for Bulk Bin service delivery that has the capacity to deliver on the service needs today and those anticipated in the future. The current status quo will not pertain in the medium- to longer-term and it is prudent to make provision and enter into contract arrangements that will accommodate future needs.

(b) Bulk Bin Services – whilst current services for bulk bin collections may be delivered by vehicles provided by the current kerbside collection contractor which have collection capabilities beyond just bulk bins, the claim by WRASA is essentially another where they seek to maintain the status quo in the face of a recognised changing market. As noted above, the demand for Bulk Bin services will grow over the term of the contract and accordingly Council Solutions are seeking a service delivery approach that has capacity to grow with that growing demand.

(c) Hard Waste Services Term – this claim makes little sense and is incorrect in its implication. As stated elsewhere, the Hard Waste services have been extracted from the typical arrangement where they are bundled with kerbside collections to facilitate opportunity for tendering by small- to medium-sized service providers – which is precluded under the typical tendering arrangement. And, the term has been proposed following consultation with a number of small- to medium-sized service providers who indicated that short term contracts do not provide them with the financial security necessary to tender for such contracts. Quite the contrary to the claim of WRASA – it is the proposed conduct will indeed increase competition, will encourage small- to medium-sized service providers to tender and will (in all likelihood) lead to improved service delivery and efficiency.

(d) Street Litter – the fact that Street Litter services may be delivered today as an extension of kerbside collection services does not mean that this is the most efficient mode of service delivery – more likely it is that the status quo exists out of expediency on the part of the councils by seeking to have problematic street litter bundled with kerbside collections and “out of the way”.

This often results in the application of vehicles and resources that are not best suited for the task at hand – for example:

- kerbside collections are most efficiently delivered using single driver vehicles with side-lifting arms to raise and empty the MGBs that are set out at kerbside ready to be collected – there is only one driver on the vehicle, the driver rarely dismounts from the vehicle and the collection process is a relatively smooth-flowing fast and efficient operation as the collection vehicle moves along the streets;
- litter bins are located in places of convenience for pedestrian use to discard litter while away from home. The bins are typically not aligned along the kerbside, are not readily presented for collection, and more often than not the bins are enclosed within a street furniture/decorative enclosure that is intended to enhance amenity. On this basis the best vehicles for collection of street litter are small, able to negotiate tight turning and space areas and suitable for driving on pedestrian footpaths and park areas. The driver, often with a co-worker as runner, dismounts from the vehicle, releases the litter container from the enclosing structure and manually discharges the contents of the bin into the collection vehicle.

By separating out Street Litter service delivery from kerbside collections, Council Solutions are seeking to achieve a number of objectives, namely:

- ✓ encourage small- to medium-sized service providers into the market to tender with appropriate equipment and resources for the task to hand,
- ✓ achieve an increase in service efficiency through the application of the most appropriate equipment and resources for the service delivery, and
- ✓ unencumber the main kerbside collection contract service delivery from the burden of a bundled service (street litter) which involves inefficient use of kerbside collection vehicles and resources, and thus derive service and cost benefits in the kerbside collection contract.

#### **Competitive constraints**

25. Page 22, Clause 10.4.1 – As noted in our other submissions, Council Solutions have raised the concept of competitors and noted that the other Councils are competitors for the acquisition of waste services. They have incorrectly identified their market position.

As per Council Solutions’ submission “AA1000414 Response to submissions from interested parties 18 May 2018”, with respect, WRASA has not understood the position of Councils as competitors within the scope of the *Competition and Consumer Act 2010* (the **Act**). If the Councils were not competitors, the relevant provisions of the Act would not apply and authorisation would not be necessary. As such, Council Solutions submits the ACCC should not apply weight to the statements made in regard to this section of WRASA’s submission as it is founded on a fundamental misunderstanding of the Act.

### Public Benefits

**28.** Page 24, Clause 11.1.1 – Council Solutions assert that by separating out the bulk bins work, all of a sudden companies that don't provide a 3 bin collection system can tender for the work. We can provide the following reasons why bulk bin work has been grouped with other household kerbside collections by Councils around the country:

- a. kerbside collection companies are interested in achieving the best price for any bulk bin collection rates they tender and so they seek quotes from other companies that service bulk bins to get the best price/value combination
- b. councils prefer to have one contractor servicing all kerbside households, regardless of whether they are a house or apartment. This is beneficial for:
  - I. having all GPS and RFID data on one system
  - II. having one contractor able to do all customer service
  - III. having only one contractor servicing a property with bulk bins (2 wheeled bins are often used for recycling and organics streams)
  - IV. Council only having to deal with one kerbside contractor
  - V. Only requiring one standard education message for both single and multi households. If a different contractor, either separate contact phone numbers and requirements may exist or Council must do customer service call centre (which we believe that none of the Councils do at present)
- c. disposal arrangements can be simplified as much as possible and risk reduced to reduce price.
- d. contracts to date allow the collection of bulk bins with existing trucks on a non-exclusive basis. This suits Councils perfectly given the lower demand and changing profile of suburban high density development
- e. with a single prime contractor for wheelie bins and bulk bins (same company picking up from houses and apartments), if it is determined that a multi-unit dwelling is to switch from wheelie bins to bulk bins, there will be dispute from the wheelie bin contractor on every occasion. Councils appointing a single contract have been afforded flexibility to address customer, developer and property issues without having to discuss revenue increases and decreases to contractors for every instance.

The foregoing claims by WRASA are fundamentally aimed at maintaining the status quo in the face of (a) changing market conditions and (b) the known inefficiencies that are built into the current collection arrangements that are a result of the "bundling for convenience" approach that has traditionally been taken to tendering out collection contracts.

