

2 May 2018

David Jones
General Manager, Adjudication
Merger and Authorisation Review Division
Australian Competition & Consumer Commission

Via email: adjudication@accc.gov.au

Dear Mr. Jones,

APPLICATION FOR AUTHORISATION FOR A COLLABORATIVE WASTE ANCILLARY SERVICE STREAM TENDER PROCESS

Council Solutions, on behalf of the Cities of Adelaide, Charles Sturt, Marion and Port Adelaide Enfield (**Participating Councils**), proposes to jointly procure the collection of ancillary waste services, comprising the:

- Multi-unit collection of Bulk Bins and processing or disposal of the waste (including the supply and maintenance of the bins);
- Kerbside collection and processing or disposal of Hard Waste; and
- Collection of park and footpath litter and/or recycling bins and disposal or processing of the waste.

Council Solutions, on behalf of itself and the Participating Councils, seeks authorisation from the Australian Competition & Consumer Commission (**ACCC**) to the extent the conduct proposed in this application may constitute a breach of the provision relating to cartel conduct (s 45AD) and/or anti-competitive agreements (s 45) provisions of the *Competition and Consumer Act 2010* on the grounds there will be a net public benefit and/or there will be no substantial lessening of competition.

Council Solutions wrote to the ACCC on 2 February 2018 to request a fee waiver or reduction for three related applications, the first being AA1000414, the second for the Processing Service Streams, which is being lodged separately but concurrently with this application and the third being the application attached.

The ACCC responded on 15 February 2018 offering a partial fee waiver, stating the application fee for Council Solutions' Applications will be \$2,500, a copy of the letter confirming this has been attached to this application. As the fee was paid with the lodgement of AA1000414, no further fee has been paid with this application.

Attached is the entire application for authorisation, which includes:

- the declaration by Applicant(s) required by the application form;
- a public version of the application;
- a confidential version of the application, which the Applicants request is not placed on the public register; and
- a copy of the letter from the ACCC granting a partial fee waiver for this application.

Please do not hesitate to contact me if there are any queries regarding this.

Kind Regards,



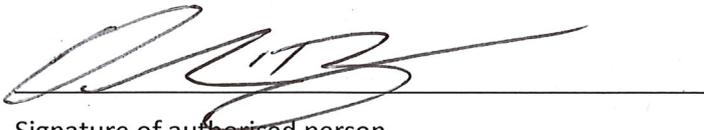
Taryn Alderdice
Contract Management Officer
Council Solutions

Declaration by Applicant(s)

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied; that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).



Signature of authorised person

Chief Executive Officer – Council Solutions

Office held

Oliver Barry

Name of authorised person

This 26th day of April 2018

Note: If the Applicant is a corporation, state the position occupied in the corporation by person signing.

Declaration by Applicant(s)

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).



Signature of authorised person

Chief Executive Officer – City of Adelaide

Office held

Mark Goldstone

Name of authorised person

This 24th day of April 2018

Note: If the Applicant is a corporation, state the position occupied in the corporation by person signing.

Declaration by Applicant(s)

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).



Signature of authorised person

Chief Executive Officer – City of Charles Sturt

Office held

Paul Sutton

Name of authorised person

This 2nd day of May 2018

Note: If the Applicant is a corporation, state the position occupied in the corporation by person signing.

Declaration by Applicant(s)

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).



Signature of authorised person

Chief Executive Officer – City of Marion

Office held

Adrian Skull

Name of authorised person

This 24th day of April 2018

Note: If the Applicant is a corporation, state the position occupied in the corporation by person signing.

Declaration by Applicant(s)

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).



Signature of authorised person

Chief Executive Officer – City of Port Adelaide Enfield

Office held

Mark Withers

Name of authorised person

This 27th day of April 2018

Note: If the Applicant is a corporation, state the position occupied in the corporation by person signing.

1. Executive Summary

The Cities of Adelaide, Charles Sturt, Marion and Port Adelaide Enfield (**Participating Councils**) propose to jointly procure:

- Ancillary waste services, comprising:
 - Multi-unit collection of Bulk Bins and processing or disposal of the waste (including the supply and maintenance of the bins);
 - Kerbside collection and processing or disposal of Hard Waste; and
 - Collection of park and footpath litter and/or recycling bins and disposal or processing of the waste.

(together, the **Ancillary Service Streams**)

Council Solutions Regional Authority (**Council Solutions**) has been directed to act on the Participating Councils' behalf and facilitate the procurement, negotiation and contracting process in relation to the acquisition of the above services.

Council Solutions and the Participating Councils (together, the **Applicants**) seek authorisation from the ACCC in respect of the following proposed conduct:

- Council Solutions, on behalf of the Participating Councils, to conduct a collaborative competitive tender process for the Ancillary Service Streams, to evaluate the responses in collaboration with the Participating Councils and to negotiate on behalf of the Participating Councils the contractual framework;
- the Participating Councils to enter into separate contracts for each Ancillary Service Stream, each on a joint and not several basis, with the successful supplier/s; and
- ongoing administration and management of the resultant contracts to be undertaken jointly by Council Solutions and the Participating Councils.

(together, the **Proposed Conduct**)

Council Solutions submits the Proposed Conduct will result in significant public benefits, including:

- increased opportunity for competition from the stimulation of the market;
- tender process and contract management cost savings and efficiencies by reducing the replication of work for both Participating Councils and potential suppliers through alignment of specifications and service standards and the administration of a single tender process and collaborative contract management;
- environmental benefits from the increased diversion of waste from landfill;
- lower costs for Participating Councils through improved purchasing power; and
- increased service efficiencies,

which will also contribute to the achievement of State government waste strategies and targets. The Applicants submit there will be no or negligible public detriment in relation to the Proposed Conduct.

The Applicants seek interim authorisation from the ACCC at the time of the draft determination in respect of this application.

The terms defined in this application are set out in a glossary at the end of the document.

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3. Parties to the Proposed Conduct

This application is lodged by Council Solutions Regional Authority (**Council Solutions**) on behalf of itself and the Cities of Adelaide, Charles Sturt, Marion and Port Adelaide Enfield (**Participating Councils**), together, the **Applicants**.

3.1. Council Solutions

The necessary details for Council Solutions are as follows:

Name: Council Solutions
Address: GPO Box 2252, Adelaide SA 5001
Telephone: (08) 8203 7351
ABN: 92 168 067 160
Contact Person: Taryn Alderdice, Contract Management Officer
Contact details: (08) 8203 7173, taryn.alderdice@councilsolutions.sa.gov.au

Council Solutions is a Regional Subsidiary established under s43 of the *Local Government Act 1999* (SA) (**LG Act**) by the Constituent Councils in December 2012. Council Solutions' primary purpose is to improve the financial sustainability of the Constituent Councils through collaborative strategic procurement, contract negotiation and management. This service can also be provided to other Councils within South Australia under the Council Solutions charter.¹ During 2016/17 more than \$63.5 million of Council expenditure was undertaken utilising Council Solutions' collaborative contract arrangements.

Council Solutions is owned by the Constituent Councils and governed by the Board of Management (**Board**), formed by the Chief Executive Officers of the six Constituent Councils and an Independent Chair.

3.2. The Participating Councils

The Participating Councils will form an unincorporated joint venture together with Council Solutions for the purpose of undertaking the Proposed Conduct. The necessary details for the Participating Councils are as follows:

Name: City of Adelaide
Address: 25 Pirie Street, Adelaide SA 5000
Telephone: (08) 8203 7203
ABN: 20 903 762 572
Contact Person: Justina Vuksan, Procurement & Contract Management Advisor
Contact details: (08) 8203 7274, j.vuksan@cityofadelaide.com.au

Name: City of Charles Sturt
Address: 72 Woodville Road, Woodville SA 5011
Telephone: (08) 8408 1111
ABN: 42 124 960 161
Contact Person: Loren Mercier, Environmental Management Officer
Contact details: (08) 8408 1576, lmercier@charlessturt.sa.gov.au

¹ The governing charter as gazetted 20 December 2012

Name: City of Marion
 Address: 245 Sturt Road, Sturt SA 5047
 Telephone: (08) 8375 6600
 ABN: 37 372 162 294
 Contact Person: Colin Heath, Unit Manager Contracts
 Contact details: (08) 8375 6756, colin.heath@marion.sa.gov.au

Name: City of Port Adelaide Enfield
 Address: 163 St Vincent Street, Port Adelaide SA 5015
 Telephone: (08) 8405 6600
 ABN: 68 399 090 894
 Contact Person: Stephen Payne, Waste Management Leader
 Contact details: (08) 8405 6873, stephen.payne@portenf.sa.gov.au

The Participating Councils are all local government authorities and bodies corporate incorporated under the provisions of the LG Act and are all situated within the Greater Adelaide Region with most sharing one or more geographic boundaries with another Participating Council. The size of the Participating Councils is outlined in Table 1 and their specific location is depicted in Map 1, both below.

Council	Population	Rateable Properties	Land Area (m ²)
City of Adelaide	23,396	22,435	15.6
City of Charles Sturt	114,688	55,175	54.8
City of Marion	90,602	41,376	55.6
City of Port Adelaide Enfield	123,947	61,026	91.8
TOTAL	352,633	180,012	217.8
All Greater Adelaide Region Councils	1,429,122	686,236	10,882.50

Table 1: Statistical data for the Participating Councils



Map 1: Greater Adelaide Region (Inset shows location of the Participating Councils highlighted in yellow)

The function of each Participating Council is the same, as outlined in section 7 of the LG Act. These functions include:

- providing services and facilities that benefit its area, ratepayers and residents, as well as visitors to its area, including waste collection, control or disposal services or facilities;
- planning for the current and future requirements of its area;
- establishing and supporting organisations and programs that benefit people in its area;
- providing for the well-being of individuals and groups within its community; and
- promoting its area for tourism and business.

4. The Proposed Conduct

4.1. Description of the Proposed Conduct

Authorisation is sought for:

- Council Solutions, on behalf of the Participating Councils, to conduct a collaborative competitive tender process for the Ancillary Service Streams, to evaluate the responses in collaboration with the Participating Councils and to negotiate on behalf of the Participating Councils the contractual framework;
- the Participating Councils to enter into separate contracts for each Ancillary Service Stream, each on a joint and not several basis, with the successful supplier/s; and
- ongoing administration and management of the resultant contracts to be undertaken jointly by Council Solutions and the Participating Councils,

(the **Proposed Conduct**).

4.2. Context to the Proposed Conduct

4.2.1. Waste Management Services Project

The Board directed Council Solutions to investigate the benefits of collaborating for Waste Management Services, including the following services:

- Multi-unit collection of Bulk Bins (including the supply and maintenance of the bins) and processing or disposal of the waste collected (**Bulk Bin Collection**);
- Kerbside collection and processing or disposal of Hard Waste (**Hard Waste Collection**); and
- Collection and processing or disposal of park, street and footpath litter and/or recycling bins (**Street Litter Collection**),

(together, the **Ancillary Service Streams**).

Council Solutions engaged Wright Corporate Strategy to analyse the Waste Management Services required, how they may be met by the market, and where benefits would be achieved through collaboration.

The report provided by Wright Corporate Strategy advised that significant benefits could be achieved by the Participating Councils collaborating in the procurement of Waste Management Services, including:

- environmental benefits from diversion of waste from landfill;
- improved purchasing power leading to lower costs for Participating Councils;
- administrative and procurement process efficiency savings for Participating Councils and suppliers; and
- improved incentive for the market to compete.

The report from Wright Corporate Strategy was considered by the Constituent Councils and the City of Port Adelaide Enfield and, as a result, the Participating Councils agreed to collaborate and commenced the Waste Management Services Project. The Participating Councils directed Council Solutions to take the lead in, and the responsibility for, the Proposed Conduct.

4.2.2. Waste generation

In respect of waste generation there are three main source sectors being:

- i. Municipal Solid Waste (**MSW**)
- ii. Commercial and Industrial (**C&I**)
- iii. Construction and Demolition (**C&D**).

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.”² 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.

According to Green Industries SA’s [Recycling Activity Survey](#), there was a combined total of 4.8 million tonnes of waste dispatched to either landfill or resource recovery sites in 2015/16. The MSW source sector comprised 17.5% of this waste across the state. Across all three source sectors, 76%³ of the waste came from the Adelaide Metropolitan Area, which accounts for 67.7% of the State’s Rateable Properties.

4.2.3. Bulk Bin Collection

Bulk Bin Collection involves the collection of Residual Waste, Recyclables and Organics (where separated at source) from Service Entitled Premises where lidded bins larger than 360L (**Bulk Bins**) are utilised. Service Entitled Premises that use bins 360L and smaller are collected as part of Waste Collection Services. Bulk Bins are predominately used by high density residential, hospitality, community centre, commercial, retail and industrial facilities where the waste generated in a standard kerbside collection cycle is greater than the capacity of a 360L bin. The supply and maintenance of the Bulk Bins may also be required under Bulk Bin Collection.

Bulk Bins are designed to be emptied on site by a front or rear lift truck rather than the side lift trucks used for Waste Collection Services. Bulk Bin Collection specifically excludes skip bins, ‘roll on roll off’ bins and any other large format bin that is designed to be removed and replaced with a new bin when emptying is required.

The processing and/or disposal of the waste collected is also included within Bulk Bin Collection, where optimal resource recovery will be implemented to ensure maximum diversion from landfill.

