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# Business SA Submission:

## *Council Solutions Application for Authorisation AA1000414*

April 2018

## Executive Summary

Waste management is a core function of local council and is one of the main services provided to ratepayer households and businesses. Business SA recognises that councils grouping together to jointly procure waste management services, such as waste collection, is a developed concept in South Australia. Furthermore, Business SA supports broader amalgamations of councils, particularly in metropolitan areas, to realise the types of efficiencies which can come through economies of scale.

Council Solutions has lodged an application in the Australian Competition & Consumer Commission to authorise such conduct. Business SA's members in the Cities of Adelaide, Charles Sturt, Marion and Port Adelaide Enfield may well benefit from this application.

However, Business SA is mindful that businesses in South Australia's waste management industry, particularly waste collection service, may be prevented from tendering due to increased capital requirements and fewer tender opportunities being available in future. The application may also make it more difficult for non-participating councils to collectively tender for waste collection services.

The application itself would benefit from further evidence of the benefits to ratepayers. Business SA would also welcome an undertaking from the Applicants to adopt the South Australian Industry Participation Policy, or elements of such.

Business SA's membership is predominantly comprised of rate-payers in subject council areas however we also have members in the waste collection industry. There are a number of factors the ACCC should consider when making its determination, and this submission identifies a number of these.

## Introduction

Business SA, South Australia's Chamber of Commerce and Industry, was formed in 1839 and has approximately 3,500 members across every industry sector, from micro businesses right through to listed companies. Our members employ some 140,000 South Australians. Business SA is a not-for-profit business membership organisation which advocates on behalf of members and the broader business community for sustainable economic growth in South Australia and the nation.

Business SA has members in all corners of South Australia, from the central business district, to greater metropolitan Adelaide and to the regions. These members, and those non-member businesses in the broader community, may be directly or indirectly affected by the conduct proposed in Council Solutions' Application for Authorisation AA1000414.

Business SA has members which operate in the waste and sustainability industry. These members may focus on waste collection services or may provide more than one service stream. The ability for these members to tender for waste collection services, and any further streams, may be negatively affected by the Proposed Conduct. These members, and non-member businesses in the waste collection industry, will be directly affected by the Proposed Conduct should it be approved.

Business SA also has over 1000 members in the Participating Councils alone. These members, members outside the Participating Councils' districts, and non-member businesses in South Australia more broadly, interact with their local council regularly. Adequate and timely waste collection services are a critical function of local council, and ratepayers such as businesses and households deserve the best value for their money in council expenditure. These members and non-members may positively benefit from the Proposed Conduct should it be approved.

Given the varied interests represented within Business SA's membership, and our consideration of the broader business community in general, we have assessed Council Solutions' Application for Authorisation AA1000414 from a range of perspectives. As part of this assessment we have also considered a similar application made by Council Solutions in 2015 and determined by the Australian Competition & Consumer Commission (ACCC) in 2016. Business SA participated in the previous application and while some of the concerns we raised there were addressed, others remain relevant for this submission.

Business SA considers there to be factors weighing in support of this application, and factors weighing against. The factors in support mainly relate to adaptations made following the previous application's rejection in 2016, such as industry standard contract terms, single service stream, a request for tender approach, as well as broader potential benefits. The factors against the application largely reiterate concerns raised by Business SA and other parties as part of the previous application. Issues such as City of Marion's isolation and lack of shared border, the impact on surrounding councils, the market share covered by the proposal, the capital costs required to service the Participating Councils all weigh against granting this application.

