

**PUBLIC INTEREST TEST REPORT**  
**LOCAL LAW NO. 7 (WASTE MANAGEMENT) 2017**

1. A public interest test has been conducted as part of the National Competition Policy reforms on anti-competitive provisions identified in proposed Local Law No. 7 (Waste Management) 2017 (“proposed local law”). The public interest test has been conducted against the principles and objectives set by the Competition Principles Agreement which were outlined in the public interest test plan. A copy of the public interest test plan is attached.
2. This public interest test report has been prepared in accordance with guidelines issued by the Department of Local Government. The guidelines have been applied by regulation under the *Local Government Act 2009*.

### **THE KEY NCP OBJECTIVE**

3. The key objective of the National Competition Policy (“NCP”) is to develop a more open and integrated Australian market that limits anti-competitive conduct and removes the special advantages previously enjoyed by government business activities, where it is in the public interest to do so.
4. While NCP is designed to result in better use of resources and substantial and ongoing benefits to the community, the introduction of increased levels of competition will not always deliver the best overall result for the community.
5. Accordingly, governments have a responsibility to ensure that NCP reforms are only implemented where it is demonstrated that such reforms are clearly in the public interest, that is, there is a clear demonstration that competitive reform will yield a net benefit, and no significant detriment, to the community. While Council is well aware of the potential benefits that competition can bring to the community, Council will continue to ensure that competition is not pursued for competition’s sake and that a considered and pragmatic approach is taken to NCP.
6. One of the elements of flexibility in Queensland’s NCP review process involves the consideration of economic or social adjustment costs of moving from one regulatory situation to an alternative arrangement.
7. In some cases, reform that is clearly in the broad public interest may impose adjustment costs on a particular group. In such cases, consideration can be given to whether transitional measures are required to assist such groups. Transitional measures may, as an example, involve implementing reform over time or targeted assistance measures.
8. The aim of the NCP reform program is to deliver tangible benefits to all sectors of the community. This is to be achieved by limiting anti-competitive conduct and removing special advantages of government business activities where it is in the public interest to do so.

### **THE CONSULTATION PROCESS**

9. The NCP requires Council to undertake a public benefit test process. Under the public benefit test process, Council is required to take into consideration an array of public interest matters including the environment, employment, social welfare and community interests. Consideration of social impacts is an integral part of the NCP review process.

10. Social impacts are anything that will change a community's cultural traditions or alter the ways in which people live, work, play, relate to one another, organise to meet their needs, and generally cope as members of society. An NCP review process is not a review of economic considerations alone.
11. As part of the NCP review process, sufficient time must be allowed for informed community participation in the review. The level and nature of participation is determined on a case by case basis.
12. In this instance, Council determined that consultation should be conducted by giving public notice of the proposed local law in a local newspaper and inviting submissions. Also, public notices were posted on public noticeboards in Council's public office, and on Council's website. Letters were sent to representative bodies of stakeholder groups advising of the proposed local law and inviting submissions. The public notice advised that consultation on anti-competitive provisions was being conducted in conjunction with the public consultation about the proposed local law.
13. In response to the public consultation undertaken by Council:-
  - (a) interested stakeholders, delivered detailed submissions to Council for its consideration; and
  - (b) the industry representative body, the Waste, Recycling Industry Association of Queensland Inc ("WRIQ"), which represents more than 90 Queensland based organisations ranging from large multi-national organisations through to small family operated enterprises, delivered a detailed submission.

#### **REPORT ABOUT THE RESULTS OF THE CONSULTATION PROCESS**

14. The report to Council, of which this public interest test report forms part, refers to submissions received and arguments presented (for consideration by Council) about the public consultation process, including public consultation in relation to possible anti-competitive provisions.

#### **TYPE OF ASSESSMENT**

15. Council has previously made a determination about the depth of analysis and degree of rigour required for its assessment. Council determined that it would be appropriate to undertake an assessment which complied with the following principles set out in the National Competition Policy Guidelines ("Guidelines") for conducting reviews of anti-competitive provisions in local laws:-
  - (a) consultation with relevant businesses about the anti-competitive provisions;
  - (b) examination of the reasonable alternatives to the anti-competitive provisions;
  - (c) a cost benefit analysis that involves calculating the value of the impacts, both positive and negative, of the anti-competitive provisions; and
  - (d) determining whether, on balance, the anti-competitive provisions should be retained in the proposed local law in the overall public interest.
16. Council determined that its assessment should be conducted by Council as a minor assessment with an emphasis on qualitative analysis with key impacts expressed in monetary terms, but only if applicable data is available. Council determined that the review should be conducted in-house by a team of Council officers.

