

**Consultation Regulation Impact Statement**

**Phasing out certain waste exports**

**Submission**

**January 2020**

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The Municipal Association of Victoria (MAV) welcomes the opportunity to provide a submission to the *Consultation Regulation Impact Statement – Phasing out certain waste exports*.

The MAV is the peak representative and advocacy body for Victoria's 79 councils. The MAV was formed in 1879 and the *Municipal Association Act* *1907* appointed 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; ensure its long-term security; facilitate effective networks; support councillors; and provide policy and strategic advice, capacity building and insurance services to local government.

The MAV strongly supports the development of a domestic circular economy. Australia must take responsibility for the waste and resource recovery impacts of our production and consumption. With Commonwealth leadership, we can ensure that designers, manufacturers and consumers of products are accountable for the waste they generate. Doing so requires investment and strong policy, but offers significant opportunities including:

* Emphasising the need for waste avoidance and minimisation as a first response
* Better understanding of whole-of-lifecycle costs and impacts from design to reuse, recovery, or disposal
* Developing locally available alternatives to virgin materials through reuse or recovery
* The opportunity to create and grow new industries in Australia with resulting economic benefits
* Improved oversight of the environmental outcomes of waste and resource recovery
* Reducing the environmental risks and emissions associated with long distance waste transport
* Ensuring appropriate safety standards for workers involved in waste and resource recovery

A waste export ban is not an effective primary method to achieve this. It is another example of state and federal governments focusing their attention too much on recovery and disposal. These stages are where interventions are most expensive and least effective as they carry no levers to influence producer or consumer behaviour. Similar to the waste hierarchy, interventions that target product design and consumption choices must be prioritised. Mandatory product stewardship is critical to ensuring up-stream change. An export ban may be useful as a fall-back for things which slip through the cracks of more proactive interventions. It can’t be the central pillar of national waste policy.

China and other countries are increasingly restricting importation of certain materials. Even without Australian government intervention, the future of Australian waste and resource recovery exports is in great doubt. Alternative domestic pathways for reuse and recovery of those materials are needed to avoid material being stockpiled, landfilled, or disposed of illegally. Industry-informed planning and significant public and private investment is needed to avoid a chaotic and costly transition and poor environmental outcomes.

Introduction of mandatory product stewardship schemes for all waste-generating products is a key opportunity to drive investment in a strong and sustainable domestic resource recovery sector. These schemes could easily require the recovery of materials within Australia.

Product stewardship promotes consideration of waste impacts in product design. It does this by requiring manufacturers and importers to take responsibility for end of life treatment of their products. This ensures the real costs of reuse, recovery, or disposal are integrated into the cost of production. Currently, the whole community subsidises costly treatment of wasteful products, regardless of who made or used them. Product stewardship means manufacturers that avoid waste through good design no longer have to compete on an uneven playing field with those that leave it to the community to clean up after them.

We are disappointed by the lack of action under the existing *Product Stewardship Act 2011*. In its nine years of operation, no mandatory schemes and only one co-regulatory scheme have been approved. The Department of the Environment and Energy commenced a review of the Act in early 2018 that is yet to be finalised. The Australian Government’s lack of leadership and action is disappointing and frustrating.

Any waste export ban will need to be accompanied by significant regulatory reform and financial investment. The timelines will need to allow the necessary infrastructure to be put in place. We need to build sufficient domestic processing capacity to deal with the material recovered from the various waste streams, including municipal. It is also essential that there are strong markets for recycled content. This requires government investment, technical standards that facilitate the use of recycled content, prioritisation in public sector procurement, and addressing community and industry behaviours that lead to unnecessary waste.

1. Do you agree with the problems that have been identified?

Yes, Australia has been overly reliant on other countries for waste and resource recovery. This has led to an under-developed local resource recovery sector, lost economic opportunities, anaemic markets for recycled material, and poor environmental outcomes. China, Indonesia, Malaysia and other countries are choosing to restrict or cease importation of low-quality materials. Combined with recent amendments to international instruments such as the Basel Convention this presents a significant challenge. Australia must move fast to strengthen the capacity and capability of our domestic resource recovery sector.

1. What effect do you think the problems could have on the waste and recycling sector, consumers and environmental regulators?

Changes in global market conditions for recyclable materials have already had significant financial impacts on local government and ratepayers. Following the implementation of China National Sword, most Victorian councils received demands for price variations from their MRF operators. Price increases were generally in the order of $130/tonne for kerbside recyclable materials.

In 2019, SKM had numerous challenges eventually leading to its collapse. Several Victorian councils endured prolonged periods where they had no option but to send recyclable material to landfill. This damaged community confidence in Victoria’s resource recovery system and had adverse environmental outcomes. Financial impacts for councils were also significant.

