



Options paper:
Waste and recycling legislation and governance

Submission

October 2020

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1. Introduction

The Municipal Association of Victoria (MAV) welcomes the opportunity to provide a submission in response to the Department of Environment, Land, Water and Planning's 'Waste and recycling legislation and governance' options paper.

The MAV is the peak representative and advocacy body for Victoria's 79 councils. The MAV was formed in 1879, with the Municipal Association Act 1907 appointing the MAV the official voice of local government in Victoria.

Today, the MAV is a driving and influential force behind a strong and strategically positioned local government sector. Our role is to represent and advocate the interests of local government; raise the sector's profile and ensure its long-term security; facilitate effective networks; support councillors; and provide policy and strategic advice, capacity building programs and insurance services to local government.

In recent years, the MAV has taken an increasingly active policy advocacy role in waste and resource recovery. China's decision to severely restrict importation of recyclable materials sent shockwaves through Victoria's and several other jurisdictions' recycling sector, ultimately impacting kerbside recycling services.

The MAV has made [numerous recycling-related submissions](#) over the last 18 months including to Infrastructure Victoria's Recycling and Resource Recovery Infrastructure Report; the Victorian Government's circular economy issues paper; and the Victorian Parliamentary Inquiry into Recycling and Waste Management.

The challenges the Victorian recycling system has faced over the last couple of years are driven by a lack of meaningful action to drive upstream change (to avoid and minimise production of waste) and an underdeveloped domestic market for recycled materials. A lack of local demand for recycled content led to a reliance on overseas markets and inadequate investment in domestic infrastructure. This infrastructure gap has continued despite large surpluses being collected by the Victorian Government through the Municipal and Industrial Landfill Levy.

Council contracts for kerbside recycling are neither the cause of nor the solution to Victoria's recycling challenges. The MAV and Victorian councils are disappointed and frustrated that this fundamental misunderstanding seems to continue to drive much of Victorian Government policy, including many of the proposals in this options paper.

The timing and timeframe for the public consultation on the options paper is highly problematic. With only four weeks provided (plus a one-week extension, in response to requests) and half of that period overlapping with the council election caretaker period, we anticipate few, if any, councils will be able to lodge a council-endorsed submission. COVID-19 pandemic-related demands, school holidays, and the 30 September deadline for councils to submit draft kerbside collection transition plans to DELWP all overlapped the consultation period, further impacting council officers' capacity to respond.

The MAV received the benefit of the significant operational expertise of many council officers in preparing our submission. We are grateful to the councils and officers who were able to contribute to this submission.

The options paper canvases several reforms that we support on the basis that they should bring significant benefits. These include standardised bin lid colours, more transparent and timely data, and a common approach to the materials accepted in each bin across councils. Significant consultation with councils and industry will be needed to ensure implementation of these proposals does not result in unintended consequences.

1.1. Key issues

In addition to the recommendations found in each section of this submission, we note the following issues of particular significance

- The proposed level of intervention into council procurement unacceptably infringes on local decision making, and will lead to poor outcomes for councils, communities, and industry
- The options paper fails to provide councils with confidence that those element of the WRRGs that are highly valued by local government will be addressed by new authority. Of priority concern is local government input into decision making and the potential for issues of great local and regional importance to be discounted by a central authority
- The Waste Authority should focus less on heavy-handed regulation and more on a facilitative and supportive role like that currently taken by WRRGs
- Prescriptive standards risk being unable to adapt to changes in conditions, and unable to adequately respond to the different circumstances each council faces
- The major sources of problems with Victoria's waste management are the types and volumes of materials being consumed and the lack of markets for recycled materials, the options paper instead focuses largely on council management of kerbside streams
- The large surpluses collected through the landfill levy should be utilised to further develop infrastructure, encourage end-markets for recycled content, and limit the impact to ratepayers for implementation of proposed reforms to council services
- Many of the proposed reforms will turn on the detail of implementation. The Victorian Government must partner with councils and industry in developing these proposals further to avoid unintended consequences

The options paper fails to provide the rationale and cost/benefit analysis for several significant reforms. Councils are keen to see the evidence base to better understand why certain changes are being proposed.