## Previous application

1. Application for Authorisation AA1000414 (**the Current Application**) is not the first application made by Council Solutions on behalf of the Participating Councils to the ACCC for joint procurement of waste collection services. An application was made on 30 November 2015 by Council Solutions on behalf of the Participating Councils<sup>1</sup> (**2015 Application**) for authorisation to jointly procure, negotiate and contract for the supply of four streams of waste services: waste collection services, receipt and processing of recyclables, receipt and processing of organics, and waste disposal services (**the service streams**).<sup>2</sup> The ACCC invited interested parties to comment on the 2015 Application and to further submit following a Draft Determination.
2. Business SA provided a submission as an interested party on 11 March 2016.<sup>3</sup> In this submission we highlighted the importance of local councils seeking to deliver efficiency improvements to benefit all ratepayers. We recognised the potential savings which could be achieved should the 2015 Application be approved. However, we also expressed concern regarding the size of the Adelaide waste services market which would become controlled, and the impact this would have on the ability of smaller waste management businesses to compete. Business SA also submitted the South Australian Industry Participation Policy (**SAIPP**) should apply to local government procurement(s).
3. The 2015 Application was determined by the ACCC in December 2016. The ACCC denied the 2015 Application as it was not satisfied in all the circumstances the proposed conduct subject to authorisation in the 2015 Application would likely result in a public benefit which would outweigh any likely public detriment caused by lessened competition.<sup>4</sup>
4. Business SA provides this background as many of the points raised in our previous submission remain relevant for the Current Application.

## Business SA's position on local councils

5. Business SA has long advocated for councils to achieve efficiencies for the benefit of their ratepayers. We have been strong supporters of council amalgamations in greater metropolitan Adelaide. South Australia's 68 local councils serve an average of 24,790 people each, well out of step of the 55,100 person average for councils in Queensland, New South Wales and Victoria.<sup>5</sup> Amalgamations present an opportunity for efficiencies and economies of scale to be realised. This will improve services for businesses and households within those council areas. We recognise that amalgamations may be considered a significant step. To this end we view collaborative conduct, such as that proposed in the Current Application, as a potential method for councils to apply their resources effectively and achieve results for their constituents. However, as will be detailed later in this submission, we still view certain elements of the Current Application with concern.

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<sup>1</sup> As well as the City of Tea Tree Gully, not a participating council for AA1000414.

<sup>2</sup> Council Solutions, '[Application for Authorisation of a Combined Waste Tender Process](#)', Authorisation Number A91520, 30 November 2015, 1.

<sup>3</sup> Business SA, '[Interested Party Submission](#)', 11 March 2016.

<sup>4</sup> Australian Competition & Consumer Commission, *Determination*, A91520, 20 December 2016, [293]-[294].

<sup>5</sup> Business SA, '2018 Charter for a More Prosperous South Australia' 22 February 2018, 46.

6. Business SA has also long advocated for better consistency across municipal boundaries. Businesses operating in South Australia must comply with a broad array of laws and regulations. In many cases with good reason, such laws appropriately protect public interests and ensure the business' social licence is not abused. An area of complexity for business however is where laws and regulations differ between council areas. Tender requirements are a relevant example. To the greatest extent possible we have advocated for consistent regulations and requirements across council districts.<sup>6</sup> The Current Application presents an opportunity for improvement in this area and with proper management it could lessen or even remove differences between the Participating Councils' requirements.

### Factors in support of Current Application

7. As suggested earlier, Business SA recognises some potential benefits of the Current Application. We further recognise aspects of the Current Application which appear to have been altered in response to the 2015 Application's denial. Such adaptations to lessen the impact on competition are welcomed. Business SA particularly welcomes changes to the contract term, splitting of the service streams and the use of a Request for Tender (RFT) rather than Request for Proposal (RFP) process.

#### Contract term

8. The contract term sought in the Current Application is now much closer to industry standard and is less likely to negatively impact long term competition than the previous application's term. The 2015 Application originally sought ACCC authorisation for a total period of 17 years.<sup>7</sup> We note this period was amended to a maximum of 10 years in June 2016.<sup>8</sup> The amended scope notwithstanding, this considerable period concerned interested parties who felt unsuccessful tenderers would not be able to 'ride out' periods between tenders and that fewer tender opportunities would be available once the councils grouped their waste service demands.<sup>9</sup> The ACCC appeared to recognise such concerns when it noted the (2015 Application's) proposed conduct would likely reduce the ability of existing providers to offer waste supply services, and innovate/improve these offers, through successive and frequent opportunities.<sup>10</sup>
9. The Current Application carries forward the amended scope proposed in June 2016. The Current Application seeks a proposed maximum 10-year contract operating term, being a 7-year initial term with a 3-year extension option.<sup>11</sup> Council Solutions submitted that this format is generally accepted for waste collection contracts.<sup>12</sup> Business SA's consultation with members in the waste collection services industry supports this assumption. Considering the proposed term is in line with what would be applied in the market anyway, Business SA considers this a factor in support of the Current Application.