Waste and recyclable materials have been increasingly stockpiled, both legally and illegally. This has had implications for local government and state agencies as regulators and for neighbouring community members and business operators. These stockpiles often pose significant risks to public health and safety. Responding to these risks has significantly strained the resources of a number of councils as well as EPA Victoria and WorkSafe Victoria. Too often taxpayers are bearing the cost of clean-up of these sites.

1. Do you have any information, analysis or data that supports characterising the impact of the problems identified?

See Question 2

1. Are there any other problems that you think should be considered as part of the RIS? If so, please set out what they are, what effect you think these problems could have and how the problems should be addressed.

The RIS fails to explore or discuss the capacity and capability of the Australian waste and resource recovery sector to deal with the material that was previously exported. There is brief mention of some jurisdictions such as Western Australia not having local manufacturing capacity to deal with key packaging materials. No further analysis is provided about the what and where of existing capacity versus what will be needed once any export bans come into effect. This is highly concerning given that this gap analysis is critical to determine what scale of investment is needed and what timelines are appropriate for introduction of the bans.

1. Do you agree with the policy objective as outlined?

It is concerning that waste avoidance and minimisation is not mentioned as a policy objective. We urgently need greater focus on upstream change to reduce the amount of waste generated in the first place. Prevention must be a primary focus. Likewise, building strong demand for recycled material should also be a primary objective. These must be progressed through integrated, whole of government, long-term solutions.

1. Are there any other objectives that you think the Commonwealth, state and territory governments should be pursuing in addressing the problems? If so, please set out what they are.

See Question 5.

1. What is your role in the waste stream (producer of waste, collection, recycler, exporter)?

The MAV represents Victoria’s 79 councils. Councils have a significant role in municipal and public place waste and resource recovery. Councils organise collections, operate waste facilities (most commonly transfer stations and landfills) and develop and deliver community waste education. Councils represent a significant potential market for recycled materials. Victorian councils also have a regulatory role through planning and building legislation.

1. How have waste import restrictions imposed by other countries impacted your activities?

See Question 2

1. What would be the longer-term implications if similar import restrictions are imposed in other export markets?

Some councils have already experienced subsequent impacts additional to those described in Question 2. We expect this will continue as more countries effectively close their doors to exported Australian material. Without alternative domestic pathways for reuse and recovery of that material, we can expect more material being stockpiled, landfilled, or disposed of illegally. This will lead to significant environmental, social and economic detriment. All levels of government should expect to incur financial and political cost as a result.

1. Are there other existing or future government or industry-led initiatives that are relevant to addressing the problem?

We are currently awaiting the release of the Victorian Government’s Circular Economy Policy. We also continue to advocate for the introduction of a container deposit scheme in Victoria.

The introduction of Victoria’s e-waste landfill ban serves as an important cautionary example of why bans aren’t always the appropriate policy response. The Victorian e-waste landfill ban was introduced with limited community education and insufficient collection points. Implementation and ongoing management costs for the ban have largely fallen to local government. Low value e-waste, such as plastic toys, has limited markets and is rejected by some e-waste processors. The ban has not resulted in any change in consumer behaviour, with the costs associated with the ban being borne by all ratepayers rather than by the producers and consumers of the e-goods. Removing e-waste from landfill via an expanded National Television and Computer Recycling Scheme or a new e-waste product stewardship scheme would have been a more effective and equitable policy.

1. Does the status quo achieve the policy objectives?

The status quo has led directly to the experiences described in Question 2. The status quo will lead to more stockpiling, landfilling and illegal dumping of material that could and should be recycled and reused in Australia. The status quo does not provide industry with the policy certainty necessary to drive investment in our resource recovery capacity.

1. Are current laws and government policies sufficient to address the problem?

Existing tools within the *Product Stewardship Act* have been under-utilised or unused entirely. We provided a submission to the review of the Product Stewardship Act in 2018. The Government is yet to respond to that review. We recommend the Government prioritise completion of that review and any legislative response emerging from it. We need the Australian Government to provide some meaningful leadership and investment in this space.

1. How effective are industry-led initiatives for addressing the problem?

The current challenges we are facing demonstrate that leaving this problem to industry to solve is ineffective. Government intervention is needed. We understand that the waste and resource recovery sector is supportive of product stewardship. The industry has joined local government to call for the introduction of new stewardship schemes (including a CDS in Victoria) and the expansion of existing schemes. We encourage the Australian government to work more closely with the waste and resource recovery sector and local government to determine infrastructure gaps and policy needs.

1. Are there any other benefits or costs associated with the status quo?

Continued erosion of community confidence in resource recovery is a significant cost of the status quo.

1. Do you have any suggestions that could help a future education campaign? What kind of information should be provided as part of an education campaign?