² [Recycling Activity Survey](#), page 84.

³ *Ibid*, page 24.

4.2.4. Hard Waste Collection

Hard Waste Collection involves the collection of bulky household waste items that are not typically captured within the 3-Bin System (**Hard Waste**) and generally requires manual loading onto the collection vehicles. Hard Waste includes items like household white goods, furniture, scrap metal, floor coverings, hot water services, lawn mowers and air conditioners (within size restrictions). The service will be an 'at call' service for the Participating Councils, meaning that residents may book the service when required, with a designated limit on the number of collection services available to each household in any year.

The processing and/or disposal of the waste collected is also included within Hard Waste Collection, where optimal resource recovery will be implemented to ensure maximum diversion from landfill.

4.2.5. Street Litter Collection

Street Litter Collection involves the collection of Residual Waste and Recyclables (where separated) from bins located on streets, footpaths, parks and other public places for the convenient disposal of public waste (**Street Litter Bins**). The bins are generally housed in or attached to a structure and will need to be released, emptied and returned, thereby incorporating a manual element to the service. Supply and maintenance of the bins is typically not included within the scope of Street Litter Collection as the associated infrastructure is increasingly becoming more than just a MGB within a housing. Some supply and maintenance may be included where Street Litter Bins incorporate MGBs, but supply and maintenance of the housing or enclosing structure would be excluded.

The introduction of 'smart bins' that send messages when full and/or have some form of internal compaction mechanism to minimise collection frequency are being trialed across a number of the Participating Councils. As such, where smart bins are deployed the Participating Councils will determine and supply the most appropriate infrastructure for the varying locations.

Street Litter Collection is generally undertaken using either side or rear lift trucks, which may be the same type of vehicles used for Waste Collection Services.

The processing and/or disposal of the waste collected is also included within Street Litter Collection, where optimal resource recovery will be implemented to ensure maximum diversion from landfill.

4.3. Proposed tender structure

4.3.1. Participating Councils' requirements

Not all Participating Councils require all the services within the Proposed Conduct. Each Participating Council's requirements is outlined in Table 2 below.

Ancillary Service Streams			
Council	Bulk Bin Collection	Hard Waste Collection	Street Litter Collection
City of Adelaide	YES	YES	NO*
City of Charles Sturt	YES	YES	YES
City of Marion	YES	NO*	YES
City of Port Adelaide Enfield	YES	YES	YES

* The City of Adelaide does not require Street Litter Collection and the City of Marion does not require Hard Waste Collection as these services are provided inhouse.

Table 2: Ancillary Service Stream requirements of the Participating Councils.

4.3.2. Joint Request for Tender

Council Solutions will undertake a competitive RFT process comprising all three Ancillary Service Streams. A potential supplier may tender for one, two or all of the Ancillary Service Streams however each offer of an Ancillary Service Stream must be separable.

The RFT will be open to all suitably qualified and experienced suppliers. Council Solutions will make the RFT available on the SA Tenders & Contracts website, which provides easy-to-use access to all publicly available bidding opportunities. A competitive RFT advertised on SA Tenders & Contracts is the primary method by which South Australian Councils procure Waste Management Services.

Council Solutions has engaged an independent probity advisor for the Waste Management Services Project to oversee the procurement process to support fair and equitable treatment of tenderers.

4.3.3. Evaluation of RFT

Prior to the release of the RFT to the market, an evaluation plan will be established detailing the evaluation process and criteria against which all tenders will be assessed. The evaluation criteria will be outlined in the RFT documentation so the potential suppliers can ensure their responses account for these criteria. Evaluation of the responses will be undertaken by an evaluation team comprising:

- Council Solutions (who will manage the evaluation process and assess criteria such as insurances, licenses, accreditations and referees);
- Waste Management Services Project team members, being a representative from each Participating Council (who will assess criteria such as service proposal, quality, environmental goals, organisation capability, efficiency and innovation); and
- Expert advisors (who will provide specialist advice as required by the evaluation team, for example legal advice may be sought regarding any contractual matters).

For all three Ancillary Service Streams the Participating Councils may, in their collective discretion, elect to award a contract for collection services only where an optimal Value for Money and resource recovery outcome would be achieved by utilising the Participating Councils' contract/s for Recyclables Processing, Organics Processing and/or Residual Processing.

For Bulk Bin Collection, a sole supplier will be awarded a contract to service all Participating Councils. Similarly for Hard Waste Collection, a sole supplier will be awarded a contract to service all Participating Councils requiring the service (refer Table 2 above). It will not be open in either Bulk Bin Collection or Hard Waste Collection for Participating Councils to select different suppliers.

For Street Litter Collection, the Participating Councils reserve the right to appoint up to two suppliers.

In the event that two suppliers are appointed for Street Litter Collection, each supplier will be awarded the services for discrete Participating Council/s for the entire contract operating term. It will not be open for Participating Councils to select different suppliers outside of the framework established.

As a result of the RFT and evaluation, contracts will be awarded that will be joint and not several contracts between the Participating Councils and the successful supplier/s. The contracts will be based on the LGA Model Contract, which is the industry standard in South Australia for contracts between Councils and waste service providers.

4.3.4. Ongoing administration of contracts

As part of the ongoing contract management and administration Council Solutions and representatives from each Participating Council will participate in joint decisions, activities (including the sharing of information) and discussions which may include, but are not limited to:

- contamination management;
- community education; and
- assessment of supplier performance.

A central contract management role will also be established which will take the lead and be primarily responsible for:

- pricing reviews;
- exercising contract options;
- reviewing and verifying data; and
- measurement and monitoring of Key Performance Indicators.

Each Participating Council will retain some contract management responsibility, such as:

- maintenance of bin, Service Entitled Premises and Street Litter Bin location register;
- internal reporting;
- approval of new and removal of expired services; and
- providing the initial customer interface to their communities.

4.3.5. Roles and responsibilities

For clarity, the roles and responsibilities of the Applicants in the Waste Management Services Project are summarised as follows:

Party	Role
Council Solutions	Primary responsibility for: <ul style="list-style-type: none"> • Design and implementation of the procurement process, including all administrative tasks and ensuring good governance and probity; • Coordination and consolidation of specifications, characteristics, objectives and preferences of each Participating Council; • Leading the tender evaluation, including undertaking negotiations and administrative tasks associated with contract award; and • Contract management tasks (refer paragraph 11.1.2 “combined contract management” below).

Party	Role
Participating Councils	<p>Contribute through:</p> <ul style="list-style-type: none"> • Endorsement of procurement process; • Supply of characteristics, objectives and preferences for consolidation by Council Solutions; • Providing a team member for the evaluation team; • Evaluating tenders received against designated criteria; • Endorsement of recommendation report; and • Designated contract management tasks (refer paragraph 11.1.2 “combined contract management” below).

Table 3: Roles and responsibilities of the Applicants under the Proposed Conduct

5. Relevant Provisions of the *Competition and Consumer Act 2010*

The Applicants seek authorisation to the extent the Proposed Conduct may constitute a breach of the provisions of the *Competition and Consumer Act 2010* outlined below:

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

6. Rationale for the Proposed Conduct

6.1. Policy context

Waste management within South Australia is the subject of governmental policies and strategic plans which has resulted in two key strategic targets for local governments to contribute towards:

1. Target 67 of South Australia’s Strategic Plan: *Reduce waste to landfill by 35% by 2020 (baseline: 2002-03); Milestone of 30% by 2017/18.*⁴
2. South Australia’s Waste Strategy 2015-2020: *Metropolitan Municipal Solid Waste diversion of 70% by 2020.*⁵

In establishing the SA Waste Strategy Green Industries SA has noted:

*Waste management is a considerable proportion of local council operating budgets, including infrastructure investment and operation, delivery, contract management, education and awareness. ... Increased collaboration and optimisation of resources and effort, made possible through more consistency across municipalities, and improvements in technology, could bring substantial savings.*⁶

⁴ SA Strategic Plan, 2011

⁵ SA Waste Strategy

⁶ Ibid, pages 15-16.

Furthermore, the Participating Councils have strategic waste management plans, environmental plans and carbon neutral targets that align with and build on these State strategies and targets.⁷ These policies and targets, however, are also playing out against a backdrop of pushes for reduced spending by Councils, the potential for rate capping legislation to be introduced by the new Liberal State government and the increasing requirement to do ‘more with less’.

The need to extract maximum efficiency and best Value for Money, combined with the strategy and policy context outlined above have led the Participating Councils to collaborate and to play their part in contributing to the achievement of these targets.

6.2. Aim of the Waste Management Services Project

The Waste Management Services Project seeks to establish strategic partnerships that provide the best possible benefits and service to the Participating Councils’ communities. These strategic partnerships will provide Value for Money, improve waste management, and deliver waste reduction outcomes and environmental sustainability across multiple municipalities to achieve environmental and economic benefits for our communities.

The aims and goals of the Waste Management Services Project and the associated procurement strategy were developed in consultation with Wright Corporate Strategy. These were discussed during consultation undertaken with the market, including with prominent suppliers, small businesses and industry associations, government bodies and advocates, including the South Australian Commissioner for Small Business and Business SA, and government environmental organisations including Green Industries SA and the Environmental Protection Agency.

This consultation confirmed alignment of the aims and goals of the Proposed Conduct with the strategic policy approach to waste management within South Australia and also provided input that allowed for the refinement of the procurement strategy.

7. Term of Authorisation

Council Solutions requests authorisation to be granted until **June 30, 2031**. This period comprises:

- Publication of the RFT for the Ancillary Service Streams in 2018;
- Tender open period of six to eight weeks;
- Tender evaluation period that allows for contracts to be awarded in 2019;
- Nine to 12 months to allow for existing contracts to conclude and, where applicable, to allow for the purchase and commissioning of new trucks;
- Contract commencement from May 2020, with a rolling start across the Participating Councils as current contractual arrangements conclude, with all contracts commenced by May 2021; and
- A proposed maximum 10-year contract operating term.

The proposed 10-year contract operating term for each Ancillary Service Stream consists of a seven-year initial term and an option for a three-year extension period. This is in line with the generally accepted term for collection contracts, and broadly aligns with the contract tenure for other waste management services procured by Councils. Each Participating Council will have the benefit of up to a 10-year contract, that is, where a Participating Council commences service provision in May 2020, the

⁷ See, e.g., *Carbon Neutral Strategy 2015-2025, Adelaide, South Australia, City of Adelaide, Living Green to 2020: Environmental Plan*, City of Charles Sturt, *Waste Management Strategy 2017-2022 (Draft)*, City of Port Adelaide Enfield.

end of its maximum contract period will be April 2030. Correspondingly, where a Participating Council commences service provision in May 2021, the end of its maximum contract period will be April 2031.

8. Documents Submitted to the Board

Relevant papers have been provided to the ACCC at Annexure 1 of this submission. However as these are not public documents or are commercial in confidence they are *CONFIDENTIAL* and are not published on the public register.

9. Persons, or Classes of Persons, who may be Impacted

The suppliers of the Ancillary Service Streams and industry associations have been identified in Annexure 2.

10. Market Information and Concentration

10.1. Market definition

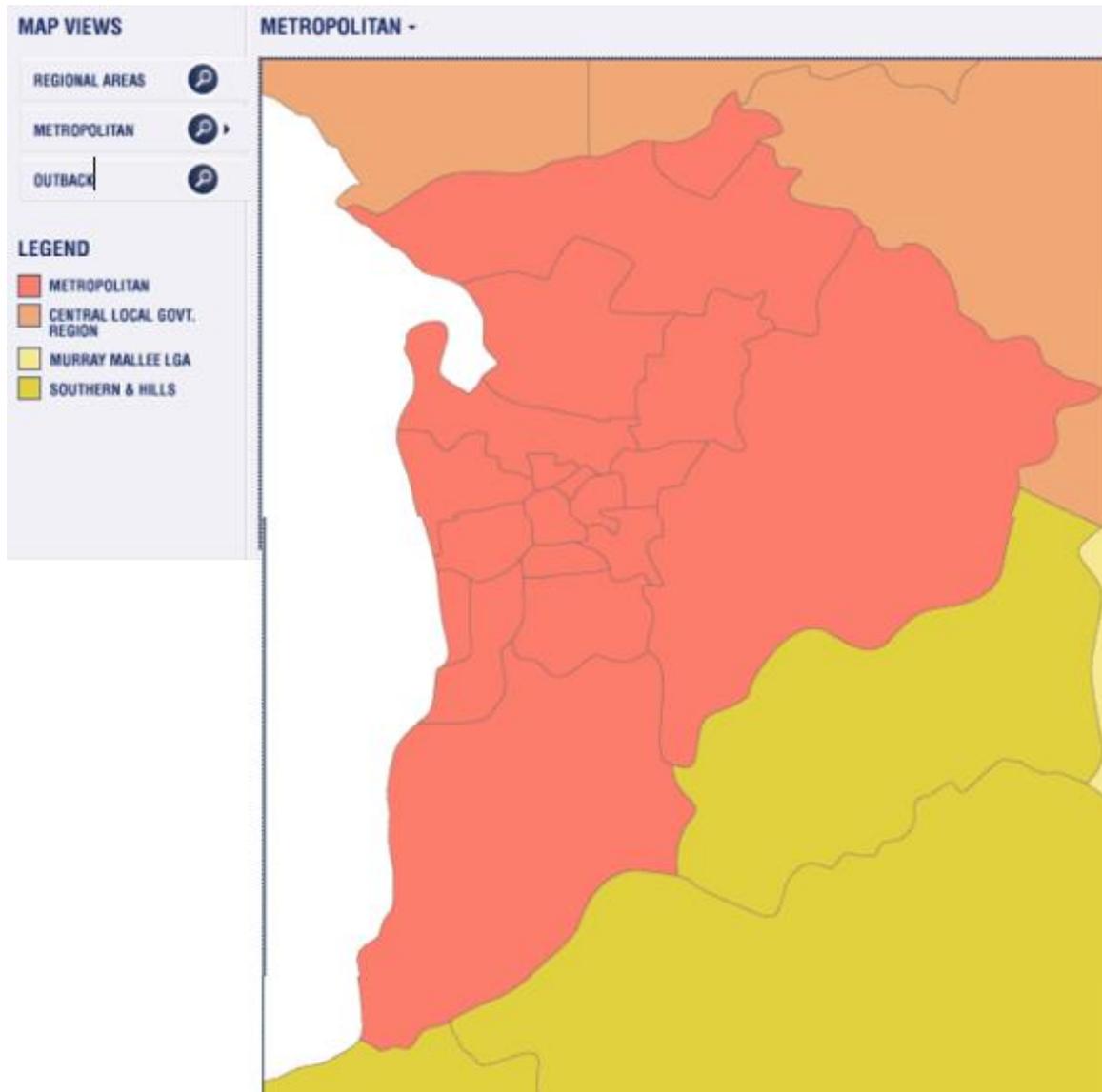
As outlined above in paragraph 3, the Applicants consist entirely of bodies incorporated by the LG Act, four as Councils and one as a Regional Subsidiary. The Participating Councils' functions and powers specifically include the requirement to provide "waste collection, control or disposal services" that "benefit its area, its ratepayers and residents and visitors to its area."⁸ Each Participating Council is responsible to its own ratepayers and elected members and does not overlap in the provision of services.

