

Mr Stephen Palethorpe
Committee Secretary
Environment and Communications Legislative Committee
Senate Standing Committees on Environment and Communications
PO Box 6021
Parliament House
Canberra ACT 2600

via email: ec.sen@aph.gov.au

14 September 2020

Dear Mr Palethorpe,

Inquiry into the Recycling and Waste Reduction Bills 2020

The National Waste and Recycling Industry Council (NWRIC) welcomes the opportunity to provide a submission to the Environment and Communications Legislation Committee's inquiry into the Recycling and Waste Reduction Bills 2020.

The NWRIC is a not for profit industry association, funded by major waste and recycling businesses operating Australia wide. It brings together national waste and recycling business leaders and affiliated state waste and recycling associations to formulate policies that will advance waste and recycling services in Australia. Ensuring a safe, fair and sustainable waste and recycling industry.

Please see attached response from NWRIC to the following Bill's recently referred to the committee:

- Recycling and Waste Reduction Bill 2020;
- Recycling and Waste Reduction (Consequential and Transitional Provisions) Bill 2020;
- Recycling and Waste Reduction Charges (General) Bill 2020;
- Recycling and Waste Reduction Charges (Customs) Bill 2020; and
- Recycling and Waste Reduction Charges (Excise) Bill 2020.

The NWRIC would also welcome the opportunity to present to the Committee.

Yours sincerely,



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SENATE ENVIRONMENT & COMMUNICATIONS LEGISLATION COMMITTEE – INQUIRY RECYCLING AND WASTE REDUCTION BILLS

Introduction

The NWRIC considers the introduction of this Bill as a significant element of the reform process that can contribute to achieving a circular economy. Most importantly this step by the Australian Government acknowledges that waste and recycling services are an essential service. In addition, they constitute a vital resource industry that makes a substantial economic contribution to the nation. It is an industry that has great potential to strengthen Australia's resource security, generate clean energy, create jobs and protect the environment.

The raft of measures and initiatives currently in play are creating much needed momentum for positive systemic change. The Commonwealth's Recycling Modernisation Fund, the National Waste Policy Action Plan, the National Product Stewardship Investment Fund and CRC-P funding for R&D, are collectively shaping a more coherent approach to how waste management and resource recovery should be planned and managed in Australia.

The Bills

The NWRIC has reviewed the details of the Bill within the context of the feedback it provided to the draft exposure bill in July, especially in regard to definitions, objects, charges and the Minister's Priority Product List.

While some of the NWRICs feedback appears to have been understood, acknowledged and acted upon by the government there are still a number of areas within the Bill that are of concern.

These include:

1. Objects of the Act

The intent of product stewardship is that ultimate responsibility for the environmental and human health impacts of the product through-out its life cycle is taken by those organisations who create and put those products on to the market. Likewise, those who create and put products on to the market should encourage and educate product users on how they can best repair, reuse and dispose of products responsibly.

It is NOT the users' responsibility to set up repair, reuse, collection, recycling or disposal methods. An organisation or an individual that uses a product is not in a position to improve product design, durability, repairability, provide collection and recycling services or manage a product through its lifecycle.

This is the responsibility of those corporations who create and put products on to the market. Users (business or individual) should be encouraged and educated on how they can best repair, reuse and dispose of products responsibly.

"Using" and "users" is not in the current Product Stewardship Act which this Bill is proposed to replace.

Adding the term "using" and "users" into the Object of the Act has weakened the Bill in holding producers, importers, manufacturers and distributors accountable for the environment and human harm of the products they place on the market.

