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W2R EPP Review
Environment Protection Authority
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Submission By Email: epawastepolicy@sa.gov.au

20 December 2024

Dear Dr Gorvett

Re: Review of the *Environment Protection (Waste to Resources) Policy* 2010

Thank you for the opportunity to provide feedback to the Environment Protection Authority South Australia (EPA) on the discussion paper *Beyond recycling: Moving SA towards a circular economy* ("discussion paper") identifying the key reform areas for the review of the *Environment Protection (Waste to Resources) Policy 2010* ("W2R EPP Review"). The Waste Management and Resource Recovery Association of Australia (WMRR) is the national peak body representing Australia's $17 billion waste and resource recovery (WARR) industry. With more than 2,300 members from over 410 entities nationwide, we represent the breadth and depth of the sector, including representation from business organisations, the three (3) tiers of government, universities, and Non-Government Organisations (NGOs), including research bodies. Our members are involved in a range of important WARR activities within the Australian economy, including infrastructure investment and operations, collection, manufacturing of valuable products from resource recovery, energy recovery as well as community engagement and education. In South Australia (SA), WMRR represents over 250 individual members from more than 45 entities. The state generates 5.35 million tonnes of waste each year with a stated resource recovery rate of 80% delivering an economic value of $1.37 billion employing 4,410 South Australians.

WMRR commends the EPA's ongoing engagement with the WARR sector, and acknowledges that the discussion paper clearly demonstrates the EPA's thorough understanding of the current issues it faces, and identifies relevant policy review areas and measures that can support SA's transition to a more circular economy and towards achieving net zero emissions. It is noted that the W2R EPP Review aims to provide a contemporary and effective regulatory framework that:

1. Contributes to the reduction in the rate of climate change by limiting, reducing, or preventing greenhouse gas emissions through:
    - reducing consumption of natural resources,
    - reducing the generation of waste, and
    - informing the consideration of greenhouse gas emissions in regulatory decisions relating to waste and resource recovery
2. Promotes the safe and appropriate circulation of materials through the waste and resource recovery process

3. Practically applies the waste management hierarchy to facilitate the highest value circular reuse, repair and recycling of materials by industry, public authorities and the community, and
4. Supports a strong market for recovered resources.

It is noted that the lengthy discussion paper includes specific areas for stakeholder feedback and these are addressed in **Annexure A**. Prior to looking at specifics, WMRR reiterates from the outset that it concurs with the W2R EPP objectives, and notes that the EPA and WMRR share the same vision of success wherein net zero targets are achieved, and emphasis is placed on beyond end-of-life material management and reinvestment of valuable resources back into the productive economy, in order that less can be used for longer and carbon impacts mitigated.

The challenge for the WARR sector and the community is that whilst the waste management hierarchy focuses on the management of existing materials, the principles of a circular economy commence prior to product coming into existence with decision making around use (or even need), design and material selection, with all having real impact on the ultimate production of goods and services (to reduce reliance on virgin materials, extend the lifecycle and eliminate in so far as possible, waste or pollution or environmental harm). However, to date in Australia we have seen significant conflation of waste and "circularity", meaning that it has focused on the WARR sector, rather than the generators who create the waste in the first place. The reality is that the existence of waste highlights the lack of circularity.

To truly design out waste and achieve a circular economy with the resultant resource and carbon mitigation, regulation and policy settings beyond the WARR sector must be addressed. All levels of government need to use all levers at their disposal (including the imposition of financial and legal obligations) to drive the necessary paradigm shift away from the current thinking of 'take, make and dispose' – particularly at the front-end of the supply chain (i.e. producers and product generators) if we are genuine about making lasting and sustainable change.

The need for a systems approach

Currently, the biggest opportunities for the WARR sector to help achieve reduced emissions and increased circular outcomes are removing organics from landfill, ensuring equitable access to appropriate resource recovery infrastructure across the state, maintaining the safety and suitability for the reinvestment of recovered materials into the circular economy (with demand from end-markets) and perhaps most importantly, designing out waste and adopting mandated product design standards (ensuring the removal of problematic materials and chemicals of concern with urgency).

WMRR has long advocated that addressing these opportunities will require systems thinking across national supply chains and the associated regulatory and policy settings – and these extend far beyond the WARR sector. These opportunities align closely with the six (6) key reform areas for the W2R EPP – being:

- Area 1: Supporting the transition to a more circular economy.
- Area 2: Avoiding waste generation.
- Area 3: Maximising resource recovery.
- Area 4: Supporting a strong market for recovered resources.
- Area 5: Protecting the environment and human health from waste pollution.
- Area 6: Circular economy metrics, reporting and transparency.

WMRR firmly believes that a systems-based approach ultimately needs to be implemented by all across government - not just the EPA - to realise the 2030 and net zero targets, as well as the economic growth opportunities that a circular economy can present to the state. In addition to sustainable design requirements, we need to fast-track improved durability; eliminate hazardous chemicals; and use domestic recycled materials. Systems for re-use and repair are also essential if we are genuine about creating a net zero resource efficient economy that the government claims to aspire to. The obvious answer is a strong regulation not dissimilar to the European Union's *Waste Directives* coupled with strong mandatory product stewardship regulation in Australia. This will be integral in not only lifting recovery rates to 80% in the next five (5) years and reducing emissions, but also improving design and establishing repair and re-use systems that are accessible and impactful.

However, WMRR notes that regrettably to date, we have not seen national action that provides this much needed strong regulation of supply chains. As such, it is prudent that industry looks to individual jurisdictions to facilitate regulation and policy that addresses supply chains in their entirety – from product design through to end of life – and then encourage other jurisdictions to mirror or align to "keep pace". WMRR has accepted that this methodology is likely to result in more immediate and impactful action than waiting for the Federal Government to lead the way.