1.2. Table of proposals

The below table summarises our response to specific proposals found in the options paper and where in the options paper they are found.

	Pg	Proposal	Comment
Procurement			
✓	10	Support councils to undertake best practice procurement, consistent with the state's recycling objectives, including legal and commercial expertise	See section 4
◆	10	Develop standard form council contracts to ensure minimum service standards and consider state-wide objectives (WA)	Standard form contracts should be available for councils to use but not mandatory. Well-developed contracts that reflect council needs as well as state objectives would significantly reduce burden on councils and have high up-take. See section 2
◆	10, 15	Facilitate collaborative procurement, including the waste authority overseeing council contracts (WA)	This must be a service available to councils, rather than a mandatory requirement. See section 4
◆	10, 16	Stabilise tender process by binding councils once commenced	Subject to demonstrating the scale of this as a problem, and that any changes are proportionate. See section 2
✓	10, 15	Articulate strategic objectives and specify procurement criteria (WA)	State-wide principles should be considered by council procurement, mirroring the approach in the <i>Local Government Act 2020</i> . See section 2
✗	10, 16	Power for the Waste Authority to review and approve council procurement and contractual documents (e.g. procurement plans, requests for tender, tenders, and contracts)	This would override local decision-making, reduce certainty for council and industry, add delays, and reduce accountability. See section 2
✗	10, 16	Power to mandate certain provisions in local council contracts, with approval from the waste authority required to vary them (WA)	Like standard form-contracts, model clauses would be welcomed by many councils but should not be mandatory. See section 2
◆	15	Linking procurement to planning approvals and land releases	While we do not oppose this, we have several concerns. It is important not to attempt to interfere with the objectives of the planning system. Allocating both the costs and benefits of infrastructure location may prove challenging in collaborative procurement. It is also not clear to what degree availability of land is a limiting factor.
◆	15	Strategically grouping councils into procurements	Should be voluntary and based on needs of individual procurements. Should not necessarily be restricted by geography (although that will often be a major factor). Potential to group regional and metropolitan councils into a procurement may have benefits.

Service standards and obligations			
✓	10	Implement kerbside recycling reforms, with all households state-wide to have access to four core services (WA)	How to implement four core services in each municipality should be left to councils and their communities. See section 3
✗	10, 13	Set minimum standards for household waste and recycling services	Standards should be for each council and community to determine based on their needs. Standards of what material is accepted in each bin is reasonable but needs to reflect viability of that standard across Victoria. See section 3
✗	13	Require services to be consistent with the standard, but allow for an approved exemption process to test potential improvements	As above.
◆	13	Require that council communications to households distinguish between core services in the standard and additional services to aid state-wide waste education	Requires additional consideration but has the potential to add to confusion rather than reduce it. See section 3
✓	10, 13	Businesses will be required to separate waste for recycling from 2025 (WA)	
✓	10	Separate pricing of waste services from council rates for households	Implementation of this requires further consultation with councils and MAV. See section 3
✓	10, 14	Make clear in legislation that councils are responsible for providing waste and recycling services	Implementation of this requires further consultation with councils and MAV. See section 3
✗	14	Require councils to provide waste and recycling services to small businesses as well as households	This could result in councils being required to provide a service that is not financially viable. See section 3
Data and information			
✓	10	Publish regular reports so that government, industry, and the community have access to quality information about the state of the sector (WA)	
◆	10	Require councils to regularly report to ratepayers and the Victorian Government on outcomes (WA)	Needs to limit additional burden and recognise that council data is heavily reliant on the quality of data provided to them by industry. Any burden must add proportional value to the system. See section 7
✓	10, 16	Performance auditing of recycling providers, including compulsive powers where necessary. Regular reporting	It is important that these requirements do not make businesses unviable, particularly smaller and/or rural operators. See section 7