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<sup>6</sup> Ibid 47.

<sup>7</sup> Council Solutions, '[Application for Authorisation of a Combined Waste Tender Process](#)', Authorisation Number A91520, 30 November 2015, 8.

<sup>8</sup> Australian Competition & Consumer Commission, *Determination*, A91520, 20 December 2016, [10].

<sup>9</sup> Ibid [263], [267].

<sup>10</sup> Ibid [272].

<sup>11</sup> Council Solutions, '[Application for Authorisation for a Collaborative Waste Collection Services Tender Process](#)', Authorisation Number AA1000414-1, 14 March 2018, 12.

<sup>12</sup> Ibid.

### Split service streams

10. The Current Application only covers the joint procurement of waste collection services as opposed to the four service streams sought in the 2015 Application; allowing greater consideration of the public benefits and detriments of the proposal. As noted earlier the 2015 Application sought to jointly procure, negotiate and contract for the supply of four service streams. In its 2016 Determination the ACCC noted the 2015 Application was the first of its kind to involve four service streams.<sup>13</sup> The ACCC was ultimately of the view that the complexity introduced by combining all four service streams, and use of an RFP approach, was likely to reduce the number of potential tenders and in turn reduce competition between tenders to the public's detriment.<sup>14</sup>
11. Business SA welcomes the Current Application's focus on waste collection services. This will significantly reduce the scope and complexity for tendering service providers, including Business SA's members in this industry. This approach should also allow the Applicant to respond more comprehensively to the concerns raised by interested parties.
12. We further note and support Council Solutions' suggested intention to seek separate ACCC approval for the Processing Service Streams and Ancillary Service Streams.<sup>15</sup>

### Use of RFT approach

13. Business SA welcomes the Current Application's use of a RFT process rather than an RFP process. We understand this approach is less complex than that envisaged in the 2015 Application. In its Determination, the ACCC considered that the RFP, a complex and uncertain approach, would have increased transaction costs for some suppliers and decreased costs for others – ultimately determining that no net public benefit in the form of transaction cost savings would be achieved.<sup>16</sup> An RFT process, as proposed, is an appropriate response to this finding.
14. We are further encouraged by the intention expressed in the Current Application to issue a single tender with 'to the greatest extent possible, aligned specifications, service standards, data capture and reporting, and bin types.'<sup>17</sup> Business SA has previously called for more consistency between councils, such as for regulations and requirements imposed on businesses.<sup>18</sup>
15. This RFT approach should enable more potential suppliers to provide a tender bid. Though, as will be discussed later, concerns remain regarding the ability of smaller suppliers to provide competitive tender bids.

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<sup>13</sup> Australian Competition & Consumer Commission, *Determination*, A91520, 20 December 2016, [56].

<sup>14</sup> *Ibid* [251]-[252].

<sup>15</sup> Council Solutions, '[Application for Authorisation for a Collaborative Waste Collection Services Tender Process](#)', Authorisation Number AA1000414-1, 14 March 2018, 7-8.

<sup>16</sup> Australian Competition & Consumer Commission, *Determination*, A91520, 20 December 2016, [110]-[111].

<sup>17</sup> Council Solutions, '[Application for Authorisation for a Collaborative Waste Collection Services Tender Process](#)', Authorisation Number AA1000414-1, 14 March 2018, 18.

<sup>18</sup> Business SA, '2018 Charter for a More Prosperous South Australia' 22 February 2018, 47.