(a) The fact that traditional kerbside collection contractors seek to outsource via sub-contract the Bulk Bin collections is a clear recognition that there are other service providers in the market better positioned with plant and resources to deliver those services than the prime kerbside contractor. It

is therefore arguable who might get the best price for the consumer in procuring those Bulk Bin services –

- ✓ the kerbside collection contractor who approaches, often competitors, for the sub-contract and then loads that price with their head contractor margins and overheads, or
- ✓ Council Solutions who will go to the market without any competitive tensions between themselves and the respondents, who will arguably attract a wider field of tenderers, and who will not surcharge the tendered price with overheads and margins.

(b) The Participating Councils and Council Solutions are well equipped and better off to manage service delivery by a number of service providers when the services are delivered by the most efficient delivery provider, using the most efficient equipment and resources and the delivery is tailored to the specific task. The claim that councils prefer a single provider stems from the traditional approach to tendering collection services where all services are bundled, more from a convenience perspective than a most efficient delivery perspective.

(c) Disposal price is not relevant and the claim has no rationale in this context. As discussed elsewhere, disposal price for Bulk Bin tenders is optional on the part of tenderers, and in the event that no suitable tender price is received for disposal from Bulk Bin tenderers, Council Solutions will revert to the disposal price procured under RFT2.

(d) As discussed elsewhere, the demand for Bulk Bin services will increase over the term of the contract and Council Solutions is seeking tenders from service providers deploying the most appropriate and efficient equipment for the task and which can accommodate the growth in these Bulk Bin services. Leaving the current arrangements in place for future contracts will result in inefficiencies, that are known today, to magnify and cost considerably more in the future as the service demand grows.

(e) This claim seeks to imply a level of complexity that does not and will not exist. Whilst there may be instances where a multi-unit building is converted from MGBs to bulk bins, it is considered that this will be in a minority of circumstances, and the high probability is that existing arrangements will remain as is because the circumstances that pertain at those premises will most likely mitigate against converting to bulk bins. On this basis the issue raised regarding issues between contractor is unlikely to arise and the majority of services using the new Bulk Bin services will be for new multi-unit developments coming into the market.

*kerbside collection companies are interested in achieving the best price for any bulk bin collection rates they tender and so they seek quotes from other companies that service bulk bins to get the best price/value combination - and presumably the kerbside collection companies add their margin and also then may put pressure on the sub-contractor to reduce their margin so the prime can still be competitive*

29. Page 25, Clause 11.1.1 – Hard waste – Council Solutions suggest 9 potential suppliers – looking at Council Solutions Annexure 2 list of potential suppliers it is difficult to see anyone that would find it difficult to access the current market. Although it is not clear, it seems as though the other potential suppliers for hard waste are well resourced enough to provide a tender either to Councils or contractors, or be known to contractors for subcontract arrangements.

The truth is that hard waste services have all in recent years transitioned from a council wide “clean up” to an on-call service available to ratepayers throughout the year. Councils have successfully incorporated on call services with kerbside collection as the contractors know the suburbs, streets and individual properties, have databases to keep track of allowable collections and have established customer service functions to take calls, emails and online bookings and provide prompt and professional service as part of their customer service for waste collection services for that Council as a whole.

Council Solutions say companies seeking material for resource recovery have been restricted from participating to date. This is absolutely untrue. Hard waste is required by law to go to a transfer station/resource recovery centre prior to landfill and so collectors seek out the best geographical location with the best value solution.

In the first instance, it has already been contended that the Participating Councils are likely to receive more competitive prices, more tenders and lower costs by going directly to the market than securing services via a subcontract through one of the major service providers.

Secondly, it has also been contended that the Participating Councils are separating these services from kerbside in order to provide improved opportunity for small- to medium-sized businesses to compete for the tenders on a more equal commercial and competitive footing than is available under traditional bundled tenders.

In the second part of the claim... “*the truth is that hard waste services have in recent years.....*”, WRASA appears to be making a statement and claim that is at odds with an earlier claim where WRASA maintains that there is no uniformity in service design. Notwithstanding this contradictory positioning by WRASA, the claim is also irrelevant in respect of the Proposed Conduct and indeed does not reflect on any specific aspect of the Proposed Conduct. The skills and capabilities cited by WRASA can be productively employed through a contract that is either on a council-by-council basis or on a collective council basis, but with the added benefit in a collaborative procurement where economies of scale are achieved and better value for money is more likely.

In respect of hard waste and resource recovery, the claim by WRASA is factually incorrect and not in accordance with the ruling legislative settings. Schedule 3.1 of the South Australian Environment Protection (Waste to Resources) Policy 2010 (under the Environment Protection Act 1993) lists wastes which are exempt from the provisions of compulsory pre-treatment. Hard waste falls within the meaning of sub-clause (e) of the schedule which exempts wastes as follows... “*waste collected by a council by a kerbside waste collection service where the council also provides separate kerbside waste collection services for recyclable waste and vegetative matter*”.

Under current legislation there is no compulsion for hard waste to be subjected to pre-treatment and in the absence of legislative obligations, it is beholden on the Participating Councils to specify a requirement for pre-treatment if resource recovery is anticipated from this waste stream.

In RFT3 Council Solutions will be seeking resource recovery from the Hard Waste stream, and with a collaborative collection initiative, the quantum of Hard Waste will be sufficiently attractive to appropriately interested and motivated service providers to subject the waste stream to sorting and resource recovery to reduce the waste sent to landfill.

