

# Response ID ANON-VAVM-U5Z7-N

Submitted to **Review of the Waste Avoidance and Resource Recovery Act 2007**

Submitted on **2020-11-25 08:45:01**

## Introduction

### 1 What is your name?

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### 3 Do you want to remain anonymous?

No

### 4 Do your view officially represent those of an organisation?

Yes, I am authorised to submit feedback on behalf of an organisation

### 5 Which of the following best describes the group or person you represent?

Peak industry body

## Waste policy development

### 6 Please provide feedback on the roles and functions of the Waste Authority and the CEO and department under the WARR Act? What are the potential areas for improvement? What benefits or impacts may result from clarifying the department's role and responsibilities?

#### waste policy development question:

WMRR agrees with the Auditor General's findings that the roles and functions set out in the WARR Act are uncertain and ambiguous. Moreover, as identified in the paper, the functions of the Waste Authority and state government have evolved since the Act was enacted in 2007; in particular, the Authority, as articulated in the 2019 Waste Strategy, is now required to also influence outcomes through its programs, administer the Waste Avoidance and Resource Recovery Account, and provide policy advice on issues to the Minister when required.

As WA, like the rest of Australia, works to create a low-waste, circular and sustainable society, against the backdrop of the need to mitigate climate change, rebuild local and state economies, manage materials that will be impacted by the impending COAG waste export bans, reduce reliance on the global economy, create new sub-sectors related to remanufacturing and use of recycled products, to name a few factors, there is a greater need for the actions within the waste strategy (and more) to be implemented.

Thus, WMRR believes there is value in clarifying the Waste Authority's role, to provide it with clear strategic policy responsibility and program funding, which will give the Authority the certainty required to drive these actions and influence programs. The Authority should continue to comprise a Board that would report directly to the Minister. Importantly, the Authority would be separate and distinct to DWER.

WMRR proposes the government:

- Supports an EPA that focuses on regulatory issues, alongside the Authority, which would have distinct responsibilities related to policy, including WARR and market development-related strategies and programs.
- Considers the merit of establishing a statutory Authority under a Waste Authority Act, similar to Sustainability Victoria.
- Develops a robust structure to support the Authority, where the Authority is provided with adequate resources and is on equal footing as and separate to DWER.

WMRR proposes that WA models this Authority on Green Industries South Australia; the Authority could continue to be funded by, and should administer the WARR Account and would develop an annual business plan that maps out its programs, activities, programs and services, all of which should be policy- and program-related and across all streams, i.e. municipal solid waste, construction and demolition waste, and commercial and industrial waste.

A Waste Authority that is separate to DWER would provide much-needed clarity on the powers and roles of these entities, which would lead to more effective trackability and enforcement of targets and goals.

Moreover, as highlighted in the paper, WARR is a shared responsibility, and it is as much about jobs and the economy as it is about protecting environmental and human health. Thus, the WARR industry should also be viewed as a business portfolio with viable economic opportunities and it should encompass more than just the people who collect and process "waste"; "circular economy" which all jurisdictions aspire to build, and also link production, consumption, waste management, resource recovery, and remanufacturing (i.e. all stakeholders in the supply chain) in a continuous loop. An independent Waste Authority could drive a coordinated approach by collaborating with all stakeholders, these being governments, businesses (within and beyond the WARR sector), and communities, bringing them to the table to forge partnerships that will make WA's vision a reality.

WMRR does acknowledge that this is a significant shift, one that would require a substantive review and engagement process that may delay the implementation of the waste strategy. It would also require a redrafting of the WARR Act. However, given the long-term benefits, including greater efficiency and success with implementing the waste strategy, and as the WARR Act is currently under review, this would be an appropriate juncture to establish the Authority as a separate and independent body.

## **Administering the WARR Account**

### **7 Are there any potential issues arising from the proposed reforms to improve the administration of the WARR Account?**

#### **Administering the WARR Account:**

As noted in our response to question 6, WMRR supports the establishment of a separate and independent Waste Authority, one that should be responsible for the management of the WARR Account.

However, if the government decides to maintain the status quo, then WMRR agrees with the proposed reform options in the paper to develop clear definitions around the Waste Authority's responsibilities, including the parameters and powers around the financial management of the WARR Account. There must also be clarity around the Act that is in force pertaining to administering of the WARR Account, i.e. would this be section 79 of the WARR Act of section 52 of the Financial Management Act.