### Broader potential public benefit

16. Business SA also notes the potential for the Proposed Conduct to reduce contracting costs for Participating Councils. The Current Application states ‘many elements of the tender and contract management process will be standardised, reduced, and/or eliminated, leading to efficiencies for all involved.’<sup>19</sup> We do not oppose the sentiment expressed here, uniform tender and contract management processes should benefit both the Participating Councils and those suppliers providing tender bids.
17. Business SA encourages the Participating Councils to use this process to achieve further standardisation, such as with bin lids and reporting practices. We note the following comments made in the Current Application:

*However, each Council will still have their own differences. These may be obvious, such as the use of **different coloured bin lids** for the same service stream or how a customer call centre is to be run, or subtler, such as **timing, content and format of reporting** or content and frequency of community education.*<sup>20</sup> (emphasis added)

To further encourage alignment between councils these differences should be addressed. Business SA does not see the rationale for Participating Councils, those who (subject to this application) have collaborated to jointly procure waste collection services, continuing to use different bin lids.
18. The service covered by the Current Application centres on the collection of domestic waste, recyclables and organics using the 3-Bin System.<sup>21</sup> We do not understand there to be a material difference between the specifications for the relevant bin (eg domestic waste, recyclables, or organics) apart from potentially the colour of the lid. We submit there is merit in standardising the lids. The benefits of standardisation are at least threefold: standardisation would reduce the manufacturing cost associated with different production runs; it would allow educational materials to provide an even more consistent message;<sup>22</sup> and would be one less alteration to make should one or more of the Participating Councils amalgamate in future.
19. Similarly, differences in timing, content and reporting format requirements should also be addressed. This would be beneficial in assessing the outcomes of the Proposed Conduct in each Participating Council, and would again be one less matter to standardise later should amalgamations occur.

### Factors against Current Application

20. The above-mentioned factors in support of the Current Application must not be viewed in isolation, concerns remain for various elements of the proposal. Business SA is concerned these issues will result in public detriment, both for members in the waste collection industry, and for ratepayers in Participating Councils and non-participating councils. The City of Marion’s geographic isolation, the impact on surrounding councils, the size of the market, the fleet required, and a general lack of economic analysis may all lead to public detriment. Business SA also uses this submission to highlight the South Australian Industry Participation Policy and circumstances facing South Australia’s recycling service providers.

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<sup>19</sup> Council Solutions, ‘[Application for Authorisation for a Collaborative Waste Collection Services Tender Process](#)’, Authorisation Number AA1000414-1, 14 March 2018, 18.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid 1.

<sup>22</sup> We note the Applicant’s strong support for consistent education material messaging at page 24 of the Current Application.

21. Business SA is an advocate for competitive markets. We, and our members, do not oppose competition between smaller operators and larger operators. Existing providers should not enjoy preferential treatment simply because they were first in the market. Our concern is that tactics and decisions may lead to oligopoly markets and public detriment.<sup>23</sup> The ACCC should bear these concerns in mind when issuing its draft determination and, if not addressed by the Applicants, in the final determination.

#### **City of Marion and importance of shared boundaries**

22. A significant difficulty in the Current Application is the inclusion of the City of Marion (**Marion Council**) as a Participating Council. Marion Council is entirely isolated from the other Participating Councils and shares no common borders. This isolation may, or will, limit a number of potential benefits of joint tendering for waste collection services; a conclusion similarly reached in the ACCC's determination of the 2015 Application.
23. In the Current Application, Council Solutions submits a key feature of the consolidated specification and service standards under the Proposed Conduct will be to allow vehicles to service more than one council area in any run.<sup>24</sup> Attention is drawn to the proposal that collection routes may be optimised, vehicles may cross into adjoining Participating Council areas, and that efficient runs should reduce congestion and air pollution.<sup>25</sup> Business SA submits these public benefits are not achievable in the case of Marion Council.
24. A common council border is crucial in achieving service route efficiencies. The ACCC has noted previously costs for waste collectors may be reduced by inter alia, 'providing opportunity for the design of more efficient collection routes across participating councils'.<sup>26</sup> However, this relies on there being a common border. Marion Council is geographically isolated from other Participating Councils, it shares no common border and is approximately 12-15 kilometres south of the nearest Participating Council. The ACCC concluded by stating: 'the ACCC considers that the opportunity for such cost savings is likely to be confined to participating councils that are geographically proximate and therefore would not extend to the City of Marion'.<sup>27</sup>
25. The distance between Marion Council and the other Participating Councils has not shortened since December 2016. Marion Council still shares no common border with the other Participating Councils. There is little reason to believe the Current Application will now produce a net public benefit when no such net benefit was found previously.