## BACKGROUND FOR ASSESSMENT

17. Council's assessment was made against the background of the following considerations:-
- (a) under the *Environmental Protection Regulation 2008*, Chapter 5A ("Chapter 5A"), Council is responsible for the regulation of waste management in its local government area and Chapter 5A applies in Council's local government area unless:-
    - (i) Council makes a local law about waste management for its local government area; and
    - (ii) the local law states it replaces Chapter 5A;
  - (b) the proposed local law is about waste management for the local government area of Council and, for practical purposes, replaces, and for that matter replicates, the content of Chapter 5A;
  - (c) under the *Waste Reduction and Recycling Regulation 2011*, section 7 ("section 7"), Council may:-
    - (i) by resolution, designate areas within its local government area in which Council may conduct general waste or green waste collection; and
    - (ii) decide the frequency of general waste or green waste collection in the designated areas.
  - (d) under the proposed local law, Council preserves its right to, (as is the case under section 7):-
    - (i) by resolution, designate areas within its local government area in which Council may conduct general waste or green waste collection; and
    - (ii) decide the frequency of general waste or green waste collection in the designated areas.
18. Under section 7, Council has previously adopted a restricted approach towards the designation of areas in respect of which Council may conduct general waste collection and decide the frequency of general waste collection in the designated areas.
19. Each of Chapter 5A and section 7 are due to expire on 1 July 2018.
20. The object of the proposed local law is to protect the public health, safety and amenity related to waste management by:-
- (a) regulating the storage, servicing and removal of waste; and
  - (b) regulating the disposal of waste at waste facilities; and
  - (c) ensuring that an act or omission does not result in:-
    - (i) harm to human health or safety or personal injury; or
    - (ii) property damage or loss of amenity; or
    - (iii) environmental harm or environmental nuisance.
21. The focus of the proposed local law is "general waste", the definition of which mirrors the definition of "general waste" in the *Environmental Protection Regulation 2008* for the purposes of Chapter 5A.
22. The definition of "general waste" includes "commercial waste", "domestic waste" and "recyclable waste". The definitions for the expressions "commercial waste", "domestic waste" and "recyclable waste" in the proposed local law mirror the definitions for those

expressions in the *Environmental Protection Regulation 2008*, for the purposes of Chapter 5A.

23. Council has determined that regulation of waste management in the manner:-
  - (a) currently achieved by Chapter 5A and section 7; and
  - (b) to be achieved under the proposed local law, is an effective and appropriate means of achieving the objectives of the proposed local law.
24. Under the *Local Government Act 2009*, section 92, Council may levy utility charges for a service, facility or activity for specified utilities, including waste management. Council currently levies utility charges for waste management, including the conduct of general waste collection in reliance on the exercise of powers under, collectively, Chapter 5A and section 7.
25. Council may continue to levy utility charges for services, facilities and activities for the utility of waste management, and in particular the conduct of general waste collection, under the proposed local law.
26. Part 3 of the proposed local law deals with the issue of waste receipt and disposal, and in particular:-
  - (a) the unlawful disposal of waste at a waste facility;
  - (b) restrictions on burning waste at a waste facility;
  - (c) restrictions on the use of a waste facility; and
  - (d) a person's obligation to comply with directions and give information at a waste facility.

## **ASSESSMENT OF ALTERNATIVES**

27. Regulatory and non-regulatory alternatives available to Council which may achieve the objectives of the proposed local law are listed in the Guidelines. The following alternatives were considered to be "realistic" alternatives and given further consideration:-
  - regulation – public vs private action;
  - public information and education programs.
28. Council also identified a further alternative of relying on the planning scheme to control storage and collection of waste issues.
29. Consideration of the submissions received by Council supports Council's conclusion that these alternatives are not viable for the reasons detailed below.
30. *Regulation - public vs. private action* - This regime would involve a change to the proposed local law to provide that where more than three complaints were received, Council would take action. Up to and including the third complaint, Council would not take action but it would be open to individuals to take action in respect of a nuisance caused by unsatisfactory storage and collection of waste practices. In this way, Council would only be acting in genuine situations of nuisance rather than having to respond to what are, for example, vexatious complaints.
31. While the alternative may provide some benefit to Council, it was considered to be only nominally less anti-competitive than the proposed regime. There was also concern that some genuine complaints would not be acted upon under this regime thereby limiting the rights of individuals and the community in respect of public health and safety and amenity. It may also be conceived by the community as an abrogation of local government responsibility and duty of care.