		mandated for larger providers and reporting on request for smaller providers (WA)	
✓	16	Publish a contract register, if the waste authority deems it is required to increase transparency and competition (e.g. through providing clear signals to recycling sector participants about commodity prices, quality, and availability)	See section 6
✓	16	It will be important for any additional data collection to align as much as possible with existing requirements to avoid duplication.	
✓	17	Data on waste infrastructure, landfill capacity and mass balance reporting is able to be shared across government agencies and, in aggregated, de-identified form, with the public and industry	
✓	17	There will be a legislative obligation on the waste authority to regularly publish summary reports so that government, industry, and the community have access to quality information about the state of the sector.	See section 7
Governance			
✓	10, 18	The Victorian Government has power to establish regulatory “schemes” in certain scenarios where intervention is needed to protect market failure e.g. government manages and auctions municipal waste streams, or a product stewardship scheme, or recycling credit trading scheme to ensure recycling targets are met (WA)	Care needs to be taken to ensure this does not create uncertainty and discourage investment. See section 6
◆	18	Ability for schemes to be established which allow the waste authority to manage particular waste streams (e.g. mixed plastics) by bundling them and auctioning them in	As above

		tranches – thereby ensuring service providers meet clear state-wide standards and providing a more level playing field to open the market to new participants	
✓	18	Introducing a broad product stewardship head of power into the Act	Expansion of product stewardship is key. While we recognise a preference to implement product stewardship at a national level, where the Federal Government lags behind Victoria should take a leading role. See section 6
◆	22	Combining regulatory, procurement, and sector planning functions into a single waste authority	Concern over conflict of interest and responsiveness to LG needs particularly in managing procurement. See section 4
◆	22	Legislated requirement to convene advisory committees, including local government committee or committees and a regional advisory committee	We are concerned this would be a significant downgrade on the input local government currently has through the WRRGs. See section 4
◆	22	Legislated requirement to adopt a community engagement policy	As above.
Infrastructure planning, sector development, and other			
✓	10, 19	Consolidation of existing infrastructure and regional implementation plans into a single Victorian Recycling Infrastructure Plan	Need to ensure that regional needs and priorities are adequately considered
✓	10	Incentivise innovation through smart use of grants and subsidies (SV)	To date, levels of reinvestment of the landfill levy have been inadequate. It is important to also not focus solely on innovation. Significant further investment is needed to ensure a viable baseline operating standard can be achieved across Victoria.
✓	10	Deliver state-wide education and behaviour change campaigns to households (SV)	Needs to be complemented by investment into regional education facilitated through the waste authority or other body. See section 4

2. Intervention in council procurement

Decisions on procurement for council services must be made by council and cannot be subject to the veto of a state agency. Councils are best placed to make decisions in line with their communities' interests and are required to do so. We believe that many of the proposals for intervening in council procurement risk negative impacts for councils, communities, and industry.

We recommend that:

- **Councils be required to consider state-wide principles in waste and resource recovery procurement**
- **The Waste Authority partner with councils to develop model clauses and contracts for voluntary use**
- **Councils retain decision making for council resources and services, and not be subject to the veto of a state agency**
- **DELWP provide further evidence of the impacts of late withdrawals from collaborative procurement, and work with councils to develop the appropriate resolution if a problem exists**

The strength of council contracts was not a factor in either recyclable material going to landfill or increased costs to continue processing at a materials recovery facility. Due to the lack of a healthy marketplace of recycling operators in Victoria, councils that attempted to enforce the terms of their contract would likely have found themselves sending recyclable material to landfill while in court and potentially beyond.

While DELWP representatives have stated on several occasions that they accept council contracts were not at fault, we believe this assumption has driven and continues to drive many policy initiatives including this one. The options paper states that "to be effective, the waste authority will need powers to mediate, enforce and reject council contracts with service providers". This demonstrates a fundamental misunderstanding that is not only alive and well, but central to state government policy.

We strongly oppose the Waste Authority, or any agency, having veto power over council procurement decisions. These are council services delivered with ratepayer money. The decision on how to procure them must be one for council. Requiring a third party to sign-off on these decisions undermines local decision making, introduces bureaucratic delays and reduces certainty for both council and the tendering businesses. This proposal would effectively see the Waste Authority as an equal decision-making partner while bearing none of the cost or responsibility for those decisions. This would also hinder accountability, as both State and local government may blame the other's involvement for any potential shortcomings of the process.