#### **Impact on surrounding councils**

26. The inclusion of Marion Council creates further complication when considering the potential impact of the Current Application on surrounding, non-participating, councils. Business SA is particularly concerned that Marion Council's inclusion as a Participating Council will constrain the ability of the City of West Torrens and/or the City of Holdfast Bay to enter into similar, sufficiently large, joint procurement arrangements.

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<sup>23</sup> Business SA, 'Competition Policy Review Submission' June 2014, 6.

<sup>24</sup> Council Solutions, '[Application for Authorisation for a Collaborative Waste Collection Services Tender Process](#)', Authorisation Number AA1000414-1, 14 March 2018, 27-28.

<sup>25</sup> Ibid.

<sup>26</sup> Australian Competition & Consumer Commission, *Determination*, A91520, 20 December 2016, [141].

<sup>27</sup> Ibid [142].



27. Using the number of rateable properties, the measure applied in the Current Application, we can see these two non-participating councils represent a significant number of premises. In 2017/18 there were 30,151 rateable properties in the City of West Torrens<sup>28</sup> and 20,523 rateable properties in the City of Holdfast Bay.<sup>29</sup> Collectively, the two councils cover 50,674 rateable properties; a significantly smaller number than that offered to tenderers of the Participating Councils. The Current Application offers potential tenderers the opportunity to charge for service to 180,012 properties, a 255% larger market than that likely to be offered by the two non-participating councils.
28. The ability for the Cities of West Torrens and Holdfast Bay to develop alternative collaborative waste collection service procurement will be restricted should the Current Application be approved. These non-participating councils are surrounded by either a Participating Council or the sea, save for a small border with the City of Unley. If Marion Council were to collaborate instead with the Cities of Holdfast Bay and West Torrens some 92,050 rateable properties, or approximately 13.41% of the Greater Adelaide Region Council market, could be serviced and the three would share considerable common borders.
29. It is not Business SA's place to set out which councils should partner, so we do not go as far as submit these councils should collaborate. At its highest our submission is that the ability of these non-participating councils to engage in such practices will be hindered should the Current Application be approved. As it stands, Marion Council's presence as a Participating Council threatens the long-term ability of non-participating councils to jointly procure waste collection services. Business SA members in the Cities of West Torrens and Holdfast Bay, and the non-member businesses operating in these areas, will be less likely to benefit from cost and efficiency savings if/when their councils seek to jointly procure waste collection services.

#### **Size of controlled market**

30. Business SA notes with concern that the Current Application would 'lock' a waste collection services supplier out of over a quarter of the Greater Adelaide Region Councils' rateable properties. The Current Application states the Participating Councils collectively represent some 180,012 rateable properties, 26.23% of such properties in the Greater Adelaide Region Councils.<sup>30</sup> We recognise this is a decrease from the 2015 Application's 37.03% market share,<sup>31</sup> however this remains a significant proportion of the Greater Adelaide 'market', particularly given East Waste and the Fleurieu Regional Waste Authority make up some 23% of this market.<sup>32</sup>
31. The size of the market potentially held by the successful tenderer is a relevant concern given the Current Application itself suggests 49.25% of rateable properties in the Greater Adelaide Region will become annexed. This will leave unsuccessful tenderers to compete for the remaining 50.77% of the Adelaide market; a figure which does not take into account any current waste collection contracts which will further decrease 'available' share of the market.

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<sup>28</sup> City of West Torrens, '2017/18 Adopted budget and annual business plan', 86.

<sup>29</sup> Discussion with City of Holdfast Bay on 18 April 2018. City of Holdfast Bay stated they do not generally publish the number of rateable properties within their district.

