



The Hon Roger Jaensch MP  
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Dear Minister Jaensch

### **Re: Waste and Resource Recovery Regulations 2022**

Thank you for the opportunity to provide feedback on the draft *Waste and Resource Recovery Regulations 2022*. The state government is to be congratulated for moving forward with its plan to introduce a landfill levy, which the waste and resource recovery (WARR) industry supports as it is a proven economic tool that enables greater landfill diversion by incentivising investment in resource recovery infrastructure, provides monies that can then be reinvested to boost recovery, reprocessing, recycling, and remanufacturing, and can assist Tasmania in its transition from a linear (take, make, dispose) economy to one that is more circular.

The Waste Management and Resource Recovery Association of Australia (WMRR) is the national peak body for all stakeholders in the \$15.5 billion WARR industry. We have more than 2,000 members across the nation, representing a broad range of business organisations, the three (3) tiers of government, universities, and NGOs.

The WARR sector drives jobs – employing up to 50,000 people – and investment in the Australian economy, and in Tasmania, the WARR sector is a key contributor to the state's economy and environment. The value of the Tasmanian WARR industry in 2017-18 was approximately \$147 million<sup>1</sup> while in 2018-19, the state's WARR system managed one (1) million tonnes of waste, of which 39% was recycled and 45% sent to landfill<sup>2</sup>. This represents a significant economic and employment growth opportunity for the state as a strong remanufacturing and recycling base has the potential to create more than three (3) times as many jobs than landfilling or exporting, and we know that 9.2 jobs are created for every 10,000 tonnes of waste recycled compared to 2.8 jobs for the same volume sent to landfill<sup>3</sup>.

While WMRR's feedback on the regulations can be found below, we would like to make the following general observations and recommendations:

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<sup>1</sup> Inside Waste Industry Report 2019: Volumes and Values

<sup>2</sup> National Waste Report 2020

<sup>3</sup> Access Economics 2009

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- WMRR supports the government’s implementation of an accurately named landfill levy with staged increases. However, we continue to assert that the proposed commencement rate of \$20 per tonne is inadequate as it will do little to enable resource recovery infrastructure investment in Tasmania, given the cost to invest in such infrastructure and the need to have an appropriate competitive gate fee to support the costs of operating such infrastructure. While WMRR acknowledges that the government has determined the starting levy rate to be \$20 per tonne, we would recommend that the government accelerate the rate rises as well as increase the final proposed \$60 post-30 June 2026 rate. WMRR recommends a rate closer to \$100 per tonne at this point, which will still be significantly less than mainland Australia; however, ample studies have shown that this is the level the levy must be to genuinely stimulate resource recovery. Failing to do so will result in an inability for Tasmania to shift the dial on greater diversion or boost local economies and jobs. The proposed rate is simply too low to maximise, much less drive resource recovery and landfill diversion, nor does it recognise the true long-term cost of managing material disposal. Importantly, it fails to provide a true price signal on the value of materials that are currently being disposed nor drive true behaviour change.
- With the 1 July 2022 landfill levy start date fast approaching, WMRR strongly recommends that the NRE first and foremost visits landfill sites to gain an appreciation and understanding of the on-the-ground operations in order to effectively develop practical and workable guidelines related to waste classification, operational exemptions, and data and reporting. The NRE is also urged to work closely with industry on these guidelines, which must be released well ahead of the levy commencement date.
- A consistent state-wide communication campaign for businesses and community must be developed and rolled out by the government to clearly articulate the landfill levy intent, objectives and benefits, and all changes that will impact community and businesses operating in Tasmania. Industry is very keen to both participate in and support such a campaign.
- WMRR acknowledges that under Tasmania’s Subordinate Legislation Act, all regulations are required to be reviewed within 10 years. However, WMRR is advocating for a five (5)-yearly review of the landfill levy to be included in the regulation.

WMRR’s feedback on the regulations can be found below. Please do not hesitate to get in touch with the undersigned if you would like to further discuss WMRR’s submission.

Yours sincerely



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## SUBMISSION

Section	Regulation	WMRR's feedback
<p>Part 2 – general</p> <p>5 Places that are not landfill facilities</p>	<p>For the purposes of section 4(3)(b) of the Act, members of the following classes of facility are prescribed not to be landfill facilities:</p> <ul style="list-style-type: none"> <li>(a) facilities that receive less than 100 tonnes of waste per calendar year;</li> <li>(b) facilities that receive only waste excluded from the application of Part 3 of the Act.</li> </ul>	<p>The Act provides definitions of ‘landfill facility’ and ‘combined waste facility’ to provide a legal framework to address obligations under the Act. As per regulation five (5), facilities that receive less than 100 tonnes of waste per calendar year are prescribed not to be landfill facilities and as such, will be exempt from the levy.</p> <p>Providing an explanation for the exemption, the <i>Draft Waste and Resource Recovery Regulations 2022</i> Explanatory Paper states that “it has been determined that the benefits arising from the amount of the levy revenue raised from these smaller facilities would not exceed the costs of setting up the necessary measurement and administrative systems. Most of these smaller facilities are privately owned (for example, land used for primary production) and the volume of waste being deposited is not deemed significant in terms of the overall volumes of waste being deposited into landfills.”</p> <p>WMRR notes that the primary objective of the landfill levy, as stated on the NRE’s <a href="#">website</a>, is to “reduce the amount of waste going to landfill, which will benefit the environment and create economic benefits by keeping the resources that can be recovered from waste circulating in the productive economy.” As</p>