WMRR also agrees that the WARR Account should come under the control of one agency (in this case, the Waste Authority) and that this agency, under the Act, is required to provide greater levels of details – to be determined by the Minister – in its annual report to Parliament pertaining to the level of expenditure against the outcomes of the Authority's business plan, including proper funding and implementation of the waste strategy.

## **Provision of services to the Waste Authority**

### **8 Please provide feedback on the proposal to allow the Waste Authority to directly employ its own staff, or to enable the Minister for Environment or some other person to employ or appoint persons to work directly for the Waste Authority. Will this support the work of the Waste Authority and the department?**

#### **Provision of services to the Waste Authority:**

WMRR supports this proposal to allow for the Waste Authority to directly employ its own staff or for persons to be appointed to work directly for the Authority, in order to resource the Authority with staff that have the appropriate skills and expertise relevant to WARR that are often time lacking at various levels of government.

This knowledge and skills gap could also be further addressed by the development and implementation of a technical advisory panel or working group that could support the Authority (and its Board) as well as the Minister.

A properly resourced Authority, as opposed to continued reliance on DWER to provide services and facilities, would allow the Authority to fulfil its role more effectively, in particular driving the waste strategy and implementing programs and initiatives.

To ensure that this is a successful model, it is vital that the roles, responsibilities, and function of the Authority are first clarified and defined within the Act to avoid possible duplication or overlap.

## **Waste services**

### **9 What are your views about the proposal to enhance the capacity of the WARR Act to improve waste services? Do you see any potential issues?**

#### **Waste services:**

Local governments play a significant and integral role in delivering essential WARR services and WMRR agrees that these services are vital in supporting a resilient WARR sector.

WMRR believes that the current definitions in the Act pertaining to "local government waste" and "waste service" are broad and appropriate for the most part, but would advocate for the inclusion of "communications and education" within the waste services definition in the WARR Act.

While WMRR understands DWER's intent in including capacity for improved efficiency and innovation for long-term viability of on-shore processing, we query how exactly this could be done given the services across councils differ based on factors that would impact/influence the measurement of service levels and objectives. Moreover, how does the Department intend to encourage, measure and monitor efficiency and innovation across these varied services and approaches and in particular, as worded in the paper, in a "cost-effective" manner, particularly given the geographic and demographic differences that exist in WA? The reliance on the concept of cost effectiveness also shows a singular and simplistic focus on cost which may not capture other external factors (jobs created, local businesses established, education programs on avoidance, etc.) and requirements that differ across local government areas (and as such, influence and impact on services offered), and could continue to promote a race to the bottom based simply on a measurement of cost, with little consideration of other performance objectives that would take into account market disruptions (and opportunities) highlighted in the paper.

WMRR is concerned by DWER's suggestion that definitions be applied to local government services under the Act, services such as waste plans, fees or charges, as there are a range of factors that impact the cost of service delivery. A singular waste plan and set of fees and charges do not take into account the complex nature of the industry and its relationship with markets and risk leading to diminished services to households, nor do they consider the services that are offered, including the quality of that service.

What can and should be defined however, are consistent KPIs in local government contracts that are linked to the state's waste strategy to ensure that environmental, economic, community and performance objectives are met. Importantly, there should also be consideration of the inclusion of clear offtake requirements; for example, councils with FOGO/green waste services should be required to purchase back compost from this material locally.

In relation to waste plans, WMRR is aware that local governments are currently developing their second round of waste plans. Current CEO powers are significant, allowing for the modification of the plan, as well as a requirement for councils to implement and report on the plan (and penalties for non-compliance), WMRR queries what and how exactly the Department is intending to change in this area, making it challenging to provide further comment on this proposal. In order for WMRR to comment, more information on this proposal is required. Broadly, the Department should provide a clear and detailed proposal on the changes it is seeking, including the implications of these changes, for further consultation with stakeholders.

## **Waste legislative issues**

### **10 Are there any potential issues that may result from these proposals to improve operational and administration aspects of the CDS?**

#### **Waste legislative issues 1:**

WMRR agrees with the observation that achievement of 100% of recycling of all MRF operator collected and returned containers is not possible as some containers may be contaminated or damaged – note that the WARR sector is the end-of-pipe solution, we are recipients of end-of-life materials and MRFs cannot control the materials they receive. As such, we agree that section 47M in its current form may jeopardise the viability of MRF operators and support the Department's proposed amendment to this section that would "prevent MRF operators from disposing of containers in a prohibited manner if the MRF has claimed or received a recovery amount in respect of the container".

