



EP Regulation Reform
Legislation and National Policy Branch
Department of Water and Environmental Regulation
Locked Bag 10
JOONDALUP DC WA 6919

Email: EPActamendments@dwer.wa.gov.au

13 December 2022

Dear Sir/Madam

Re: *Environmental Regulation Reform: A strategic review of regulatory delivery and fees for industry regulation*

The Waste Management and Resource Recovery Association of Australia (WMRR) welcomes the opportunity to provide feedback on the Department of Water and Environmental Regulation's (DWER) proposed amendments to Schedule 1 of the *Environmental Protection Regulations 1987* and related fee structure.

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

WMRR acknowledges the work that DWER has undertaken as part of ongoing legislative reform and looks forward to continued engagement with the Department as it drives these reforms to both meet the aims of the *Waste Avoidance and Resource Recovery Strategy 2030* and implement the required changes from the *Environmental Protection Amendment Act 2020*.

WMRR notes the extensive work already undertaken to reform the state's environmental protection legislation. Notable the 2020 amendments aimed at creating a one-stop-shop for industry by streamlining and simplifying environmental regulations while promoting best practice environmental protection and sustainable development through effective regulation.

WMRR supports the move to licensing of prescribed activities rather than prescribed premises and looks forward to further consultation in 2023 on the draft regulations. WMRR's full submission is attached. Please do not hesitate to contact the undersigned if you would like to discuss WMRR's feedback. Thank you.

Yours sincerely

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SUBMISSION

Consultation Question	WMRR's comments (draft)
<p>1. Do you have any feedback on the outcomes being sought through our regulatory delivery review?</p>	<p>WMRR supports the departments desired outcome of more effective regulation. One of the guiding principles of WMRR is that, <i>the environment and community is protected through the safe and responsible management of wastes</i>. This is achieved through a well-managed regulatory system that is clear and easy to understand.</p> <p>It is important however that the Department ensures that it also identifies those that are not to be regulated and should be through their enforcement of better regulations. One of the greatest challenges that our essential industry faces is that those that are licensed and regulated often receive greater scrutiny than unlawful operators who ought to be licensed and regulated.</p> <p>A digital transformation delivering Environment Online is also supported by WMRR. Waste industry participants have expressed frustration with the inability to monitor and track regulatory submissions and a lack of guidance on applications.</p>
<p>2. Do you support the guiding principles proposed? Please include supporting comments to explain your response.</p>	<p>WMRR supports the guiding principles proposed. Being more customer focused is an outcome being sought by the waste and resource recovery (WARR) industry. Streamline WA, digital focus, ESG support and delivering best practice all support a better service experience for the customer.</p> <p>Transitional arrangements may be of concern for those currently within industry that are not at the requisite level. It is important however that existing applications currently within the system will still need to be promptly dealt with.</p>
<p>3. Are there any additional or alternative principles that should guide our review?</p>	<p>WMRR recommends that DWER work closely with peak industry bodies such as WMRR, who have an intimate understanding of national waste management and resource recovery issues.</p> <p>Decisions made in WA may not always align with national priorities and practices, and as such a consistent engagement with national peak industry bodies outside of the current formal WAG consultation should be developed</p>

	in an attempt to achieve a level of national consistency and a level playing field for business and the community.
4. Please provide information on any aspects of our current regulatory approach that you support, and feel should be carried over into our future delivery model.	WMRR supports the current single license with multiple prescribed premises on it. Many members of the WARR industry currently operate prescribed premises that have multiple categories. Transfer stations are a good example where operators could receive solid waste, hazardous household chemicals, paint, metals, compost and recover various resources. In these instances, it's far more appropriate to have multiple categories named on one (1) license for the prescribed premises. Separate licenses for multiple activities on one site could impose an unreasonable burden on the license holder without any demonstrable additional benefit.
5. Please provide information on any aspects of our current regulatory approach that you do not wish to see carried over into our future delivery model.	<p>WMRR proposes that projects that have been assessed under Part IV of the <i>EP Act</i> should have a more streamlined path through the Part V Works Approval process- there are a number of instances that we have found this to be over time consuming and impacts time critical work.</p> <p>WMRR proposes that the ability for DWER to revoke an active application, without the consent of the applicant, in the circumstances that the applicant is unable to progress due to delays in other regulative factors (Part IV EPA or Planning at State Administrative Tribunal) should not be carried over into future models, given that these circumstances are outside of the applicants control and have significant adverse impacts on the applicant and their operations.</p>
6. Do you support the proposed hierarchy and regulatory mechanisms?	WMRR supports the establishment of critical WARR infrastructure that supports recovery and delivers a transition to the circular economy. Investment is key to new infrastructure and complex, expensive and uncertain regulatory controls stifle that objective. The proposed regulatory hierarchy provides greater certainty for prospective investors.
7. In what circumstances would you support the development of Standard Licences packages?	WMRR supports standard packages for low-risk practices and for medium risk activity with additional criteria. Complicated or high-risk scenarios would need more site specific requirements. All criteria must be developed (ideally with industry consultation), documented and clearly

