Q1 Do you agree with, or have any comments regarding, Jacobs' bioresources market review report?

#	Recommendation	Constraints addressed	Wessex Water comment
R1	Continue to research the safety of biosolids. A programme of chemical investigations which will help to address this is ongoing. Future research should include mixed feedstocks to support future codigestion.	A. Biosolids to land uncertainty	Agreed.
R2	Deliver the Environment Agency sludge strategy with permitting flexibility. The sludge strategy is due to be implemented in 2023.	A. Biosolids to land uncertainty	We agree that clarity is needed urgently, and that publication of the EA's sludge strategy should help this. We have raised concerns via the various industry working groups about some of the proposals, particularly around changes to FRfW and permitting, as noted below.
R3	Resolve uncertainty around farming rules for water.	A. Biosolids to land uncertainty	We have raised concerns via the various industry working groups about some of the proposals, particularly around changes to FRfW and permitting. We do not feel that the proposed changes are appropriate and will continue to make this case via Water UK, who are coordinating engagement with the EA/DEFRA. We would request that Ofwat also participate in these discussions given the significant impact on investment (and therefore customers) of the proposed changes.

R4	Sectoral innovation in advanced thermal treatment technologies. Collaborative industry effort to accelerate projects in the pilot phase (or alternative technologies) to meet the requirements of the sector in the next decade.	N. Technological uncertainty A. Sludge to land uncertainty	Agreed.
R5	Form regional planning partnerships. We recommend that incentivisation of market engagement and joint planning should be used at the price review; and companies should form regional planning partnerships now to help manage the impacts of IED.	B. IED uncertainty J. Lack of synchronisation and joint planning	Agreed, and we are participating in multiple cross-industry working groups to facilitate this. We would note that this is of much wider benefit than just IED compliance and should be the approach taken to any major planning or improvements.
R6	Take cross-border rationalisation into consideration as a possible justification for IED compliance deadline exceptions. Companies may be able to show that rationalising sites across company borders has commercial and/or environmental benefits, and that this will necessarily require more time for planning. In these cases an exception to the compliance deadline may be reasonable.	B. Industrial Emissions Directive (IED) uncertainty	We support this approach, as it would achieve the best long-term solution for customers. To enable this though, all parties need to be aligned, and we would encourage that Ofwat join discussions with the EA/DEFRA on timescales relating to IED compliance.
R7	Simplify permitting requirements by demonstrating safety and reliability of specific mixed waste streams via the Environment Agency's assessment framework and working with stakeholders to have these accredited for spreading biosolids to land. The sludge strategy should allow light-touch permitting for low-risk mixed feedstocks.	C. Cost of digestate spreading permitting for codigestion	Agreed
R8	Review energy generation incentive scheme rules. Experience from the other organic waste sector and at least one water and sewerage company shows that accepting multiple or mixed	D. Specificity of energy generation incentives	Agreed

	waste feedstocks need not jeopardise existing accreditations.		
R9	Create a framework to assess third party capacity efficiency. The demonstration of the third-party solution's efficiency as compared to inhouse provision would be an enabler to a revenue pass-through. In our opinion third party solution efficiency should be tested against "real" alternative scenarios. For example, if the capacity is dealing with growth, alternative scenarios including the cost of exporting sludge "out of system" should be explored where in-house capacity construction is unaffordable	E. Revenue risk for long term contracts	Agreed in principal, but would note that a consistent approach across the industry is needed on how both in-house and 3rd party proposals are assessed to ensure like-for-like comparisons across the industry
R10	Align revenue risk between in-house and external capacity. Our recommendation is to guarantee revenues for the duration of third-party contracts which can be demonstrated as efficient against the above frameworks.	E. Revenue risk for long term contracts	Agreed, noting that this would need to be conditional on any changes in regulations would require a review of the contract terms.
R11	Create a bid assessment framework. This would support long-term capacity contracts as a viable alternative to in-house provision by ensuring companies use best tendering practice to compare bids to in-house options.	E. Revenue risk for long term contracts	Agreed in principal, as will give a consistent, transparent approach. We would note that this framework would provide benefit for the PR24 price review, and time is therefore limited to agree a framework in advance of this.
R12	Change approach to pricing "headroom" trades. This potential constraint will be resolved if companies charge only the incremental cost for the trade, in accordance with RAG 5.07 section 11. This would include overheads only where the trade caused a demonstrable increase in the overhead costs.	G. Charting overheads via gate fee	Although we agree in principle that this is an efficient way to use existing headroom in short term trading deals we are worried that trading, not at the full price, will in the long term limit the development of the market and encourage short term thinking at the expense of

			long-term resilience. This proposal is not reflective of the way in which almost any standard capacity constrained market functions.
R13	Demonstration of resilience within assessment of market options. As a part of the assessment of the viability of a 3rd party trade option (See R7 and R8), analysis of resilience of the overall portfolio of treatment and recycling routes should be undertaken. To include diversification and emergency options.	I. Risk of supplier failure	We consider there is significant assurance in place already with regards to resilience and question the requirement for further assessments. This should be considered within the bid assessment framework.
R14	Expansion of market information. An expansion of the market information would be an appropriate development of the price control at this point, because it would reduce uncertainty about other companies' plans without much additional cost.	J. Lack of synchronisation and joint planning L. Procurement approaches	Agreed
R15	Consider more prescriptive accounting rules. More prescriptive guidance on how overhead, shared asset and labour costs should be allocated to Bioresources.	K. Differences in accounting for overheads and shared assets	We agree in principle and discuss this further in relation to issue 3 below.
R16	Specific guidance on shared assets and services. We also consider that in the short term, updating the Regulatory Accounting Guidelines to specify how odour control should be allocated by (e.g. airflow) and reviewing and possibly amending further how energy costs and revenues are allocated would resolve part of this issue.	K. Differences in accounting for overheads and shared assets	Agreed