10.2. Relevant industry

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.

⁸ LG Act, s7(6).



Map 2: Adelaide Metropolitan Area

The relevant supply chain for the waste collection industry comprises:

- the manufacturers of the collection vehicles plus any included data gathering equipment;
- the manufacturers of the Bulk Bins, Street Litter Bins and any housing framework;
- the suppliers of Bulk Bin, Hard Waste and/or Street Litter Collection services;
- Customers, including Councils, who acquire Bulk Bin Collection services from suppliers in the Adelaide Metropolitan Area;
- Customers, including Councils, who acquire Hard Waste Collection services from suppliers in the Greater Adelaide Region where Hard Waste Collection is offered;
- Councils who acquire Street Litter Collection services from suppliers in the Greater Adelaide Region;
- residents and businesses of, and visitors to, the Greater Adelaide Region Councils who benefit from the services;
- the processors responsible for receiving the waste once discharged from the collection vehicles; and

- where applicable, customers who receive or purchase any recovered goods.

Most Councils outsource the Ancillary Service Streams, either to private sector waste collection suppliers or to a Regional Subsidiary. In total:

- 12 out of the 19 Adelaide Metropolitan Councils use private sector suppliers to deliver Bulk Bin Collection;
- 11 out of the 23 Greater Adelaide Region Councils that offer Hard Waste Collection use private sector suppliers to deliver this service for ratepayers; and
- 14 out of the 27 Greater Adelaide Region Councils use private sector suppliers to deliver Street Litter Collection.

Under the Proposed Conduct, the Applicants will determine the successful supplier for each Ancillary Service Stream and may appoint the processors responsible for receiving the waste, depending on the Value for Money and resource recovery processes outlined in the offers received from the market. The appointment of the manufacturer of collection vehicles, procurement of the data gathering equipment and any applicable Bulk Bins or Street Litter Bins will be at the discretion of the successful supplier/s.

The market segments for the potential suppliers who might typically tender for Bulk Bin Collection, Hard Waste Collection and/or Street Litter Collection includes industry participants providing Waste Management Services in the following areas:

- commercial collection services for business waste – residual waste, recyclables, organic wastes, building and demolition wastes, liquid wastes, hazardous wastes;
- kerbside collection services for local councils – residual waste, recyclables and organic wastes;
- bulk bin supply and removal;
- grease trap waste collection and removal;
- used oil collection and disposal;
- document collection and destruction; and
- industrial services – suction cleaning, drain cleaning, etc.

This is in addition to a small number of existing, dedicated Hard Waste Collection and Street Litter Collection service providers.

Furthermore, a number of the potential suppliers may also be engaged in dealing with waste after collection with activities such as:

- recycling of materials;
- beneficial sorting and processing of materials; and
- landfill disposal.

10.3. Market share

Council Solutions notes in previous determinations regarding local governments conducting joint tenders for Waste Management Services the ACCC has not considered it necessary to specifically define the relevant market and has identified broad areas of competition that may be affected by the proposed conduct rather than precisely identifying particular markets.

As noted in paragraph 10.1 above, a Participating Council provides services to its own area only and does not compete with other Councils in the supply of Services. Under the Proposed Conduct, the Participating Councils are seeking to source three separate services, where each service is near

identical between the Participating Councils, being the provision of Bulk Bin Collection, the provision of Hard Waste collection and the provision of Street Litter Collection.

10.3.1. Bulk Bin Collection

Bulk Bin Collection is a growing requirement for Councils as housing density increases and the 3-Bin System is no longer viable due to space and capacity restrictions both within multi-unit buildings and at kerbside when bins are set out for collection. However, the use of Bulk Bins is more common and dominant in the C&I source sector and the current level of requirement by all Adelaide Metropolitan Councils is very small in comparison.

In assessing the market share for Bulk Bin Collection Council Solutions has identified, as far as possible, the number of commercial and industrial properties across the Adelaide Metropolitan Councils and expressed the Participating Councils' Bulk Bin requirements as a percentage of these.⁹

Council	Bulk Bin Requirement	
	Bins	% of all C&I Rateable Properties
City of Adelaide	258	
City of Charles Sturt	117	
City of Marion	21	
City of Port Adelaide Enfield	28	
TOTAL	424	1.04%
All C&I Rateable Properties in the Adelaide Metropolitan Area	40,643	

Table 4: Market share of the Participating Councils by C&I Rateable Properties

⁹ Whilst some commercial and industrial properties will not utilise Bulk Bins, this is balanced by the residential Rateable Properties which do utilise Bulk Bins but are not included in the base number of C&I Rateable Properties.

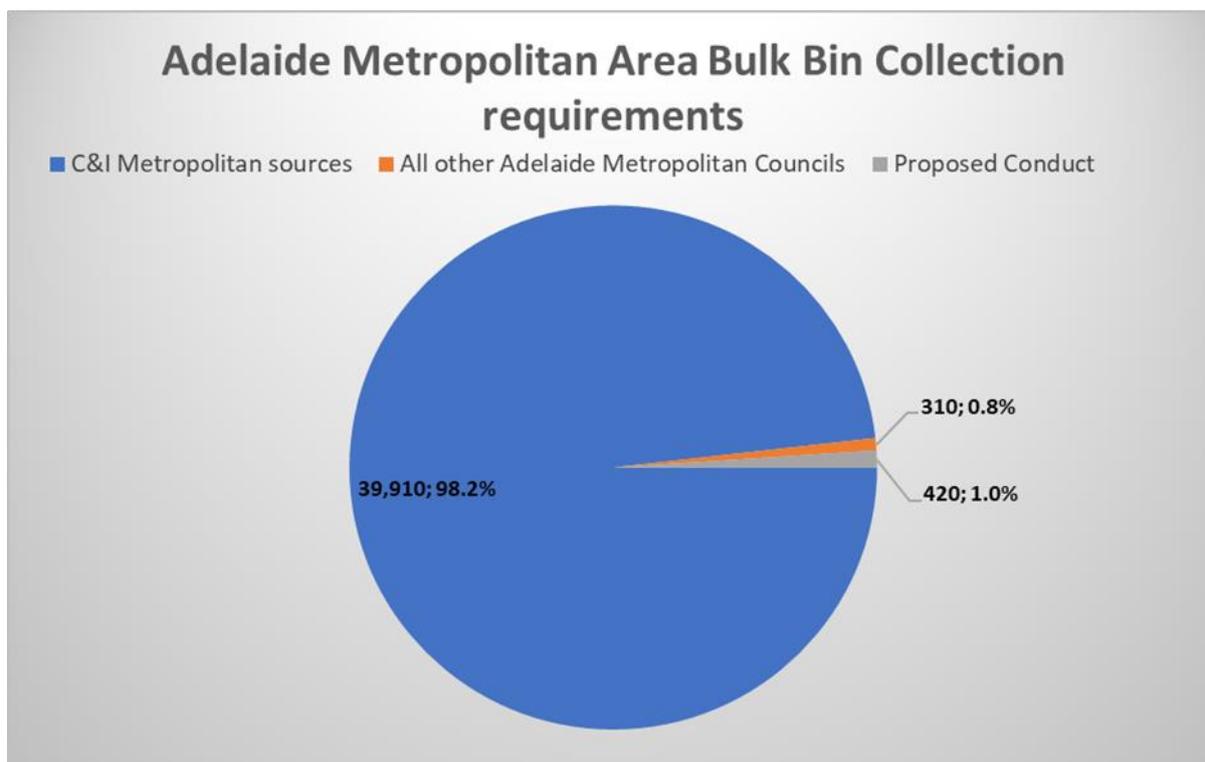


Chart 1: Market Share of the Participating Councils' by Bulk Bin Collection requirement for the Adelaide Metropolitan Area.

As housing density increases across all Adelaide Metropolitan Councils, the necessity of using Bulk Bins in lieu of the 3-Bin System will also increase, however this will not substantially change the Councils' share of the market. Rather, it will increase the overall volume in that market share and, potentially, make it more attractive.

10.3.2. Hard Waste Collection

Providing a Hard Waste Collection service can aid Councils in avoiding incidences of illegal dumping. Additionally, it is a valuable service to the community, particularly those who may be unable to transport Hard Waste themselves to an acceptable landfill. 23 of the 27 Greater Adelaide Regions offer Hard Waste Collection, with 20 of these outsourcing the requirement, either to the private sector or a Regional Subsidiary.

In assessing the market share for Hard Waste Collection, Council Solutions has used Rateable Properties as a publicly available index. Each Greater Adelaide Region Council may have a different metric to measure their own internal requirement that may be based on frequency of collections offered, how many collections per annum are offered, or volume acceptable, however Council Solutions submits Rateable Properties is a fair index for determining market share.

Not all the Greater Adelaide Region Councils offer Hard Waste Collection.¹⁰ Accordingly, the market share analysis has been calculated based on the Greater Adelaide Region Councils that offer Hard Waste Collection. As noted in Table 2 above, the City of Marion will not require Hard Waste Collection

¹⁰ Alexandrina Council, Mount Barker District Council, the City of Victor Harbor and the District Council of Yankalilla each do not offer Hard Waste Collection.

as it delivers the service inhouse and, as such, its requirements are not included in the market share analysis.

Council	Rateable Properties	
	Properties	% of Greater Adelaide Region Councils that offer a Hard Waste Collection Service
City of Adelaide	22,435	
City of Charles Sturt	55,175	
City of Port Adelaide Enfield	61,026	
TOTAL	133,636	21.80%
Greater Adelaide Region Councils that offer Hard Waste Collection	635,907	

Table 5: Market share of the Participating Councils by Rateable Properties

The Participating Councils for this Service Stream represent approximately 22% of the Rateable Properties across the Greater Adelaide Region where the Council offers Hard Waste Collection. Of the remaining 78% of the Rateable Properties across the Greater Adelaide Region where the Council offers Hard Waste Collection:

- approximately 51% of the requirement is outsourced to private sector service providers, including through NAWMA; and
- The remaining 49% have Hard Waste Collection delivered inhouse, either directly by the Council or through East Waste.

Therefore, taking into account the Proposed Conduct, 62% of the market in the Greater Adelaide Region where Councils offer Hard Waste Collection is outsourced to private sector service providers.

