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Senator Peter Whish-Wilson
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Dear Senator Whish-Wilson

Inquiry into the waste and recycling industry in Australia

Thank you for your letter of 25 August 2017 to the Chief Minister, Andrew Barr MLA regarding the Environment and Communications Reference Committee's Inquiry into the waste and recycling industry in Australia.

Please find attached the ACT Government's response to this inquiry. If you have any questions on this matter please address them to Mr Michael Trushell, Director of ACT NOWaste

I trust this response is of assistance.

Yours sincerely

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ACT Government response to the Environment and Communications Reference Committee's Inquiry into the waste and recycling industry in Australia

Background

The Australian Capital Territory (ACT) comprises almost 400,000 residents residing in approximately 145,000 households and is one of the fastest growing regions in Australia.

The ACT is one of the leading jurisdictions in waste management in Australia with around 70% of waste generated in the ACT being reused or recycled.

In 1996 the ACT was the first jurisdiction in the world to adopt a "No Waste" strategy. This strategy set the waste policy for four ACT Governments, both Liberal and Labor. The strategy explicitly recognised the triple bottom line benefits of treating waste as a resource and the Government working with the community and business to ensure no resources were wasted.

The strategy was highly successful between 1996 and 2004 when the ACT increased resource recovery from under 30 percent towards 70 percent. The Government achieved this by partnering with the private sector to deliver new and improved waste services and infrastructure, specifically, the establishment of:

- a household kerbside recycling collection service and a Material Recovery Facility (MRF) to recover and process this waste,
- commercial composting facilities that receive garden waste free of charge; and
- increased landfill gate fees to over \$80/tonne, which in turn made cost effective the establishment of construction and demolition (C&D) MRFs to process this waste.

In November 2011 the Territory set a new direction for the management of waste in the ACT and released the *ACT Waste Management Strategy 2011-2025* with the goal of achieving full resource recovery and a carbon neutral waste sector by 2025. The goal is supported by four key outcomes:

1. less waste generated;
2. full resource recovery;
3. a clean environment; and
4. a carbon-neutral waste sector.

The ACT has only one operational landfill for putrescible waste. Nonetheless, the Territory reprocesses a range of regional and national waste including co-mingled recyclables, medical waste, scrap metal and transformer fluids. The Territory is surrounded by NSW and a number of NSW landfills are within two hours drive of Canberra. This has resulted in an increasing amount of construction and demolition waste leaving the ACT for regional landfills with lower gate fees. Other challenges include addressing several instances of stockpiled waste in the ACT.

In response to these challenges and a plateau in resource recovery rates at around 70%, the Territory Government in 2015 funded a two year 'Waste Feasibility Study' to investigate how waste management could be best practice in the ACT. The Study identified the need for an improved regulatory framework for waste management resulting in the ACT Government developing the *Waste Management and Resource Recovery Act 2016*. This came into force on 1 July 2017.

The new Act and Regulation will see improved data collection on the type and volume of waste transported and managed in the ACT, underpinning future policy decisions. The Study also conducted a ‘market sounding’ in early 2017 which invited industry to present its capacity to capitalise on opportunities for improved waste management in the Territory.

The Study will soon deliver its final ‘roadmap’ of recommended project and initiatives for the Territory to move towards its targets of 90% resource recovery as outlined in the *ACT Waste Management Strategy 2011-2025*.

TOR part a. the quantity of solid waste generated and the rate of diversion of solid waste for recycling

Each year the ACT generates around a million tonnes of waste from the household, commercial and industrial (C&I), and C&D sectors, excluding soil and drilling mud. Since 2004 the ACT has recovered 65-75 percent of this waste stream.