In addition to the resource recovery issue, as per AA1000420, Council Solutions maintains that under traditional circumstances, where there is a tender to provide hard waste collection as part of a 3-bin kerbside collection contract, then the ability for potential small- to medium-sized hard waste collection suppliers to tender directly to Council's is reduced, competition is reduced and optimal efficiencies are not necessarily achieved.

30. Page 26, Clause 11.1.1 – Street litter – as with hard waste, Council Solutions make untrue, unsubstantiated claims. The most efficient solution for street and park litter bins is for the standard kerbside collection trucks to collect the public bins also. Sometimes extra runs are required where the street bin frequency is higher. This is compatible with accurate, low risk and best price disposal and processing solutions. As with bulk bins, Council can access all GPS and RFID data (where applicable) on one system, all customer complaints and bin maintenance work can be managed on one system and only one contractor needs to be managed for side loader truck work. As is the case at present major kerbside collection companies sub contract other companies to perform specialist work where they can do the same work at a lower price or better work for the same price. The companies listed by Council Solutions exist now because of the opportunities in the market but we suggest to the ACCC that there is less chance of them existing in the future under Council Solutions proposed conduct.

We agree that companies should be able to tender for any of the ancillary services alone however we disagree with Council Solutions combining non-clustered Councils to the disadvantage of small companies. For example, a street litter company servicing Port Adelaide Enfield may have a poor depot location to service Marion, and therefore losing Port Adelaide Enfield as part of the larger 3 council tender is likely.

This claim has been addressed elsewhere, but it is noteworthy that WRASA state above “*We agree that companies should be able to tender for any of the ancillary services alone...*”, yet argue repeatedly throughout their same submission that the Ancillary Service Streams should be combined in a contract with 3 bin kerbside collection:

*“Council Solutions have mistakenly separated multi unit dwelling bulk bins, hard waste and public bins from kerbside collection services instead of the most efficient solution of combining each respective Councils’ ancillary services with its own kerbside collection services.” (WRASA submission pgs 7-8)*

In fact, the Proposed Conduct under AA1000414 and AA1000420 affords potential suppliers in the market both options:

- Under AA1000420, potential suppliers can tender directly to the Participating Councils as prime contractors for the provision of any one or more of the Ancillary Service Streams; and
- A potential supplier who tenders for kerbside 3 bin collection under AA1000414 may choose to also submit a tender for any of the Ancillary Service Streams under AA1000420.



In respect of the claims relating to Street Litter service delivery, the fact that Street Litter services may be delivered today as an extension of kerbside collection services does not mean that this is the most efficient mode of service delivery – more likely it is that the status quo exists out of expediency on the part of the councils by seeking to have problematic street litter bundled with kerbside collections and “out of the way”.

This often results in the application of vehicles and resource that are not best suited for the task at hand – for example:

- kerbside collections are most efficiently delivered using single driver vehicles with side-lifting arms to raise and empty the MGBs that are set out at kerbside ready to be collected – there is only one driver on the vehicle, the driver rarely dismounts from the vehicle and the collection process is a relatively smooth-flowing fast and efficient operation as the collection vehicle moves along the streets;
- litter bins are located in places of convenience for pedestrian use to discard litter while away from home. The bins are typically not aligned along the kerbside, are not readily presented for collection, and more often than not the bins are enclosed within a street furniture/decorative enclosure that is intended to enhance amenity. On this basis the best vehicles for collection of street litter are small, able to negotiate tight turning and space areas and suitable for driving on pedestrian footpaths and park areas. The driver, often with a co-worker as runner, dismounts from the vehicle, releases the litter container from the enclosing structure and manually discharges the contents of the bin into the collection vehicle.

By separating out Street Litter service delivery from kerbside collections, Council Solutions are seeking to achieve a number of objectives, namely:

- ✓ encourage small- to medium-sized service providers into the market to tender with appropriate equipment and resources for the task to hand,
- ✓ achieve an increase in service efficiency through the application of the most appropriate equipment and resources for the service delivery, and
- ✓ unencumber the main kerbside collection contract service delivery from the burden of a bundled service (street litter) which involves inefficient use for kerbside collection vehicles and resources, and thus derive service and cost benefits in the kerbside collection contract.

*“without the stimulation of competition through the proposed conduct...the same scenario...may arise” – are they referring to the scenario where South Australia leads the nation in efficiency, sustainability and quality of waste services?*

In regard to diversion, Council Solutions rejects the assumption that because South Australia has “nation leading” diversion rates, no more can be or needs to be achieved. This view is not consistent *South Australia’s Waste Strategy 2015-20* which clearly demonstrates complacency is setting in, diversion rates are slipping and trying to just maintain the status quo will not achieve the targets set by the State government.

As per AA1000420, as stated in the Recycling Activity Survey South Australia has the second highest overall per capita waste generation rate in Australia at 2,810kg per person per year.<sup>2</sup> This is an **increase** of 4.8% from the 2014-15 financial year<sup>3</sup> which was set as the baseline in the SA Waste Strategy target of >5% reduction in waste generation per capita by 2020.<sup>4</sup> Notwithstanding this high per capita waste generation rate, South Australia can rightly be proud of the highest diversion rate across Australia at 81.5%.<sup>5</sup>

However more is needed, both to increase diversion in the Metropolitan MSW source sector from 58.2%<sup>6</sup> to the target of 70% (which was the milestone for 2015 and target for 2020) and to reduce the generation of waste overall.

Section 11.1.3 Environmental benefits, of AA1000420 details how under the Proposed Conduct the Participating Councils will work together and with their suppliers to share responsibility to contribute to the successful implementation of the State government's waste strategy and achievement of its goals. Particularly the reduction of landfill by 35% and a 70% diversion of Metropolitan MSW, both by 2020.