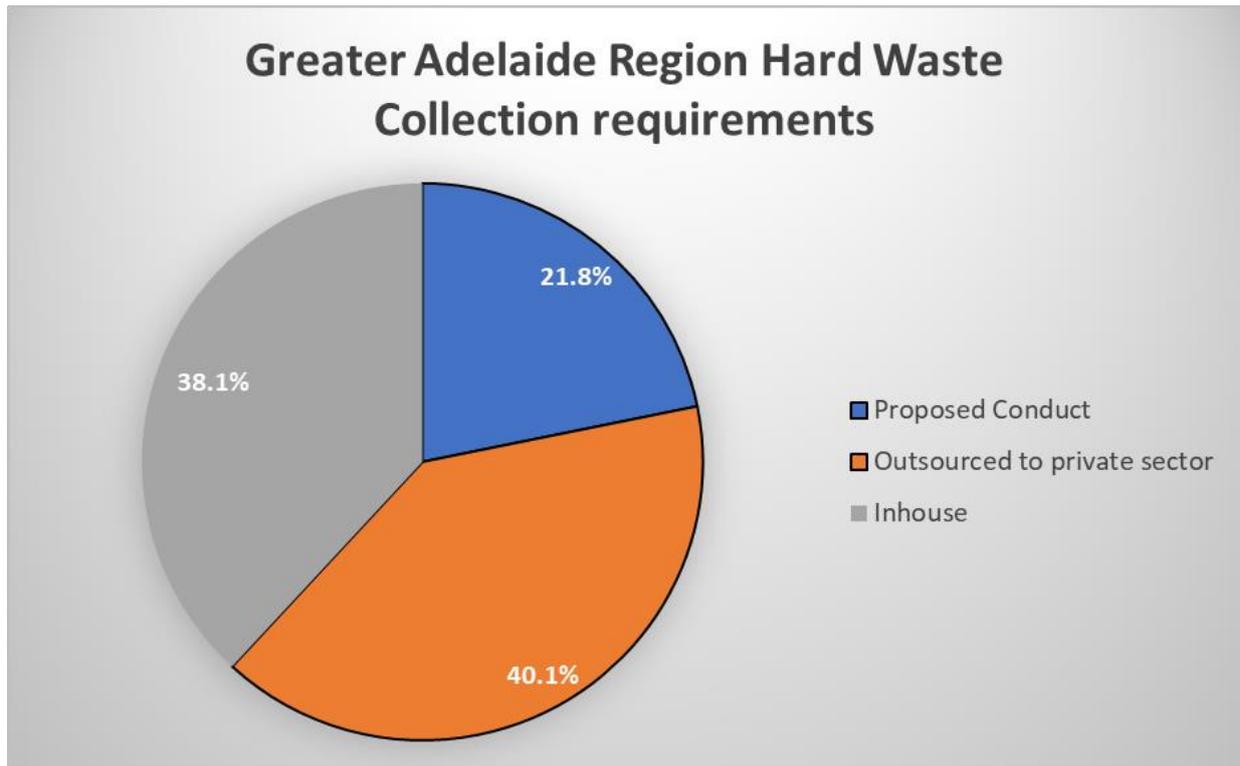


Chart 2: Market share of the Participating Councils' Hard Waste Collection requirement by Rateable Properties in the Greater Adelaide Region where Hard Waste Collection is offered.

This market share may change through:

- natural population increase or decrease;
- a Council which currently provides Hard Waste Collection inhouse or through a Regional Subsidiary electing to outsource to the private sector; or
- a Greater Adelaide Region Council which does not currently offer Hard Waste Collection electing to do so in the future.

Council Solutions submits these changes will not alter the market significantly or would decrease the Participating Councils' market share through the opening of new opportunities.

10.3.3. Street Litter Collection

Street Litter Bins are important assets for Councils in ensuring the amenity and health and safety of their community by providing a convenient method for the public to dispose of their waste while away from home. As such, all Greater Adelaide Region Councils provide this service to their community with 22 of the 27 Greater Adelaide Region Councils outsourcing this requirement to the private sector or a Regional Subsidiary.

In assessing the market share for Street Litter Collection, Council Solutions has used the approximate number of Street Litter Bins in each Greater Adelaide Region; estimated, where necessary using information available through previous tender documents, provided by the Participating Councils and other Greater Adelaide Region Councils to Council Solutions, and best market knowledge.

As noted in Table 2 above, the City of Adelaide will not require Street Litter Collection as it delivers the service inhouse and, as such, its requirements are not included in the market share analysis.

Council	Street Litter Requirements	
	Street Litter Bins	% of all Greater Adelaide Region Street Litter Bins
City of Charles Sturt	1,264	
City of Marion	541	
City of Port Adelaide Enfield	1,100	
TOTAL	2,905	26%
All Greater Adelaide Region Council Street Litter Bins	11,162	

Table 6: Market share of the Participating Councils by Street Litter Bins.

The Participating Councils for this Service Stream represent approximately 26% of the Street Litter Bins across the Greater Adelaide Region. Of the remaining 74% of Street Litter Bins serviced by the Greater Adelaide Region Councils:

- 45% is outsourced to private sector service providers; and
- The remaining 55% have Street Litter Collection delivered inhouse by FRWA, East Waste or directly by the Council.

Therefore, taking into consideration the Proposed Conduct, nearly 58% of the market in the Greater Adelaide Region is outsourced to private sector service providers.

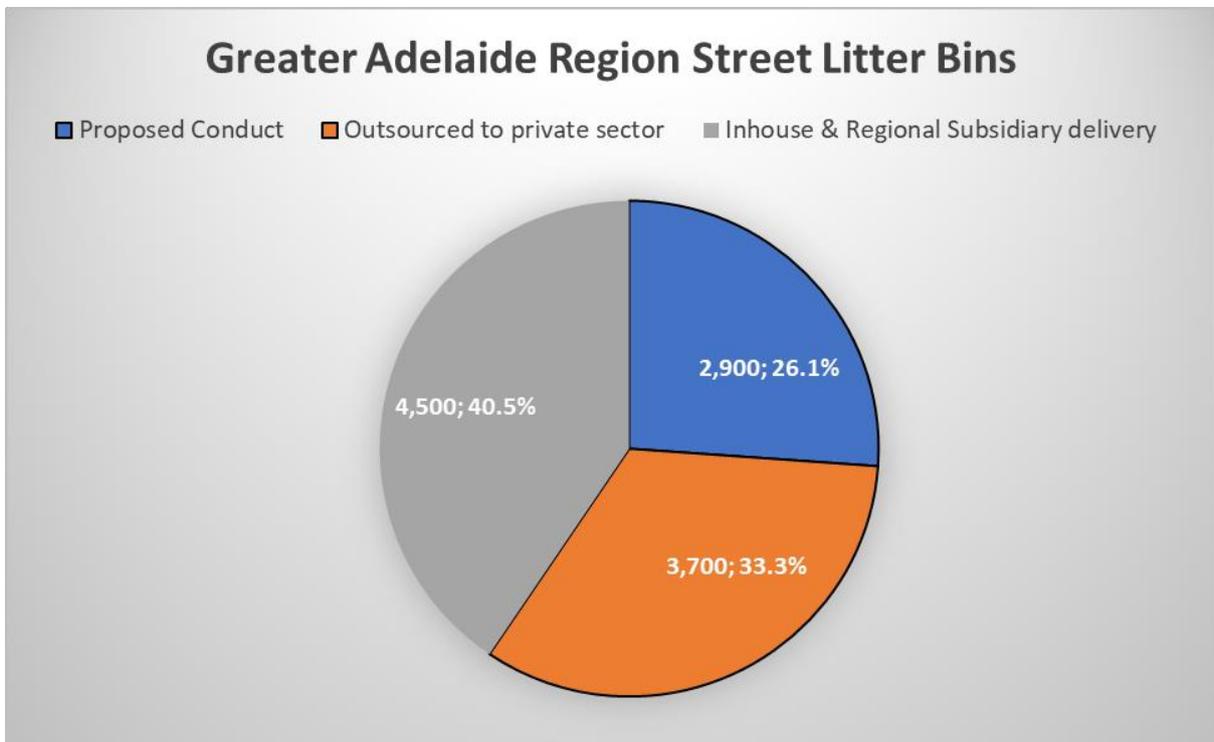


Chart 3: Market share of the Participating Councils by Street Litter Bins in the Greater Adelaide Region.

It is unlikely this market share will change significantly unless a Greater Adelaide Region Council which currently provides Street Litter Collection inhouse, either directly or through a Regional Subsidiary, elected to outsource the requirement to the private sector.

10.4. Competitive constraints

10.4.1. Existing or potential competitors

To the extent that the Participating Councils are competitors in the acquisition of the Ancillary Service Streams, the existing competitors are the 20 other Greater Adelaide Region Councils who outsource to private sector service providers the provision of one or more of their Ancillary Service Stream requirements.

10.4.2. Likelihood of entry by new competitors

There is unlikely to be any entry of new competitors to the Participating Councils in the Street Litter Collection Service Stream unless any Greater Adelaide Region Council that currently provides the services inhouse, either directly or through a Regional Subsidiary, decided to procure Street Litter Collection from the private sector.

There are two scenarios that may lead to new competitors in the Hard Waste Collection Service Stream:

- a Greater Adelaide Region Council that currently provides the service inhouse, either directly or through a Regional Subsidiary, decided to procure Hard Waste Collection from the private sector; and/or
- any or all of the four Greater Adelaide Region Councils who currently do not offer Hard Waste Collection changed its policy and sourced the service from the private sector.

Council Solutions considers both scenarios to be unlikely.

The same two scenarios above also apply to the potential of a new competitor for Bulk Bin Collection. Council Solutions submits the second scenario where any or all Greater Adelaide Region Councils that currently do not utilise Bulk Bins required the service and elected to source Bulk Bin Collection from the private sector, has a greater likelihood of occurring. This could be an additional two Adelaide Metropolitan Councils and up to eight Regional Adelaide Councils.

The State Government's *30-Year Plan for Greater Adelaide 2017* notes "approximately 76 per cent of Greater Adelaide's new housing growth is in established suburbs"¹¹ against the target of 85% of all new housing in the Adelaide Metropolitan Area being built in established urban areas by 2045.¹² This will lead to growth in Bulk Bin Collection from residential properties for the Adelaide Metropolitan Councils and, potentially, some township areas of some of the Regional Adelaide Councils also.

As such, two to 10 more Councils may begin competing for the acquisition of Bulk Bin Collection Services. Council Solutions submits there is a fair likelihood of this beginning to occur during the proposed authorised period.

10.4.3. Countervailing power of customers and/or suppliers

The Ancillary Service Streams are so called as they are related to, but not the core, waste collection and processing requirements for the Participating Councils when compared to the scope and value of Waste Collection Services and the Processing Service Streams. As such, they are often sourced by individual Councils as an 'add on' to their 3-Bin System collection service, and may then be sub-

¹¹ Page 19.

¹² Ibid, page 36.

contracted out by the 3-Bin System Collection service provider (as a 'non-core' service). As such, when an individual Greater Adelaide Region Council tenders for an Ancillary Service Streams the potential suppliers have stronger bargaining power and are able to exert influence over the service delivery offering and pricing to the Council.

Waste Management Services are a fundamental part of a Council's service to its community; an oft-quoted maxim is that local government is for "rubbish, roads and rates." It is a high profile service and a critical service offering, including the Ancillary Service Streams. There is an increasing community expectation and legislated responsibility for Councils to understand what happens to the waste materials after collection, how much will be recovered for reuse or recycling, and how much will be diverted from landfill. As such, tender processes and ongoing contract management are critical, expensive and time consuming responsibilities for the Councils.

Should a Council wish to exit a contract (for example in the event of poor service delivery), the potential interruption to service provision and the cost and effort for the Council to re-tender and appoint a new contractor can be significant. This provides significant leverage for the Contractor. The cost and effort for a Council to re-tender is further magnified when Ancillary Service Streams are bundled within the Waste Collection Services contract with a supplier.

The potential suppliers of the Ancillary Service Streams also have access to a pipeline of C&I and other Council opportunities. Aside from the four Participating Councils, there are up to an additional 13 Greater Adelaide Region Councils requiring the Ancillary Service Streams that periodically acquire the services from the market.

In addition, for many potential suppliers in the market who have traditionally serviced these requirements, the provision of the Ancillary Service Streams is only one, smaller element of the potential supplier's business, with many providing multiple other services (such as 3-Bin System Waste Collection Services, C&I collection, or processing services).

By undertaking a single and discrete RFT process for the Ancillary Service Streams, separating them from the 3-Bin System collection and consolidating service requirements, the bargaining power of the Participating Councils is increased under the Proposed Conduct. This creates a more even balance of power between the Participating Councils and potential suppliers in the market. Accordingly, the Proposed Conduct will deliver benefits and outcomes to the Participating Councils that they would not achieve by themselves. In addition, a more even balance of power will also be conducive to a collaborative relationship during contract delivery and management.

11. Public Benefit

Council Solutions submits the Proposed Conduct will result in significant public benefits, including:

- (a) increased opportunity for competition from the stimulation of the market;
- (b) tender process and contract management cost savings and efficiencies by reducing the replication of work for both Participating Councils and potential suppliers through alignment of specifications and service standards and the administration of a single tender process and collaborative contract management;
- (c) environmental benefits from the increased diversion of waste from landfill;
- (d) lower costs for Participating Councils through improved purchasing power; and
- (e) increased service efficiencies.

A number of these benefits are certain to arise from the Proposed Conduct and will have positive efficiency, cost of service and environmental impacts. This section allocates the public benefits of the Proposed Conduct into two categories:

- Public benefits that will occur. These benefits will result from elements that are under the direct control of the Participating Councils, leading to:
 - Increased opportunity for competition;
 - Tender process efficiencies;
 - Environmental benefits; and
- Public benefits that are likely to occur. These benefits are likely to occur as they are dependent on the offers received in the tender process and should lead to:
 - Lower costs via improved purchasing power; and
 - Improved service efficiencies.

Council Solutions submits all benefits will have an impact beyond just the Participating Councils' communities and the combined impact will be considerable.

11.1. Public benefits that will occur

11.1.1. Increased opportunity for competition

Dynamic competition in any market is a good thing. 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.

Bulk Bin Collection

There are currently at least nine potential suppliers in the market who have the capacity to provide Bulk Bin Collection to the Participating Councils, but not all of these have had the opportunity to tender directly for the Bulk Bin Collection opportunities presented by South Australian Councils.

Notwithstanding the diversity of potential suppliers in the market, only three suppliers are currently contracted to provide Bulk Bin Collection to the Adelaide Metropolitan Area.