It is reasonable that councils should have regard to state-wide principles when making procurement decisions. This is in line with recent changes to the Local Government Act which outline principles but remove more prescriptive requirements.

We support the development of standard form contracts and clauses which councils can choose to use. If these were developed by the Waste Authority in partnership with councils, and were responsive to councils' needs, they would likely have high uptake as councils would no longer need

to spend the time and resources developing contracts individually. It is neither necessary nor appropriate for the Waste Authority to develop mandatory clauses and contracts.

Collaborative procurement can be a useful tool, particularly where larger volumes are required to attract investment. It is not appropriate in all cases, and in some cases can lead to further consolidation of the market and shutting out smaller operators. We believe councils are best placed to decide when and where collaborative procurement is beneficial. Many councils greatly value the role WRRGs have played in facilitating collaborative procurement, but we reject the idea that councils should be required to enter any collaborative process.

In principle we support protecting collaborative procurement processes by preventing competitors from underbidding and undermining the procurement at a late stage. We are keen to explore with DELWP in more detail the causes and impacts of late withdrawals. In doing so we must distinguish between competing providers underbidding a collaborative tender at a late stage, and the initial terms of a collaborative tender changing and becoming unviable for one or more councils.

Collaborative procurement processes already have defined exit points. If changes are required, it is unclear whether they could be achieved by changes in practice in designing these exit points. If that is not sufficient, it is also unclear how a legislated provision would bind parties to proceed with a transaction rather than applying penalties for withdrawal, which can already be achieved via contract.

We also wish to draw attention to the difference between collection and processing. Arrangements for processing are where problems have arisen. Collection is less infrastructure intensive and often carried out by smaller local businesses. Councils expressed concern that a heavy-handed approach to procurement requirements would leave these local businesses unable to compete with larger companies for collection contracts.

3. Prescribed service standards

Prescribed standards can assist progressing state-wide objectives. However, some waste and resource recovery decisions are best made at a local level. It is important that prescription does not restrict the ability of councils to innovate and to make decisions in the best interests of their community. A principles-based approach can advance state-wide objectives while retaining local decision making. We believe that several proposals in the paper are either too prescriptive, or risk being made too prescriptive as they are fleshed out.

While not a silver bullet, standardisation of bin-lid colours, what materials go in each bin, and the offering of a four-stream service across Victoria carries significant benefits. The design of service delivery must be left to councils and their communities to be responsive to local conditions. Standards for materials must be led by investment to make sure those materials can be collected and recycled in an environmentally and financially sustainable way across Victoria.

We recommend that:

- **DELWP engage with the MAV and councils on the drafting of any legislative requirement on councils to provide a service to ensure it does not prevent councils acting in the interests of their communities**

- **DELWP avoid further burden on ratepayers by committing to providing funding support for infrastructure costs of bin lid colour standardisation and introduction of four-stream services**
- **Councils and communities be left to determine the manner of delivery of four-stream services within their municipalities and not be subject to prescribed service standards**
- **DELWP approach prescription of materials accepted in each bin based on market and infrastructure realities across Victoria and where necessary provide investment ahead of prescribing standards**
- **Each council be required to have a waste charge separate from their general rate, with details of implementation to be further discussed with the MAV and councils**

There is an important distinction between requiring councils to provide a service for the collection of waste and recyclable material and requiring the provision of a waste and recycling service. The latter may implicitly or explicitly require councils to ensure that the collected material is recycled. While a priority for all councils, this is often outside of council's control. It would also limit the ability of councils to act in the interests of their community where no service is available on reasonable terms. The knowledge that council must procure a specific service may also give leverage to operators in negotiations and result in worse outcomes for ratepayers. The exact drafting of any such obligation in legislation is extremely important.

There are significant infrastructure costs to implementing four-stream services and bin-lid standardisation. Ratepayers have already experienced significant cost increases for waste and resource recovery over the last few years. It is appropriate that money from the landfill levy be reinvested to support councils with implementation costs of the new system.