	<p>communicated, to ensure that there is certainty for industry as to what is expected of them.</p> <p>WMRR supports the increase in resource recovery through innovation. Currently this activity must be undertaken on a prescribed premises, which may limit innovation, a such consideration could be given to developing trial licences, such as currently being considered in other jurisdictions to enable invocation within agreed parameters. Alternatively a standard license could also be easier for new market entrants to assess the risk and cost of compliance.</p>
<p>8. Are there any activities (including their design, construction and operation) that you believe should be managed under regulations rather than licensing?</p>	<p>WMRR believes that during construction of operations, changes to setup or improvements in technology on low risk sites, it would be useful to deal with these changes under regulation rather than licensing. It is normal for designs to undergo reviews for operability and health and safety requirements resulting in changes to the project's layout. A good example of this is fire protection. DFES routinely reviews plans and may instruct proponents to make changes to fire system designs. Currently this would result in a resubmission of a Works Approval for licensing to approve.</p> <p>WMRR advocates for changes of this nature to be allowed under standard regulations and the licensing section is then notified of the changes with an updated site plan. In this scenario it would also negate the need to pay an additional, licensing amendment fee, as well as reduce time involved in what can be time critical amendments.</p> <p>WMRR encourages DWER not to adopt an overly risk adverse assessment process.</p>
<p>9. Are there circumstances in which you consider Standardised Prescribed Conditions Regulations may be an appropriate lever for regulation?</p>	<p>WMRR believes that there are some resource recovery activities that under certain circumstances could be dealt with Standardised Prescribed Conditions. For example, when operations (such as a dry material recovery facility (MRF) are conducted on a known input, inside, and with no discharges to the environment.</p>
<p>10. Are there any activities currently regulated under the EP Act (licence or regulations) that you consider able to be adequately</p>	<p>WMRR is not aware of any such activities at this time that it would list here.</p>

<p>regulated under the General Offence Provisions?</p>	
<p>11. Do you support the introduction of generic and industry-specific EPOs?</p>	<p>WMRR supports the introduction of generic and industry specific EPO's. Industry has seen the benefit of the EPA adopting such an approach to the assessment process under Part IV of the Act. For example, it makes sense for waste to energy EPOs to focus on emissions to air, and waste transfer stations EPOs to focus on odour. This move should also cut costs for proponents who engage consultants to undertake project assessments that are not highly relevant to the industry.</p> <p>However, WMRR is mindful of doubling up on projects that have been assessed to exceed the 100,000tpa CO2 emissions under the commonwealth measurement systems at federal level, or already reporting under their EPA Part IV requirements. Noting that this is currently under review at state level, (EPA GHG Emissions April 2020 & the WA Sectoral Emissions Reduction Strategies (SERS) as well as possible changes at the federal level given the recent announcement of a national EPA, as well as a number of reviews underway in relation to carbon and GHG emissions.</p>
<p>12. Do you support the adoption of EPOs and the application of better practice for activities regulated under Part V Division 3?</p>	<p>WMRR supports the proposal and believes it has the potential to save time and resources for both industry and government. through focusing on the EPO's relevant to the proposed activity.</p>
<p>13. Please provide your feedback on Proposals 6 and 7.</p>	<p>WMRR supports the concept of activities being regulated by the most appropriate agency.</p> <p>Having a common application form that only needs to be submitted once for all regulatory authorities is something worth investigating. As part of the latter, each agency needs to respond to their interests / concerns and have one approval process (thus avoids conflicting approval controls).</p> <p>The example given in the consultation paper uses the Department of Health (DoH). However, many waste treatment sites are not supported by deep sewer connections and therefore need to install septic systems. After the premises are assessed under Part V division 3, a separate application needs to be submitted to the DoH. The</p>