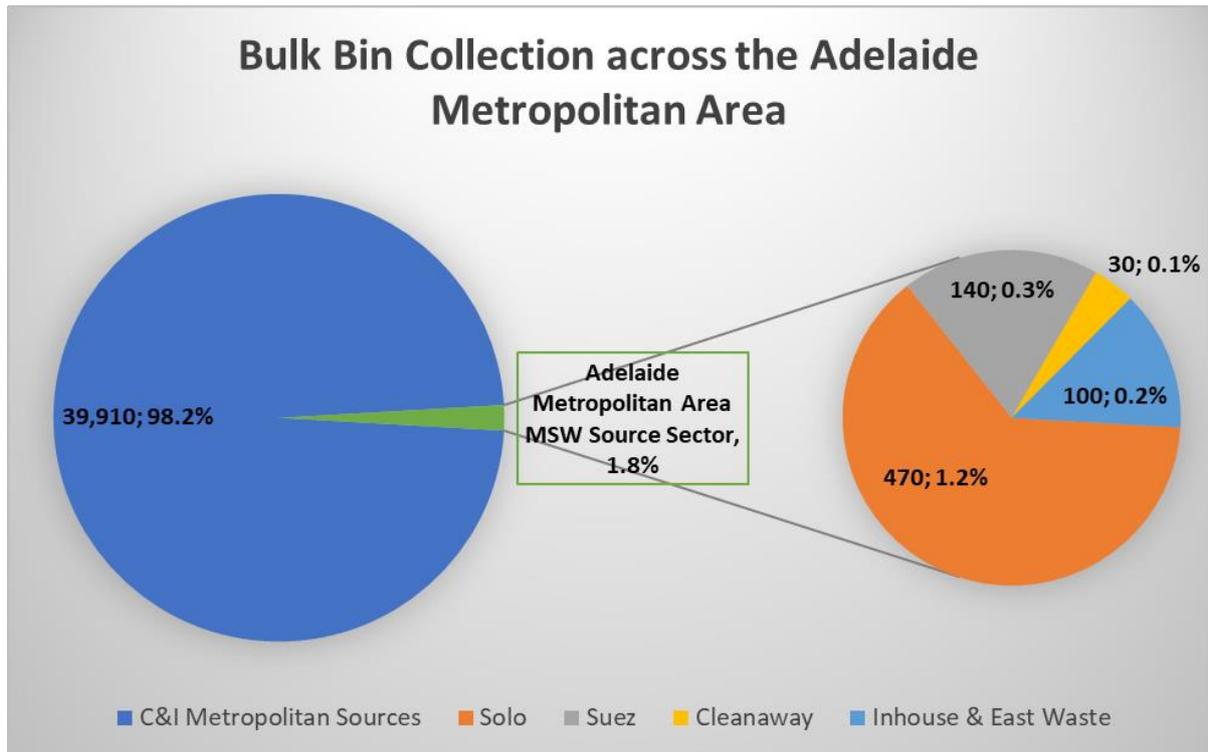


Chart 4: Current division of the Bulk Bin Collection market: MSW source sector by supplier using number of Bulk Bins.

The key factor that has contributed to this division is the lack of opportunity for other potential suppliers, such as those who primarily service C&I Bulk Bins, to tender for this work unless also capable of providing 3-Bin System collection services. As such, the Proposed Conduct will provide the opportunity for a broader range of potential suppliers to tender for the services and greater competition in the market.

Hard Waste Collection

There are currently at least nine potential suppliers in the market who have the capacity to provide Hard Waste Collection to the Participating Councils, but not all of these have had the opportunity to tender directly for the Hard Waste Collection opportunities presented by the South Australian Councils.

Notwithstanding the diversity of potential suppliers in the market only four suppliers are currently contracted to provide services to the Greater Adelaide Region Councils who offer Hard Waste Collection.

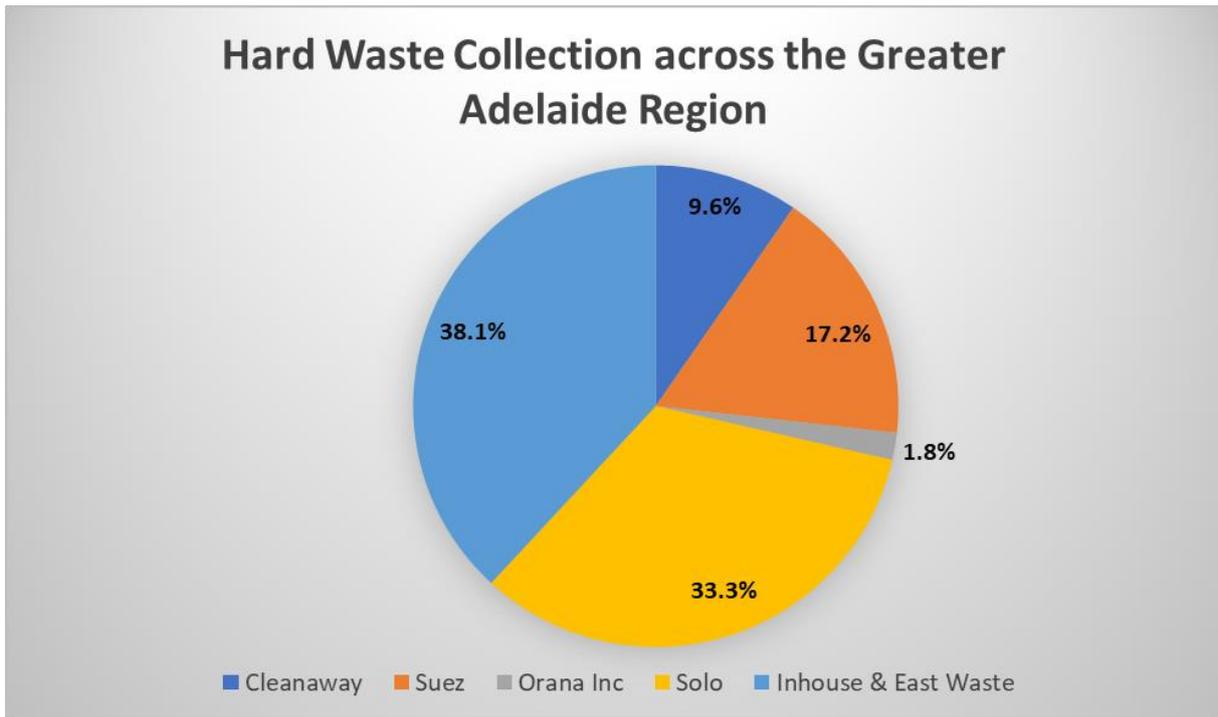


Chart 5: Current division of the Hard Waste Collection market by supplier using Rateable Properties.

The concentration evident in the current market division is likely reflective of Hard Waste Collection being provided under the same contract as the 3-Bin System collection service.

The tendering of Hard Waste Collection by the Participating Councils under the Proposed Conduct, without the requirement to also provide a 3-Bin System collection service, increases the opportunity for competition and opens the Hard Waste Collection opportunity to potential suppliers large and small, generalist and those that who specialise in Hard Waste Collection, to tender directly to the Participating Councils for this requirement. There is also the potential for new entrants given the low barrier to entering this market segment on a stand-alone basis. Such new entrants may be organisations seeking access to the materials contained in the Hard Waste for resource recovery and/or energy recovery. Where Hard Waste Collection has been bundled with 3-Bin System collection, these potential entrants have been restricted or excluded from tendering.

Street Litter Collection

There are currently at least nine potential suppliers in the market who have the capacity to provide Street Litter Collection to the Participating Councils, but not all of these have had the opportunity to tender directly for the Street Litter Collection opportunities presented by the South Australian Councils.

Notwithstanding the diversity of potential suppliers in the market, only four suppliers are currently contracted to provide services to the Greater Adelaide Region Councils.

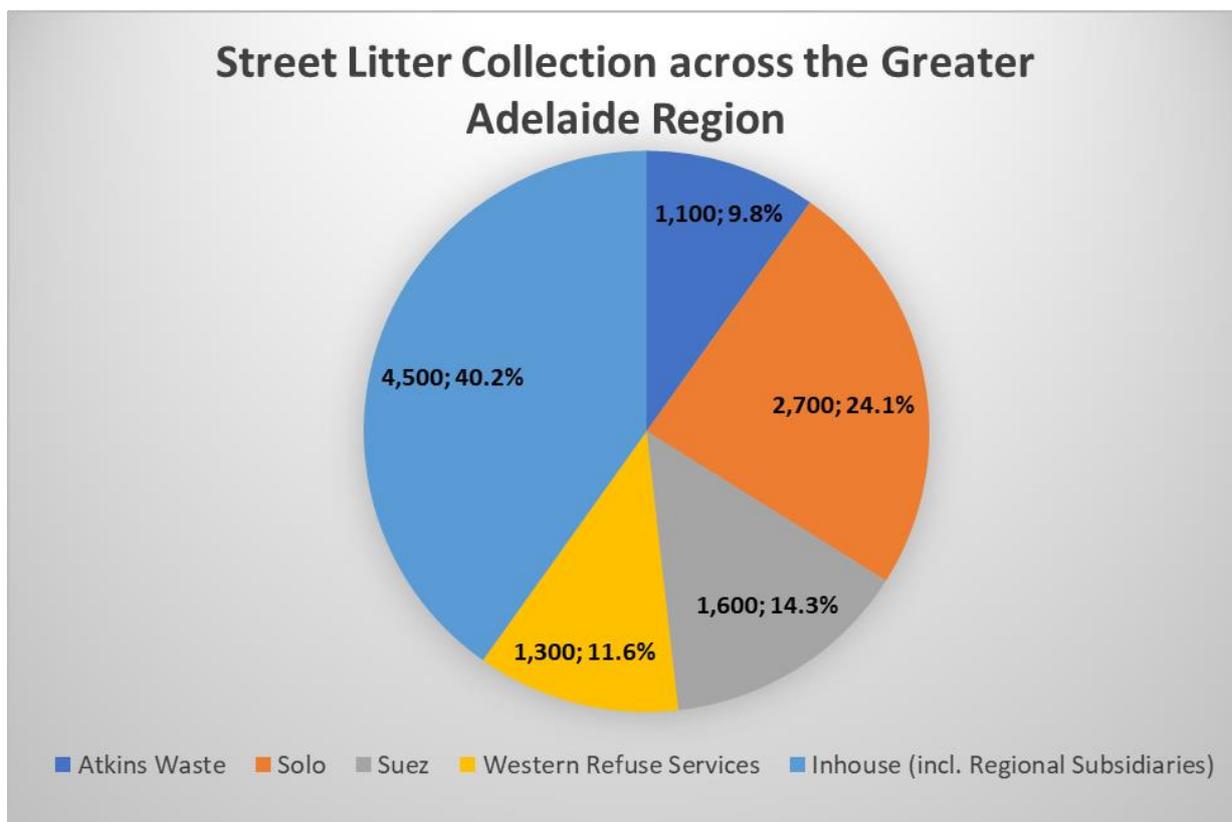


Chart 6: Current division of the Street Litter Collection market by supplier using number of bins.

The concentration evident in the current market division is likely reflective of Street Litter Collection being provided under the same contract as the 3-Bin System collection service.

Where Greater Adelaide Region Councils have required this packaging, it limits the opportunities for smaller providers who specialise in Street Litter Collection to tender direct to Councils for this opportunity. This is further evidenced as two of the Participating Councils, who have procured Street Litter Collection separate from the procurement of 3-Bin System collection services, have awarded contracts to smaller suppliers.

The tendering of Street Litter Collection by the Participating Councils under the Proposed Conduct, without the requirement to also provide a 3-Bin System collection service increases the opportunity for competition and opens the Street Litter Collection opportunity to potential suppliers large and small, generalist and specialist, to tender directly to the Participating Councils for this requirement.

Summary of increased opportunity for competition

Without the stimulation of competition through the Proposed Conduct that offers all Participating Councils' Ancillary Service Stream requirements as separable opportunities, the same scenario regarding the current or any future division of the respective markets may arise. Additionally, if the Participating Councils each undertake their own separate RFT process, given the small volume of the current requirements of some Participating Councils, particularly in Bulk Bin Collection, it is unlikely each would receive as many submissions. If the Participating Councils each undertake their own separate RFT processes, they may still appoint the same supplier or suppliers, as the case may be, that could be appointed under the Proposed Conduct. However, fragmented and inconsistent approaches would not provide the same public benefits that will occur due to the Proposed Conduct.

The feedback provided by potential suppliers to Councils Solutions during consultation with the

market indicated the contract opportunities provided by the Proposed Conduct are attractive. The collaborative approach of the Participating Councils utilising a single RFT across all three Ancillary Service Streams with standard specifications reduces the workload for potential suppliers and further encourages competition.

Maximising competition and the number of tenders received, including from potential suppliers who may not previously have been provided with the opportunity to tender for an Ancillary Service Stream directly to the Councils, will allow the Participating Councils to compare all the service options available and unlock the best possible Value for Money.

Accordingly, tendering the Ancillary Service Streams via a public RFT will maximise competition, providing all potential suppliers in the market with fair and equal opportunity to compete for a contract.