To date, the Federal Government has not used the levers at its disposal to establish a broader framework that addresses imports, creates strong carbon policy and utilises financial incentives such as taxation to drive improved investment in green jobs and material productivity. Despite containing no specific items for action as yet, it is hoped that the targets recently set by *Australia's Circular Economy Framework – Doubling our circularity rate (2024)* will help drive this much needed cross-policy and regulatory alignment by expressly pursuing the three (3) targets of reducing material footprint by 10%, lifting materials productivity by 30% and safely recovering 80% of our resources by 2035.

In the absence the individual states and territories adopting a systems-based framework to guide broader policy and regulation, Australia will continually struggle to meet both its circular and resource recovery objectives, as there will be no positive obligations placed on those that make products, to take responsibility for their products and their impacts (environmentally or economically). Instead, Australia will continue to try and look for 'circular economy outcomes' for existing residual waste streams and focus on the WARR sector - which will do nothing to help design out waste in the first place.

Consequently, WMRR is strongly supportive of the W2R EPP Review and of those government commitments which honour a systematic approach to designing out waste and keeping materials in use for as long as possible, which we believe are integral steps that need to be taken if Australia is to successfully transition to a genuine circular economy.

Key Priorities for the W2REPP Review

The discussion paper has captured the range of proposals from stakeholders and EPA priorities, identifying opportunities to review the EPA's regulatory approach across complex issues. WMRR recommends that priority be given to reforms that can most rapidly drive significant climate and environmental improvements, together with urgent action on activities that pose critical risks to the successful achievement of a circular economy.

In particular, WMRR notes the attention given to organics and recovered soil across the discussion paper. Notably, Green Industries SA (GISA) estimate that 230,000 tonnes of food organics are disposed at landfill each year, and that of the 5.03 million tonnes of waste stockpiled each year in South Australia, 58% is considered waste fill (clean soil). It follows that in the near term, achieving circularity for materials such as organics and recovered construction materials (including metals and concrete) will drive the biggest differences in environmental outcomes. Ensuring that these material streams can be safely and effectively reinvested into the economy will undoubtedly have the most immediate impact on reducing carbon emissions from landfill and improving the circularity of materials that already have established existing end-markets. Thus, it makes sense for these material streams to be addressed in the first instance. This includes taking urgent action on chemicals of concern and source separation. As an aside, it is unclear how SA has its stated recovery rate when there is such a volume of material stockpiled. If there is a genuine commitment to evidence-based policy, transparently including and tracking these volumes is vital and necessary for the development of end markets.

WMRR's overarching view is that the productivity of Australian businesses and the economy is adversely impacted (as well as the environment) by the current lack of national comprehensive regulation incorporating 'systems thinking' across Australian supply chains to create positive obligations on product producers to for example ensure the placement of recoverable products on market, fund prolonging and end of life management of the product, as well as level the playing field by requiring all in the supply chain to create safe circular products.

Within the W2R EPP, there are obvious opportunities for the EPA to move forward on aligning SA with other Australian jurisdictions, particularly in the areas of product stewardship for problematic materials, source separation of commercially collected food organics, implementing low-risk codes or exemptions for materials derived from waste to be reinvested into the economy and the phase-outs and design mandates for plastics and packaging. In the absence of a national directives framework, mirroring what has been put in place in other jurisdictions to design out waste, improve circular outcomes and decarbonize makes sense in terms of reducing complexity for national supply chains, creating alignment and placing pressure on non-complying jurisdictions (and operators) to keep pace.

The reality is that circularity measures will continue to be thwarted by options to manage or produce materials in other jurisdictions where there are less expensive and less onerous obligations. Australia is one common market and national alignment is fundamental to Australia's transition to a circular economy. Lack of alignment will thwart best efforts – something we have already seen to date with the movement of residual waste material across state borders so as to avoid higher landfill levy rates. In this submission, WMRR has raised the issue of increasing landfill levies to accord with other states to make them an effective economic deterrent, and our comments will often return to the need for 'systems thinking' when considering the key reform areas for the W2R EPP so that any options to maintain the status quo because it is cheaper/easier/more convenient are undermined.

However, in order to provide certainty to then enable investment and future capacity planning and investment, it is vital that in its decision making, the EPA considers on 'reasonable' grounds whether recovered materials from residual streams have viable end markets for uptake. In this regard, members have particularly flagged some concerns around how the definition of a 'higher value reuse' will be applied. Put plainly, it is not enough to separate, stockpile and 'collect' recoverable material if there is no demand for that material to be used, and the WARR industry should not bear the burden of trying to 'manage out' problematic wastes that they have had no part in creating. Instead, the W2R EPP must again, apply 'systems thinking' and recognise that obligations must be placed on the generators of waste materials to design them out of their products in so far as possible.

Whole-of-government reforms are needed to inherently focus on achieving mandatory circularity, infrastructure investment, market development, and the avoidance of waste. The W2R EPP provides SA with an excellent opportunity to further progress those reforms by prioritising the following outcomes for immediate action:

- improving the volume of organic material diverted from landfill through:
    - facilitating improved household food waste recycling, and
    - mandating separate food waste collection for major food waste generation businesses on a progressive basis (using precedents elsewhere for guidance).
- Improving resource recovery outcomes for material streams though:
    - establishing a product stewardship framework that can aid driving more rapid action on problematic materials and facilitate harmonised scheme uptake amongst states, including design standards,
    - proportionate regulation of PFAS across supply chains, including phase out of chemicals of concern in packaging, and
    - making it an offence for a person to place a lithium-ion battery in any bin.
- Improving access to resource recovery infrastructure throughout the state by:
    - achieving more rapid approvals for recovered resource proposals, including through the use of interim approvals where necessary, and
    - ensuring regional and community differences are catered for appropriately in waste handling reform proposals.