30. Page 28, Clause 11.1.2 – Council Solutions have again argued that waste contractors' workload increases significantly when submitting individual tenders. We reaffirm that our members would prefer to prepare, cost and submit individual tenders as (1) the risk (and therefore the cost to Ratepayers) of contracting separately for appropriately sized contracts is much lower and (2) the work involved in assessing each area's streets, topography and disposal locations still needs to be completed with only perhaps the basic insurance/company/quality type schedules work being reduced, which is literally only a few hours work. In total, a joint tender process only saves approximately 5% of tender preparation time, as approximately 95% of the time invested is on operational scouting, costings and pricing.

Refer extract below from the table of contents from the Tender Return Schedules for RFT 3: Ancillary Services. This comprises 17 Schedules to be completed and returned as part of the RFT process by potential suppliers.

When preparing a tender response for the joint tender potential suppliers will calculate aspects of pricing/ costing that differ between the Participating Councils. However, the other 16 Tender Return Schedules will need to be completed only once by potential suppliers responding to the joint RFT.

This compares to the equivalent of all 17 Tender Return Schedules needing to be completed four times (68 Tender Response Schedules) for any potential supplier wanting to tender to the 4 Participating Councils if the Councils are to conduct their own separate RFT process. Council Solutions submits the joint procurement is clearly more efficient for both potential suppliers who tender and for the Participating Councils.

SCHEDULE 1: TENDER FORM - FORMAL OFFER

SCHEDULE 2: STATEMENT OF CONFORMITY

SCHEDULE 3: COLLUSIVE TENDERING - STATUTORY DECLARATION

---

<sup>2</sup> Page 35.

<sup>3</sup> Ibid, page 33.

<sup>4</sup> Page 27.

<sup>5</sup> Recycling Activity Survey, page 35.

<sup>6</sup> Ibid, page 34.

---

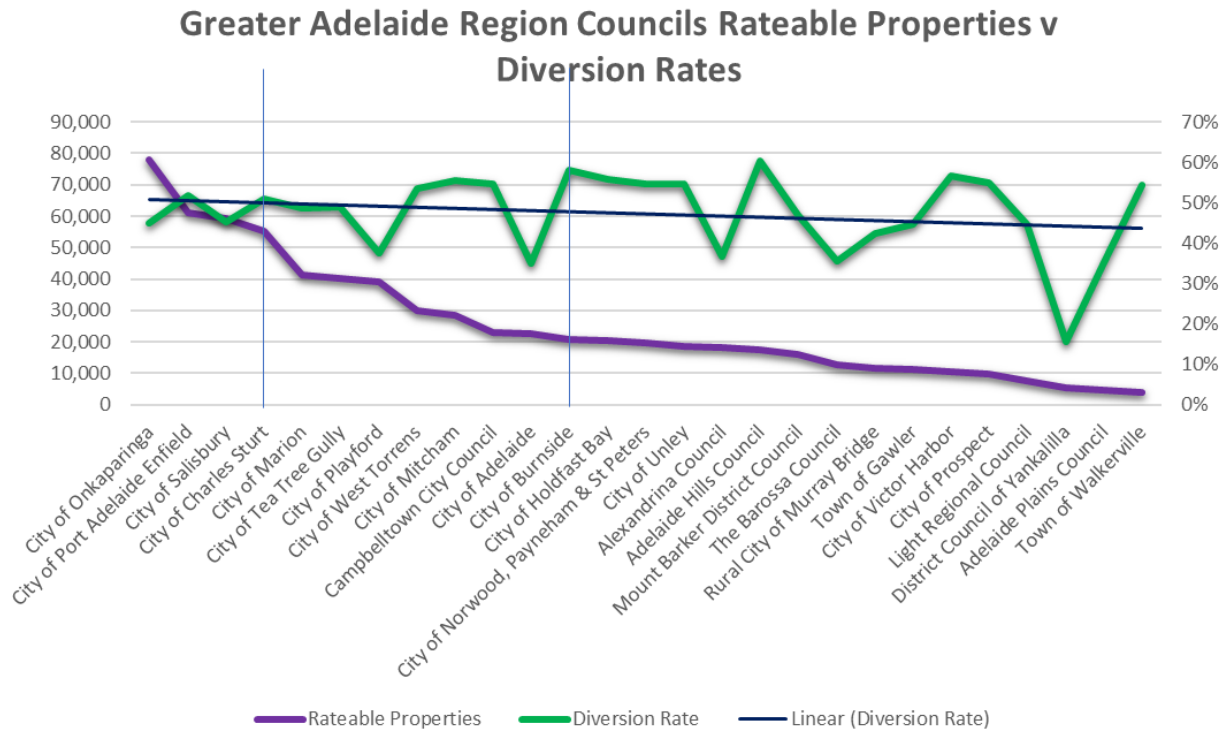
SCHEDULE 4: SERVICES TENDERING FOR  
SCHEDULE 5: INFORMATION AND DETAILS ON PROPOSED SERVICE DELIVERY COMMITMENTS  
SCHEDULE 6: VEHICLES, PLANT AND EQUIPMENT  
SCHEDULE 7: ADDITIONAL INFORMATION & INNOVATION / IMPROVEMENT  
SCHEDULE 8: MANAGEMENT, STAFF, RESOURCES AND SUBCONTRACTORS  
SCHEDULE 9: EXPERIENCE, COMMITMENTS, BUSINESS CONTINUITY PLAN  
SCHEDULE 10: CONTRACT PROGRAM  
SCHEDULE 11: ENVIRONMENTAL MANAGEMENT SYSTEM  
SCHEDULE 12: FINANCIAL DETAILS  
SCHEDULE 13: INSURANCES AND LICENCES  
SCHEDULE 14: QUALITY SYSTEMS  
SCHEDULE 15: WORK HEALTH AND SAFETY  
SCHEDULE 16: INDUSTRIAL RELATIONS & WORKFORCE PLAN  
SCHEDULE 17: TENDER PRICING