		<p>such, WMRR queries why the NRE is exempting smaller sites from the levy on the basis of levy revenue versus administrative costs, which could be offset or subsidised through levy revenue, as opposed to meeting its primary objective.</p> <p>Experience in other states has shown that without close monitoring, an increased number of facilities will begin to claim they are not meeting this threshold; thus, there must be a clear process in place for capturing actual tonnes deposited in all facilities. Further, WMRR is seeking assurance that the NRE will have a process, including enforcement, that mitigates the risk of operators setting up multiple small facilities (&gt; 100 tonnes) in order to sit within this category and evade the landfill levy.</p> <p>Broadly, WMRR does not support the exemption of smaller sites as doing so may encourage levy avoidance and the unnecessary transportation of materials to sites where the levy does not apply. The levy rate should be applied across all sites, creating a level playing field and not distorting waste movements in Tasmania, nor creating incentives for avoidance.</p>
<p>Part 2 – general</p> <p>8 Matter excluded from waste levy</p>	<p>(2) For the purposes of section 28(b) of the Act, the following kinds of matter are prescribed to be excluded from Part 3 of the Act:</p> <p>(a) asbestos that may be lawfully disposed of at the landfill facility at which it is received, if the asbestos was transported to the facility in accordance with the <i>Environmental and</i></p>	<p>(a) WMRR agrees with this exemption. However, guidance is required on how landfill operators can apply the exemption to on-site waste that have been found to be contaminated with asbestos but was not disclosed by the entity that delivered the waste. The NRE should also ensure that site operators do not have to pay additional levy on asbestos found following the initial delivery.</p>

- (d) treated waste water from a waste water treatment plant that may be lawfully disposed of at the landfill facility at which it is received
- (f) 10% of all other matter that is received by a landfill facility in calendar month, not including the matter specified in paragraphs (a), (b), (c), (d)

(d) WMRR recommends including a further exemption for wastewater that meets the water quality for livestock drinking water requirements as per the Australian and New Zealand Guidelines for Fresh and Marine Water Quality, Volume 1, The Guidelines, published by the Australian and New Zealand Environment and Conservation Council.

(f) WMRR queries the practicality of setting an arbitrary percentage of 10% of waste received at a landfill each month being considered operational material and not subject to the levy. Setting a one-size-fits all 10% cap does not capture firstly, factors such as climate changes and weather events, e.g., post-floods, that may require a landfill facility to use more than the allowable limit of material without triggering the levy, nor does it take into account the specific materials and requirements of the site.

Secondly, and importantly, best practice landfills are required in our integrated resource recovery system, and these must be planned, sited, designed, constructed, and operated to the highest environmental and regulatory standards. Clay and geosynthetic liners and covers are needed to minimise emissions of leachate and landfill gas to protect human health and the environment. However, as seen in issues that are currently playing out in NSW, setting a fixed amount of exempted materials for operational use may either hinder operators from meeting the highest possible level of quality assurance at landfill sites – whether for daily

operational use such as alternative daily cover or in construction of new landfill sites - or financially penalise them if they strive for the greatest quality assurance.

WMRR suggests that the NRE engages on a case-by-case basis with operators to develop a workable and practical solution that would ensure continued and improved best practice landfill design and operation. This could involve recognising an appropriate exemption allowance based on each site's usage of materials for operational purposes, and in the case of landfill cell construction, on the as-built survey and in-situ test results, instead of the fixed maximum value.

*Other*

1. Clean earth and clean fill

WMRR notes that the NRE has included natural mining matter in its list of levy-exempted matter. However, WMRR advocates that there also needs to be a levy exemption for clean fill and clean earth, which are used for site maintenance and as daily cover material, alongside consideration for wood chips, low-level contaminated soil, and any other comparable materials also currently being used as daily cover. WMRR highlights that the use of low-level contaminated soil as daily cover is in and of itself a form of recycling with the added benefit of preserving valuable landfill airspace.

		<p>The definition of clean fill and clean earth related to how and when they can be used must be clarified so as to mitigate the risk of market distortion, including hazardous classification thresholds, if any, for this material. WMRR suggests that in doing so, the NRE references and adopts the National Environmental Protection Measure requirements.</p> <p>2. Charitable waste WMRR believes that an exemption should be provided to waste that has been donated to a charitable recycling entity which cannot practicably be reused, recycled, or sold - SA has recently developed such an exemption. This is especially because there may be operators who are currently providing free disposal services to op-shops and charities. However, in doing so, it is advised that the NRE considers ahead of levy implementation, how it will deal with charity loads mixed with general waste collection. As waste load data is captured at the weighbridge prior to entering a transfer station, a solution would be to apply a split weight on the outgoing load to accurately account for the exempt portion. However, this is not a viable solution at a combined facility. There is also a risk, as has eventuated in Queensland, of operators stockpiling exempt material and sending it as discrete loads to landfill, which creates a large amount of double handling.</p>
Part 3 – landfill facility requirements	(2) If it is not reasonably practicable to use a weighbridge as specified in subregulation (1), the operator must, for the purposes of making a landfill movement record, estimate the quantity of the	Tasmania has an opportunity to accurately and transparently capture material flows as part of the implementation of these regulations and the levy. To ensure accurate data capture and reporting,