For ease of reference, WMRR has addressed the key reform areas and selected topic areas and/or questions in turn, using the paper's numbering. Please refer to **Annexure A.**

WMRR congratulates Minister Close and the EPA on their commitment to accelerating the transition to a circular economy and looks forward to continuing to engage with the EPA across the reform process. Please contact the undersigned if you wish to further discuss WMRR's submission.

Yours sincerely

Gayle Sloan
Chief Executive Officer
Waste Management and Resource Recovery Association of Australia

Annexure A:
Response to the Discussion Paper

KEY AREA 1: SUPPORTING THE TRANSITION TO A MORE CIRCULAR ECONOMY

7.1 Broadening the policy objective

1. Do you agree that 'circular economy' should be an objective of the W2R EPP? If not, please explain your reasons.

Yes, WMRR strongly supports the evolution away from linear thinking and looking to concepts including designing out waste (though mandating sustainable design regulation), reducing the use of virgin materials, avoiding waste generation, and keeping resources in use for longer. However, WMRR does have some concern over the phrase used on page 23 of the discussion paper referring to requiring "…recovered materials to be used for their highest value reuse".

When considering circular outcomes, it is crucial that the products produced are recoverable and have end-markets. WMRR cautions against landfill bans and diverting material from landfill that is not recoverable without having funded appropriate infrastructure and a viable end-market for offtake. Seeking to 'recycle' material into a higher use product that has nowhere to go, may result in stockpiling, and it is unclear how this would be funded in the absence of clear generator obligations. Thus, any revised objectives with these principles would still need to be layered using generator obligations around design and end of life management and reasonable practicability – as occurs through the legislative definition in the "waste management hierarchy" in section 4B of the *Green Industries Act* 2004. This is critical given the character of materials received through the waste and resource recovery sector and economic or place-based constraints for waste fates.

WMRR urges the circular economy objective to be explicitly considered in the policy, with more regulatory emphasis placed on the generators of materials in the first instance. Instead of looking to minimising residual from existing waste materials (at end of pipe), more broader government efforts – "systems thinking"– should be placed on minimising the creation of waste materials in the first place (at front-of-pipe). This shifts the paradigm towards generator/ producer responsibility. WMRR appreciates that this is something that requires broader systems thinking across the state government departments beyond the EPA. However, it may be prudent for the W2R EPP to also include a policy objective to 'design out waste'. It is WMRR's view that circular economy reform requires robust systems that squarely place responsibility (financial and legal) on producers to design out waste and embrace circular design of any unnecessary materials across all stages of the supply chain- effectively use less for longer.

SA's transition to a circular economy necessarily requires a holistic approach to regulation than just the EPA's W2R EPP, and should be guided by an overarching 'directives framework' that sets targets for the governance of all aspects of community life. WMRR appreciates that the development of SA's next 5-year statewide strategy under the *Green Industries SA Act* 2004 has commenced and establish ambitious goals and targets, as well as identify priority actions that will help accelerate the transition to a circular economy and help meet the state's priorities for a sustainable economy and net zero emissions by 2050.

2. Do you agree that 'climate change mitigation' (i.e., limiting, reducing, or preventing greenhouse gas emissions) should be an objective of the W2R EPP? If not, please explain your reasons?

WMRR supports regulatory and policy settings that acknowledge the shared climate change challenge between government and industry, prioritise the waste management hierarchy when making regulatory decisions, and support the safe use of materials and avoid the creation of waste. Climate change should be factored into EPA regulatory decision-making on matters related to the W2R EPP alongside the waste management objective and circular economy objective. It also therefore follows that existing WARR operations should operate with monitoring and measurement procedures and protocols consistent with limiting, reducing and preventing greenhouse gases.

WMRR would strongly support an objective that facilitates the consideration of the carbon emission benefits associated with a proposed recovered product relative to the use of raw material on a life cycle basis (e.g., recycled aggregate vs virgin material or digestate vs mineral fertiliser on a life cycle basis) to aid more holistic assessments of suitability for proposed uses.

There are some concerns among WMRR members that as there are already numerous instruments regulating emissions requirements – particularly for local government, it should be made clear that by introducing the climate change mitigation objective to the W2R EPP, that any 'requirements' set must align with current local government and ACCU reporting requirements, rather than introduce additional regulatory hurdles or complexity for the WARR industry.

3. Are there other objectives for this W2R EPP that should be considered?

WMRR would encourage the EPA to reference the *Australia's Circular Economy Framework – Doubling our circularity rate (2024)* (in particular, the 2035 circularity rate targets) in the revised W2R EPP. An explicit objective to design out waste would also be helpful, as per our response to 7.1.

7.2 Expanding the waste management hierarchy

1. Do you have any comments on the proposed expanded SA waste management hierarchy set out in Table 2 and depicted at Figure 7 (below)?

WMRR supports the expanded Waste Management Hierarchy depicted at Figure 7 of the discussion paper, noting that it honours a systematic approach to designing out waste and keeping materials in use for as long as possible, which we believe are integral steps that need to be taken if Australia is to successfully transition to a genuine circular economy.

7.3 Managing resources to preserve value

1. If the concept of highest value use or reuse is defined and incorporated into the EPP to inform decision making, how general or prescriptive should it be, and why? Please explain your reasons.