Therefore, the NWRIC request that the words "using" and "users" are deleted from the following sections of the Bill and associated rules where it is proposed be applied:

- *Section 3 - Objects of the Act - Clause (2) (c) – remove "using"*
- *Section 5 - Simplified Outline of the act - line 6 – remove 'users'*
- *Section 77 - Who is a liable party – remove Clause 2 (iv) – Used the product in Australia*

The NWRIC also considers the objects of the act can be further strengthened by making the following amendments:

SENATE ENVIRONMENT & COMMUNICATIONS LEGISLATION COMMITTEE – INQUIRY RECYCLING AND WASTE REDUCTION BILLS

- *Section 3, Objects of the Act – Clause (1) (c) - Remove “promote a circular economy” and replace with “develop a circular economy”*
- *Section 3, Objects of the Act – Clause (2) (b) – include the word “re-manufacture”*
- *Section 3, Objects of the Act – Clause 2(c) (ii) – Include the word “design”*

2. Definitions

Regulated waste material

The NWRIC is concerned with the potential confusion arising from the waste definitions use in the proposed Act, specifically “*regulated waste material*”. The term “*regulated waste*” is used in Queensland and the ACT legislation and has very specific meanings to how certain waste types and the facilities that handle that waste are regulated. This is generally quite different waste to what will be addressed through the RAWR Bill in prohibiting and licensing the export of waste.

To avoid confusion the NWRIC requests that the term be changed to “regulated export waste material”.

Import

This definition is currently in the Product Stewardship Act but not in the RAWR Bill. It is unclear why this definition has been removed. Perhaps it is a simple omission. *The NWRIC requests the definition for Import in the Product Stewardship Act be added to the RAWR Bill.*

Voluntary Arrangement

This definition is currently in the Product Stewardship Act but not in the RAWR Bill. It is unclear why this definition has been removed. Perhaps it is a simple omission. *The NWRIC requests the definition for Voluntary Arrangement in the Product Stewardship Act be added to the RAWR Bill.*

3. Use of the terms ‘waste material’ and ‘regulated waste material’

Sections 18 and 19, the way the term “*waste material*” is used in these two clauses seems inconsistent with its definition and that it would be more appropriate to use the term “*regulated waste material*”. *The NWRIC request that the government review these two clauses to ensure the terminology is consistent with the definitions.*

4. Publishing information about export licences

Currently in Section 65 of the Bill only approved licenses are to be published. To ensure transparency and consistency *the NWRIC recommends that the Bill be amended to require approved exemptions, license applications and exemption applications be published.* The Hazardous Waste Act that publishes both permit applications and approved permits.

5. Waste Material Export Charge

While the NWRIC accepts that “fees” need to be charged to cover the costs of the administration of the license and declaration process, it is concerned that the associated Bills provide for the ability to charge a tax, either as an excise or a duty on the export of regulated waste material in addition to fees. *As the NWRIC has yet to see the Cost Recovery Implementation Statement it strongly recommends that no cost recovery fees be put in place until 2025 to ensure the cost recovery is shared equitably across exporters. No taxes as excise or duty should be charged.*

To place a tax on the processing or export of regulated waste material will significantly impact the ability of Australia’s recyclers to compete in the international markets, restrict potential growth in local jobs and export revenue and slow progress in achieving the National Waste Policy Action Plan’s 80% resource recovery target.

SENATE ENVIRONMENT & COMMUNICATIONS LEGISLATION COMMITTEE – INQUIRY RECYCLING AND WASTE REDUCTION BILLS

6. Minister Priority List / Naming Persons (Sections 67 and 68)

The NWRIC welcomes that more detail will be provided in the annual Minister's priority list including recommended actions and timeframe for those actions to be completed. The purpose of the list and naming is to prevent free riders and encourage organisations to establish voluntary arrangements and have them accredited.

However, it does not appear that in its current form in the Bill (section 67 and 68) this will be very effective in reality as

- there is nothing that compels the Minister to act should the recommended actions not be completed (see Section 67, Clause 4).
- Nor is it clear if the Minister can actually recommend in the priority list “*apply for accreditation as a voluntary arrangement*” as an action. Section 67, Clause 1(a) simply says “*some form or regulation under this act*”.