There should not be a requirement on councils to provide services to small businesses. Residential kerbside streams are relatively similar when agglomerated across a municipality. This allows for key assumptions to be made that assist service delivery. Business streams by contrast vary significantly based on the types of business and there is no guarantee that volumes would make the service cost-effective. There is a risk that council is left with an obligation to provide a service that is not viable.

We agree that a standardised approach to what materials go in each bin would be beneficial. This needs to be informed by market realities. Capacity to process different materials varies at MRFs across Victoria. The viability of processing materials also depends on market demand, volumes, and distance to beneficial uses. This is a significant challenge for rural councils especially. The government must pre-empt standards with investment in both infrastructure and market development to ensure material collected has a legitimate circular economy use and the collection does not unfairly burden rural and regional ratepayers.

Councils in Victoria's north-east raised additional concerns that overly prescriptive standards would be detrimental to cross-border collaboration. Currently, Victorian and New South Wales councils procure several services collaboratively. It is vital that Victoria does not introduce standards that jeopardise this.

While a requirement to provide collection of four streams (waste, food and garden organics, glass, and co-mingled recyclables) is supported, the manner of delivery should be left to councils and communities to determine. There should not be mandatory standards regarding distances to collection points or frequency of collection. Councils know their communities and are accountable to

them. State imposed service standards risk forcing communities to adopt services that they do not want and cannot afford.

We oppose requirements on council communications to identify which services are not part of a state-wide suite of standard services. The intent is to improve clarity and understanding for ratepayers. We believe this would have the opposite effect. For many people, distinctions between levels of government are murky at the best of times.

We support a requirement for all councils to have a stand-alone waste charge. DELWP must consult with the MAV and councils to ensure any provisions regarding this are practicable. Transition times must align with council budgeting and planning processes. Waste charges must also be able to account for future volatility in prices and give councils the flexibility to manage costs over a multi-year period.

4. Centralised authority vs WRRG model

The options paper assumes the dissolution of WRRGs into a central authority is the appropriate way forward. We are not opposed in principle to centralisation and have previously advocated for governance reform in the Victorian Government's waste portfolio. However, many of our members expressed serious concerns at this proposal.

While some councils support moving WRRG functions into the Waste Authority, more councils expressed concern. Where there was consensus was on the elements of the WRRG model that currently work. The options paper does not adequately make the case for why absorbing WRRGs into a centralised authority is either necessary or preferable. It also does not give councils confidence that the elements of WRRGs they value can and will be retained in a centralised model. Accordingly, several councils strongly prefer improving WRRGs rather than replacing them.

We believe that more focus needs to be placed on the supportive and facilitative functions currently provided by WRRGs, rather than the proposed regulation of council procurement and operation.

We recommend that:

- **DELWP further demonstrate to councils why moving WRRG functions into a central authority is the preferred option**
- **DELWP work with councils to better understand the benefits of the current WRRG model**
- **DELWP commit to retaining the benefits of the current WRRG model in any new model going forward**
- **DELWP explore more officer-focused input to reflect the operational nature of day-to-day interaction between local and state government in waste and resource recovery**
- **More focus be placed on facilitating and supporting council activities such as procurement, contract management, education, and operation of infrastructure**
- **Further thought be given to whether the Waste Authority is the appropriate body to undertake these support functions given their regulatory role**

Elements of the WRRG model councils value include:

- Facilitation of close relationships between councils

- Assistance in strategic work, particularly in councils with smaller waste teams fully occupied with day-to-day operational matters
- Local Government representation in a decision-making capacity ensuring that the activities of the WRRGs respond to council priorities while still promoting state objectives
- Expertise, advice, and facilitation in procurement, contract management, and operation of waste and resource recovery infrastructure
- Development and implementation of regional waste and resource recovery education programs
- Regional bodies meaning that regional issues are central to decision-making

Councils are concerned about how a central agency can be responsive to local and regional issues, how meaningful councils' input will be to a central agency, and the potential for functions currently undertaken by WRRGs to be lost.