WMRR supports a general description of the highest value use or reuse being incorporated into the W2R EPP, noting the wording in the discussion paper refers to the 'keeping resources in use for longer'. While the general principle of encouraging highest order use is supported, WMRR believes that the highest order use must be balanced against the product's net environmental benefits and reasonable practicality. Market demand for the recovered product itself must be considered to avoid unnecessary stockpiling, and policy support through generator obligation is vital to both improve design, fund infrastructure and create markets.

This brings WMRR back to the key point that discussions around circular economy necessarily require a framework to be applied so that 'systems thinking' can be engrained across all levels of government policy and regulation – so that all sectors of the community are regulated with the same goals of circularity in mind. Discussions around circular economic principles and avoiding waste necessitate considerations of product stewardship, design standards, market demand and access to appropriate resource recover infrastructure.

a) **Should a reuse proposal be rejected if there is a higher value reuse option available for that material?**

WMRR reiterates that it should not solely be the EPA needing to do the 'heavy lifting' in terms of policing and enforcing circular outcomes. Circular economy and net zero goals should be ingrained within both the national and SA regulatory and policy frameworks to the extent that producers of products that create waste materials are made to rethink their products' design and look to design for circularity moving forward. Such an obligation would drive economic considerations as to whether reuse systems are viable when there is a clear financial and regulatory option associated with the product and its lifecycle.

A reuse proposal should be rejected if there is a higher value reuse option available for that material that is reasonably practicable to implement – particularly if accessible end-markets for that higher use/reuse can clearly be demonstrated- however this is applicable under current state linear thinking and it is the next operator in the supply chain that is attempting to solve the poor design of the product, as opposed to the generator who is required to take a systems approach to lifecycle.

WMRR again comments that if a directives approach is taken – that is – if complementary measures are implemented under a directive framework (such as national mandatory product design mandates and mandatory EPR schemes) – then the likelihood of the EPA needing to reject a reuse proposal will be minimised.

b) What mechanisms should be considered when thinking of maximising higher value reuse of materials?

Whilst WMRR supports financial incentivisation for reused or recycled materials and building demand for their use, it does not support mechanisms that penalise 'lower value' recycling or recovery uses, particularly when the cost is being borne at end of chain and not by product generators.

WARR sector participants respond to market conditions to produce the highest value use or uses of materials as received that is viable. What is achievable in practice is influenced by location, material volumes, material character upon discard (including within complex, mixed waste streams), cost effectiveness, and competition with all other waste management methods for that material (both disposal and other forms of resource recovery), including availability of end markets for the recovered materials or energy produced. Commercial competition and contracts require consideration.

Unintended consequences could arise if reuse, recycling or recovery options were to be restricted from entering the market, through limiting the combined stability and capacity of the market to manage waste streams and support product markets. Furthermore, regional and remote areas require specific consideration: what may work in or immediately around the Adelaide metropolitan area may well not be practicable in other locations.

c) How can SA businesses and organisations (e.g., waste food generators and organic processors) contribute to higher value reuse of materials like organics? Should specific regulations or incentives (e.g., waste levy) be mandated to encourage their higher value reuse?

Stopping the landfilling of recoverable organics is a direct method to reduce emissions, and the increased recovery of organics should be prioritised. Financial barriers are the most direct and immediate methods to dissuade the least desirable outcomes, such as the disposal of organic material. Continuing to increase the levy, with clear five (5) year planned horizons providing capital investment and certainty, is recommended to assist in changing behaviour, facilitating investment and driving increased recovery of organics (as well as other recoverable materials).

It is also WMRR's view that SA should follow NSW's lead and mandate commercial food waste collections as soon as practicable. Large food waste generators such as retail supermarkets, government institutions and the hospitality industry already have access to largely source-separated food-organic residuals that is already aggregated enmasse, providing for ease of collection. Apart from mandatory source separation of organics from businesses and organisations, financial incentives (such as grant funding for innovative technologies such as Anaerobic Digestion for business food waste) could be used to help improve existing organics recovery rates. WMRR notes that Green Industries South Australia already has Circular Business and Market Development Grants and Circular Infrastructure Grants available which would complement any food organics collection mandates for businesses and organisations.

2 Do you agree that proposals to reuse waste derived materials should be required to demonstrate that it is a beneficial and genuine reuse, in addition to not posing a risk of environmental harm or undermining resource recovery markets? Please explain your reasons.

Yes. A circular economy requires controls to be in place for all of the supply chain – that is, start-of-pipe, mid-pipe and end-of-pipe. Maintaining product safety and quality throughout is essential, and all materials re-entering a circular economy market must do so because they have a beneficial and genuine use. Parity with the use or regulation of virgin material alternatives should be required in terms of assessing risk of environmental harm. However, circularity should not be burdened with unnecessary regulatory hurdles. Simple tests would be required or complexity could risk undermining the viability and timing for the establishment of valid recovery proposals. For example, an unrelated third-party purchaser is a ready means for demonstrating beneficial and genuine reuse. Operational uses are assessed and approved by the EPA and appropriate controls can be applied through this process. Beyond this, robust, clear, achievable and measurable standards would be required – and restrictions should not occur without these.

3. If dilution of waste with other materials (source separated recovered materials or virgin material) is prohibited, are there situations where diluting waste with other materials should be acceptable, and if so, what are these?

At first instance it must clearly be stated that waste containing hazardous materials in any quantity cannot be diluted into other products. It is WMRR's view that any material that has no beneficial end use and/or contains contaminants in quantities unsafe for the environment or human health, should not be diluted with other materials.

However, some recycled organic materials with low levels of physical or chemical contaminants may still be able to meet requisite product safety and quality standards, and therefore have a marketable and beneficial end use (ie: composts). Quality testing for end-products must play the crucial role in ensuring that emerging contaminants are managed appropriately.