32. *Public information and education program* - Consideration was given to this alternative but it was felt that Council does not have the necessary resources available to undertake an appropriate education program. It was also considered that some form of regulatory control was necessary in order for Council to act immediately in situations posing an unacceptable risk to public health and safety or causing a nuisance.
33. *Planning scheme* - This alternative would require the local law to be amended to specify that its application relates to non-commercial activities only. Regulation of storage and collection of waste and nuisance issues with respect to commercial activities would be by way of planning instruments.
34. There are several impacts which would arise from this alternative. The main difficulty with moving to use of the planning scheme relates to the question of whether Council would have adequate control over existing businesses. Under the planning scheme, where new developments require some kind of approval, Council could place conditions on the approval dealing with issues such as storage and collection of waste. However, in relation to existing businesses, unless an approval under the planning scheme was required and unless that original approval made provision for the activities covered by the proposed local law, Council would have no power under the planning scheme to control the activities covered by the proposed local law. Council may have recourse to a variety of powers under State legislation, for example, the *Environment Protection Act 1994* but it would depend on the individual situation as to whether these or other Acts could be invoked and the degree of their effectiveness is uncertain.
35. Also, the planning scheme cannot provide for a once-off occasion of significant intensity where the undertaking of a business activity may result in increased, or exceptional, storage and collection of waste issues, which could be the subject of Council regulation under the proposed local law.

## **STRUCTURE AND OPERATION OF THE MARKET**

36. A brief description of the structure and operation of the market and who is affected is detailed below.
37. Under Chapter 5A and section 7, Council may designate areas within its local government area in which Council may conduct general waste and green waste collection and decide the frequency of general waste and green waste collection in the designated areas.
38. Under the proposed local law, Council may designate areas within its local government area in which Council may conduct general waste and green waste collection and decide the frequency of general waste and green waste collection in the designated areas.
39. In Chapter 5A and the proposed local law, the expression "general waste" is defined to include commercial waste, domestic waste and recyclable waste and in each of Chapter 5A and the proposed local law, those expressions have, for practical purposes, an identical meaning.
40. In reliance on the content of Chapter 5A and section 7, Council may enter into contractual arrangements with an independent contractor about the conduct of general waste collection and decide the frequency of general waste collection in designated areas in Council's local government area.
41. Under the proposed local law, current, or proposed, contractual arrangements with a contractor about the conduct of general waste collection and the frequency of general waste collection in designated areas in Council's local government area may continue, or be entered into.
42. Reliance by Council on the provisions contained in Chapter 5A and section 7 is an integral part of how Council regulates waste management in its local government area.

43. On the expiry of Chapter 5A and section 7, reliance by Council on the proposed local law will be an integral part of how Council regulates waste management in its local government area.
44. For example, under each of Chapter 5A and the proposed local law, Council may supply to premises the number of standard general waste containers that Council reasonably considers is required at the premises as is necessary to contain the general waste produced at the premises and require the occupier of the premises to place the waste container outside the premises for the collection of general waste from the container on a scheduled collection day.
45. Collectively, Chapter 5A, section 7 and the utility charging provisions in the *Local Government Act 2009* result in a restriction on competition to the extent that Council designates an area within its local government area in which Council will conduct general waste or green waste collection and decides on the frequency of general waste or green waste collection in the designated areas.
46. Under the proposed local law, the extent of the restriction on competition is subject to Council's decision to, under the proposed local law, designate areas within its local government area in which Council will conduct general waste or green waste collection and decide the frequency of general waste or green waste collection in the designated areas.
47. Council is not proposing that the nature of the restriction on competition under the proposed local law will be substantively different from the nature of the restriction on competition which currently exists under Chapter 5A and section 7.
48. Each of the realistic regulatory and non-regulatory alternatives identified above would:-
  - (a) entail a local law which did not preserve Council's ability to designate areas within its local government area in which Council may conduct general waste or green waste collection and decide the frequency of general waste or green waste collection in the designated areas or, alternatively, entail the making of no local law at all; and
  - (b) result in the removal of a restriction on competition.