There is great scope for the Australian government to develop and deliver national waste avoidance and waste minimisation education campaigns. Waste avoidance and minimisation education is not dependent on the collection systems that may vary between jurisdictions. As discussed above, the Australian government has the power to mandate product stewardship schemes and to then educate the community about how to access those schemes.

1. Are there any other benefits or costs or unintended consequences associated with Options 2(a) or 2(b)?

Option 2(b) is the only realistic option. Government investment and interventions will be essential to avoid further large-scale stockpiling, landfill and illegal dumping of material.

1. Under a prohibition or restriction on waste exports, how should the ban be designed to achieve the policy objectives while minimising costs and adverse impacts?

We believe that a ban should be a supplementary tool to mandatory product stewardship schemes. A standalone ban places the entire burden on people at the end of the product lifecycle. Those are the people least able to affect changes in product design and consumption choices. Product stewardship instead places obligations on those most able to affect change at the front end of the product lifecycle.

1. Under a prohibition or restriction on waste exports, do you consider there are waste materials that should continue to be eligible for export? Please provide details.

Only materials fit for a beneficial use should be eligible for export. We note concerns raised by the waste management industry about some materials. NWRIC and the VWMA raised used machine lubricating oils specifically. These materials can reportedly be processed within Australia with a high rate of recovery but are instead exported as low-quality fuel with poor health and environmental outcomes. Materials in similar circumstances should be considered for export bans.

1. What sort of penalties should apply to businesses that fail to comply with an export prohibition or restriction?

Penalties must be sufficient to deter non-compliance. For severe offences, revocation of a licence to operate should be considered. Appropriate penalties for directors of companies should also be considered.

1. What kind of costs (including compliance costs) or loss of income will businesses face to comply with export prohibitions or restrictions? Will these costs be passed on and if so to who? Please provide data where possible.

We generally agree with the kinds of costs presented in the consultation RIS. These costs will be passed on. Who they are passed on to depends on the presence of other mechanisms.

If a ban is imposed with no supporting mechanisms (Option 2a), the costs will be borne by those at the end of the product lifecycle. For residential streams, this will ultimately mean households.

If a ban is accompanied by mandatory product stewardship, costs will be borne by those with decision making power on the sustainability of products. Costs will be borne by manufacturers and importers and ultimately passed on to consumers of the product. This would align cost with the polluter-pays principle.

1. How do recycling service providers manage changes of law in their contracts? What costs could introducing a prohibition or restriction on waste exports trigger under these contracts? How would service providers seek to manage these costs? Please provide details.

The experience of Victorian councils is that MRF operators have passed cost increases on to them in full. Whether this was supported by clauses in the contract was less relevant than the bargaining power of MRF operators due to a lack of alternatives. Councils were forced to choose between agreeing to proposed price resets or sending recyclable material to landfill. There is strong community support and expectations around recycling – neither councils nor their communities want recoverable material being sent to landfill. Councils were largely rebuffed by MRF operators when requesting evidence of the appropriateness of the price increase being asked.

1. What impacts will Options 2(a) or 2(b) have for relevant markets, including impacts on prices and competition?

Providing regulatory certainty and supporting interventions will facilitate industry investment in necessary infrastructure. The fact that key export markets are prohibiting importation of low-value material means that the impacts on price and competition will likely be felt regardless of whether the Australian government implements bans.

1. Do you consider there is existing Australian markets and infrastructure have capacity to respond to a prohibition or restriction on waste exports? If not, please provide details such as:
   1. What is the infrastructure capacity gap that will need to be filled?
   2. How long will it take to commission the infrastructure?
   3. What is the cost of building the infrastructure and who will bear this cost?

We need significant investment to boost the capacity and capability of Australia’s recycling system. This includes investment by industry, encouraged through certainty and strong policy leadership, as well as direct government investment.

Investment by industry will be borne out in the prices they charge for their service. If product stewardship is put in place, importers and manufacturers will ultimately bear the cost. This will be passed onto consumers. Manufacturers will be encouraged to make less wasteful products. Those that do will have a competitive advantage due to decreased consumer price compared to products that are costly to process or dispose of.

Without product stewardship, the cost will be borne by the waste and resource recovery industry and largely passed onto households. The costs will be disconnected from design and consumption choices.

Various industry players have indicated that a minimum of three to five years is needed to put the necessary infrastructure in place. Sufficient time must be allowed to obtain the appropriate licenses, permits and infrastructure.

1. Do you believe that the combination of costs and benefits under Option 2(a) are superior to other options?

No.

1. Do you believe that the combination of costs and benefits under Option 2(b) are superior to other options?

Yes. A solution driven through mandatory product stewardship is the best option. An export ban should apply as a fall-back mechanism. Additional supporting government interventions are required to avoid significant adverse consequences of an isolated waste export ban.