4. If source separation of waste is incorporated into the EPP as a requirement, who should this requirement apply to? Please explain your reasons.

Separation at source compliments the waste and resource recovery hierarchy, assisting in the pursuit of higher order material recovery. With this in mind, and as stated earlier in this submission, there is an obvious and immediate opportunity to recover increased organics through mandatory source separation for both households and businesses via the MSW and C&I waste streams. Source separation of food organics by high-generating food waste businesses (in an immediate but staged manner) is particularly encouraged by WMRR, and as can be seen from the NSW EPA's experience, is an action that could be mobilised with relative ease. Considerations such as bin space available for users and collection costs will need to be assessed for implementation, and mandatory requirements

should allow for some leniency and possible exemptions where a new separate collection is not reasonably practicable. However the higher order outcomes of reduction in GhG emmissons should easily override any such concerns.

Beyond this, a pragmatic step could be to establish a framework power for directing separate collection in the EPP with appropriate consultation and review protections. Zoning of requirements should be enabled to reflect place-based differences (e.g., metropolitan vs other areas under the ABS remoteness scale). Protections may also be needed for collection vehicle operators to reject contaminated bins and redirect these to residual waste collection.

The commencement of any new systems should allow time for the development of suitable collection and management capacity and adjustment of existing systems.

5. What additional concepts could be introduced to support the practical application of circular economy principles?

As mentioned earlier in this submission, designing out of waste is a fundamental part of moving towards a circular economy. Achieving a circular economy requires reforms across multiple systems, rather than direct regulation of the WARR sector. Design requirements and economic drivers for producers to design and for governments to make procurement decisions with circularity in mind are areas requiring particular focus.

WMRR advocates for strong and certain levy settings, with at least 50% of levy collected reinvested in the WARR industry by government, producer responsibility for safe products and materials, as well as incentives to reduce reliance on virgin materials. The scale and manner of levy distribution could be used towards practical application of circular economy principles, including by infrastructure and investment pathways for new opportunities. Greater investment of levy funds into the WARR sector will aid the incentive and capacity to respond to the emerging requirements for resource recovery.

7.4 Defining waste

WMRR has addressed the following questions 1-3 in this section together:

1. Should waste only cease to be waste if it complies with an approved EPA standard or specification? If so, what would be the benefits and costs of this approach? If not, why?

2. What waste-derived materials are currently in use which do not have an approved EPA standard or specification under clause 4(1)(a) of the W2R EPP?

3. Which wastes or waste materials containing harmful chemicals or contaminants are high risk and should be captured by regulation?

WMRR recognises that the assessment of new resource recovery proposals is increasingly complex and resource intensive for the EPA. Timely and proportionate enabling of new and innovative resource

recovery proposals is a key need for moving towards a circular economy. In response to question 1, taking a risk-based approach to specifying whether a material is a 'waste' could benefit the industry by potentially reducing chemical analysis costs where materials can be shown to have a low potential for environmental or human health risks. For higher-risk materials, a rigorous and collaborative approach is warranted.

Questions 2 and 3 highlight the practical issues of requiring that a waste cease to be 'waste' only if it complies with an approved EPA standard or specification however. Given the broad scope of the definition of waste, it would technically cover all reuse and recycling efforts from clothing onwards. Contaminants will continue to emerge and can be used across an extensive range of virgin consumer goods (e.g. PFAS) so may then also arise across many different reuse or recycling efforts. Risks will vary within a technology process depending upon feedstocks used.

It may be practicable to further qualify clause 4 of the EPP to articulate that specified higher-risk outcomes can only be undertaken with an approved standard or specification in place, while maintaining open paragraph 4(1)(b) for other materials. The standards and specifications can then adopt appropriate risk-based mechanisms for an activity (eg, digestates derived from a single crop residue would have a simpler risk profile and testing process than those derived from food and garden organics). The End of Waste Codes and Resource Recovery Orders and Exemptions in place in other jurisdictions could be used to help consider both higher risk activities for approval requirements while also highlighting lower risk materials in some instances.

To date, only limited standards and specifications have been developed. It would be necessary to ensure that waste-derived materials that are currently being recovered are not unduly restricted by the scope of any changes made here. For example, sorted and shredded plastic and paper commodities would need to be able to access interstate and international markets for manufacture into new packaging.

4 What principles, or combination of principles, should be used in determining whether material is waste (aside from when it meets an approved EPA standard or specification)? … Please explain your reasons.

The concepts of beneficial reuse and being fit for purpose (for its intended use) should be used in determining whether material is waste. This principle is supported and embedded in practice for current resource recovered product assessments through existing EPA document *GP3 'Waste-derived materials—guiding principles for determining approval processes and product standards'* (which states "waste recycling and reuse must demonstrate that it is genuine, beneficial and fit for purpose…") and aligned sections of the existing standards, for example, in S3.5 of *WDF Standard 'Demonstration of beneficial purpose'* that directly aligns with existing clause 4(1)(a) of the W2R Policy.

Please note that the NSW's Resource Recovery Framework and Queensland's End of Waste Framework contain similar principles.

5. What materials would benefit from greater clarification regarding the status of waste?

As noted in WMRR's opening comments, food organics and construction and demolition materials offer the greatest opportunities for increased recovery outcomes. Managing contamination out of these streams – primarily through effective source separated collection is key. Ensuring that the EPA has clarity over when these types of materials meet the threshold for beneficial and fit-for-purpose reuse / recovery will yield the most immediate benefits of reinvesting these materials back into the economy.

6 Should the EPA adopt a cost-recovery model for the assessment of new resource recovery proposals? Please explain your reasons.