<sup>30</sup> Council Solutions, '[Application for Authorisation for a Collaborative Waste Collection Services Tender Process](#)', Authorisation Number AA1000414-1, 14 March 2018, 15.

<sup>31</sup> Council Solutions, '[Application for Authorisation of a Combined Waste Tender Process](#)', Authorisation Number A91520, 30 November 2015, 20.

<sup>32</sup> Business SA understands East Waste holds some 15% of Adelaide's metropolitan waste market per: Australian Competition & Consumer Commission, *Determination*, A91520, 20 December 2016, [70].

32. Business SA submits the consequences of this situation are twofold. In the short term we are concerned smaller service suppliers will be unable to meet the inherent costs and expectations required to service over a quarter of Greater Adelaide Region rateable properties; a topic discussed in more detail later. This will result in fewer suppliers tendering for the Proposed Conduct; leaving a larger supplier to hold this sizeable market portion. In the long-term we are concerned this will result in fewer small suppliers surviving or remaining in the Greater Adelaide Region waste collection services market which will in turn decrease future competition. Both outcomes should be of concern to the ACCC when making its determination.
33. Business SA recognises this is a fine line to tread. Market forces should generally be left to operate and businesses expected to provide services as the market demands. We also recognise, as suggested above, that the Current Application has potential to deliver benefits to ratepayers within the Participating Councils' districts. However, the Proposed Conduct, also has the potential to distort this market through increased concentration of market share.
34. There is insufficient evidence, particularly economic evidence, that the Proposed Conduct will achieve monetary benefit for affected ratepayers. The presence of such evidence would allow more reasoned consideration of the public benefit against the public detriment of a distorted market. An individual market share over 25% and the effective 'lock out' of up to 49.25% of the Greater Adelaide Region will distort the waste collection services market. In the absence of such evidence, Business SA must express its concern regarding the size and short/long-term effects of the Current Application.

#### **Fleet costs**

35. Business SA is concerned the Current Application's Proposed Conduct will inherently limit the ability of smaller suppliers to provide competitive tenders. A major barrier will be the capital costs required to acquire and maintain a sufficient fleet of waste collection trucks. This factor will make it harder for smaller suppliers to tender for the Proposed Conduct, decreasing competition.
36. The Current Application, if approved, will enable suppliers to tender to cover over a quarter of the Greater Adelaide Region's rateable properties. Member feedback has suggested that for a waste collection service supplier to cater to the entire relevant area a fleet of approximately 20 trucks would be required. Each truck could cost as much as \$350,000 to purchase<sup>33</sup> and cost approximately \$120 per hour to operate. Business SA anticipates the most competitive tenders would come from those suppliers with a fleet capacity able to accommodate the Participating Councils' rateable property requirements. For smaller suppliers to compete it is likely their fleet will need to be increased. In the most extreme case a new entrant to the market would face capital costs of \$7,000,000 alone to purchase the trucks necessary to offer a competitive waste collection service.

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<sup>33</sup> Business SA suggests this figure may be a conservative estimate given Australian Competition & Consumer Commission, *Determination*, A91520, 20 December 2016 [244] where a previous submission suggests such trucks could cost over \$400,000.

37. This difficulty would not exist were each council tendering individually. The Cities of Adelaide, Charles Sturt, Marion, and Port Adelaide Enfield comprise 3.27%, 8.04%, 6.03% and 8.89% of the Greater Adelaide Region's rateable properties respectively,<sup>34</sup> meaning each supplier would be able to tender for a share which matches their fleet capacity.
38. Business SA again notes the Current Application does not provide any analysis of the number of trucks the Applicants consider necessary to meet requirements. This capital cost will be a significant barrier for many tenderers when providing competitive bids. Were this analysis undertaken and the data provided to interested parties more rigorous consideration could be given to weighing the public benefit of collaboration against the public detriment of lessened tender competition.

#### **Economic analysis of outcomes**

39. Following the above paragraph, Business SA submits the Current Application has not adequately assessed the economic outcomes of the Proposed Conduct. Such analysis should include a detailed cost-benefit analysis to determine financial benefit for ratepayers and the extent of any impact on local waste collection service providers. Given the risk to normal market operation inherent with potential oligopoly behaviour, Business SA submits this analysis must be undertaken by the Applicants to support their proposal.