R17	Require companies to undertake open procurement for new capacity. This would be similar to a bidding market but fall short of requiring capacity and demand forecasts with the shortfall being put to market. This recommendation would work together with putting treatment decision making authority with Network+, which would have to select the best option from multiple parties.	H. Procurement authority L. Procurement approaches	Companies should be correctly incentivised to seek the most efficient way of delivering new capacity. This should arise through the wider risk and return balance for the control rather than being mandated.
R18	Improve understanding of end to end treatment cost and internal gate fees. In order to make improvements, water companies need to understand the transport and treatment costs at each entry point into the Bioresources price control. With this information, companies could choose to implement internal gate fee and/or service level agreement mechanisms based upon site-by-site cost to treat and using operational accounts.	M. Water content and transportability of sludge H. Procurement authority	Agreed
R19	Invest in improvements to sludge quality within Network+.	M. Water content and transportability of sludge	To set a true efficient cost directly for bioresources it would be helpful to ensure that a homogenous product is produced by network+ across the country. However, this could be at odds with current efficient set ups, where thickening is done centrally at a bioresource site. It also creates a risk that network+ could end up subsidising the true cost of bioresources, which would be detrimental to the development of a competitive market.

R20	Develop sector level measures for sludge quality. This would enable the industry and regulator to have a shared understanding of sludge quality so that quality can be considered at future price reviews. Undertaking this at a sector level will improve the common understanding of sludge quality measurements for trades and will enable a more rapid development of headroom trade prices and service level agreements for all capacity provision.	O. Measurement of sludge quality	We agree in principle but feel it should be included in the existing permits and requirements rather than anything new.

Q2 Do you agree with, or have any comments regarding, the proposals and views we set out in this document?

Issue 1: Market models

We believe that competitive markets will result in greater innovation and efficiency, leading to a better deal for customers. We are therefore very supportive of continued development of this market. As we set out in our response to the PR24 consultation, we firmly believe that markets should be encouraged, enabled, and incentivised by the regulatory system and not forced. Ultimately, we believe that further separation and de-regulation is the way forward, however for the coming price control we agree with the assessment that option 2, setting up a bid assessment framework is a measured way forward.

It recognises that there are still issues, both operational and legislative, that present a barrier to further legal separation and will set out a means of assessing what successful entry will look like. This will ultimately result in a better understanding of costs, resilience and service levels that will support the eventual development of competitive markets.

Issue 2: Improving cost allocation between controls

Accurate and consistent cost allocation across the industry is essential to support the development of competitive markets. It will ensure that only efficient entry is promoted. Therefore, we are very supportive of further guidance to ensure the consistency of reported costs.

However, the desired result is understanding the costs of the bioresources function; this should not be sacrificed to support greater consistency of less accurate data between companies. The guidance will need to be flexible enough to reflect different operational and organisational set ups.

We note that there are ongoing consultations covering the allocation of energy and overheads. We will feed back specific concerns on the detail of cost allocation in our responses to those consultations.

Issue 3: Approach to assessing costs

Bioresources is an asset-intensive business. Any approach to assessing efficient costs needs to acknowledge and reflect this. Therefore, we think that there are risks of adopting option 2. Investment will often be significantly lumpy; with fewer sites to "average out" investment over, it is unlikely that a smooth investment programme that lends itself to this sort of benchmarking will ever be achieved. It may also not account for any enhancement expenditure for statutory quality improvements that differ across the country.

Our concern is that this will result in less strategic maintenance and improvements which will result in a less resilient business. We maintain that outcome-based regulation would avoid such issues.

Therefore, although we can see the advantages of moving to average revenue benchmarking, we do not think it is appropriate to move away from the tried and tested building block approach.

Issue 4: Planning and Collaboration

We are strong advocates of RAPID and the regional water resource groups in helping the companies deliver the best long-term outcomes for customers, communities, and the environment. However, this is without the context of markets developing and we must remain cognisant of our duties under the Competition Act.

In the short term, we think the most likely way that the market will develop will be to provide headroom through collaborative solutions to regional problems that span multiple incumbents. This should absolutely be encouraged; however, we feel this can be achieved through a comprehensive bid assessment process and the published market information.

Issue 5: Information remedies

In general, we are supportive of improving the data published to support the development of the market, as we fed back in response to the bioresources market information consultation in March 2021. We currently have no further feedback regarding this.

We will continue to review what we publish, and where appropriate to work with other incumbents to ensure that we support the development of an efficient market.

Issue 6: Outcomes

If the market is to truly develop, it needs to move towards deregulation. The continued imposition of the ODI framework is not consistent with this objective.

In our view, even where the ODI framework is retained it needs to be refocused to true outcomes-based regulation, removing all bespoke PCs. We discuss this at length in our response to the PR24 consultation.

Issue 7: Trading incentives

We agree with your proposal, and support option 1.

Options 2 and 3 are forcing a market. We should not be incentivising any entry into the market; we should be enabling, supporting, and incentivising efficient entry. Additional incentives that support market entrance will result in a severe risk of inefficient market entry, which is not in the interests of any stakeholder.