### Environmental Benefits

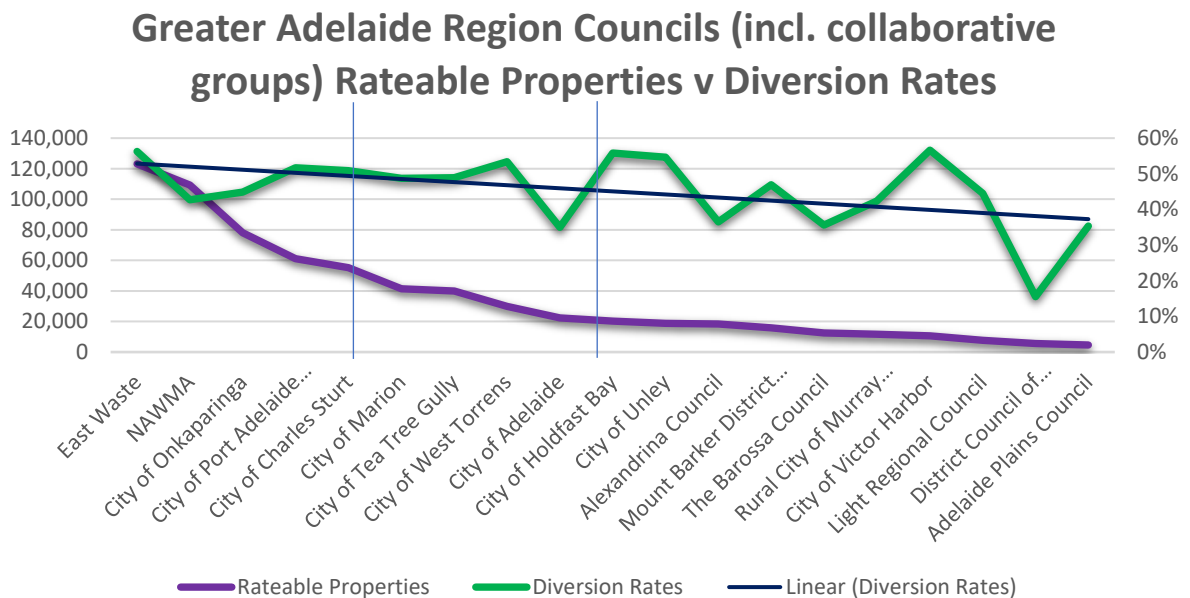
a. By Council Solutions referring to the state has targets does not mean they will help to achieve them. In fact evidence from around Australia suggests that larger contracts are less effective at diverting waste from landfill due to their inflexibility over a long contract term and driver anonymity above “sweet spot” size which makes kerbside bin checking and tagging more difficult to effect.

Contract size (rateable properties) has little relation to diversion, although it can be seen that the average diversion rate **increases** as the size of the Council increases. This has been addressed in detail in Council Solutions’ previous submission “AA1000414 Response to submissions from interested parties 18 May 2018” (pgs 9-12), refer extract below.

What we actually see occurring in the Greater Adelaide Region is below:



As the above clearly shows, size has little relation to diversion, although it can be seen that the average diversion rate **increases** as the size of the Council increases. When the existing collaborations, East Waste and NAWMA, are put together, the diversion can be shown as follows:



As the above chart demonstrates, diversion rates are more consistent and on average higher the larger the number of Rateable Properties under a contract or arrangement. The so called “sweet spot”, particularly the lower end, however, is far less stable and has a lower average diversion rate.

Council Solutions does not directly correlate the number of Rateable Properties to diversion rates. Diversion is achieved through effective education, community awareness and the behaviour of the

ratepayer. The Proposed Conduct will assist in these education programs being more effective through consistent messaging, awareness of policy, strategies and targets and reinforcement. The data collection and reporting the collection contractor will provide is one of the strongest tools to measure the success of these programs.

In addition, as also outlined earlier in this Council Solutions submission, WRASA's submission that the optimal council size for collections is between 20000 and 50000 households cites multiple reference documents as the source of this number, all of which can be traced to an academic paper authored by Barbara J Stevens, first submitted for publication in September **1976**, with a revised edition in April **1977**. For multiple reasons the paper by Stevens is inappropriate in the context in which it has been used in the submissions and in our view has no relevance to this Application and should carry no weight with the ACCC for the following reasons:

- the study is based on data from the waste collection industry in the **USA**;
- the study represents an academic attempt to develop regression analysis on cost data provided by the various authorities and does not delve into the costs themselves;
- by its own admission the paper states that the scale range of the study is constrained – *“All cost comparisons across market structures must hold the scale of operation constant, at least for the range of markets where scale economies may be reached”* – a statement on page 439 of the article in the section headed Theoretical Framework;
- the data must obviously pre-date the submission date for the paper (circa 1976) and is therefore **over 40 years old**;
- the waste collection industry in the USA in the years preceding 1976 is vastly different from the waste industry in the Greater Adelaide Region in 2018; and
- the study was a comparison between the costs for collection of monopoly government providers and monopoly private sector providers – which bears no relationship to a competitively tendered contract in the Greater Adelaide Region, whether procured collaboratively or independently.

For these reasons alone we contend this paper, and thus every subsequent paper citing the relevant data from this paper, has no relevance to this submission and should be completely disregarded by the ACCC in reviewing this application.

