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4 September 2019

Dear Sir/ Madam

**Re: Waste not, want not: valuing waste as a resource**

The Waste Management and Resource Recovery Association of Australia (WMRR) welcomes the opportunity to provide feedback on the Department of Water and Environmental Regulation's (DWER) issues paper, *Waste not, want not: valuing waste as a resource*, to inform the development of a legislative framework for waste-derived materials.

WMRR is the national peak body for all stakeholders in the essential waste and resource recovery industry. We have more than 2,000 members representing over 500 individual entities nationally, operating in a broad range of organisations, the three (3) tiers of government, universities, and NGOs.

WMRR recognises and acknowledges DWER's ongoing legislative reform efforts and looks forward to continued engagement with the Department as it drives these reforms to meet the objectives of the *Waste Avoidance and Resource Recovery Strategy 2030*.

In reviewing this issues paper, WMRR agrees with, and supports, DWER's conclusion that in order to become a sustainable, low-waste, circular economy, much of the waste that is generated in the state must be valued as a resource that can be reused and recycled for the benefit of the state's economy.

WA continues to show a sustained commitment to improving waste reduction and recycling, a positive trend that began in 2011. In 2017-18, the projected value of the State's waste and recycling activity was an estimated \$1.4 billion and total waste generation during that period was approximately 5.15 million tonnes, of which 2.73 million tonnes were disposed to landfill and 2.77 million tonnes recovered<sup>1</sup>. Now, 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<sup>2</sup>. This represents a significant opportunity for WA to maximise the waste and resource recovery industry as a vehicle for job and economic growth and one essential step in moving forward is determining a robust and balanced legislative framework that would encourage the use of, and confidence in, recycled products.

**A harmonised approach**

The exercise that DWER has undertaken in putting this issues paper together, specifically looking at how other jurisdictions approach waste-derived materials, is a practical one. The paper however, would have been much stronger if DWER had analysed the effectiveness of key aspects of each jurisdiction's framework as opposed to simply providing an overview of what each state's framework entails.

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<sup>1</sup> Inside Waste Industry Report: volume and values 2017

<sup>2</sup> Access Economic 2009

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WMRR encourages DWER to closely consider which aspects of each framework are effective based on individual material streams, alongside the unique challenges that WA faces. WMRR also believes DWER is well placed to go one step further; WA has an opportunity to work with the other jurisdictions to develop a streamlined national approach – this will go a long (and necessary) way in ensuring a nationally consistent environment, which would provide confidence and certainty to stakeholders, many of whom operate nationally, and encourage greater investment in technology and infrastructure. In addition to developing a nationally consistent framework for end of waste (EoW) codes/resource recovery orders (RROs), all jurisdictions should also collaborate to advance national standards and specifications for the use of recycled materials; both pieces of work must go hand-in-hand and are essential to turn the national desire of building a circular economy into a reality.

As WMRR believes that there is no one existing framework that should be taken in entirety in WA, DWER should further consider and analyse the positive elements below to develop a tailored legislative framework, one that could form the basis of a national approach.

State	Positive elements	Other potential considerations
NSW	<ul style="list-style-type: none"> <li>• Exemptions operate to exempt consumers of certain wastes/waste-derived materials from particular legal requirements (e.g. relating to the licensing of premises and the payment of waste contributions).</li> <li>• General orders and exemptions may be relied upon by anyone who is covered by their terms without any further approval from the NSW EPA being necessary.</li> <li>• General orders and exemptions are published in the NSW Government Gazette.</li> </ul>	<p>The NSW EPA’s policy states that specific orders and exemptions are granted based on batch testing, which is a process that may be feasible for small-scale intermittent operations but not continuous large-scale operations as it is a cost and space prohibitive exercise. Batch testing for large-scale sites requires the latter to stockpile up to two (2) weeks’ worth of materials, which would require a significant area that most operators do not have. Moreover, batch testing would add significantly to test costs in order to keep materials flowing through the site, particularly if required to be done by a third party.</p> <p>At present, RROs in NSW largely consider chemical thresholds. These orders and exemptions however, should also consider specifications, which would require separate testing. If materials meet these specifications, there should not be a requirement for an RRO as meeting the specification means the material is no longer a waste but a resource and the EPA framework is no longer applicable.</p> <p>The onus of ensuring a material is “fit-for-purpose” should not be placed on the waste and resource recovery industry but the user of the material.</p> <p>NSW’s current RRO framework is too onerous, particularly for blended materials, and is in fact currently under review</p>