### **COMPETITIVE NEUTRALITY**

49. The *Local Government Act 2009*, chapter 3 part 2 division 2 is about the application of the National Competition Policy Agreements, including the competitive neutrality principle.
50. Under the competitive neutrality principle, an entity that is conducting a business activity in competition with the private sector should not enjoy a net advantage over competitors only because the entity is in the public sector.
51. Relevantly, a business activity is trading in goods and services by Council, for example, the utility of waste management collection.

### **IDENTIFICATION OF KEY STAKEHOLDERS**

52. Key stakeholders affected by the current situation and by a move to an alternative arrangement, that is, not making the proposed local law, include the following:-
  - (a) local government;
  - (b) owners and occupiers of premises used for domestic purposes at which general waste is generated;

- (c) owners and occupiers of commercial premises at which general waste is generated;
- (d) potential owners and occupiers of premises used for domestic purposes at which general waste is generated;
- (e) potential owners and occupiers of commercial premises at which general waste is generated;
- (f) waste collection contractors (other than a contracted waste collection contractor of Council) responsible for the collection of general waste from premises, and in particular commercial premises, which generate general waste in Council's local government area;
- (g) a Council contracted waste collection contractor which is responsible for the collection of general waste from premises (including commercial premises) which generate general waste in Council's local government area;
- (h) residents in close proximity to premises used for domestic purposes;
- (i) residents in close proximity to premises used for the undertaking of commercial activities;
- (j) conservation/environmental groups.

**POSITIVE AND NEGATIVE IMPACTS ON STAKEHOLDERS FROM A MOVE TO AN ALTERNATIVE ARRANGEMENT, THAT IS, NOT MAKING THE PROPOSED LOCAL LAW**

*Stakeholder – Local Government*

53. If Chapter 5A and section 7 do not expire, and Council does not make the proposed local law:-
- (a) Council will not be exposed to financial liability under any current contractual arrangement with a current contractor (of Council) which is responsible for the conduct of general waste collection services in designated areas in Council's local government area;
  - (b) Council will continue to incur the costs associated with the administration of waste management in Council's local government area;
  - (c) Council will continue to incur costs associated with the enforcement of Chapter 5A;
  - (d) the cost structure of the waste management industry includes significant fixed costs (which lends itself to economies of scale) and competitive tendering processes which are available to Council provide an effective means for capitalising on these potential savings while ensuring competition among waste collection service providers is preserved.
54. If Chapter 5A and section 7 expire and Council does not make the proposed local law:-
- (a) Council may be exposed to financial liability under any current contractual arrangement with a current contractor (of Council) which is responsible for the conduct of general waste collection services in designated areas in Council's local government area. This is a moderate negative impact;
  - (b) Council will continue to incur the costs associated with the administration of waste management in Council's local government area and the costs of administration of waste management may increase if the owners and occupiers of premises at which general waste is generated for collection (including commercial premises in particular) elect not to use a waste management collection service offered by Council. This is a low negative impact;

- (c) Council will not incur costs associated with the enforcement of either Chapter 5A or the proposed local law, but will still be responsible for the regulation of waste management. This is a low negative impact;
- (d) an increase in the number of waste collection vehicle movements may occur with limited scope for Council to control the timing of the delivery of these services, creating a range of impacts on residents and tourists relating to traffic congestion, amenity (noise), and safety. This is a low negative impact;
- (e) Council anticipates an increased prevalence of inappropriate (or insufficient) waste containers being used, presenting potential health risks (including improper waste disposal practices). This is a low negative impact;
- (f) there may be challenges associated with managing waste collection in the local government area if the number of waste collection service providers operating in the area increases substantially. This is a low negative impact;
- (g) Council's ability to meet waste diversion targets and actions developed to meet statutory obligations established by the State could be reduced as recycling responsibility shifts from Council led to consumer led. In particular, given the nature of recycling, where the costs are incurred privately, but the benefits are realised publicly, the level of demand is expected to be lower than what would be deemed efficient. This is a low negative impact;
- (h) Council anticipates an increase in complaints, for example:-
  - (i) waste collection occurring at commercial premises at inappropriate times of day
  - (ii) improper waste disposal, including overflowing bins, bin lids being left open, broken bins, waste being left next to bins, and strong odours from bins; and
  - (iii) bins placed out for collection well ahead of collection times and days or not retrieved following collection.