	<p>DoH are extremely under resourced and proposals take an extraordinary amount of time to be processed. WMRR argues that DWER is well equipped to deal with this matter in the course of a Works Approval process.</p> <p>However, in WMRR’s view, at this time DWER and the EPA are not well enough resourced with the technical expertise to manage or regulate GHG emissions from processes that are already being managed by the federal government on projects over 100,000tpa of CO2.</p> <p>Consideration must be given and made clear as to under what circumstances and why a certain agency is deemed appropriate or not.</p>
<p>15. Please provide your feedback on Proposal 9.</p>	<p>WMRR made a submission on the End of Waste guidelines (2015) and the Waste not Want not consultation paper (December 2020). This issue is of critical importance to the WARR industry, especially as more WARR infrastructure is needed to process the increasing amount of waste and recovered materials. A framework as outlined in section 9 which also outlines the definitions of ‘waste’ and what is not waste will create certainty for the sector and make investment easier.</p> <p>WMRR would urge DWER to consult closely with WMRR to leverage off successes in other states of Australia, and establish this regime as a matter of priority, given its importance to successful resource recovery and product development.</p> <p>WMRR strongly supports DWER’s move to the circular economy. The suggested amendment changes the risk profile of reusing waste material as products and works towards changing perception of the community about said materials usefulness. However, manufacturers and producers of virgin products also need to bear the burden of dealing with legacy waste issues. The WARR industry cannot fix the problems generated in the beginning of the product lifecycle. Government needs to invest in designing out waste and creating regulatory frameworks like we are seeing in other Australian jurisdictions that place design obligations on those that make products.</p>

	<p>Whilst WMRR understands the scope of the amendments contained in this consultation, we urge DWER to focus on this proposal and set a timeline to have the legislation in place. With export bans coming into place, WA desperately needs more recovery infrastructure to be built in a timely manner, key to this will be regulatory certainty.</p>
<p>16. Are there any policy, process or guidance documents required to support the implementation of the EP Act amendments?</p>	<p>Clearly documented, revised and industry specific guidelines are required.</p>
<p>17. Do you support the proposed Part V Fee Model design principles?</p>	<p>Not supported by WMRR. The Landfill Levy is already a financial impost on our essential industry. However, we would state that the levy needs to be reviewed as a matter of priority given it is too low to place a price on material and divert from landfill, truly incentivising material recovery in WA.</p>
<p>18. Are there any additional or alternative design principles that should guide our Part V Fee Model?</p>	<p>The model should acknowledge the significant financial burden already imposed on operators in the WARR industry. It is disingenuous to instigate a polluter pays model (Fee Proposal 3) without recognizing the significant State & Local Government contributions already being realised including Waste Levy, GST, Payroll Tax, Land Tax, and Rates.</p>
<p>19. Please provide your feedback on Fee Proposal 1.</p>	<p>WMRR made a submission to DWER on cost recovery models in a letter dated 25 October 2021. At a time when WA needs to grow this essential infrastructure to achieve 80% diversion by 2030, additional financial imposts on the WARR sector such as these proposed cannot and should not be supported.</p>
<p>20. Please provide your feedback on Fee Proposal 2.</p>	<p>Not supported as highlighted in the paper. This option could result in higher fees without incentivizing reducing emissions.</p>
<p>21. Please provide your feedback on Fee Proposal 3.</p>	<p>WMRR does not support.</p>
<p>22. Please provide your feedback on Fee Proposal 4.</p>	<p>WMRR does not support this proposal due to the complexity of this model.</p>
<p>23. Have we identified the right approach to develop our new framework?</p>	<p>Yes, the changes outlined are ambitious in terms of the breadth and scope of the framework whilst representing an opportunity to make doing business in WA easier, more cost effective and less impactful on the environment. We would</p>

	however encourage prioritising a regulatory framework for resource recovery and levy review to ensure that the objectives of recovery, investment and job creation are in fact achieved.
24. Do you have any feedback on our new approach to regulation under Part V of the EP Act?	Focusing on major risks associated with prescribed activities is appropriate, lessons could be learned from the new Act in Victoria as to how to do this in an effective manner The Hierarchy of Regulatory Mechanisms is supported by industry, and we would encourage a genuine precautionary principle approach to delivering this.
25. Can we improve our engagement or refine it to achieve better outcomes?	WMRR would strongly recommend engagement with other state governments either directly at a department level or through peak industry bodies, in particular WMRR.