Some councils, particularly regional councils, indicated a strong preference for improving the WRRG model. They believe that a centralised agency will lose sight of communities outside Melbourne. The challenges (and opportunities) faced by councils vary greatly across the state.

Councils in Victoria's north-east currently undertake joint procurement for some services with councils in New South Wales. They are extremely concerned that either changes to the WRRG model, or restrictions placed on Victorian council procurement, could make this unviable for either councils or the service providers. These same councils also collaborate through their WRRG with Victoria's three Alpine Resort Management Boards, unique to the region.

Many rural councils must contend with low volumes and large transport distances, both for collections and to the relevant processing or disposal facilities. The end destination for much of rural Victoria's recyclable materials is still Melbourne. This often requires infrastructure for accumulation to make transport costs viable. Ultimately, these councils need regional infrastructure to improve environmental outcomes, provide better value for money for ratepayers, and drive regional employment.

Multi-unit developments (MUDs) are generally serviced by private contractors. Councils have no desire to take over this service. Councils with large numbers of MUDs in their municipality must consider how waste and resource recovery education can be effective where council is not the service operator, as well as the logistics of a patchwork of collectors operating through the municipality in addition to council services. Dense urban settings also provide challenges for the operation of council collections and street-space for bins. It is also important that the services provided by private contractors are consistent with council services.

Peri-urban councils and many regional cities must effectively manage both urban or suburban as well as rural settings. Volumes and content of collection streams may vary greatly within the municipality. For example, garden waste may be minimal in urban settings due to smaller or absent private gardens, prevalent in suburban areas, but again reduced in rural settings due to an increased practice of on-site composting.

WRRGs currently assist councils in delivering regionally focused waste education. This will still be necessary to complement state-wide education campaigns. WRRGs also play an important role in assisting councils managing waste and resource recovery operations and infrastructure. This is

particularly true in rural and regional Victoria, where many councils operate transfer stations and landfills.

Councils currently have significant input to the decision-making functions of WRRGs. This is through representation on the Board, as well as local government forums and technical advisory groups. We believe there is room to streamline this process, but that it is important. It ensures the work program of the body supporting councils aligns to council needs. These reforms also represent an opportunity to embed more officer-focused processes to emphasise operational expertise in decision-making.

Several councils expressed concerns at the capacity of one authority to both regulate councils and industry, and to provide necessary support to councils. Access to sensitive information as a regulator could clash with involvement in procurement. There is more work needed to determine whether and how these roles can be performed by one body.

Councils are sceptical of how a single waste authority can replicate the focus on regional issues currently provided by WRRGs. This concern is amplified by the proposed focus of the authority apparently being to regulate councils rather than support them. That the authority would employ some number of staff in regional areas is welcome but does not allay these concerns.

We believe that councils are willing to have the discussion with DELWP on the merits of a central authority. The response we received from councils indicates that this has not yet occurred.

5. Further consultation

Despite our reservations about the consultation process, we are pleased that DELWP has decided to release an options paper. It hopefully represents a first step in consultation, allowing stakeholder feedback to truly inform the direction of reforms.

We believe there is significantly more consultation needed following the options paper. This includes both on higher level topics such as the governance structure of a Waste Authority, as well as on final drafting of provisions.

We recommend that:

- **DELWP commit to a more detailed discussion paper based on response to the options paper**
- **DELWP commit to further consultation with councils on the governance of the Waste Authority and ongoing meaningful local government input**
- **DELWP commit to the release of an exposure draft of any legislation for consultation prior to introduction in Parliament**

While the ability to contribute at an early stage is welcome and important, councils and other stakeholders will find it easier to respond to a set of more concrete proposals in a future discussion paper.

As discussed in section 4, the governance of the waste authority, and in particular the ability for local government to have meaningful input to decision making is paramount.

The implementation of many of these proposals will hinge on detail. While introduction of regulations requires public consultation through a regulatory impact statement, no similar requirement exists for legislation. It is imperative that an exposure draft be circulated to councils for

feedback before being introduced to Parliament. It is far easier to identify and address problems at this stage than once it has been introduced.