The benefit of increased competition has been recognised by the ACCC previously in applications for authorisation by Councils for the collaborative procurement of Waste Management Services.¹³

11.1.2. Tender process and contract management cost savings and efficiencies

The procurement process for Councils in South Australia is a detailed process that involves considerable time and effort from resources across the Council organisation. For high profile and value procurements, such as for Waste Management Services, this cost in time and effort is significant. It has been found that almost 70% of Councils' costs in waste management are incurred through contracted services.¹⁴ In addition, significant Council resourcing is required to support effective contract management to ensure the best service for the community.

For potential suppliers also, the time and resources involved in responding to waste management services procurement processes is similarly intensive. Each Council tender process would ordinarily have its own service specification, contract conditions, evaluation criteria, and information to be submitted by suppliers. Where multiple Councils approach the market separately over a short period of time, the time and effort from the supply market to review and analyse the differences and customise and complete separate tender submissions is compounded.

If the Proposed Conduct did not occur each Participating Council would undertake their own procurement processes for the Ancillary Service Streams and, potentially, each Service Stream individually.

There are a number of ways in which the Proposed Conduct will lead to tender process and contract management efficiencies, including reducing the replication of resources and work, tender process administration cost reduction, combined expert advice and combined contract management.

Reduction of replication of resources and work

A procurement for Waste Management Services requires the resources of a number of personnel

¹³ A91483 Maitland City Council & Ors, Determination 9 July 2015, A91408 Clarence City Council & Hobart City Council, Determination 4 June 2014, A91387 Bathurst Regional Council & Ors, Determination 12 February 2014, A91500 Redland City Council & Brisbane City Council, Determination 8 October 2015, A91409 Bankstown City Council & Ors, Determination 29 May 2014.

¹⁴ Jeff Tate, *Report: Transitioning the roles of Local Government in Waste Management, for the Local Government Association of South Australia*, August 2014, page 26.

within an individual Council. This includes:

- A procurement lead, generally from the procurement team;
- At least one subject matter expert, generally from the environmental team;
- A tender evaluation panel of typically at least three people (inclusive of the above); and
- Any other personnel required by the procurement policy to be involved or oversee a procurement of this size (e.g. executive team).

As outlined above in paragraph 4.3.3, under the Proposed Conduct the personnel requirements for each Participating Council for the evaluation of the RFT responses will be reduced to one representative with Council Solutions being the procurement lead for the RFT process.

Likewise, the negotiation during an individual tender process would generally be undertaken by at least two members of a Council. Under the Proposed Conduct Council Solutions will lead a coordinated negotiation for each Ancillary Service Stream, which will reduce the number of negotiations required further. Where a Council runs individual tender processes for each Ancillary Service Stream required, the resource requirement is further reduced under the Proposed Conduct by the streamlined single RFT.

There are many documents that need to be developed for a tender process, including:

- Specification
- Tender return schedules
- Probity plan
- Tender evaluation criteria and scoresheets
- Recommendation report
- RFT conditions of tendering
- Conditions of contract
- Tender evaluation plan
- Negotiation plan

The Proposed Conduct will significantly reduce this replication of work for the Participating Councils. Instead of the four Participating Councils each developing their own sets of these documents, Council Solutions will create one set. Whilst some of the documents, for example the specification, will need to be separate for each Ancillary Service Stream, a number will be used in the RFT for all three Ancillary Service Streams, reducing replication further. The Participating Councils will contribute to and endorse these documents, however the centralisation of the development and drafting will reduce the time and resources to be contributed by the Participating Councils.

The tender return schedules, (that is, the information potential suppliers need to submit with their RFT response) are substantial in nature and again similar between tender processes. These will typically include:

- Current Commitments
- Customer Service
- Depot Details
- Financial Capacity
- Insurances
- Licenses and Accreditations
- Management, Staff and Technical Resources
- Review and Compliance to Conditions of Contract
- Previous Experience
- Quality Management
- Referees
- Subcontractors
- Vehicles, Plants & Equipment
- Workplace Health & Safety
- Service Cost / Price information

In every procurement process, each of these schedules needs to be checked, updated and/or tailored to the specific RFT requirements by potential suppliers, even where a potential supplier is responding

to multiple tenders from the same Council. In a collaborative procurement there is a reduction in time, cost and resources for the potential suppliers in responding to one tender with consistent tender return schedules. Under the Proposed Conduct, a potential supplier will only need to complete the tender return schedules once and only for the Ancillary Service Stream/s they elect to tender for, reducing the replication further.

Council Solutions submits this demonstrates a clear and significant reduction of unnecessary duplication of work for all parties due to the Proposed Conduct.

Reduced tender and contract management process administration costs

The time and cost involved in managing and undertaking the administrative tasks for a Waste Management Services procurement for an individual Council is also significant. These include:

- Prior to market approach:
 - drafting all tender documents (as outlined above)
 - seeking and gaining endorsement from relevant stakeholders in Council
 - coordination of, preparing for, leading and documenting project team meetings
 - coordinating all specialist advice
- Releasing the tender and during the open period:
 - ensuring documents are loaded correctly onto the SA Tenders & Contract website
 - coordination and presentation at industry briefing session/s
 - responding to any clarifications and queries
- Once the tender closes:
 - opening the tenders
 - review of compliance
 - distributing documentation to the tender evaluation team
 - coordinating any specialist evaluators
 - requesting and following up any clarifications necessary
 - coordinating, leading and documenting tender evaluation meetings
 - establishing, leading and documenting negotiations
 - preparing recommendation reports
- Contract award:
 - advising successful and non-successful suppliers
 - conducting any post tender supplier debriefs
 - drafting contracts
 - coordinating execution of contracts, including distribution when complete
 - preparing contract management documentation

These tasks do not take into account ongoing contract administration which is discussed further below.

These activities are required for each procurement process undertaken. Where a Council undertakes a separate procurement process for each Ancillary Service Stream, the time and costs associated with these activities becomes substantial.

Under the Proposed Conduct, these tasks will be undertaken centrally by Council Solutions in one RFT process. Whilst the Participating Councils still have a role in reviewing and endorsing the documentation, their individual contribution to the administration and documentation of the RFT is substantially reduced.

The administrative and documentation work undertaken by potential suppliers will similarly be reduced. Rather than downloading, assessing and potentially responding to up to four tenders for

each Ancillary Service Stream, potential suppliers will only need to respond to one Request for Tender. Where a potential supplier is capable and elects to tender for more than one Ancillary Service Stream, this will further reduce the administrative and documentation work undertaken by the potential supplier.

There is a clear benefit to both the Participating Councils and potential suppliers in the combining of administrative tasks that occurs with collaborative procurement and will occur under the Proposed Conduct.

Combined technical, legal and probity advice

The technical, legal and probity advice requirements for the Waste Management Services Project will be sourced and managed through Council Solutions, with the costs shared by the Participating Councils. This will include advice on the specifications, the contract and ensuring the procurement process is consistent with the highest standards of probity.

Without the Proposed Conduct, each Participating Council would be required to engage and pay for their own technical, legal and probity advice, and the advice required would likely be similar for each Participating Council.

Combined contract management

Contract management is critical to a successful collaborative relationship between the contracting parties. With traditional procurement and contract management of the Ancillary Service Streams the services are often bundled with the 3-Bin System Waste Collection Services contract and often receive less focus of attention from both suppliers and Councils. With the Proposed Conduct, these services will be the subject of separate contracts and thus exposed to more direct and purposeful attention on the part of both suppliers and Councils. Under these circumstances it is reasonably expected that service delivery performance and environmental outcomes will be of a higher level than under the traditional 'bundled' approach.

The contract management tasks for an Ancillary Service Stream contract can generally be split into four categories:

Council Solutions Led

Participating Council Led

INNOVATION, VALUE ADDS AND MAXIMISING PERFORMANCE	COMPLIANCE	CONFORMANCE	OPERATIONAL
<p>This is an area that is often overlooked by parties to a contract but is where the greatest value and establishment of a collaborative working relationship lies. Tasks include benefits realisation reporting, data analysis and feedback on trends, education, identification of changes that can improve efficiency and regular meetings. Council Solutions will be responsible for these activities.</p>	<p>The tasks here are limited to compliance to contracted requirements such as safety inductions, license and accreditation updates, insurance certificates and any other objective compliance measure. Council Solutions will undertake these tasks, with the Participating Councils contributing as required (e.g. local site inductions).</p>	<p>This ensures both parties are adhering to their responsibilities under the contract. Activities include monitoring of Key Performance Indicators, data review and verification, price reviews, documentation management and communication to stakeholders. Where appropriate, it will also include the negotiation for any extensions. Council Solutions will undertake these tasks on behalf of the Participating Councils</p>	<p>This focuses on ensuring, in the simplest form, that the service is delivered, i.e. bins are emptied or Hard Waste is collected, the Waste is deposited at the agreed facility, the service undertaken as per the timings agreed, etc. This will also include the customer interface and tracking the addition and removal of services. These tasks will continue to be undertaken by each Participating Council with support from Council Solutions.</p>

Collaborative Tasks

Individual Tasks

Without the Proposed Conduct all these tasks would need to be undertaken at each Participating Council by either procurement personnel, who will often also be running multiple new procurements across several categories, or by environmental officers who are also working on broader Council policy and engagement. Particularly for the Ancillary Service Streams, these may be given less priority than the delivery of the higher value 3-Bin System Waste Collection Services or Processing Service Streams contracts. As such, time and resource constraints within Councils can result in the strategic aspects of contract management being neglected (such as Innovation, Value Adds and Maximising Performance). If contracts are not well managed over their lives, the gains made in the establishment of the contracts can easily evaporate.¹⁵ With designated contract management provided by Council Solutions across the Participating Councils, not only will duplicated effort associated with Compliance and Conformance tasks be removed, but a dedicated focus will also be applied to extracting the maximum value and performance from the contract for each and all Participating Councils. Where a single successful supplier is appointed across two or more Ancillary Service Streams, the replicated effort will be further reduced.

¹⁵ Jeff Tate, *Report: Transitioning the roles of Local Government in Waste Management, for the Local Government Association of South Australia*, August 2014, page 27.

The importance of data collection and sharing as part of the contract management should not be underestimated. Currently there is not consistently defined, collected and allocated data across the Participating Councils for these Ancillary Service Streams. Good data will assist in policy and strategy development, monitoring and evaluation of service delivery and investment decisions. It will also allow for measuring the effectiveness of the education programs and community attitudes and behaviours.¹⁶

Summary of tender and contract management process efficiencies

The reduction of unnecessary replication of work and tender process administration effort as outlined above will lead to efficiency savings for both the Participating Councils and potential suppliers.

- A single tender will remove the duplication of work required to prepare, present, respond, evaluate and award suppliers for four Councils individually;
- Where a potential supplier tenders for more than one Ancillary Service Stream, additional duplication of work to prepare, present, respond, evaluate and award suppliers for each Participating Council across each Ancillary Service Stream will be further reduced;
- A single negotiation process for each Ancillary Service Stream will reduce the costs for the Participating Councils in procuring the Ancillary Service Streams;
- Receiving shared technical, legal and probity advice means these costs are shared between the Participating Councils rather than funded by each Participating Council individually; and
- A streamlining of contract management not only provides for a more collaborative and effective relationship between the parties, it also provides efficiency savings to both the Participating Councils and the successful supplier/s.

These tender and contract management process efficiencies and the resultant cost savings for both Councils and potential suppliers have been acknowledged by the ACCC previously in applications for authorisation for collaborative procurements for Waste Management Services¹⁷ and Council Solutions submits they will occur as a direct result of the Proposed Conduct.

11.1.3. Environmental benefits

There are a number of ways in which the Proposed Conduct will lead to environmental benefits, including increased resource recovery, reduction of waste to landfill and contributing to the achievement of State government waste strategies and targets.

Combined educational materials to increase diversion

The delivery of these Ancillary Service Streams will almost certainly involve collection vehicles working across Council boundaries on any single collection run, making uniform messaging and education initiatives essential.

¹⁶ Ibid, page 28.

¹⁷ See, e.g., A91087 Central Queensland Local Government Association, Determination 13 August 2008, A91361 Wollongong City Council & Shellharbour City Council, Determination 31 July 2013, A91387 Bathurst Regional Council & Ors, Determination 12 February 2014, A91401 The Northern Sydney Regional Organisation of Councils, Determination 9 April 2014, A91483 Maitland City Council & Ors, Determination 9 July 2015, A91500 Redland City Council & Brisbane City Council, Determination 8 October 2015, A91530 The St George Region of Councils, Determination 14 September 2016, A91544 Cairns Regional Council & Ors, Determination 9 December 2016, A30231 Northern Sydney Regional Organisation of Councils, Determination 16 December 2004, A90980 Southern Sydney Regional Organisation of Councils, Determination 8 March 2006, A91409 Bankstown City Council & Ors, Determination 29 May 2014.

Where there is confusion regarding where to dispose of waste, people will typically either take the easiest option, which is to just dispose all to landfill, or try to ‘do the right thing’ and inadvertently contaminate a source separation system. Currently each Participating Council has its own independently generated educational material available for their community, however this educational material has its limitations. It 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.