Timely and fair assessments are a key need for recovered product proposals, and product testing and development is already an expensive process for proponents. We do not support a cost-recovery model, given no such costs apply to virgin products and that this will simply add to the cost of creating recycled products further hampering their ability to compete with virgin.

KEY AREA 2: AVOIDING WASTE GENERATION

7.5 Product stewardship requirements

WMRR supports state action to promote product stewardship and extended producer responsibilities (EPR) to the extent possible in reasonable timeframes. As noted in WMRR's introduction, whilst a nationally consistent system funded by generators, which mandates circular labelling, product design, recovery and reinvestment of materials to ensure the recovery at scale of these valuable materials is ideal, it is also our view that the lack of action in this area by the federal government means that each state will need to progress much needed reform. In this regard, WMRR urges SA to mirror the NSW approach as highlighted in the discussion paper whereby the W2R EPP framework is extended to be able to mandate design standards for goods, particularly those which impart requirements to improve plastic recyclability, improve labelling, and which place requirements for harmful contaminants to be removed.

SA has demonstrated that it can successfully implement and manage such requirements with its container deposit legislation (CDL) and bans on single use plastics and plastic bags. As per the approach to CDL, appropriate consideration should be given to regional service options in taking product stewardship action. It is recognised that SA's scale of importation may act as a barrier to wide action

WMRR makes the following comments against the points raised in the discussion paper:

- Urgent action needs to be taken so that plastic waste is avoided, and the existing barriers to recovery and reinvestment back into the economy of plastic materials are removed.

- Introducing design standards for tethered lids and phasing out the use of microbeads in personal care products makes sense and would align South Australia with NSW. *(Action for a phase-out of harmful chemicals used in plastics - also in line with the NSW approach - is particularly supported. This is discussed later in section 7.12.)*
- Introducing a design standard requirement that new washing machines be fitted with a microfibre filter would be welcome.

- WMRR especially supports the introduction of new design standards to improve the recyclability of packaging (including for liquid paperboard containers such as tetra paks). Given the high quantities of tetra paks on sale in South Australia, addressing their recyclability is considered important enough to warrant a state response ahead of national action if federal support cannot be gained within a reasonable timeframe. Introduction of changes such as these would require sufficient lead-time to allow the packaging industry to re-tool, and in this regard, should be identified for action in the near term.

- WMRR notes that there are also large volumes of problematic wastes such as solar panels, which have not been addressed in the discussion paper in its consideration of establishing state-based stewardship schemes.

7.6 Edible food donations

In principle, WMRR supports food waste generating businesses above a certain threshold being required to donate edible food to food rescue charities or recipient agencies. Such a mandate would need to be designed to ensure that it supports and enhances the viability of current food recovery efforts, including understanding of current processes, demand for recovered foods and contamination considerations. 'Unsold edible food' would need to be defined to align with the receival requirements used in voluntary recovery efforts currently to ensure its suitability, and to ensure that inedible or excess food waste moves efficiently to organic recovery processing (eg, composting or anaerobic digestion).

KEY AREA 3: MAXIMISING RESOURCE RECOVERY

7.7 Municipal solid waste

WMRR supports progressive standardisation of the three (3)-bin system for Councils wholly located in metropolitan Adelaide, subject to the process recognising:

- That not all residential premises are suited to having all three (3) bins provided (e.g. organics bins cannot be provided in some higher density residential environments),
- Councils and other collectors must be explicitly empowered to withdraw bins or services from those who persistently misuse a system (eg, repeated contamination of a recycling bin), and

- There must be the ability for planning authorities to decline development applications that do not adequately provide for required waste services.

The transition to red bin lids for residual wastes will be best pursued on an attrition basis – ie, as new or replacement bins are provided – to avoid unnecessary costs (at around $30/bin lid). The implementation of a lime green lid for organics bins could be approached in a similar way but is considered a lower priority given these bins currently have green lids (albeit a darker green colour).

Beyond metropolitan Adelaide, zoning and a place-based approach is required to support suitable services. These may include systems that can complement kerbside service (eg, drop off hubs) or outcomes that support local processing. It will be helpful to consider collaborative approaches for material sources and destinations to structure systems and funding appropriately.

7.8 Commercial and industrial (C+I) waste

The EPA has correctly identified the issues and key barriers faced in recycling C+I wastes. The answers to the questions posed on barriers such as space and time availability will vary at the detailed level. The prevalence of tenancies where landowners determine the space and bin provision available is also relevant.

Currently, there is no additional obvious MRF capacity in SA, however this could be achieved depending on license and development requirements of existing facilities. Research, investment in suitable infrastructure and business participation plus education may be needed first, with new contracts entered into that enable commercial development (eg staff recruited for additional shifts).

WMRR supports mandating separate food waste collection for major food waste generation businesses on a progressive basis (using precedents elsewhere for guidance) and with consideration of contamination trends for effective organics reprocessing,

Public place and event recycling bins and resource recovery treatment should not be mandated at this stage, as opposed to supported on a discretionary basis with guidelines, given the significant contamination issues that can be faced. Large waste generating businesses will often have waste reduction plans in place to meet their sustainability and cost reduction goals. If this policy concept is to be pursued, it would need to ensure that these larger businesses do not need to engage in any duplicate effort as well as ensuring that they are necessary or practicable for smaller groups of businesses. Guidance and support for smaller groups of businesses will be most helpful.

Again, beyond metropolitan Adelaide, zoning and a place-based approach may be required to support suitable services, including the potential for collaborative approaches for material sources and destinations to help structure systems and funding appropriately.