This is a low negative impact;
- (i) if Council is not able to directly or indirectly influence the number of waste collection service providers serving a designated area, Council will not be able to:-
  - (i) manage the number of waste vehicle collections that occur within the area and the hours of operation of the collections; or
  - (ii) control noise issues for residents and tourists by limiting the times during which service providers may undertake waste collection activities; or
  - (iii) prescribe appropriate collection containers and the frequency of collection (with a view to ensuring that any potential health impacts associated with improper waste disposal and overflowing containers are minimised and that service standard requirements are met); or
  - (iv) adequately control Council's ability to meet targets and undertake actions in line with statutory obligations established by the Queensland Government under the *Waste Reduction and Recycling Act 2011*.

This is a low negative impact;
- (j) it is not clear that the undertaking of waste collection services by additional, or multiple, waste collection contractors will drive savings given the cost structure of waste collection services, which is dominated by fixed costs, and hence lends itself to the benefits of scale. A tendering process applied by Council in relation to the



selection of a waste collection contractor would generate competition and reduce cost. This is a low negative impact;

- (k) waste management is a highly capital intensive industry with significant investment in assets. The cost structure gives rise to economies of scale, whereby the average cost to perform a collection will decline as the number of properties serviced increases. The ability of Council to invite tenders for a large number of properties requiring servicing through a competitive process allows each tenderer to determine an appropriate fleet size to achieve a level of utilisation that minimises average costs and leads to lower tendered prices. This is a low negative impact;
  - (l) if a current waste collection service provider loses a segment of its current market share there would be an increase in aggregate capital costs incurred across the industry and a reduction in the average utilisation of waste collection vehicles across the industry which would likely result in an increase in average collection costs. This is a low negative impact;
  - (m) the number of properties serviced and the waste tonnages to be collected may become less certain (due to greater competition within a specified area), and a contractor tendering to undertake waste collection services in Council's local government area, would need to build a greater risk component into its tendered prices in order to account for this uncertainty. This is a low negative impact;
  - (n) waste collection contractors (other than Council or Council's contracted waste collection contractor) may only offer specific services, for example, recycling services for cardboard and paper which are more profitable, and could, in turn, undermine any existing recycling practices currently adopted by the owners and occupiers of premises used for commercial purposes. This is a low negative impact;
  - (o) Council will not be able to ensure that collection runs are not duplicated by a number of different waste collection service providers in the same streets or localities. This is a low negative impact;
  - (p) Council's ability to fund waste management facilities and broader waste management activities (street bins, landfill remediation, education, compliance functions, strategy development etc) will be reduced. This is a low negative impact;
  - (q) owners and occupiers of premises which generate limited general waste may not be effectively serviced for a reasonable price and may be required to pay considerably higher charges to get waste containers serviced in contrast to Council's service under which all waste generators pay the same for the same collection service, regardless of the location of the premises. This is a low negative impact;
  - (r) increased whole of community waste management costs will be incurred given higher servicing costs per collection due to reduced economies of scale and utilisation and greater uncertainty surrounding the properties at which waste collection services are to be provided on an opt in basis. This is a low negative impact;
  - (s) there would be increased potential for long haul transport of general waste, including recyclables, for processing and disposal at locations significantly removed from Council's local government area. This is a low negative impact.
55. In summary, the analysis of the costs and benefits of moving to the alternative arrangement, that is, not making the proposed local law, would result in a moderate negative impact for this stakeholder.

*Stakeholder – owners and occupiers of premises used for domestic purposes at which general waste is generated*