A consistent message that recognises the cross-Council nature of the collections under the Proposed Conduct and is widely reinforced across a group of collaborating 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 about more than just using the correct bin or avoiding contamination of the resource recovery process, however. The key to waste management is to avoid and minimise the production of waste altogether in the first instance and, where it can’t be avoided, to reuse before recycling. There is a legislated hierarchy to the priority for the management of waste,¹⁸ which can be illustrated as follows:

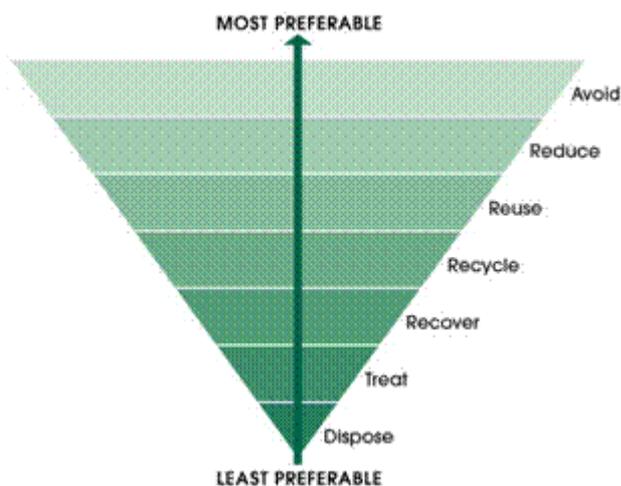


Illustration 1: Waste management hierarchy, EPA SA

¹⁸ *Environment Protection Act 1993 (SA)*, s 4B.

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.¹⁹ This is an **increase** of 4.8% from the 2014-15 financial year²⁰ which was set as the baseline in the SA Waste Strategy target of >5% reduction in waste generation per capita by 2020.²¹ Notwithstanding this high per capita waste generation rate, South Australia can rightly be proud of the highest diversion rate across Australia at 81.5%.²²

However more is needed, both to increase diversion in the Metropolitan MSW source sector from 58.2%²³ to the target of 70% (which was the milestone for 2015 and target for 2020) and to reduce the generation of waste overall.

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.

In the report *Transitioning the roles of Local Government in Waste Management*²⁴ a number of reports were reviewed and it was found "public education and behavior change have a role in a holistic approach to waste management."²⁵ Public education and behavior were found to be "part of the answer in ... educating the community (residents, businesses, schools) about Council services and facilities and to recycle and reuse."²⁶ The need for leadership, central programs and additional or more targeted programs were also noted.²⁷ Consistency in messaging is critical to reinforcing the outcomes desired and the Proposed Conduct will include a consistent educative approach.

Contributing to the achievement of State government waste strategies and targets

In the SA Waste Strategy Green Industries SA states "based on council ... audit data it would appear that if most recyclables remaining in the waste stream and food organics were collected, 70% [diversion] is achievable but will need continued consistent effort on education and food waste systems roll out."²⁸

¹⁹ Page 35.

²⁰ Ibid, page 33.

²¹ Page 27.

²² Recycling Activity Survey, page 35.

²³ Ibid, page 34.

²⁴ Jeff Tate for Local Government Association of South Australia, August 2014.

²⁵ Ibid, page 27.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Page 26.

As stated in the SA Waste Strategy and detailed in the Recycling Activity Survey, the road to achieving both diversion goals outlined in paragraph 6.1 has begun to slip, potentially through complacency. The following is an excerpt from the Foreword to the SA Waste Strategy by the then Minister for Sustainability, Environment and Conservation and Minister for Climate Change, Ian Hunter.

South Australians have demonstrated a strong commitment to waste reduction and recycling. As a result, our recycling rates are among the world's best. However, if we are truly serious about creating a sustainable environment for future generations we must now turn to more complex problems.

These include waste reduction because, while we have become better at disposing of and reusing our waste, we continue to generate too much of it. We must also continue to identify innovative solutions and new responses to waste management.

...

More so than ever before, the success and implementation of our Waste Strategy will require a shared responsibility across government, business, industry and the community.²⁹

As part of the Proposed Conduct the Participating Councils will work together 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. Councils must work collaboratively with suppliers to meet these targets, which the Proposed Conduct will also facilitate.

Summary of environmental benefits

Where messaging is consistent, diversion will be increased and there will be less waste going to landfill. Implementing consistency in education approaches and materials will not only achieve this, it will also ensure the messaging is more strategic and affordable through sharing the preparation, delivery and costs. For the Ancillary Service Streams providing greater priority to educational materials than before will further broaden the impact of consistent messaging. Reduced waste to landfill through greater diversion is a public benefit that has been recognised by the ACCC previously as arising due to local governments collaborating for Waste Management Services.³⁰

Continuing 'as is' will not achieve the diversion required under the State government goals and targets. It requires consistent education, reinforcement and working with all stakeholders. Where the public awareness of strategic policy goals is increased and combined with the message to avoid the generation of waste where possible in the first instance, there will be less waste created and less waste going to landfill. The ACCC has previously acknowledged the impetus on Councils to meet State government targets and strategy and the public benefits that will arise from doing so.³¹

²⁹ Page 4.

³⁰ See, e.g., A91087 Central Queensland Local Government Association, Determination 13 August 2008, A91289 Hunter Resource Recovery, Determination 12 April 2012, A91019 The St George Region of Councils, Determination 21 March 2007, A91483 Maitland City Council & Ors, Determination 9 July 2015, A91544 Cairns Regional Council & Ors, Determination 9 December 2016, A30231 Northern Sydney Regional Organisation of Councils, Determination 16 December 2004, A91401 The Northern Sydney Regional Organisation of Councils, Determination 9 April 2014, A90980 Southern Sydney Regional Organisation of Councils, Determination 8 March 2006.

³¹ See, e.g., A91087 Central Queensland Local Government Association, Determination 13 August 2008, A91087 Central Queensland Local Government Association, Determination 13 August 2008, A91246 Central Queensland Local Government

Council Solutions submits these public benefits will occur as a result of the Proposed Conduct and, in improving environmental outcomes, will be of a benefit to the whole of South Australia.

11.2. Public benefits that are likely occur

11.2.1. Lower costs through improved purchasing power

There are some fundamental tenets of collaborative procurement or ‘bulk buying’ that guide buyers to join together where possible. Aggregating service volumes and providing assurance of business over time via multi-year contracts drives lower costs and optimal Value for Money. Such opportunities are highly desirable to suppliers and attract significant competition.

This has been evidenced where local government has collaborated for the procurement of Waste Collection Services, including the Ancillary Service Streams. In applying for the revocation of authorisation A91019 and substitution of authorisation A91530, the Georges River Council & Rockdale City Council (**SGROC**) stated the authorised conduct under A91019, being the collection and bin supply and maintenance across the 3-Bin System (and Hard Waste Collection) had delivered “a saving of \$46 million over the initial term of the contracts based on the difference between the current collection prices and the prices in the previous contracts.”³² Whilst not claiming the situation prior to authorisation for SGROC is identical to the current circumstances for the Participating Councils, and acknowledging the scope of services sought was broader than is under the Proposed Conduct, it is clear evidence that Councils collaborating in the procurement of Waste Management Services can drive savings through improved purchasing power.

Under the Proposed Conduct, the combined volume of the Participating Councils in each Ancillary Service Stream will provide a platform for the Participating Councils to seek cost savings from potential suppliers, as well as potential service improvements. These service improvements can establish a new ‘benchmark’ and lift the service standards and outcomes across all Councils. For example, the collaborative opportunity presented by Hard Waste Collection may allow for greater reuse of collected materials through partnership arrangements with not-for-profit or social enterprise groups who will provide greater processing before landfill disposal.

The potential suppliers, particularly smaller or new providers to the market, will have, in turn, the opportunity to tender for a greater volume of assured work that makes the provision of service improvements more sustainable based on both number of services and efficiencies. The improved purchasing power of the Participating Councils when combined can drive real savings and service improvement outcomes for their communities.

Previous authorisations granted by the ACCC for collaborative procurements of Waste Management Services have acknowledged the public benefit of increased purchasing power.³³

Association & Ors, Determination 13 January 2011, A30231 Northern Sydney Regional Organisation of Councils, Determination 16 December 2004, A91143 & A91167 Southern Sydney Regional Organisation of Councils, Determination 22 October 2009, A90926 Southern Sydney Organisation of Councils (SSROC), Determination 13 April 2005, A91180 Hurstville City Council & Ors, Determination 6 November 2009.

³² A91530, application submitted 2 March 2016, page 4.

³³ See, e.g., A91361 Wollongong City Council & Shellharbour City Council, Determination 31 July 2013, A91019 The St George Region of Councils, Determination 21 March 2007, A91483 Maitland City Council & Ors, Determination 9 July 2015, A91408 Clarence City Council & Hobart City Council, Determination 4 June 2014, A91289 Hunter Resource Recovery, Determination 12 April 2012, A91087 Central Queensland Local Government Association, Determination 13 August 2008,

11.2.2. Improved service efficiency

A key feature of consolidated service standards and specification under the Proposed Conduct will be allowing collection vehicles to service more than one Council (or other customer type, where applicable) in any run.

This will have the following impact:

- The successful supplier/s will be able to optimise collection routes for each Ancillary Service Stream as vehicles will not need to maintain ‘Participating Council lines’ and may cross into the other Participating Councils if that is the most efficient route;
- In responding to a missed or urgent service, a vehicle currently collecting in a different Participating Council will be able to be re-tasked rather than sending out another vehicle; and
- The successful supplier/s will be able to maximise utilisation of the capacity of their vehicles through the optimisation of collection routes and cross-Council boundary collections.

Without the Proposed Conduct, the potential supplier/s in each Ancillary Service Stream will be bound to adhere to Participating Council boundaries, even where they held contracts for more than one Participating Council or, for Bulk Bin Collection, where they held contracts for other C&I customers. These boundaries potentially cause a disconnection to efficient services by “placing artificial restrictions on the design of waste provision models.”³⁴ Where a collection contractor holds multiple contracts in one area, which is the existing situation for the Ancillary Service Streams in the Greater Adelaide Region, this hinders the achievement of maximum efficiency in both the collections activity and in the utilisation of vehicle capacity.

The benefits from this flexibility are outlined below:

- With a reduction in the number of vehicles required overall, there will be fewer waste vehicles sharing the road;
- Less trucks and more efficient runs should also lead to reduced traffic congestion and air and noise pollution; and
- Both a reduced number of vehicles and a higher level of services through new, safer technology on vehicles should deliver improved public safety and improved ambient environmental conditions.

The ACCC has previously recognised these public benefits in authorisations granted for the collaborative procurement of Waste Management Services.³⁵

12. Public Detriment

Council Solutions submits there will be negligible to no detriment to the public as a result of the Proposed Conduct.

A91409 Bankstown City Council & Ors, Determination 29 May 2014, A91387 Bathurst Regional Council & Ors, Determination 12 February 2014, A91401 The Northern Sydney Regional Organisation of Councils, Determination 9 April 2014, A90980 Southern Sydney Regional Organisation of Councils, Determination 8 March 2006.

³⁴ Jeff Tate, *Report: Transitioning the roles of Local Government in Waste Management Services, for the Local Government Association of South Australia*, August 2014, page 17.

³⁵ See, e.g., A91019 The St George Region of Councils, Determination 21 March 2007, A91544 Cairns Regional Council & Ors, Determination 9 December 2016.

To the extent any negligible detriment may arise, it will be mitigated by the factors listed below:

- a) The RFT will be public and conducted according to Council procurement standards, including the engagement of an independent probity advisor.
- b) The proposed contract term is a maximum of 10 years, in line with the industry standard for Waste Management Services of this type. Whilst each Ancillary Service Stream will not be contestable for the duration of the contract period, the RFT process will ensure competition for the award of the contracts.
- c) Separation of the Ancillary Service Streams from the 3-Bin System Waste Collection Services will present the opportunity for more service providers to participate in the tender process and lead to improved competition.
- d) The Participating Councils remain separate legal identities and are members of the Waste Management Services Project by choice. In deciding to join the Waste Management Services Project and undertake the Proposed Conduct, the Participating Councils see the benefits in collaboration and do not believe there will be any detriments to service or competition.
- e) The RFT is restricted to the four Participating Councils only, and the scope of the RFT is limited to the Ancillary Service Streams. This provides both certainty and simplicity to the tendering process.
- f) Council Solutions has undertaken stakeholder engagement prior to the finalisation of the waste strategy and will conduct tender briefing sessions to ensure full understanding of the aims and goals of the Participating Councils and maximum participation.
- g) Potential suppliers will be free to compete for contracts for other Councils and Regional Subsidiaries in the Greater Adelaide Region as well as the volumes available from the C&I source sector, where applicable.
- h) Through the use of a standard RFT process there will be no disincentive or barrier to potential suppliers tendering.
- i) As each Service Stream is separable, potential suppliers are able to tender for any one or more of the Ancillary Service Streams for which they believe they can make the most compelling value proposition to the Participating Councils.

13. Interim Authorisation

The Applicants seek interim authorisation from the ACCC in respect of this application to allow for an approach to market as soon as possible thereafter. A delay in publishing the RFT will impact on the Waste Management Services Project timelines and will have a negative impact on the time allowed for the market to respond, the tenders to be evaluated and contracts to be negotiated, potentially reducing the value of the collaboration.

The Participating Councils will not enter into contracts for any of the Ancillary Service Streams before the ACCC issues a final determination in relation to this application. Consequently, granting interim authorisation will not affect current arrangements in place with each Participating Council and interim authorisation will not affect competition in any relevant market.

Allowing the Applicants to proceed in a timely manner and ensuring the potential suppliers have the greatest opportunity to respond to and participate in the tenders could have the effect of increasing competition. Accordingly, interim authorisation is sought at the time of the draft determination to ensure full public benefits are achieved.