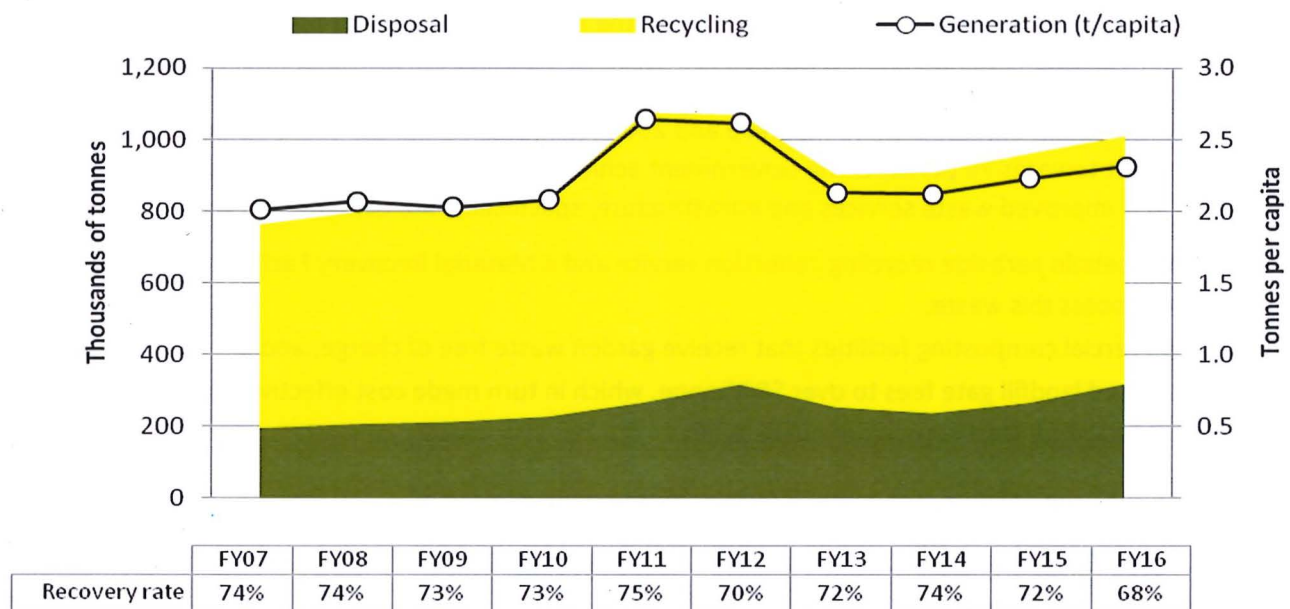


Figure 1 – Waste generation and recovery in the ACT¹

TOR part b. the accreditation and management of landfills

Landfills in the ACT require an Environmental Authorisation from the Environmental Protection Authority (EPA) and a Waste Facility Licence from the Waste Manager. The EPA is the statutory authority under the *Environmental Protection Act 1997* (the EP Act) while the Waste Manager is the statutory authority under the *Waste Management and Resource Recovery Act 2016* (the Waste Act).

The ACT’s only putrescible landfill at Mugga Lane, Symonston, is operated by Remondis under a contract to ACT NOWaste, a business unit with the ACT Government’s Transport Canberra and City Services Directorate (TCCS).

¹ Note that the significant drop in recovery in FY16 relates to the disposal of ‘Mr Fluffy’ asbestos contaminated waste

The ACT's landfill cells are built and operated to best practice regulatory standards and since 2016 the ACT's putrescible landfill cells have been built consistent with the Victorian Landfill Best Practice Environmental Management (BEPM) Vic EPA Publication 788.3 August, 2015.

TOR part c. the extent of illegal landfilling

The ACT is not aware of any illegal landfilling occurring within the Territory. The illegal stockpiling of waste in the ACT has been an issue and is outlined in section f below.

TOR part d. the role of landfill levies in determining the end destination of material, including the hypothecation of collected levies for enforcement and waste diversion purposes

Landfill levies provide a price signal that can make resource recovery options more attractive than landfill. When landfill gate fees were increased above \$80 per tonne in the ACT, over 90 percent of garden waste was diverted from landfill to commercial compost operations. Similarly, the higher landfill gate fees meant C&D waste was largely diverted to C&D MRFs, resulting in over 80 percent of C&D waste being diverted from landfill. The Government also helped facilitate this transition through the provision of appropriately zoned land for new resource recovery facilities adjacent to the Mugga Lane landfill.

High landfill gate fees also encourage stockpiling and illegal dumping. The ACT has had problems with unregulated and illegal waste stockpiling (see the response to section f below).

If landfill levies are also used to fund the provision of resource recovery infrastructure then it may be possible to reduce the total landfill gate fees required to achieve greater resource recovery rates and to improve societal utility. However, such investments need to be assessed on a case by case basis supported by rigorous businesses case development and cost benefit analysis.

Landfill gate fees have been less effective in reducing C&I waste to landfill as waste costs are generally a small fraction of the operating costs of commercial businesses. Furthermore, the price signal associated with waste disposal costs is often not visible to the individuals and organisations generating the waste.

The ACT supports product stewardship approaches that seek to move the responsibility for managing waste and recovering resources up the supply chain to importers, manufacturers and distributors. This ensures the price signals are made apparent to those parties that have the power to redesign their products or to import and sell different products. This also ensures that waste management and recycling costs are internalised in the product costs – such that consumers see appropriate price signals at the time of purchase.