56. If Chapter 5A and section 7 do not expire, and Council does not make the proposed local law, the public health, safety and amenity relating to waste management of owners and occupiers of premises used for domestic purposes at which general waste is generated will be preserved by the enforcement of Chapter 5A by Council.
57. If Chapter 5A and section 7 expire and Council does not make the proposed local law:-
- (a) the public health, safety and amenity relating to waste management of owners and occupiers of premises used for domestic purposes at which general waste is generated may not be preserved. This is a low negative impact;
  - (b) the number of waste collection vehicle movements may increase with limited scope for Council to control the timing of the delivery of these services, creating a range of impacts on residents and tourists relating to traffic congestion, amenity (noise), and safety. This is a low negative impact;
  - (c) Council anticipates an increased prevalence of inappropriate (or insufficient) waste containers being used, presenting potential health risks (including improper waste disposal practices). This is a low negative impact;
  - (d) Council will not be able to ensure that persons who generate general waste have access to appropriate collection containers and are serviced at an appropriate frequency and that potential health impacts associated with improper waste disposal and collection are minimised. This is a low negative impact.
58. If Chapter 5A and section 7 expire and Council makes the proposed local law, the public health, safety and amenity relating to waste management of owners and occupiers of premises used for domestic purposes at which general waste is generated will be preserved by the enforcement of the proposed local law by Council.
59. In summary, the analysis of the costs and benefits of moving to the alternative arrangement, that is, not making the proposed local law, would result in a low negative impact for this stakeholder.

*Stakeholder – owners and occupiers of commercial premises at which general waste is generated*

60. If Chapter 5A and section 7 do not expire, and Council does not make the proposed local law, the public health, safety and amenity relating to waste management of owners and occupiers of commercial premises at which general waste is generated will be preserved by the enforcement of Chapter 5A by Council.
61. If Chapter 5A and section 7 expire and Council does not make the proposed local law:-
- (a) the public health, safety and amenity relating to waste management of owners and occupiers of commercial premises at which general waste is generated may not be preserved. This is a low negative impact;
  - (b) the number of waste collection vehicle movements may increase with limited scope for Council to control the timing of the delivery of these services, creating a range of impacts on residents and tourists relating to traffic congestion, amenity (noise), and safety This is a low negative impact;
  - (c) Council anticipates an increased prevalence of inappropriate (or insufficient) waste containers being used, presenting potential health risks (including improper waste disposal practices). This is a low negative impact;
  - (d) some occupiers of commercial premises (most likely businesses considered attractive to private waste collection contractors due to the volume and/or nature of waste generated) may enjoy reduced service costs under increased

competition, but for remaining occupiers serviced by Council, or a contractor engaged by Council, service costs could increase because the same level of fixed costs would need to be recovered from a smaller collections base. This is a low positive impact;

- (e) Council will not be able to ensure that persons who generate general waste have access to appropriate collection containers and are serviced at an appropriate frequency and that potential health impacts associated with improper waste disposal and collection are minimised. This is a low negative impact;
  - (f) waste collection contractors (other than Council or Council's contracted waste collection contractor) may only offer specific services, for example, recycling services for cardboard and paper which are more profitable which could undermine any existing recycling practices currently adopted by the owners and occupiers of premises used for commercial purposes. This is a low negative impact;
  - (g) owners and occupiers of premises which generate limited general waste may not be effectively serviced for a reasonable price and may pay considerably higher charges to get waste containers serviced in contrast to Council's service under which all waste generators pay the same for the same collection service, regardless of the location of the premises. This is a low negative impact.
62. If Chapter 5A and section 7 expire and Council makes the proposed local law, the public health, safety and amenity relating to waste management of the owners and occupiers of commercial premises at which general waste is generated will be preserved by the enforcement of the proposed local law by Council.
63. In summary, the analysis of the costs and benefits of moving to the alternative arrangement, that is, not making the proposed local law, would result in a low negative impact for this stakeholder.

*Stakeholder – potential owners and occupiers of premises used for domestic purposes at which general waste is generated*

64. If Chapter 5A and section 7 do not expire, and Council does not make the proposed local law, the public health, safety and amenity relating to waste management of potential owners and occupiers of domestic premises at which general waste is generated will be preserved by the enforcement of Chapter 5A by Council.
65. If Chapter 5A and section 7 expire, and Council does not make the proposed local law, the public health, safety and amenity relating to waste management of potential owners and occupiers of premises used for domestic purposes at which general waste is generated may not be preserved. This is a low negative impact.
66. If Chapter 5A and section 7 expire, and Council makes the proposed local law, the public health, safety and amenity relating to waste management of potential owners and occupiers of premises used for domestic purposes at which general waste is generated will be preserved by the enforcement of the proposed local law by Council.
67. In summary, the analysis of the costs and benefits of moving to the alternative arrangement, that is, not making the proposed local law, would result in a low negative impact for this stakeholder.