<p>I. Council Solutions will have to develop a complex set of rules and calculations, including assumptions and approximations, to account for the work across Council boundaries “on any single collection run.” This is done at present but workarounds are exponentially simpler when only 1 council is involved and agreed procedure and calculations are completed by the council and contractor.</p>
--

Every kerbside collection vehicle used to deliver the services under RFT1 and RFT3 will be fitted with appropriate instrumentation that facilitates drivers recording the collection of bins. The data captured will be, at a minimum,:

- the address of the premises from where the collection is made,
- the size (and where relevant the number) of bin(s) collected from the premises, and
- the waste stream collected in the bin(s).

When the collection vehicle discharges the collected waste stream at the relevant drop-off depot, the vehicle will be weighed and a tonnage assigned to the waste collected in the vehicle on that particular run. The tonnes of waste will be allocated back to the collected bins on the run using the nominal capacity of the bins (i.e. 140 Litres, or 240 Litres, or 360 Litres etc) and the number of each bin size. This minimum data set will enable clear, simple and unequivocal reconciliation back to each of the Participating Councils the bins collected and the tonnage processed or disposed for each waste stream on a council-by-council basis. This data collection and reconciliation will not involve any additional work on the part of the driver and will be computed automatically by the collection contractor

Councils will be invoiced by the collection Contractor on the basis of the reconciled bin count and by the processing or disposal contractor on the basis of the reconciled tonnes.

- II. To have any sort of chance of working together on education, the 4 councils will need to overcome:
- a. The fact that some are out for street litter and hard waste
  - b. The fact that all councils have very different hard waste services at present
  - c. The fact that all councils have very different bulk bin services at present
  - d. The fact that all councils have very different street and park litter services
  - e. The fact that all councils have very different kerbside services
  - f. The fact that all Councils have their own education officers that have developed different education programs

Council Solutions has developed the specifications for each of the Ancillary Services in consultation with representatives from each of the Participating Councils and the development of the specification and contract documents has not been difficult and is well advanced. Copies of the specification for each of the Ancillary Services Streams have been provided to the ACCC in confidence. To ensure a fair and equitable tender process, all relevant RFT documentation will be released to the market as a whole at the same time and by the same method (that is via the SA Tenders and Contracts website).

### Lower Costs through Improved Purchasing Power

With Ancillary Services in particular, because the current standard is for providers of street public litter bins, bulk bins and hard waste to be able to use the contract trucks for other work (kerbside wheelie bin collections usually specify exclusive truck use), improved purchasing power must be balanced against the risk of the contract. High risk elements of the Council Solutions contract include:

- Long term
- Possible inclusion or exclusion of disposal of garbage, processing of recycling and processing of organics
- Unknown as to the extent of work in the future for recycling and organics especially
- Many services could change as Council Solutions seek to align the varying specifications present in each Council now
- Possible disposal points are described by approximate centroid only
- Unknown interaction and negotiations with other contractors
- Unknown management method and ability to be shown by Council Solutions – how demanding will the contract be on management and administrative resources
- Unknown as to ability to pass on gate fee increases above CPI and levy
- Many specification elements such as truck age, reporting, invoicing, minimum service numbers, etc. still unknown.

The claim submitted here involves a mix of issues that are either un-related or only marginally related, and one might be mis-led into believing that the claimant is trying to both confuse matters and imply that a greater degree of complexity exists than is actually the case. In the following notes each of the claims or complaints is addressed one at a time in the context of the fundamental claim relating to the risk associated with the contract.

- **Long term:** the terms of the contracts proposed under RFT3 are no longer than is reasonably expected in normal tendering for these services.
- **Possible inclusion or exclusion of disposal of garbage, processing of recycling and processing of organics:** the option to tender for processing/disposal of collected waste streams is at the option of the tenderer. The option to accept a tender for processing/disposal of collected waste streams is at the option of the Participating Councils collectively.
- **Unknown as to the extent of work in the future for recycling and organics especially:** there is no uncertainty in respect of the extent of work relating to organics. In respect of recyclables, Council Solutions will arrange contracts for preferred recyclables processing contractor(s) under terms and conditions which the parties mutually agree. For a tenderer proposing to respond to the Ancillary Services Bulk Bins tender, it is optional whether they offer a tender to process the recyclables in addition to the collections. This is optional on the part of the tenderer, and one would assume that, a competent tenderer, cognisant of the market conditions and uncertainties relating to the recyclables sector would only offer a tender to process recyclables if they were confident of the circumstances in which they have prepared and submitted that tender. In the absence of such



confidence, one would assume that the logical competent provider would decline to offer a tender. On this basis there will be no uncertainty and no unreasonable or unconscionable risk associated with the contracts.

- **Many services could change as Council Solutions seek to align the varying specifications present in each Council now:** there is no doubt that there will be changes in the specifications that are put to tender under RFT3 from those which pertain today. Regrettably WRASA is claiming that an issue exists, without the knowledge of the specifications that will be introduced, and thus the claim is premature and not supported. As stated elsewhere, the specifications have been provided to the ACCC on a confidential basis and will only be released to the market at the time of calling tenders – a time when all interested parties can review the specifications at the same time.
- **Possible disposal points are described by approximate centroid only:** this issue has been fully addressed in Application A1000414. The situation is no different in this application
- **Unknown interaction and negotiations with other contractors:** the claimant is not specific in this nebulous claim, so it is difficult to address it specifically other than to assert that there will be no requirement for any contractor to negotiate with any other contractor.
- **Unknown management method and ability to be shown by Council Solutions – how demanding will the contract be on management and administrative resources:** this claim is disrespectful towards Council Solutions and the Participating Councils. All Participating Councils and Council Solutions are currently involved in managing contracts with third party service providers. Those management services are competent and in line with local government standards for contract management and administration. The claimant has no basis for asserting that there will be an elevated level of risk to the contracts due to the management and administration arrangements.
- **Unknown as to ability to pass on gate fee increases above CPI and levy:** one basis for this simplistic claim is that the claimant is not privy to the specifications. However, if the claimant were competent in respect of waste management contracts in South Australia, the claimant would be well aware that it is standard contractual practice for:
  - a) rise and fall provisions to be included in specifications,
  - b) facility for tenderers to nominate the percentage of their prices applicable to each rise and fall element, and
  - c) opportunity for special adjustments to prices where legislative changes arise which specifically relate to the waste industry and specifically impact on the cost to deliver the services intended under the contracts that are the subject of this application.