#### **South Australian Industry Participation Policy**

40. In Business SA's submission for the 2015 Application we indicated the South Australian Industry Participation Policy (SAIPP) should apply to the waste tender process. At that time we submitted this would ensure local small to medium businesses would be given a 'fair opportunity' in the tender process.<sup>35</sup>
41. The Current Application does indicate that the Applicants intend to apply the SAIPP when assessing tender bids. We recognise that the SAIPP's scope does not extend to local council. However, Business SA would welcome an undertaking from the Applicants to apply the SAIPP during the tendering process.
42. The SAIPP was established to ensure that South Australian small to medium sized businesses are given a fair and reasonable opportunity to tender for projects. Business SA supported the South Australian Government's efforts to implement this policy for the potential the SAIPP has to allow local businesses to compete for lucrative government contracts.

#### **Future of South Australia's recycling industry**

43. While not directly relevant to the Current Application, the viability of South Australia's recycling processors is a pressing concern for Business SA. The Chinese Government recently implemented an import ban on most forms of paper and plastic recyclables, significantly limiting the market for recycling service providers. A local council in Queensland has already stated it will send household recycling materials to landfill instead of processing centres.<sup>36</sup> When determining the Current Application the ACCC may wish to consider any potential public detriment on South Australia's waste processing and recycling industry.

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<sup>34</sup> Council Solutions, '[Application for Authorisation for a Collaborative Waste Collection Services Tender Process](#)', Authorisation Number AA1000414-1, 14 March 2018, 15.

<sup>35</sup> Business SA, '[Interested Party Submission](#)', 11 March 2016.

<sup>36</sup> City of Ipswich, 'Green energy a core focus as Ipswich combats recycling price surge', Media Release, 18 April 2018.

## Conclusion

The sphere of responsibility for local council is often described as 'roads, rates and rubbish'. While this summation may not cover the full scope of activities for local councils, at its core it is correct. Waste management, 'rubbish', is a critical function of local council and is a service which must be provided to ratepayers. Ratepayers, households and businesses, expect and are entitled to effective and efficient waste management services through their local council. The Current Application may achieve this.

The Current Application may benefit Business SA's members in the Participating Councils' areas. These members (and non-member businesses) may benefit from increased standardisation, improved education and more efficient collection routes. Such outcomes are highlighted in the Current Application itself. The Current Application may also benefit Business SA members (and non-members) operating in the waste collection services industry. Adopting industry standard contract terms and use of an RFT approach rather than the more complex RFP may allow more businesses to bid for the tender.

However, the composition of the Participating Councils, particularly the inclusion of geographically isolated City of Marion, is an issue. The City of Marion shares no common border with any other Participating Council, and it is unlikely any service route efficiencies will be achieved. The inclusion of Marion Council may also negatively affect the ability of the Cities of Holdfast Bay and West Torrens to collectively seek tenders in future. The size of the Current Application's market is considerable, it makes up over a quarter of Greater Adelaide Region rateable properties. If approved this may leave up to half of Greater Adelaide Region rateable properties locked out from further competitive tenders during the term of the contract. The size of the market will also affect the size of the fleet required to service Participating Councils. This may limit the ability of smaller providers to competitively tender for the work.

Business SA is concerned about a lack of economic justification for ratepayers in the Current Application. Considering a quarter of rateable properties in the Greater Adelaide Region may be 'held' by a single successful tenderer, a detailed cost-benefit analysis investigating potential consequences would be desirable. Business SA would also welcome commitment from the Applicants to apply the SAIPP during the tender process; a submission made by Business SA during a previous determination. While not directly relevant, the potential impact of the Current Application on recycling service providers may also be a relevant consideration.

Should you require any further information or have questions, please contact Chris Klepper, Policy Adviser, on (08) 8300 0062 or [chrisk@business-sa.com](mailto:chrisk@business-sa.com).



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