*Stakeholder – potential owners and occupiers of commercial premises at which general waste is generated*

68. If Chapter 5A and section 7 do not expire, and Council does not make the proposed local law, the public health, safety and amenity relating to waste management of potential owners and occupiers of commercial premises at which general waste is generated will be preserved by the enforcement of Chapter 5A by Council.

69. If Chapter 5A and section 7 expire, and Council does not make the proposed local law, the public health, safety and amenity relating to waste management of potential owners and occupiers of commercial premises at which general waste is generated may not be preserved. This is a low negative impact.
70. If Chapter 5A and section 7 expire and Council makes the proposed local law, the public health, safety and amenity relating to waste management of potential owners and occupiers of commercial premises at which general waste is generated will be preserved by the enforcement of the proposed local law by Council.
71. In summary, the analysis of the costs and benefits of moving to the alternative arrangement, that is, not making the proposed local law, would result in a low negative impact for this stakeholder.

*Stakeholder – waste collection contractors (other than Council’s contracted waste collection contractor) responsible for the collection of general waste from premises, and in particular commercial premises, which generate general waste in Council’s local government area*

72. If Chapter 5A and section 7 expire, and Council does not make the proposed local law:-
- (a) waste collection contractors (other than Council’s contracted waste collection contractor) may collect general waste from premises which generate general waste in Council’s local government area absent the restriction on competition which flows from Chapter 5A and section 7. This is a moderate positive impact;
  - (b) there is potential for the introduction of new fixed costs into the waste collection industry (through an uplift in the number of operators providing services) that would be defrayed over the same number of customers, increasing the average cost of service provision. This is a low negative impact;
  - (c) the number of properties serviced and the waste tonnages to be collected will become less certain (due to greater competition within a specified area), and a contractor tendering to undertake waste collection services in Council’s local government area, would need to build a greater risk component into its tendered prices in order to account for this uncertainty. This is a neutral impact;
  - (d) there would be increased potential for long haul transport of general waste, including recyclables, for processing and disposal at locations significantly removed from Council’s local government area. This is a low negative impact.
73. If Chapter 5A and section 7 expire, and Council makes the proposed local law, waste collection contractors (other than Council’s contracted waste collection contractor) may collect general waste from premises which generate general waste in Council’s local government area subject to the restriction on competition which flows from the making of the proposed local law. This is a low negative impact because the making of the proposed local law does not impact on Council’s power to levy utility charges under the *Local Government Act 2009*.
74. In summary, the analysis of the costs and benefits of moving to the alternative arrangement, that is, not making the proposed local law, would result in a low positive impact for this stakeholder.

*Stakeholder - Council’s contracted waste collection contractor which is responsible for the collection of general waste from premises (including commercial premises) which generate general waste in Council’s local government area*

75. If Chapter 5A and section 7 expire, and Council does not make the proposed local law:-
- (a) the number of collections of general waste from premises which generate general waste in Council’s local government area may be reduced with a consequent impact on profitability. This is a moderate negative impact;

- (b) there may be challenges associated with managing waste collection in a local government area if multiple waste collection service providers operate in the area. This is a low negative impact;
  - (c) if a Council contractor were to lose a segment of its current market share there would be an increase in aggregate capital costs incurred across the industry and a reduction in the average utilisation of waste collection vehicles across the industry which would likely result in an increase in average collection costs. This is a low negative impact;
  - (d) the number of properties serviced and the waste tonnages to be collected will become less certain (due to greater competition within a specified area), and a contractor tendering to undertake waste collection services in Council's local government area, would need to build a greater risk component into its tendered prices in order to account for this uncertainty. This is a neutral impact.
76. If Chapter 5A and section 7 expire, and Council does make the proposed local law, Council's contracted waste collection contractor will continue to be responsible for the collection of general waste from premises which generate general waste in Council's local government area.
77. In summary, the analysis of the costs and benefits of moving to the alternative arrangement, that is, not making the proposed local law, would result in a low negative impact for this stakeholder.