<p>12 Methods of measurement of waste movement in respect of a landfill facility</p>	<p>movement of waste into, or out of, the facility using an approved weight estimation method in accordance with guidelines issued under section 57 of the Act.</p> <p>(3) For the purposes of this regulation, it is not reasonably practicable to use a weighbridge as specified in subregulation (1) if –</p> <ul style="list-style-type: none"> <li>(a) there are no functional weighbridges on, or within a reasonable distance of, the landfill facility; or</li> <li>(b) the operator of the landfill facility has been exempted under the Act or these regulations from the requirement to use a weighbridge.</li> </ul>	<p>alongside maintaining a level playing field, WMRR recommends that all facilities be required to install and use a weighbridge. The costs of setting these up at sites that currently do not have a weighbridge could be partly funded through levy monies, which is what occurred in NSW.</p> <p>As the size and scale of operations will have an impact on the ability of the site to appropriately manage the data required by the NRE, WMRR recommends developing state-wide training of leviabale site operators and frontline staff, as well as NRE officers, to ensure consistency and reliability in the collection and analysis of data.</p>
<p>Part 3 – landfill facility requirements</p> <p>13 Landfill movement record</p>	<p>13 (1) An operator of a landfill facility must make a record (a landfill movement record) in respect to each movement of waste –</p> <ul style="list-style-type: none"> <li>(a) into, or out of or between a part of a combined waste facility that is a landfill facility and a part of the combined waste facility that is a resource recovery facility.</li> </ul>	<p>Larger commercial facilities may have the resources to provide comprehensive data and evidence of all material movements within their sites; however, smaller facilities may struggle to support the level of detail required by the NRE.</p> <p>WMRR is requesting that the NRE considers what information it genuinely requires to achieve the department’s objectives and clarifies the level of reporting and details being sought.</p>
<p>Part 3 – landfill facility requirements</p> <p>15 Waste levy compliance management plan</p>	<p>(c) specify the following matters:</p> <ul style="list-style-type: none"> <li>(iii) the areas within the landfill facility in which waste is stockpiled;</li> <li>(iv) the areas within the landfill facility in which operational materials are stockpiled.</li> </ul>	<p>For abundance of clarity, WMRR is seeking a definition for ‘stockpile’, including when and why materials are deemed a ‘stockpile, as this could be interpreted differently by NRE officers and landfill operators. Additionally, guidelines are required for stockpile management to avoid potential confusion and cost, as well as to ensure consistency and certainty across Tasmania in the management and reporting of such material.</p>





<p>Part 4 – resource recovery facility requirements</p> <p>20 Methods of measurement of waste movement in respect of resource recovery facility</p>	<p>(2) If it is not reasonably practicable to use a weighbridge as specified in subregulation (1), the person responsible in relation to the resource recovery facility must estimate the quantity of the movement of waste into, or out of, the facility for the purposes of making a resource recovery movement record using an approved weight estimation method in accordance with guidelines issued under section 57 of the Act.</p> <p>(3) For the purposes of this regulation, it is not reasonably practicable to use a weighbridge as specified in subregulation if -</p> <ul style="list-style-type: none"> <li>(a) there are no functional weighbridges on, or within a reasonable distance of, the resource recovery facility; or;</li> <li>(b) the person responsible in relation to the resource recovery facility has been exempted under the Act or these regulations from the requirement to use a weighbridge.</li> </ul>	<p>As noted above in 'Part 3 – landfill facility requirements, WMRR recommends that all facilities be required to install and use a weighbridge.</p>
<p>Part 4 – resource recovery facility requirements</p> <p>22 Resource recovery movement record</p>	<p>(2) A resource recovery movement record is to be in an approved form and is to include the following information:</p> <ul style="list-style-type: none"> <li>(c) the material or materials that make up waste, classified in accordance with a classification scheme set out in the guidelines issued under section 57 of the Act.</li> </ul>	<p>Section 57 of the Act only stipulates that the Secretary may issue guidelines. Thus, WMRR is seeking the release of the classification scheme, including for regulated waste, and requisite supporting guidelines ahead of the 1 July 2022 levy start date. It is recommended that the NRE works collaboratively with industry to develop these documents to ensure the development and application of consistent and workable guidelines and standards.</p> <p>WMRR believes that the NRE should also take this opportunity to develop a comprehensive waste</p>



classification guidance to ensure certainty and clarity for industry, government and the community, including consolidating existing (if any) documentation into a single source. A good example is NSW, which has used its [guideline](#) to combine and simplify waste terminology and classification.