The ACT's view is that the waste industry should pay for its regulation and oversight as an extension of the "polluter pays" principle. Landfill levies are one way to raise the necessary funds to ensure an appropriate level of oversight is provided by local jurisdictions. However, direct hypothecation of these funds is unlikely to be the most efficient approach for governments to allocate their budgets.

While all regulatory interventions should be funded by the industry that generates the waste, the objective of any fee or charge regime should be to raise the requisite funds as simply and efficiently as possible, incentivising appropriate behaviours (such as reduced waste generation) and avoiding perverse outcomes such as increased illegal dumping.

For example, the recovery rate of used tyres is very low in Australia and remains stubbornly so despite three years of the voluntary tyre product stewardship program. Tyres often end up in waste stockpiles and contribute to toxic emissions when these stockpiles catch fire, as experience has shown across Australia. The potential exists to beneficially reuse tyres in asphalt and other civil works providing significant environmental

benefits and local economic investment benefits. International experience, for example in California and the UK, suggests this would be best funded through an “advanced tyre disposal fee” sufficient to support resource recovery infrastructure investment, making the recovered tyres cost competitive against the alternative product (imported bitumen).

TOR part e. the role of different incentives and collection methods in determining the quality and quantity of material collected for recycling

Government interventions to achieve a greater level of upstream sorting can greatly impact on the quality and quantity of materials recovered for recycling. For example, when C&D waste is sorted onsite in the ACT, virtually all of the material can be recovered and the gate fees for the sorted materials at C&D MRFs can fall to under \$20 per tonne. In the ACT, companies delivering mixed C&D waste to MRFs are generally charged over \$130/tonne and recover 75-85 per cent of the material they receive. State and local governments can set requirements for waste management at C&D sites.

Office waste, if not sorted onsite, is collected with other commercial waste such as food waste, and as a result is considered contaminated and generally sent to landfill. Australian landfills have underlying costs of around \$50-100/tonne excluding Government levies or fee structures. Alternatively, mixed commercial waste could be sent to an Advanced Waste Treatment Facility (AWT) or dirty MRF. These facilities have gate fees of around \$150-280/tonne and recover 50-70 percent of the material they receive. The recycled products produced in these facilities are generally lower-value than when sorting has occurred onsite. If the paper and other recyclables can be sorted onsite they can be sent to facilities with underlying costs of less than \$25/tonne creating job opportunities, generating wealth and helping to decarbonise the wider economy by reducing the reliance on virgin materials.

The ACT has been successful at increasing recycling from C&I businesses via its Actsmart program. However, at present this only reaches around 6 percent of eligible businesses. A case may exist for further Government interventions to achieve higher adoption levels.

Product stewardship schemes are another mechanism Government can use to require businesses to recover specific products and ensure they are appropriately recycled. Well-designed product stewardship schemes should increase resource recovery, reduce waste generation and have greater economic benefits than costs over the medium term. This is because product stewardship schemes move the price signals away from waste transporters to the manufacturers and consumers of goods, who have the power to redesign or substitute the products they produce, sell, or buy.

Product stewardship schemes are appropriate for any products that pose a threat to the environment, human health and/or waste processing infrastructure when placed in the general waste collection system.

TOR part f. the destination of material collected for recycling, including the extent of material reprocessing and the stockpiling of collected material

Australia has a very open export-orientated economy that operates within global supply chains. It is impossible for any Australian jurisdiction to achieve full resource recovery and a circular economy without the movement of waste between regional economies for processing and provision back into national and global supply chains.

Co-mingled recyclables collected via the ACT kerbside collection service are sorted locally at ACTs MRF. This facility also processes the co-mingled recyclables from a range of South East NSW councils and Australian

Capital Region businesses. The sorted materials are transported interstate for further processing. Recently the Hume MRF stopped sending glass interstate for recycling due to oversupply, instead trialling sand and gravel products made from the glass in civil works programs around the region.

Some stockpiling is an essential part of the waste business model, however, there have been numerous incidences of poorly managed waste stockpiles as well as waste stockpile fires. Part of the Territory's motivation in developing the Waste Act in 2016 was to provide regulatory tools to assist the Government in better managing waste facilities, transporters and stockpiling.

TOR part g. the current economic conditions in the industry, including the market for material collected for recycling

Recyclables are sold into global commodity markets. Recovered steel and aluminium are impacted by the price of newly smelted steel and aluminium. Recovered plastics are impacted by the price of crude oil. Much of the reprocessing of recyclable materials happens in China. China has had an inconsistent policy stance to the importation of recyclable materials and has variously imposed tariff and non-tariff barriers. This creates significant risks for Australian companies seeking to invest in resource recovery and reprocessing infrastructure.