*Stakeholder – Residents in close proximity to premises used for domestic purposes*

78. If Chapter 5A and section 7 do not expire and Council does not make the proposed local law, the public health, safety and amenity relating to waste management of residents in close proximity to premises used for domestic purposes will be preserved by the enforcement of Chapter 5A by Council.
79. If Chapter 5A and section 7 expire and Council does not make the proposed local law:-
- (a) the public health, safety and amenity relating to waste management of residents in close proximity to premises used for domestic purposes may not be preserved. This is a low negative impact;
  - (b) an increase in the number of waste collection vehicle movements may occur with limited scope for Council to control the timing of the delivery of these services, creating a range of impacts on residents and tourists relating to traffic congestion, amenity (noise), and safety. This is a low negative impact;
  - (c) Council anticipates an increased prevalence of inappropriate (or insufficient) waste containers being used, presenting potential health risks (including improper waste disposal practices). This is a low negative impact.
80. If Chapter 5A and section 7 expire and Council makes the proposed local law, the public health, safety and amenity relating to waste management of residents in close proximity to premises used for domestic purposes will be preserved by the enforcement of the proposed local law by Council.
81. In summary, the analysis of the costs and benefits of moving to the alternative arrangement, that is, not making the proposed local law, would result in a low negative impact for this stakeholder.

*Stakeholder – Residents in close proximity to premises used for the undertaking of commercial activities*

82. If Chapter 5A and section 7 do not expire and Council does not make the proposed local law, the public health, safety and amenity relating to waste management of residents in

close proximity to premises used for the undertaking of commercial activities will be preserved by the enforcement of Chapter 5A by Council.

83. If Chapter 5A and section 7 expire and Council does not make the proposed local law:-
- (a) the public health, safety and amenity relating to waste management of residents in close proximity to premises used for the undertaking of commercial activities may not be preserved. This is a low negative impact;
  - (b) an increase in the number of waste collection vehicle movements may occur with limited scope for Council to control the timing of the delivery of these services, creating a range of impacts on residents and tourists relating to traffic congestion, amenity (noise), and safety. This is a low negative impact;
  - (c) Council anticipates an increased prevalence of inappropriate (or insufficient) waste containers being used, presenting potential health risks (including improper waste disposal practices). This is a low negative impact.
84. If Chapter 5A and section 7 expire and Council makes the proposed local law, the public health, safety and amenity relating to waste management of residents in close proximity to premises used for the undertaking of commercial activities will be preserved by the enforcement of the proposed local law by Council.
85. In summary, the analysis of the costs and benefits of moving to the alternative arrangement, that is, not making the proposed local law, would result in a low negative impact for this stakeholder.

*Stakeholder – conservation/environmental groups*

86. If chapter 5A and section 7 expire and Council does not make the proposed local law:-
- (a) an increase in the number of waste collection vehicle movements may occur with limited scope for Council to control the timing of the delivery of these services, creating a range of impacts on residents and tourists relating to environmental matters, including traffic congestion and amenity (noise). This is a low negative impact;
  - (b) if Council is not able to directly or indirectly limit the number of waste collection contractors serving a designated area, Council will not be able to control noise issues for residents and tourists by limiting the times during which service providers may undertake waste collection activities and this will result in a diminution of environmental values. This is a low negative impact;
  - (c) Council's ability to fund waste management facilities and broader waste management activities (street bins, landfill remediation, education, compliance functions, strategy development etc) will be reduced and there will be a consequent reduction in environmental values. This is a low negative impact;
  - (d) there would be increased potential for long haul transport of general waste, including recyclables, for processing and disposal at locations significantly removed from Council's local government area and a consequent reduction in environmental values. This is a low negative impact.
87. In summary, the analysis of the costs and benefits of moving to the alternative arrangement, that is, not making the proposed local law, would result in a low negative impact for this stakeholder.

**SUMMARY**

88. Overall, the analysis of costs and benefits has determined there would be a net cost to the community as a whole in moving to the alternative arrangement, that is, not making the proposed local law.

89. There would be a benefit to a particular stakeholder, waste collection contractors (other than Council's contracted waste collection contractor) in the event of a move to the alternative arrangement, that is, not making the proposed local law.
90. Also, owners and occupiers of commercial premises at which general waste is generated and potential owners and occupiers of commercial premises at which general waste is generated could potentially benefit from the removal of the barrier to entry to the market, and in particular, the removal of a restriction on competition.
91. However, the move to the alternative arrangement, that is, not making the proposed local law, would result in a moderate negative impact or a low negative impact for all other identified stakeholders. The move to the alternative arrangement would result in increased costs for Council. These costs could be substantial and would be passed on to the community.
92. Overall, the analysis of costs and benefits has determined that there would be a net cost in moving to the alternative arrangement, that is, not making the proposed local law. The anti-competitive provisions in the proposed local law should be retained in the public interest.