



**Corporate Office**

PO Box 252

Applecross, WA 6953

Australia

Tel: (08) 9316 5111

Fax: (08) 9316 5822

28 August 2019

Waste Division  
Department of Water and Environmental Regulation  
8 Davidson Terrace  
Joondalup WA 6027

Via email to [wastereform@dwer.wa.gov.au](mailto:wastereform@dwer.wa.gov.au)

Dear Madam/Sir,

Alcoa welcomes the opportunity to comment on the Department of Water and Environmental Regulation (DWER) paper, "Waste not, want not: valuing waste as a resource" on the development of a legislative framework for waste-derived materials.

Alcoa strongly supports the development of a framework for waste-derived material, including clear provision for waste-derived materials to cease to trigger the licensing and waste levy regimes under the *Environmental Protection Act 1986 (WA)*, the *Waste Avoidance and Resource Recovery Act 2007 (WA)*, the *Waste Avoidance and Resource Recovery Levy Act 2007 (WA)* and associated regulations.

### **Other Australian jurisdictions**

In looking for a solution in WA, it is useful to consider the legislative regimes in other Australian jurisdictions.

In Queensland, the waste-derived products framework benefits higher-risk waste products that require specific approvals and oversight. For example, hazardous properties, land-applied materials and thermally treated materials. These types of wastes are specifically defined in "end of waste codes", in effect creating a register of waste products covered by the framework.

While this specificity and detail creates certainty, it also creates challenges. A key shortcoming of the framework is that there does not appear to be an alternative mechanism for low risk waste or industry-to-industry by-product approval. As a result, the Queensland framework is not a complete solution.

By comparison, the framework in South Australia allows for two pathways for a waste to become a resource; the first is through specification (similar to Queensland's codification system); the second, in the absence of a specification, is an allowance for waste that constitutes a material that is ready and intended for imminent use without the need for further treatment to prevent any environmental harm to be treated as a resource. This dual-track approach provides flexibility for low risk waste to product transformations and reduces the time and resource costs of an overly prescriptive framework.

### **A WA solution**

In broad terms, Alcoa supports a legislative framework for waste-derived materials that clearly defines "waste" and provides certainty for a range of common waste-derived products (as in the Queensland model).

We believe it is important for there to be flexibility to reuse, recycle and repurpose low-risk waste and industry-to-industry by-product without subjecting producers and users to burdensome regulation (as in the South Australian model).

A dual-track approach would also encourage pioneering waste-derived products to be developed, as investment in innovative products would not be discouraged by uncertainty regarding the final status of the product. The definition of waste from the current DWER factsheet, "Assessing whether a material is waste", could be a useful guide for developing the two pathways for waste-derived materials.

The following elements would be useful in supporting the proposed framework:

- the definition of "waste" should specifically exclude "waste-derived materials"; ideally these waste-derived materials would be called "secondary material" (or similar) to better distinguish them from "waste";
- a flexible mechanism which allows a waste to be redefined as a product or by-product ("secondary materials") and cease to be a waste, and which allows for case-by-case assessments;
- the waste definition should be amended from a focus on waste as "no longer of use to the primary user" but to "no use to any subsequent user";
- the definition of "waste" should be consistent across the *Environmental Protection Act 1986 (WA)*, the *Waste Avoidance and Resource Recovery Act 2007 (WA)*, the *Waste Avoidance and Resource Recovery Levy Act 2007 (WA)* and subordinate regulations;
- where a secondary material is to be sold commercially to the public, there should be a link to standard product approval and/or quality control processes; in addition, there needs to be a distinct transfer of liability for the secondary material at point-of-sale to the purchaser for future use;
- there needs to be a clear and fit-for-purpose process with regulators, including agreed timeframes for the assessment period for transition of a waste to a secondary material and a single approval document that covers both users and producers;
- the regulator is responsible for administering the framework, including specifying or codifying particular secondary materials, but is not required to keep a register of end users;
- onus on suppliers of secondary materials to keep sales/transfer records which can be periodically reviewed by the regulator as per framework requirement.

The following should be excluded:

- legislation or policies which are based on the concept that secondary materials must be "substantially transformed"; this concept is particularly restrictive on waste-derived products that do not need to be transformed in order to be re-used or used as a by-product;
- prescriptions that heavily restrict industry-to-industry transfers of secondary materials.

The framework must accommodate the existing by-product, re-use, recycling or secondary materials synergies without additional regulatory burden. It must also contain clear exemptions for tailings and mine rock from waste licensing and levy regimes under the *Environmental Protection Act 1986 (WA)*, the *Waste Avoidance and Resource Recovery Act 2007 (WA)*, the *Waste Avoidance and Resource Recovery Levy Act 2007 (WA)*, aligning with advice DWER provided in the waste reform briefing to CME on 22 September 2017.

We look forward to future opportunities to provide feedback on the content and direction of waste policy in WA.

Yours sincerely



**Simon Butterworth**  
Chief Operating Officer, Alumina