KEY AREA 4: SUPPORTING A STRONG MARKET FOR RECOVERED RESOURCES

7.9 Circular procurement

As noted in the discussion paper ' ...there is little value in collecting recycled materials if there is no end- market for them'. The W2R EPP is one of the levers that can be used to help drive the circular economy in SA by mandating requirements for the use of secondary materials over virgin materials within existing government supply chains, (at all levels of government procurement). The discussion paper identifies the procurement of recycled organics by local councils' park and gardens teams. Other opportunities would include stipulating minimum recycled content thresholds in all government procurement contracts. Local governments should be involved in material development if they are to be included under the policy.

WMRR can see no reason why mandated procurement requirements to include recycled /reused content could not apply to all government supply chains (e.g.: for all products required ranging from building materials to office electronics, unforms, furniture etc.). Without a legal obligation or financial penalty, procurement decisions will continue to be based on cost. In the case of circular procurement, the onus would be placed on the government purchaser to demonstrate why this obligation was not met using a test of reasonable practicality (where cost cannot be the sole factor). This simple initiative would undoubtedly boost supply demand for recycled products.

Furthermore, legally binding requirements on product manufacturers for government to supply minimum recycled content thresholds will be crucial to stimulate the investment and innovation essential to driving change and market development. This in turn should help make recycled products more affordable, accessible and improve their market value alongside virgin material counterparts. Equally large installments bought/ facilitated by government such as solar panels and wind farms, should have clear end of life management plans from recycling to reuse and should not be left to the WARR sector to solve.

It may be premature to introduce mandatory requirements for local private sector businesses given national competition. International mechanisms such as carbon protection border adjustment mechanisms and financial disclosure requirements will ensure that trading and larger businesses will explore ways to reduce all carbon emissions associated with their activities, including through consumption and waste. Hence, providing information and encouragement and promulgating success stories for similar businesses is more appropriate.

7.10 Prohibited landfill waste

It is WMRR's view that financial and legal obligations have a key part to play in assisting the transition from engrained disposal habits to creating a circular culture. These obligations must be in place for both waste producers (i.e. mandatory product stewardship and/or design requirements and/or extended producer responsibility schemes) and for consumers (landfill bans). The bans of problematic waste materials highlighted in the discussion paper should be incorporated into the W2R EPP. As for existing bans, waste processors must be able to send material when it cannot be reasonably processed further – including due to contamination.

WMRR strongly supports a ban on batteries and embedded battery products going in any bin or to landfill as a matter of urgency given these risks posed. However, it is critical that appropriate management pathways be established. WMRR notes that the SA government had indicated verbally that it will look to mandate a battery stewardship scheme in the lack of national action, however it is unclear from the recent Environment Minister's Meeting if this remains the intention of SA.

WMRR strongly supports mandated source separated collections for organic material and thus, supports bans on aggregated organic wastes going to landfill but notes that an assessment of the scale of additional material recovery expected through mandated collections, (drawing from work undertaken by GISA on organics processing opportunities and intended infrastructure planning) is required to ensure there is capacity.

In respect of mattresses and small solar PV, WMRR supports the W2R EPP once there is sufficient processing infrastructure and markets, progressing to landfill bans. Given lack of action on national stewardship programmes, SA may need to take the lead on some of these items. WMRR also notes alternative recovery pathways and appropriate product stewardship frameworks within Australia for wind turbines and child car seats are not yet in place, and thus, whilst WMRR is supportive of these in principle, notes that these will need significant further development ahead of any disposal bans being made. As a general rule - if there is no alternative to landfilling, it is unclear the impact a ban will have.

KEY AREA 5: PROTECTING THE ENVIRONMENT AND HUMAN HEALTH FROM WASTE POLLUTION

7.11 Unlawful disposal of waste

WMRR supports activities to prevent unlawful disposal of waste, noting that:

- The movement of fill for legitimate purposes to landowners needs to be catered for, noting the requirements of the Waste Derived Fill standard.
- On-farm or other regional disposal of one's own waste where it will not cause any of the issues referenced in clause 10 needs pragmatic consideration.

7.12 Contaminants and chemicals of concern

WMRR is supportive of amendments to the W2R EPP that address chemicals of concern. Chemicals have been placed on market for consumer and industrial use that have been shown to bioaccumulate and cause concern for human health and the environment. Coordinated national action and timely consideration of contaminants of concern is generally supported. With regard to potentially incorporating the PFAS NEMP into the W2R EPP, it is WMRR's firm view that if repeated exposure to any PFAS is a significant risk (and the general scientific consensus indicates that there is clear concern that it is due to bioaccumulation), then all efforts should be directed to phasing it out.

The US and the EU have both taken steps to restrict and remove PFAS from the environment and product supply chains under a coordinated approach, noting that PFAS cannot be considered in isolation as a health, environmental, economic, manufacturing or consumer issue. Instead, regulatory and policy frameworks must address the role of PFAS across various supply chains and ecosystems – and this is why WMRR stresses the need for 'systems thinking' and advocates continually for a directives framework to be applied at a national level.

WMRR reiterates that Australia needs to keep pace with the rest of the world in this regard, and start taking action with regard to implementing regulatory frameworks that restrict source inputs for PFAS and which look to provide guidance and enforcement measures for its reuse. To date, there has been much government consultation around this issue, but very little progress towards designing out and restricting the use of PFAS chemicals in Australian supply chains.

It is understood from the December 2024 Environment Ministers Meeting that the Ministers agreed to coordinated action on updated guidelines that manage PFAS, complementing the introduction of Australia's first national environmental chemicals standards that ban, severely restrict or reduce the environmental impacts of about 500 PFAS chemicals. Given the lack of clarity over that the upcoming PFAS NEMP will entail, incorporation of any particular elements of the PFAS NEMP into the W2R EPP may require separate, specific consultation.