14. Conclusion

For all the reasons set out above, Council Solutions submits that the extensive public benefits of the Proposed Conduct will significantly outweigh any public detriment and there will be no substantial lessening of competition arising in connection with the Proposed Conduct.

15. Confidentiality

The Applicants have provided Board papers and details on the consultation conducted to the ACCC on a confidential basis. All other information is available for publication on the public register.

16. Glossary

3-Bin System	Kerbside collection of waste that has been separated into 3 bins by the householder being the recyclable waste ('yellow' bin), the garden and food organic waste ('green' bin) and the residual waste ('red' bin). Residual waste is collected weekly and recyclable and organic waste are collected fortnightly on alternate weeks. MGBs used are generally 240L for recyclable and organics and 120L for residual.
ACCC	Australian Competition and Consumer Commission
AHRWMA	Adelaide Hills Region Waste Management Authority, a Regional Subsidiary that provides Waste Management Services to its constituent Councils, being Adelaide Hills Council, Mount Barker District Council, the Rural City of Murray Bridge and Alexandrina Council.
Adelaide Metropolitan Area	The areas bounded by the Adelaide Metropolitan Councils.
Adelaide Metropolitan Councils	City of Adelaide, Adelaide Hills Council, City Burnside, Campbelltown City Council, City of Charles Sturt, Town of Gawler, City of Holdfast Bay, City of Marion, City of Mitcham, City of Norwood, Payneham & St Peters, City of Onkaparinga, City of Playford, City of Port Adelaide Enfield, City of Prospect, City of Salisbury, City of Tea Tree Gully, City of Unley, Town of Walkerville, City of West Torrens
Bulk Bins	Typically lidded mobile bins that are larger than 360L that are emptied into collection vehicles either via the front-load or rear-load methods, excluding skip bins and/or 'roll on roll off' bins.
Constituent Councils	The Constituent Councils of Council Solutions, being the Cities of Adelaide, Charles Sturt, Marion, Onkaparinga, Salisbury and Tea Tree Gully
Council	A local government established under the LG Act or equivalent in other states and territories of Australia
East Waste	Eastern Waste Management Authority, a Regional Subsidiary that provides Waste Management Services to its constituent Councils, being Adelaide Hills Council, Campbelltown City Council, City of Burnside, City of Mitcham, City of Prospect, City of Norwood, Payneham & St Peters and the Town of Walkerville.
FRWA	Fleurieu Regional Waste Authority, a Regional Subsidiary that provides Waste Management Services to its constituent Councils, being Alexandrina Council, City of Victor Harbor, Kangaroo Island Council and the District Council of Yankalilla.
Greater Adelaide Region	The defined region the subject of the State Government's 30 Year Plan for Greater Adelaide, first released in 2010. Councils captured

under the plan are Adelaide, Adelaide Hills, Adelaide Plains, Alexandrina, Barossa, Burnside, Campbelltown, Charles Sturt, Gawler, Holdfast Bay, Light, Marion, Mitcham, Mount Barker, Murray Bridge, Norwood, Payneham & St Peters, Onkaparinga, Playford, Port Adelaide Enfield, Prospect, Salisbury, Tea Tree Gully, Unley, Victor Harbor, Walkerville, West Torrens and Yankalilla.

Hard Waste	Bulky household waste items that are not typically captured within the 3-Bin System, such as furniture, white goods and scrap metal
LGA Model Contract	Local Government Association of South Australia’s Model Waste Management Contract
MGB	Mobile garbage bin of various capacities typically in the range of 80L to 360L in capacity
MSW	Municipal Solid Waste, being 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
NAWMA	Northern Adelaide Waste Management Authority, a Regional Subsidiary that provides Waste Management Services to its constituent Councils, being the Town of Gawler, City of Playford and the City of Salisbury.
Organics	Garden organics, such as grass clippings, prunings, weeds and leaves, food organics, such as food and waste scraps, and small amounts of timber and other organics
Population	Number of residents in a Council, taken from Australian Bureau of Statistics report 3218.0 Regional Population Growth, Australia, Released 28 July 2017, Table 4. Estimated Resident Population, Local Government Areas, South Australia.
Proposed Conduct	As outlined in paragraph 4
Rateable Properties	Properties (including vacant land) within a Council where the Council is entitled to collect rates. This includes residential, commercial and industrial premises, but excludes Council owned properties, State government or Crown owned properties and other exempt properties.
Recyclables	Paper and cardboard, glass, plastics, aluminium and steel
Regional Adelaide Councils	Adelaide Plains Council, Alexandrina Council, The Barossa Council, Light Regional Council, Mount Barker District Council, Rural City of Murray Bridge, City of Victor Harbor and District Council of Yankalilla.

Regional Subsidiary	Established under s43 of the LG Act, a Regional Subsidiary can be formed by two or more Councils to provide a specified service/s or carry out a specified activity/ies or to perform a function of the Councils.
Residual Waste	Waste disposed of in the 'red' bin, both MGB and Bulk Bin equivalent, Hard Waste and most Street Litter Bins. Where source separation is followed, should be limited to waste that cannot be treated through traditional resource recovery or reprocessing systems, such as soft plastics, absorbent hygiene material, clothing and textiles, polystyrene, etc. May also include contaminated Recyclables and/or contaminated Organics.
RFT	Request for Tender
Service Entitled Premises	Premises entitled to waste services. Generally residential properties (including medium to high density living) but also some small businesses and Council owned properties.
Street Litter Bins	Bins located on streets, footpaths, parks and other public places that are generally housed in or attached to a structure and installed for the convenient disposal of public place waste
Value for Money	In discussing the public benefits that may arise from the Proposed Conduct, the Applicants refer to Value for Money. This is broader than just the cost of service and includes service support, the efficiency and effectiveness of the service, timeliness, quality and environmental considerations. Any reference to Value for Money should be read in this broader context whereas reference to cost or price will be limited to the cost of service payable by the Participating Councils.
Waste Collection Services	The collection of domestic waste, recyclables and organics through the utilisation of the 3-Bin System, including the supply and maintenance of MGBs
Waste Management Services	All services provided by Councils in relation to waste management, including Waste Collection Services, the processing of the waste collected and the collection of Bulk Bins, Hard Waste and Street Litter Bins
Waste Management Services Project	The project established by Council Solutions and the Participating Councils to investigate the collaborative procurement and ongoing management of Waste Management Services.

17. Bibliography

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SA Waste Strategy: Green Industries SA, *South Australia's Waste Strategy 2015-2020*, 2015.

South Australia's Strategic Plan, 2011.

The 30-Year Plan for Greater Adelaide 2017 update, 2017.

18. Annexure 1

CONFIDENTIAL, EXCLUDED
FROM PUBLIC REGISTER

19. Annexure 2

Existing Suppliers

Service Provider	Website	How they may be impacted NB: This outlines the services the provider supplies that correlate to the Proposed Conduct and should not be interpreted as their sole business.
Atkins Waste Services	N/A	Atkins Waste Services provides waste collection services in the Street Litter Collection Service Stream.
Cleanaway	www.cleanaway.com.au	Cleanaway provides 3-Bin System collection services and Bulk Bin Collection and Hard Waste Collection.
Orana Inc.	www.oranaonline.com.au	Orana provides people with disability the opportunity to live and work within their local community. They provide an 'at call' Hard Waste Collection service.
Solo	www.solo.com.au	Solo provides 3-Bin System collection services and Bulk Bin Collection, Hard Waste Collection and Street Litter Collection.
Suez	www.sita.com.au	Suez provides 3-Bin System collection services and Bulk Bin Collection, Hard Waste Collection and Street Litter Collection.
Trevor Hatch Waste & Recycling	N/A	Trevor Hatch Waste & Recycling provides waste disposal & reduction services in the Hard Waste Collection Service Stream.
Western Refuse Services	N/A	Western Refuse Services provides waste disposal services in the Street Litter Collection Service Stream.

Potential Suppliers

Service Provider	Website	How they may be impacted NB: This outlines the services the supplier provides that correlate to the Proposed Conduct and should not be interpreted as their sole business.
Adelaide Resource Recovery (ARR)	www.arr.net.au	ARR provides comprehensive recycling of construction & demolition materials and currently has Development Approval for an anaerobic digester facility. ARR's participation may involve the Bulk Bin Collection and Street Litter Collection service streams.
Bettatrans SA	www.bettatrans.com.au	Bettatrans SA provide collection services to businesses and privately to residential properties.
Eastern Waste Management Authority (East Waste)	www.eastwaste.com.au	East Waste is a regional subsidiary that provides waste management services to its member Councils, including all Ancillary Service Streams.
JJ Richards	www.jjrichards.com.au	JJ Richards provides 3-Bin System collection services to local government and may provide all Ancillary Service Streams.
Kartaway	www.kartaway.com.au	Kartaway provides waste services for domestic, commercial and industrial use, including for medium-high density properties.
Remondis	www.remondis.com.au	Remondis provides 3-Bin System collection services to local government and may provide all Ancillary Service Streams
Signal Waste & Recycling	www.signalwaste.com.au	Signal Waste & Recycling provide collection services to businesses and privately to residential properties
Veolia	www.veolia.com	Veolia provides 3-Bin System collection services to local government and may provide all Ancillary Service Streams

Potential Subcontractors

Service Provider	Website	How they may be impacted NB: This outlines the services the potential subcontractor provides that correlate to the Proposed Conduct and should not be interpreted as their sole business.
Finding Workable Solutions (FWS)	www.fws.org.au	FWS is a not-for-profit community organisation providing intervention and support to people with disabilities and disadvantage, including in the processing component of the Hard Waste Collection service stream.
Mastec	www.mastec.com.au	Mastec provides MGBs and Bulk Bins which are collected through the Bulk Bin Collection and Street Litter Collection Service Streams
Scout Recycling	www.scoutrecycling.com.au	Scout Recycling process depositable containers returned as part of the Container Deposit Legislation and may partner with a Street Litter Collection provider.
Trident Plastics	www.tridentaustralia.com.au	Trident provides MGBs and Bulk Bins which are collected through the Bulk Bin Collection and Street Litter Collection Service Streams

Industry Associations

Representative Body	Website	Members represented
Office of the Small Business Commissioner South Australia (OSBC)	www.sasbc.sa.gov.au	The OSBC represents small business across all industries.
The South Australian Waste Industry Network (SAWIN)	www.sawin.com.au	SAWIN is a group of like minded companies operating in the waste, recovery, recycling, treatment and disposal industry in South Australia and exists to promote active and fair competition in the industry.
Waste Management Association of Australia (WMAA)	www.wmaa.asn.au	WMAA is the peak body for the waste and resource recovery industry, supporting members in achieving sustainable waste and resource recovery across Australia.
Waste & Recycling Association of South Australia Inc. (WRASA)	N/A	WRASA was established in 2016.
Waste and Recycling Industry Association of South Australia (WRISA)	N/A	WRISA was established to allow the waste management and recycling industry operators in South Australia to promote the industry with a single voice and optimise engagement of government, business and the community.



Contact officer: Tessa Cramond
Contact phone: (03) 9658 6516

15/02/2018

Taryn Alderdice
Contract Management Officer
Council Solutions

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Via email: taryn.alderdice@councilsolutions.sa.gov.au

Dear Ms Alderdice

Fee waiver request

Thank you for your letter of 02 February 2018 to the Australian Competition and Consumer Commission (**ACCC**) asking that we waive or reduce the fee for your anticipated applications for authorisation.

In particular, you advised that Council Solutions intends to seek authorisation on behalf of the cities of Adelaide, Charles Sturt, Marion and Port Adelaide Enfield (**Participating Councils**) to undertake collaborative requests for tenders for:

- waste collection (RFT1)
- receipt and processing of recyclables and organics and receipt and processing or disposal of residual waste (RFT2) and
- associated 'ancillary' services (RFT3).

Further, you advised that Council Solutions intends to lodge two Form B application forms – one covering RFT1 and the other covering RFT2 and RFT3 (**the Applications**).

Council Solutions has requested that the application fee be reduced or waived in full.

In support of your request, among other things, you submitted that:

- (a) Council Solutions is a not-for-profit entity funded by the relevant councils and
- (b) the application fee would ultimately be recovered from ratepayers and is not set in current council budgets. Payment of the application fee in its entirety would require funds to be reallocated from existing public functions, imposing a burden on councils and their communities.

I have considered the information provided and, as a person authorised to assess fee waiver requests for and on behalf of the ACCC, I have decided that the application fee to be paid by Council Solutions will be waived in part. In particular, the total fee for Council Solutions' anticipated Applications will be \$2500.

This decision will remain in force for a period of three months. The three month period will expire on 15 May 2018.

A copy of this letter should accompany the Applications for authorisation to be lodged by Council Solutions. The cover letter to the Applications should mention that a letter from the ACCC regarding a fee waiver is enclosed. The Applications, together with this letter, will be placed on the public register at that time.

If the Applications for authorisation are lodged by Council Solutions after 15 May 2018, a full application fee of \$7500 and related application fee of \$1500 will apply, unless a subsequent request for a fee waiver is made and approved by the ACCC.

If you have any queries in relation to this matter, please contact Tessa Cramond on (03) 9658 6516 (or at tessa.cramond@accc.gov.au).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'David Jones', with a stylized flourish extending from the end.

David Jones
General Manager
Adjudication