SA	<ul style="list-style-type: none"> <li>The system of 'standards' establishes that a waste-derived material is not considered to be 'waste' for the purposes of the SA legislation governing the licensing of premises and payment of the waste levy if it:             <ol style="list-style-type: none"> <li>Is a product that meets specifications/standards published/approved by the SA EPA; or</li> <li>If no standard/specification published or approved by the SA EPA applies, it constitutes a product that is ready and intended for imminent use without the need for further treatment to prevent any environmental harm that might result from such uses.</li> </ol> </li> <li>Standards are used to assess proposals and to determine compliance with legislation.</li> </ul>	<p>SA is currently embracing significant regulatory and legislative reform in the sector. However, this is being done with little consideration of the additional compliance and operational costs that will be borne by the waste and resource recovery industry. As DWER noted, SA is considering charging an assessment fee under the system of approved recovered resources.</p> <p>Certainty is vitally important for industry to invest and grow and this certainty needs to underpin the dynamics of waste reform. Thus, WMRR advises DWER to consider how its ongoing reform, including its development of a waste-derived materials framework, works in the interest of industry, community, environment, and the economy, and how to mitigate the risk of excessive and unviable cost structures and regulatory uncertainty.</p>
QLD	<ul style="list-style-type: none"> <li>The EoW codes are outcome-focused and specify outcomes to be achieved in order for a waste to be deemed a resource.</li> </ul>	<p>The onus is currently on the secondary resource producer to make an application. However, there is economic value, and it is fundamental to circular thinking, for the relevant department (in WA's case, DWER) and the government to make applications for priority secondary products.</p>
VIC	<ul style="list-style-type: none"> <li>Direct beneficial reuse, which involves reuse without prior treatment or reprocessing, and where a prescribed industrial waste has been consigned for use, does not require EPA authorisation.</li> <li>Secondary beneficial reuse, which involves reuse following treatment or reprocessing, must be authorised by the EPA.</li> <li>Once the prescribed industrial waste meets both the direct and secondary beneficial reuse criteria, general prescribed industrial waste regulatory requirements no longer apply.</li> </ul>	<p>Although DWER did not consider Victoria's beneficial reuse guideline for prescribed industrial waste in its issues paper, WMRR proposes that Victoria's framework is especially useful for construction and demolition waste.</p>

Beyond these frameworks, WMRR would also suggest that DWER considers how it can develop a balanced and robust regulatory system for waste-derived materials that takes into consideration:

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- Quality of products - legitimate operators in WA have a vested interest in ensuring that the products they produce, despite having no control over the materials they receive, are free from contamination and fit-for-purpose. As such, WMRR supports a risk-based approach as DWER continues to develop this framework.
- How applications are assessed. WMRR supports assessments being undertaken by an independent skilled auditor.
- Consistent, clear, and transparent government processes. DWER states in the issues paper, the NSW EPA revoked the order and exemption for the use of mixed waste organic material on agricultural land and for mine site rehabilitation in October 2018, following “a comprehensive and technical review”- industry actively disputes this and the fact that this was done with extremely little notice (less than four weeks) given that it impacted over 500,000 tonnes and millions of dollars of infrastructure invested, not to mention contracts that have more than ten years to run, is one of industry’s greatest concerns about this regulatory framework. This revocation has proved problematic for industry and local government which had been consistently told by the NSW Government that there was a shortage of AWT processing capacity, which led to industry and local government relying on these representations and investing in, and including, these types of infrastructure in their planning and contract discussions. Millions of dollars have been spent only to be wiped out overnight without any prior advice. Till today, the government has not released the health impact findings that supposedly support the EPA’s decision. Now, as noted in the dot point above, industry has a vested interest in ensuring that the products they produce are not detrimental to human and environmental health. It is willing to work with government and that is key – certainty in the marketplace and confidence in government policy are important, as such, consultation must always occur within a reasonable timeframe before regulatory changes are made. Importantly, regulatory impact statements must be developed before revoking any EoW codes or RROs and exemptions.
- How to ensure that the levy and licensing requirements are applied consistently to ensure a level playing field.

WMRR reiterates that there is an opportunity for DWER to lead the charge in what industry has been calling for – a nationally consistent, clear and robust end of waste codes/resource recovery exemptions and orders framework. As DWER continues to develop its framework alongside the existing models in other jurisdictions, the Department could come up with an approach for the Environment Minister to put forward at the November 2019 Meeting of Environment Ministers to drive a harmonised national system. This should be done alongside the development of national standards and specifications.

Just as, if not more important, is consideration of end markets. This exercise is critical and WMRR commends DWER for first and foremost listening to industry’s concerns about uncertainty around whether material is waste (and the relevant levy and licence requirements that follow), and for recognising that in a circular economy approach, waste that is generated should be valued as a resource that can be reused or recycled for the benefit of the state’s economy. However, this framework must also be complemented by adequate reprocessing and remanufacturing infrastructure coupled with strong and viable domestic end markets to absorb local recycled content. Please do not hesitate to contact the undersigned if you wish to discuss WMRR’s submission.

Yours sincerely



Gayle Sloan  
**Chief Executive Officer**  
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