Regardless of the PFAS NEMP, WMRR strongly supports state-led initiatives taking the precautionary approach to harmful chemicals. It particularly welcomes the publication of a 'green' and 'red' list of permitted chemicals being developed by the end of 2027 by the NSW Government in the NEW EPA's *Plastics Plan* and would encourage SA to consider aligning with this approach. Clearly placing the obligation on producers to ensure that materials and products they place on the market meet safety and quality thresholds to begin with, rather than placing the burden of emerging contaminants on the WARR sector to manage through decontamination and disposal, is integral to managing out the environmental risks posed by chemical contaminants such as PFAS.

7.13 Greenhouse gas emissions from landfill

A reduction in license fees would be wholly insufficient to have any meaningful influence on the installation of a landfill gas capture system given the costs involved. Technical, budgetary and landfill management constraints can all influence final capping and landfill gas system capture capacity.

The ACCU Scheme is currently under review and at this time is seen as a key driver for landfill gas capture, it will be important to understand the outcome of this review. However, all efforts to increase capture including mandating and providing funding to assist, should be considered.

7.14 Medical waste

The safety of our essential WARR workers is a key concern for WMRR. Education on appropriate sharps disposal in support of the provisions prohibiting sharps disposal through kerbside waste collections would be welcome. This would also aid management issues arising for Councils when they are present in household bins.

KEY AREA 6: CIRCULAR EOCNOMY METRICS, REPORTING AND TRANSPARENCY

7.15 Circular economic metrics

A productive circular economy is one that successfully minimises the use of virgin resources and the creation of waste materials and instead, identifies opportunities to reinvest resources back into the productive economy. Appropriate metrics to show year-on-year progress towards a circular economy should show increased economic investment into recovered resources over virgin materials. As noted in the discussion paper, ideally a circular economy measurement framework would be adopted and coordinated nationally. Australia's current key waste and resource recovery metrics - 'waste generated per person' and 'resource recovery rate' - do not capture the fundamental elements of:

- avoiding creating waste (e.g. through designing for re-use or using less in production),
- establishing systems to prolong life (e.g. repair and share),
- market demand for the secondary material (recovered resources and designing as such) and,
- in no way demonstrate whether their 'recovery' use held significant environmental benefits such as displacing the use of virgin resources or fossil fuels.

Current metrics simply identify those the volume of material that were not landfilled. For all intents and purposes, those materials could be stockpiled. Instead, we need to record what happened with those materials and how they are being reused. In economic terms this means capturing the value of the materials and the tonnages involved. If SA is keen to realise its objectives of zero waste to landfill and achieving a circular economy. Then the quality and collection of resource recovery data must be improved to enable the development of informed, high-quality evidence-led policy responses. Should

efforts to capture metrics be introduced under the W2R EPP, opportunities for accurate data capture will necessarily arise from:

- Mandatory EPR schemes and design standards. Registering for mandatory schemes would enable many of these baseline metrics to be captured.
- Government procurement policy settings that require minimum recycled content thresholds. These could also be tracked to show progress in relation to the displacement of using virgin materials.
- Supply chain transparency and traceability is possible via smart technologies to track movement of materials, and this data can be used to determine the actual lifecycle of materials and products, and help identify opportunities to improve.

WMRR has addressed some of the sensitivities surrounding the capture of additional information by waste depots and local government in the next two (2) sections – noting in particular that there is already a heavy regulatory reporting burden on these facilities, and any additional must add value without adding costs. However, it should be emphasised that the concerns raised do not undermine the potential for broad category data to be recorded and captured. For example, data capture from individual sources can be aggregated when published to show the displacement of virgin materials by recovered materials.

7.16 Waste Depot Reporting

Public facing reporting by waste depots is approached with caution given it may involve confidential information, it could lead to unfair comparisons and judgments – for example, transfer station recovery pathways and performance varies strongly based on the character of wastes received due to their client base), and may district completely from undertaking their core and complex business. Waste depots already frequently undertake additional waste reporting for a range of financial disclosure, emissions reporting, business sustainability reporting and other government purposes. There is an understandable rationale for seeking additional information and it would be beneficial for the EPA to consult specifically on this matter to gain additional awareness about current reporting practices and opportunities for where integrated reporting approaches may be possible.

Mass balance reporting data should only be reported in an aggregated manner that strictly protects confidentiality given the sensitivities of the information involved – similar to the approaches used by GISA.

7.17 Reporting by local government

Local governments already undertake extensive reporting and have a range of transparency requirements, including in relation to Council tendering of contracts under the Local Government Act. Notably, waste management plans are published already while commercial tenders and contracts contain commercial and confidential information so are not suitable for publication. It is recommended

that in further exploring what reporting may be of value that specific engagement occur with both local government and industry, to ascertain existing public reporting requirements and opportunities for where integrated reporting approaches or data sourcing may be possible. Zoning of any requirements would be needed to ensure reporting is fit for different areas.

Kerbside bin audits have high value and provide evidence that informs both the evaluation of current system performance and improvement measures (eg, for funding programs). Information on methodologies is available to government, with audit reports being made publicly available. Any standardisation approaches would need to be tailored to zones and purpose. If government mandates the frequency of bin audits, funds should be made available to cover these costs.

7.18 Transparency in waste levy component of service fees and charges

WMRR supports transparency of these costs.

WMRR also seeks that Government publish upcoming levy rates for a minimum five (5)-year period to aid budgeting, forecasting and investment planning. It also seeks clearer, annual reporting on levy funds received and the volume and percentage re-invested into the sector over the preceding 10 years and an outline of future fund allocation plans.