On this basis the claim that the contracts will involve a high level of risk relating to this issue is refuted completely.

- **Many specification elements such as truck age, reporting, invoicing, minimum service numbers, etc. still unknown:** the claimant would be correct in respect of this claim if tenderers were being invited to tender without a tender specification – which of course is not the case. Again, the claimant is attempting to make an issue with something that will not pertain and at the same time imply that tenderers (and presumably contractors) will be at high risk. This is completely refuted.

To clarify, the requirement to offer processing and disposal for the Ancillary Service Streams will be optional for tenderers.

The use of centroids as locations for nominal facilities for delivery of wastes is not uncommon and the market is familiar with the approach

Council Solutions has developed the specifications for each of the Ancillary Services in consultation with representatives from each of the Participating Councils and the development of the specification and contract documents has not been difficult and is well advanced. Copies of the specification for each of the Ancillary Services Streams have been provided to the ACCC in confidence. To ensure a fair and equitable tender process, all relevant RFT documentation will be released to the market as a whole at the same time and by the same method (that is via the SA Tenders and Contracts website).

### **Improved Service Efficiency**

#### **1. Bulk Bins**

- I. The work for each Council is likely to be less than 1 truck. Using Table 4 of the Application we estimate that the 424 bulk bins is not a precise number of trucks also. Remembering also that different Councils have different bulk bins being picked up by different trucks (front lift and rear lift). Therefore, if Council Solutions are suggesting exclusive use of a front lift and rear lift truck, they are likely to have spare resources.
- II. At present bulk bin collections are performed by providers that are allowed to use the trucks elsewhere. That means that the trucks have the best chance of being fully utilised providing the Councils with the lowest prices. Our members confirm that bulk bin rates to Councils are extremely competitive.
- III. At present the trucks can cross Council boundaries on the same load and also collect private commercial bins on the same load. Disposal costs are included in the collection rate and are worked out on a transparent and agreed basis. Council Solutions incorrectly state that current vehicles are “bound to adhere” to boundaries. In fact they are sharing resources and collecting bins in the most efficient manner.
- IV. If a Council does have enough bins to justify a run, that can also be performed so that disposal costs are easy to identify and allocate.
- V. Because the councils are not geographically close, it will be inefficient to service more than 1 council without a trip to the disposal facility in between.
- VI. Because 2 disposal facilities will be used for garbage and probably 2 for recycling and organics, efficiencies from cross border work will be minimised.
- VII. To summarise, current collections with disposal inclusive collection rates using trucks that can also service other council or commercial bins is the most inexpensive and low risk manner for collecting bulk bins, developed over many years. The Council Solutions proposal would build inefficiencies into the system for no further gain.

Whilst this claim addresses the Bulk Bin services, it embodies a range of elements, some of which are disjointed and others which are contrary to claims made elsewhere by the claimant.

Notwithstanding this confusion and lack of clarity, each element is addressed separately below.

***I. The work for each Council is likely to be less than 1 truck. Using Table 4 of the Application we estimate that the 424 bulk bins is not a precise number of trucks also. Remembering also that different Councils have different bulk bins being picked up by different trucks (front lift and rear lift). Therefore, if Council Solutions are suggesting exclusive use of a front lift and rear lift truck, they are likely to have spare resources.***: As stated elsewhere, the decision to tender Bulk Bin Services separately has been motivated by a number of issues, including:

- a) it is reasonably expected that the number of Bulk Bin services will increase significantly over the term; therefore, a claim that is based solely on the conditions pertaining today, misses the essence of the futureproofing that is one of the elements of rationale behind the proposed conduct; and
- b) as the claimant recognises elsewhere, it is fully expected that tenderers for the Bulk Bin services will be existing providers in the bulk bin market servicing C&I customers, and that the additional services that arise as a result of this Proposed Conduct will be treated by those providers as “in fill services” precisely as those providers do today as they secure (and lose) new C&I customers; this will be neither disruptive nor inefficient and for most existing providers it will be business as usual.

***II. At present bulk bin collections are performed by providers that are allowed to use the trucks elsewhere. That means that the trucks have the best chance of being fully utilised providing the Councils with the lowest prices. Our members confirm that bulk bin rates to Councils are extremely competitive.*** Under the Proposed Conduct, tenderers will do precisely the same as the claimant is stating happens today – the service providers will integrate the new Bulk Bin services with existing service runs and actually increase the delivery efficiency of their existing runs as new in fill services are added.

***III. At present the trucks can cross Council boundaries on the same load and also collect private commercial bins on the same load. Disposal costs are included in the collection rate and are worked out on a transparent and agreed basis. Council Solutions incorrectly state that current vehicles are “bound to adhere” to boundaries. In fact they are sharing resources and collecting bins in the most efficient manner.*** these two issues have been addressed elsewhere, and yes, under the Proposed Conduct, vehicles will be free to cross LGA boundaries and no, disposal costs are not mandatorily included in tendered prices, but left to the option of tenderers.