WMRR also believes the proposal to amend 47V, in relation to the unexpected resignation of a scheme coordinator Board member, providing an allowance of 40 business days to deal with this resignation, is reasonable and we would support this amendment.

### **11 Please provide comments on product stewardship plans or extended producer responsibility schemes, and if the WARR Act requires amendments to support their introduction.**

#### **Waste legislative issues 2:**

WA has an opportunity to both lead Australia and drive harmonised action in product stewardship due to the provisions within the WARR Act to establish such schemes; however, it is important that the Act improve its definition of product stewardship to reflect international best practice, and have responsibility for entire lifecycle as well as obligations in relation to design. The importance of making producers responsible for managing what they bring to market is especially important for WA, given its high reliance on export markets and with the impending COAG ban.

On a national level, WMRR has been engaging with the federal government on its Recycling and Waste Reduction Bills, advocating that Australia should be processing our own materials and recyclables instead of exporting them to be manufactured into products that may then be imported again. As an industry, we want to decouple ourselves from the global market and establish a strong remanufacturing base that creates four (4) times more jobs in Australia than we currently do by landfilling or exporting. At present however, there remains a linear approach to materials, with a continued lack of emphasis on the creation and design of products, and the demand for Australian recycled products. Thus, there is an absolute need to strengthen design and hold generators accountable, as well as create local markets for recycled materials, and product stewardship schemes can drive these outcomes effectively.

As such, WMRR supports the strengthening of the WARR Act to require producer responsibility as well as implement funding models that result in polluter-pays. Proposed amendments include:

- Setting enforceable recyclable and recycled content targets with penalties;
- Rolling out levers and incentives that disincentivise virgin-use; and
- Implementing sustainable design legislation

### **12 Please provide feedback on these proposed changes to support regulations that implement the waste management framework. Will increasing penalties under the regulations be effective in deterring illegal waste activities?**

#### **Waste legislative issues 3:**

WMRR believes that the current maximum penalty of \$10,000 is unlikely to deter unlawful waste disposal and supports the Department's proposal to increase the penalty to \$20,000 for first time offenders. There needs to be further consideration of penalties for repeat offenders as well as proper enforcement by the Department; there has been insufficient prosecution of unlawful operators/activities to-date to effectively measure effectiveness of the penalties.

On regulation-making powers under the WARR Act, and the Department's proposal to align Section 98 to the wording under EP Act section 123(3), WMRR does not have any broad objections to ensuring consistency with the aim of developing a robust policy framework for the implementation of the WARR Act. However, details are scant at present and WMRR is seeking further details on the issues that the Department is seeking to resolve (and why) beyond consistency, if any.

WMRR would also recommend that all proposed codes, regulations, bylaws and standards are consulted on widely before being implemented.

## **Other**

### **13 Are there any other matters which should be considered as part of this review of the WARR Act?**

#### **Other:**

Please see combined response to questions 13 and 14 below (under question 14).

### **14 How do you think the WARR Act could better support an innovative and thriving waste sector, and ensure that waste and recycling services are effective?**

## Other 2:

The Waste Management and Resource Recovery Association of Australia (WMRR) is the national peak body for all stakeholders in the \$15.5 billion waste and resource recovery (WARR) industry. Nationally, we have more than 2,000 members representing over 500 entities that operate in a broad range of organisations, the three (3) tiers of government, universities, and NGOs. Our members are involved in a range of important waste management and resource recovery activities within the Australian economy, including community engagement and education, infrastructure investment and operations, collection, manufacturing of valuable products from resource recovered materials, energy recovery, and responsible management of residual materials.

WA has continued to show a commitment to improving waste reduction and recycling, with recycling steadily increasing from 1.87 million tonnes in 2007 to 3.2 million tonnes in 2019. In 2017-18, the projected value of WA's waste and recycling activity was an estimated \$1.4 billion, with total waste generation during that period being approximately 5.15 million tonnes. At the time, some 2.73 million tonnes were disposed to landfill and 2.77 million tonnes recovered.