6. Intervention in industry and the market

The options paper notes that reported recovery rates for municipal collection streams are below that of Victoria at large, and this is a large part of the justification for a focus on kerbside systems. Several reviews have noted the shortcomings of data on the outcomes of Victoria's recycling system. We are sceptical of the degree to which recovery rates, particularly for commercial and industrial streams, can be trusted.

Despite councils having a highly visible role in waste and recycling by virtue of providing kerbside collections and operating transfer stations and landfills, local government has very limited powers to affect the change needed to genuinely reform our waste and recycling system. Councils do not control the material coming into the stream, nor what happens once it is collected and sent for processing. Upstream changes and market pull-through for recycled material is where change is most urgently needed.

We recommend that:

- **DELWP further consider the role of the Waste Act and Waste Authority in commercial and industrial waste and resource recovery streams**
- **DELWP consider a more proactive role for the Waste Act and Waste Authority in waste avoidance and minimisation, including product stewardship and prohibiting the use of problematic materials**
- **DELWP consider a more proactive role for the Waste Act and Waste Authority in building demand for reused, remanufactured, and recycled products**
- **DELWP consider the role of the Waste Act and Waste Authority in monitoring, regulating, and reviewing the cap on thermal waste to energy proposed in *Recycling Victoria***

To achieve circular economy outcomes, Victoria must address both the quantity and types of materials being used and disposed of. Some materials are prohibitively hard to recycle in a kerbside system.

For some materials, dedicated product stewardship schemes may make recycling viable as well as attaching a price signal to whole of lifecycle impacts. In other cases, there may be little scope for meaningful circular economy outcomes. While product stewardship at a federal level is preferable, we are frustrated by the lack of meaningful progress. It is incumbent upon the Victorian Government not just to address these shortcomings but to act as a leader. Introducing state-based product stewardship schemes and prohibitions on hard-to-recycle items should be a core focus of the waste authority.

Ultimately, resource recovery can only be environmentally and financially viable if there are markets for recycled content. Significant gains could be made driving demand for recycled content. State and local government can partner in this through encouraging the use of recycled content in public procurement. Ultimately this may take the form of targets as a requirement for procurement. This needs to be balanced carefully with investment and direct support into industry to ensure that those targets can be reasonably met.

The waste authority should have responsibility for monitoring and enforcing the cap on residual waste used for thermal energy. We believe it is also worth considering whether the waste authority should be responsible for setting and updating the cap.

While we appreciate the intent behind a power to take control of specific waste streams, we have concerns. Using recent problems as an example, it is unclear how these powers would have been beneficial. No alternative markets and infrastructure were available. There is also the risk that this power, as well as the proposed power to publish a contract register, would impair investment due to a perceived risk to their future operations.

7. Data gathering and reporting

The lack of timely and trustworthy data on Victoria's waste and resource recovery system has frequently been cited as a problem. This harms accountability, public trust, evidence for policy decisions, and the ability for parties to make informed investment and procurement decisions.

We welcome the proposals in the options paper seeking to address this. It is important that data collection identify what is necessary for the proper functioning of the system and limit unnecessary burden on industries and council.

We recommend that:

- **The Waste Authority be a source of timely and trusted data on Victoria's waste and resource recovery system**
- **DELWP consider existing reporting frameworks applicable to councils and industry, and aim for as little increase in net burden as possible while meeting objectives**

There is currently a trust gap with data reporting. Councils already feed significant data into State agencies for little perceived benefit. At the time of writing the most recent annual kerbside data available from Sustainability Victoria is for 2017-18. Delays of over 12 months mean the data is of little use to councils or industry. It is important for both councils and industry that DELWP demonstrate that data collection will serve tangible benefits.

Much of the data available to councils, and subsequently reported to State agencies, is based on reporting from waste and resource recovery operators. Councils have limited ability to verify this data. We believe that where possible, this data should come directly from operators rather than councils. The waste authority should have the necessary powers to audit and verify this data where required.

Several rural and regional councils expressed concerns that additional burdens on industry would affect the viability of both smaller and newer resource recovery operations. It is important that the expectations on smaller operators are clearly set out, and a policy for the use of its information gathering powers.