***IV. If a Council does have enough bins to justify a run, that can also be performed so that disposal costs are easy to identify and allocate.*** this claim makes little sense and has in fact been fully addressed elsewhere where an explanation is given on how costs and invoicing will be reconciled when vehicles cross LGA boundaries as they deliver services.

***V. Because the councils are not geographically close, it will be inefficient to service more than 1 council without a trip to the disposal facility in between.*** this claim is somewhat at odds with other claims made elsewhere, where the claimant maintains that service providers currently cross LGA boundaries and integrate their services with other services; notwithstanding this confusion on the part of the claimant, the expectation that service providers will integrate these new council Bulk Bin services with existing C&I collection runs will mean that LGA boundaries are irrelevant and the

relative geospatial juxtaposition of the LGAs of the Participating Councils will not cause any disruption to either existing or Bulk Bin services.

**VI. Because 2 disposal facilities will be used for garbage and probably 2 for recycling and organics, efficiencies from cross border work will be minimised:** this claim is false and grossly misleading;

- a) there is no intention to award two disposal contracts,
- b) an option reserved to Council Solutions to appoint up to two recyclables processing and up to two organics processing contractors has been reserved to provide a level of equity into the processing markets, and not to disadvantage any potential processing tenderer; and
- c) there are already multiple processing service providers in the market for both recyclables and organics – all of which are accessed and used by the existing collection service providers, who design their runs according to the most efficient configuration of the runs; under the Proposed Conduct nothing with change and the collection service providers will design runs for maximum efficiency using whichever of the processing providers offers the most efficient logistics option.

**VII. To summarise, current collections with disposal inclusive collection rates using trucks that can also service other council or commercial bins is the most inexpensive and low risk manner for collecting bulk bins, developed over many years. The Council Solutions proposal would build inefficiencies into the system for no further gain:** This summary of claim does not make a lot of sense as the Proposed Conduct envisages collection vehicles working across LGA boundaries and does not compulsorily require disposal to be included.

## 2. Hard Waste

- I. New hard waste services are on call, which requires trucks to be available year round for scheduled collections
- II. All 3 councils participating (Adelaide City, Port Adelaide Enfield and Charles Sturt) have very different current services
- III. Significant tonnes are generated so accurate reporting of disposal is important
- IV. Vehicles are currently being used by contractors in more than 1 council (i.e., on a non-exclusive basis) but never for the same load so that accurate disposal invoicing is possible
- V. Once a load is finished, the truck will need to go to the disposal facility, not straight to the next Council
- VI. Current vehicles can be procured with organic growth in services and contracts as they are shared to everyone's benefit
- VII. Under the Council Solutions scenario, additional trucks will be a much greater risk and more disruptive given front lift and rear lift required, different service specifications and the inference being use exclusive to the contract.

## **2. Hard Waste**

**I. New hard waste services are on call, which requires trucks to be available year round for scheduled collections:** this is not correct and until the specifications for RFT3 are released at the time of calling tenders, claims such as this are purely speculative and conclusions drawn are not relevant.

**II. All 3 councils participating (Adelaide City, Port Adelaide Enfield and Charles Sturt) have very different current services:** this claim relates to the status quo and not to the services that will be the subject of the tender under RFT3 and the claim is therefore not relevant.

**III. Significant tonnes are generated so accurate reporting of disposal is important:** this will be a requirement that is included in the specification for RFT3 and vehicles will be weighed as they discharge wastes at the relevant receipt facility.

**IV. Vehicles are currently being used by contractors in more than 1 council (i.e., on a non-exclusive basis) but never for the same load so that accurate disposal invoicing is possible:** this claim makes little sense, and irrespective – what may happen today will not necessarily be the way the services are delivered under the tender to be released as RFT3.

**V. Once a load is finished, the truck will need to go to the disposal facility, not straight to the next Council:** this statement either contradicts the immediately prior statement or claim, if it relates to the current arrangements, or, if relating to future services under RFT3, the claim is speculative and not based on valid assumptions or knowledge.

**VI. Current vehicles can be procured with organic growth in services and contracts as they are shared to everyone's benefit:** as stated elsewhere, the services to be delivered under RFT3 have been designed to (a) maximise the potential for competition in the market and (b) maximise the opportunity for small- to medium-sized businesses to compete on an equitable footing with the major service providers who typically dominate this sector of the market.

Following consultation with the small- to medium-sized service providers that currently service this market, it became apparent that by offering a combined quantum of Hard Waste to the market from all of the Participating Councils, the small- to medium-sized providers would have reasonable forward guarantees of waste supply to enable them to procure appropriate resources – collection vehicles and personnel – with a degree of confidence and surety that does not exist in the market today.

**VII. Under the Council Solutions scenario, additional trucks will be a much greater risk and more disruptive given front lift and rear lift required, different service specifications and the inference being use exclusive to the contract:** this claim makes little sense and is speculative in respect of the services specification that will be included under RFT3.

### **3. Street Litter Bins**

- I. As with the other services, trucks performing street litter services are often used to collect the general kerbside bins, given they are generally side loaders.
- II. Some councils have different public bin and household bin contractor. In these cases the street litter bin contractor can use their trucks for work outside the contract also.
- III. Both of these solutions provide Council with efficient solutions as they are inexpensive (trucks are fully utilised) and low risk (contractors build their businesses and procure trucks (and possibly lose work) in manageable steps rather than large disruptive changes

The three claims above are both reflective (i.e. relating to current services) and speculative (i.e. implying what might be included in the new services of RFT3) and therefore quite irrelevant.