WMRR appreciates that this is a statutory review of the WARR Act and that this review will consider the efficacy of the legislation in meeting its objectives for reducing waste and encouraging resource recovery, as aligned to the Waste Avoidance and Resource Recovery Strategy 2030. WMRR also acknowledges that the review includes findings and recommendations of the 2016 Auditor General's Report and that DWER has, over the last two (2) years, been undertaking legislative reform in a bid to modernise the state's regulatory and legislative framework.

This ongoing reform and review process is supported by WMRR, particularly as we know that for every 10,000 tonnes of waste recycled, 9.2 full-time equivalent jobs are created, compared to only 2.8 jobs for the same volume sent to landfill. As such, there is a significant opportunity for WA to maximise the WARR industry as a vehicle for job and economic growth – all the more important today as we embark on post-pandemic economic recovery – while reaping the environmental and human health benefits associated with increasing the circularity of products (and as such reducing virgin use), decreasing carbon emissions, and more.

WMRR agrees with the observation in the paper that WARR is 'everybody's business' and a well-functioning WARR collection and reprocessing model is essential. The paper also notes WA's aims to move the state towards a sustainable, low-waste circular economy, which WMRR supports; this is in line with the vision of the federal and other state governments who are beginning to see that as key material managers of valuable used resources, the WARR sector can drive domestic remanufacturing growth, which, transitioning into a post-COVID world, can mean local Australian jobs.

However, WMRR believes that the review has not maximised the opportunity to encourage a step-change while resolving key issues that the review seeks to address. Despite the objectives noted in the paper (and highlighted above) as well as those in section 5 of the WARR Act, the review does not adequately address the issues or solutions that will allow WA to realise its WARR vision; specifically, the review:

- Does not capture or unveil how WA can sustainably manage all material streams, having largely focused on local government and municipal solid waste (less than 30% of the WA sector). More below.
- Has shied away from considering how it can use legislation to drive a more circular approach to material management.
- Focuses on improving services, continuing to take on a downstream view and almost reinforcing a linear approach to managing materials despite claiming that WARR is a shared responsibility. There is little emphasis on sustainable design, production and procurement – the key drivers of a true closed loop and circular model.
- Appears largely administrative and does not provide the guidance, clarity, or pathways to addressing the issues and recommendations raised by the Auditor General.

According to the Waste Authority, in 2018-19, WA generated 1.5 million tonnes of municipal solid waste (MSW), 1.6 million tonnes of commercial and industrial (C&I) waste, and 1.9 million tonnes of construction and demolition (C&D) waste. Despite MSW comprising less than a third of waste generated, the WARR Act and this review appears to only have a singular focus on MSW and local government services.

WARR goes well beyond MSW; as such, significant work and consideration by government is required in the other material streams, in particular C&D that is a very challenged sector in WA (despite being very well developed in the majority of other states) and C&I where materials such as tyres will soon become a COAG export banned product. WMRR recommends that the government considers how the state should manage all streams and incorporate responses and powers in the Act to assist these sectors that have significant job and investment potential in WA.

The paper spells out the Department's objectives, one of which being the promotion of the most efficient use of resources, including resource recovery and waste avoidance. While WMRR supports this objectives, further details are sought on how this objective will be met.

WMRR also notes that WA has certain unique challenges, largely pertaining to its wide geographical spread, market size, and reliance on exporting (both domestic and international). With the COAG export bans coming to play from 1 January 2021, WMRR recommends the consideration of the need for WARR precincts, both within metropolitan and regional areas that can drive local reprocessing and remanufacturing; this work should complement ongoing policy and regulatory reform that WA is currently pushing forward with.

WMRR also believes that this review has missed an opportunity to encourage a step-change that will move the state towards becoming a sustainable, low-waste circular economy, and it does not capture or detail how WA can sustainably manage materials across the entire supply chain – from design and production to consumption to end-of-life. As noted above, the WARR system captures end-of-life materials and is not the be all and end all of a circular economy; on the contrary, a circular economy is restorative and regenerative in design, altering decisions made at the design stage before materials become 'waste'.

WMRR advocates for considered legislative reform that will drive requirements and solutions in product design, sustainable procurement, market and industry development. WMRR recommends the Department refers to our substantive submission on its Closing the Loop paper, which provides a number of recommendations related to WARR reforms.