As there does not appear to be anything in the RAWR Bill that enables the Minister to compel a person to establish a voluntary arrangement it is questionable how many new voluntary arrangements will be accredited in the next five years. ***The NWRIC therefore recommends that Section 67 be amended to specifically include “accreditation as a voluntary arrangement”.***

Similarly, in section 68, it appears the Minister is only allowed to comment on the performance of accredited voluntary arrangements i.e. “*naming persons who could be but aren't participating in an accredited voluntary arrangement*”. Currently, there is only one accredited voluntary arrangement – MobileMuster and free riders is not an issue.

It does not appear that the Minister is allowed to name persons who fail to undertake recommended actions listed in the Minister's Priority List. ***Section 68 should be amended specifically to give the Minister the ability to name persons who fail to undertake recommended actions listed in the Minister's Priority List.***

It is also questionable how effective the Minister's ability to naming persons will encourage organisations to seek accreditation of a voluntary arrangements, such as existing programs like Tyre Stewardship Australia and the mattress recycling program Soft Landing that do suffer from free rider issues.

To encourage accreditation of voluntary recycling programs, to prevent free riding the NWRIC and to bring more value to the product stewardship logo, ***the NWRIC strongly recommends that the Bill should be amended to also require the Minister to maintain a public list on the Department's website of all products that are eligible to have the product stewardship logo and to refer to this list in the Commonwealth's Sustainable Procurement Guidelines.*** Similar to how the guidelines refer to third party ecolabels such as the energy and water star ratings.

This will provide a further incentive for organisations to seek accreditation of voluntary arrangements, engage more businesses in being better product stewards, and raise government procurement and consumer awareness on which products have the governments product stewardship tick.

The NWRIC also recommends that

- ***ACCC approved recycling product stewardship programs such as DrumMuster, Tyre Stewardship Australia, Paint Back, and the proposed Battery Stewardship Scheme should be automatically accredited as voluntary arrangements*** as they have gone through significant industry / stakeholder engagement, business case development, financial planning, risk management and are established legal entities. With accreditation they would be required to meet the current annual reporting requirements. This will ensure the performance of these programs are more publicly scrutinised, promoted, that free riders are reduced, and that the products covered by these arrangements are listed on the department website giving them the product stewardship tick.
- ***a rule for Container Deposit Schemes (CDS) be created*** under the Bill that enables harmonisation of governance and reporting nationally of existing and future state CDSs.

SENATE ENVIRONMENT & COMMUNICATIONS LEGISLATION COMMITTEE – INQUIRY RECYCLING AND WASTE REDUCTION BILLS

- *a rule for used packaging be created* under the Bill that includes the 2025 packaging targets outlined by APCO, allows for the establishment of multiple co-regulatory arrangements, requires annual reporting against targets and penalties for failing to meet targets, similar to how the NTCRS is structured.

Closing Statement

The NWRIC advocates for stronger national leadership and coordination across several key areas of activity, including market development, infrastructure planning, product stewardship, harmonisation of state waste and recycling regulations, plus increased investment of landfill levies back into the waste and recycling infrastructure, education and compliance.

The actions of the current Commonwealth Government, in particular Assistant Minister Evans, Minister Ley and the Prime Minister, have gone a long way to demonstrating national leadership and state coordination.

Nonetheless, there are still some key aspects of the reform process that demand detailed attention and completion including; creating markets for recovered materials through government procurement and requiring companies to increase recycled content in products and packaging, including imported goods.

Greater coordination of waste and recycling infrastructure planning across all levels of government and investment of the \$1.5 billion state landfill levies collected annually, is also an outstanding area of work needing further development. Cleaning up what is collected by harmonising collection bin contents, urgently establishing a regulated battery recycling program and removing hazardous substances like PFAS from products, are obvious imperatives at this time. Focused action is also required to harmonise waste and recycling data, definitions, movement tracking, landfill levies and licensing.

The Recycling and Waste Reduction Bill 2020 is a key element to building a circular economy. Therefore, it is critical the Bill is progressive and strong. Its success and sustainability will require commitment to timely and efficient implementation. The NWRIC looks forward to working closely with the Australian Government to deliver practical action over the coming months and years.



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