

To: Department of Water and Environmental Regulation

Re: Review of the *Waste Avoidance and Resource Recovery Act 2007*

25 November 2020

Introduction

AMEC appreciates the opportunity to provide a submission to the Department on the review of the *Waste Avoidance and Resource Act 2007* (the Act).

About AMEC

The Association of Mining and Exploration Companies (AMEC) is a leading national industry association representing over 350 members from all around Australia. Our members are explorers, emerging miners, producers, and a wide range of business working in and for the industry. Collectively, these companies account for over \$100 billion of the mineral exploration and mining sector's capital value.

The mining and exploration industry make a critical contribution to the Australian economy, employing over 255,000 people. In 2018/19, these companies collectively paid over \$39 billion in royalties and taxation, invested \$36.1 billion in new capital and generated more than \$283 billion in mineral exports. In 2019/20, \$2.8 billion was spent on minerals exploration, representing an 18% increase from the previous year.

The Review

General Feedback

AMEC welcomes the review of the Act, and opportunities to engage with the Department to identify opportunities to provide more certainty to industry. As the Act is the primary legislation for Western Australian waste management, it is important for our industry to continue engagement with the Department in current and future reviews of its efficacy.

The mining industry is heavily regulated, with costs to comply with environmental legislation costing the industry around \$1.5 billion per year¹. As an industry body, we have longstanding objectives to streamline processes to create more efficient regulatory practices and reduce duplication.

AMEC made a submission to the Department's Closing the Loop consultation process in May 2020²; the ideas presented in our previous submission remain current and relevant to the review of this Act.

¹ <https://www.csiro.au/en/Research/MRF/Areas/Community-and-environment/Minesite-environmental-management>

² <https://secureservercdn.net/198.71.233.51/0h5.0cf.myftpupload.com/wp-content/uploads/2020/06/0518-Submission-to-DWER-re-Closing-the-Loop-Waste-Reforms-for-a-Circular-Economy.pdf>

These concerns are primarily that when implementing recommendations to reduce identified ambiguity or create additional requirements, the possible impacts on industry are given due consideration, and additional regulatory, time and financial burden does not result as an unintentional consequence.

Consistent application of regulations

While it is acknowledged that there are often issues arising from the interaction of Commonwealth and State legislation and regulations, AMEC believes there is scope through this review process, to facilitate more consistent application of regulatory practices.

We recommend a review is undertaken to identify and subsequently rectify, disparities between legislative requirements and guidelines. Industry adheres with guidance materials from the Department, and cannot understate the importance of being provided with good quality, precise, and well thought out guidance documents, in line with legislative requirements.

Geological repositories

AMEC recommends the legislation is updated to acknowledge geological repositories. There are currently two operational geological repository facilities in Western Australia, and acknowledgement of them within legislation will be a prudent recognition from Government, with increasing demand for circular economies.

Standards

All facilities, private, State or Local Government led, should be required to meet consistent minimum standards of assurance and insurance. To provide more certainty to industry, Governments and regulators, it is recommended that minimum standards be consulted on, and then introduced to provide an element of certainty. AMEC requests involvement in the consultation process. The legislation should be amended to explicitly reference these expectations.

Levy

Recently cleared for 100,000 tonnes per annum of Class IV and V waste, Tellus Holdings is awaiting feedback from the Department about how Class III waste that is mixed in with the waste they process will be managed, and for confirmation that this will be exempt from levies.

As per the Waste Authority website, “The waste levy acts as an economic instrument to reduce waste to landfill by increasing the price of landfill disposal and generates funds for a range of waste and environmental purposes.”³

There is scope for a policy to be introduced confirming that facilities that accept Class IV and V waste such as Tellus Holdings’ Sandy Ridge, which could process above 15% of Australia’s Class IV and V waste, should be exempt from this levy. Sandy Ridge is the only private facility in Australia with the capacity to undertake this important waste processing, which serves the public interest. Currently, this

³ <https://www.wasteauthority.wa.gov.au/about/view/About-the-Waste-Authority-Levy#:~:text=The%20waste%20levy%20acts%20as,of%20waste%20and%20environmental%20purposes.>

type of hazardous waste adds to Australia's growing legacy waste, or is sent overseas for processing. Local initiatives to treat this waste, such as that of Tellus', should be incentivised rather than levied.

Administration of the WARR account

Industry would like more clarity into the current functioning of the WARR account before it can form a position either supporting or recommending against the proposal for the Department to take over the administrative functions of the WARR account.

While it is understood the intent of the account, established under section 79 of the Act, was to hold revenue allocated from the waste levy to fund programs and waste management initiatives approved by the Minister for Environment⁴, there is limited information as to how these funds have been used. There is also limited information allowing the effectiveness of the current allocation of the account to be measured.

The proposal in the Review to fund additional resourcing raises questions across industry; while an increase in the number of staff is supported, how is resourcing currently supported, if not through the account?

We would welcome measures to improve the efficiency of the administration of this account, but request more information and greater transparency.

Capacity of the Department

A common point of advocacy AMEC's engagements with the Department through various consultations and the StreamlineWA process, is that there is a significant resourcing constraint across the Department, resulting in substantial time and financial burden for industry.

The roles and responsibilities of officers under the Act, and how this differs from Department staff, as outlined in the Review, requires more clarity, and clearly defined authorities to provide more accountability. As we progress towards 'green' and cleaner technological advancements, more resourcing under the Act will be required, to track progress and enable the Department to undertake more efficient regulatory compliance reviews. Securing this additional resourcing now, while acknowledging the legislative change process needing to be adhered with, will provide both short-and-long-term efficiency improvements, and capacity to meet industry demand across all sectors.

Authority under the Act

The intent behind the proposal in the Review to enhance the capacity of the Act to improve waste services is questioned. As identified in the paper, the Act does not delegate decision-making authority. With this consideration in mind, is the Review recommending that officers under the WARR Act be given regulatory responsibilities? If this is the case, the need for clearly defined roles and responsibilities will be even more important, to give due consideration to efficiencies and ensuring the intent of the Act is being met.

4

[https://www.parliament.wa.gov.au/parliament/bills.nsf/44074D60E6C59FB748257CF40017774F/\\$File/Bill79-1SR.pdf](https://www.parliament.wa.gov.au/parliament/bills.nsf/44074D60E6C59FB748257CF40017774F/$File/Bill79-1SR.pdf)

In the 2018 Senate Environment and Communications References Committee review, *'Never waste a crisis: the waste and recycling industry in Australia'* it was recommended that the Commonwealth should take on more of a coordinator capacity, to provide consistency to each jurisdiction's currently disparate waste management policies, under the National Waste Policy.

AMEC questions if there is scope to support a coordinated national approach to waste management, before the recommendation identified through this consultation and review process are implemented. Clarity on the Government's position on a coordinated national approach would be welcome.

Final comments

AMEC appreciates ongoing engagement with the Department on issues that will impact the mineral exploration and mining industry. We welcome continued engagement with the Department as the recommendation through this process are identified and explored, to ensure industry's significant contribution is effectively and transparently used.

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