There is a role for Australian governments in helping to develop more stable markets for recovered resources via purchasing policies, construction standards for civil works and via regulation including product stewardship schemes.

TOR part h. the transportation of solid waste across state boundaries

Certain wastes leaving the ACT, called controlled wastes, are covered by the *Movement of Controlled Wastes between States and Territories National Environment Protection Measure* (NEPM). Under the NEPM, an ACT waste producer must apply to the NSW EPA for a consignment authorisation to move the waste out of the ACT (and into NSW).

The movement of non-controlled waste across borders is not regulated by the ACT EPA. If the waste is going to a facility in another jurisdiction that is appropriately licensed or permitted to receive that material, then the EP Act would not prevent this.

The Waste Act (sections 9(1) and 109) and 2017 regulations strengthen the ACT Government's ability to regulate the cross border movement of waste within the limitations set by the *Mutual Recognition Act 1992* (Cwth) and Section 92 of the Constitution. Through compliance monitoring, the ACT is able to track the source and destination of wastes and recyclables generated within the Territory, including those transported to interstate destinations. This provides increased transparency to help ensure best practice is upheld in the ACT waste management sector.

TOR part i. the role of the Australian Government in providing a coherent, efficient and environmentally responsible approach to solid waste management, including by facilitating a federal approach

Product stewardship schemes can be implemented at State or Commonwealth levels. The Northern Territory, NSW, Queensland, WA and the ACT have all recently announced Container Deposit Schemes – a form of product stewardship for beverage containers. However, CDS and other product stewardship initiatives are likely to be more efficient if developed and applied at the Federal level.

The Australian Government has developed a number of mandatory and co-regulatory product stewardship schemes including for used oil and e-waste. Additionally, the Commonwealth, state and territory governments

have facilitated the establishment of a number of voluntary product stewardship schemes including for tyres, paint, and mobile phone batteries.

Voluntary product stewardship schemes are generally only effective in a situation where the industry is dominated by only a few players (an oligopoly). They fail to be effective in competitive markets with diverse suppliers or situations where the oligopolies fail to reach agreements on the product stewardship requirements. This is due to “free rider” issues.

Free riders are companies that produce the waste but do not contribute to the costs of the relevant product stewardship scheme. Companies that participate in the voluntary product stewardship scheme are placed at a commercial disadvantage to those that do not - as they are funding the stewardship cost for their competitors.

The Australian Government is best placed to establish mandatory and co-regulatory product stewardship Acts because of its role in developing corporation laws and its ownership of the *Product Stewardship Act 2010*. Conversely, states and territories’ powers may be limited by the *Mutual Recognition Act 1992* and Section 92 of the Constitution.

Developing national product stewardship schemes under the Product Stewardship Act generally takes many years from the date of listing. The Australian Government has a role to play in helping to expedite these processes for the economic and environmental benefit of all Australians.

The ACT Government is actively considering options to reduce greenhouse gas emissions from waste management and disposal and encourage highest value use of materials. The Australian Government has a role to play in encouraging low emissions waste management options through national policies and schemes such as the Emissions Reduction Fund.

Reducing waste generation is a high priority and is an area where Federal intervention could assist. National approaches such as product stewardship and producer responsibility schemes could offer a more effective approach to reducing waste generation than relying on limited state-level interventions.

TOR part j. any other related matters

Some elements of the waste industry have a record of poor practice in Australia and internationally. Examples include the dumping of asbestos waste, the illegal stockpiling and export of tyres and other waste. In March this year the ABC’s Background Briefing did a story on “Australian e-waste ending up in toxic African dump, torn apart by children”². There are many formal and informal reports of the use of child labour and indentured workers in international waste management supply chains. This is inconsistent with the ACT’s *Human Rights Act 2004* and the values that the Territory Government understands all Australians hold dear.

In an era of globalised manufacturing it is not unreasonable that some wastes will need to be exported for recycling. However, for waste sent overseas an auditable supply chain is still needed. Such requirements are not unprecedented. Large manufacturers in a wide range of industries have auditable supply chains covering a multitude of nations and jurisdictions, for example, Meat and Livestock Australia, with the support of the Australian Government, have implemented extended supply chain oversight for the live export and slaughter of livestock.

² <http://www.abc.net.au/news/2017-03-10/australian-e-waste-ending-up-in-toxic-african-dump/8339760>