

CLOSING THE LOOP – WRIWA RESPONSE FOR PUBLICATION

Q. No	QUESTION	RESPONSE
Chapter 7 - Aligning the EP Act with waste avoidance and resource recovery objectives		
7.1	<p>If you are the operator of a licensed waste facility under the EP Act, please provide feedback on Options 1 and 2. Please describe potential benefits or costs from these changes, and any unintended consequences which may occur.</p> <p>Option 1: No changes to the EP Act Option 2: Amend the EP Act to incorporate waste avoidance resource recovery objectives.</p>	<p>WRIWA supports Option 2. The alignment of the three Acts (EP Act, WARR Act and WARR Levy Act) will reduce conflicts and anomalies and support the objectives of the Waste Strategy 2030.</p>
7.2	<p>If Option 2 is progressed, what support, guidance or infrastructure will be required by waste stakeholders to implement new licence conditions?</p>	<p>Adequate notice will be needed before changes take effect - a minimum of 6 months.</p>
7.3	<p>Are there any other policy approaches which will support better alignment between the EP Act, WARR legislation and the Waste Strategy 2030?</p>	<p>Nil response</p>
Chapter 8 - Clarifying the application of the waste levy		
8.1	<p>If you are the licensee of a waste facility, please provide feedback on your preferred option for modernising key terms in waste legislation, and when the waste levy will apply. Please provide supporting information where possible.</p> <p>Option 1: Maintain terminology in WARR Levy Act and WARR Levy Regulations Option 2: Amend WARR Levy Act and WARR Levy Regulations – Waste “received” at relevant waste premises Option 3: Amend WARR Levy Act and WARR Levy Regulations – Waste</p>	<p>WRIWA supports Option 2. Our support relies on this being an equitable solution which will support legitimate business that is compliant with the regulations and paying the waste levy, but will effectively stop non-compliant operations which are seeking to avoid payment of the levy.</p> <p>We would see value in a further process, following the closure of submissions, to model and clarify that the implications of this Option achieve its intended purpose. Key stakeholders should be given the opportunity to consider all of the submissions and we would support a forum to work through any issues.</p> <p>Of particular importance to our support of this option is that the levy will apply to “waste premises” rather than simply landfills. The legitimate landfill industry has watched the exploitation of the previous definition which has been used to set up a shadow waste industry to avoid paying the levy. WRIWA has on a number of occasions brought evidence before the Minister for the Environment, the Chairman of the Waste Authority and the Director General DWER of systematic levy avoidance.</p>

CLOSING THE LOOP – WRIWA RESPONSE FOR PUBLICATION

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	“deposited” at relevant waste premises	
8.2	What are the potential benefits or cost impacts that may result from the proposed legislative options? Please provide supporting information where possible.	<p>There is a clearly identified need to rectify issues with the current regulations which have led to systemic levy avoidance and large scale stockpiling to avoid paying the levy and this has to be stopped.</p> <p>As the levy rate has risen, the amount of salvage from residential demolition has decreased because of the very large financial incentives to ‘load out’ a house to a facility which is <i>not</i> charging the levy are very large. A typical brick and tile house in the Perth metropolitan area can be loaded out without any attempt at salvage in one working day and would generate 12 to 14 x 20 cubic metre loads of unsorted rubble. Avoiding the levy reduces the demolition cost per house of between (12 x 20m³ x \$105 =) \$25,200 and (14 x 20m³ x \$105 =) \$29,400.</p> <p>WRIWA therefore considers that the legislative change will benefit the State by returning considerably more revenue. Primarily the advantage to legitimate commercial operators will be the creation of a level playing field that no longer inadvertently supports levy avoidance.</p> <p>WRIWA has modelled the value of waste levy avoidance in WA in 2018-2019 as over \$93 million. This well exceeds the total revenue collected by the State in that year which was \$83 million.</p>
8.3	Please provide any further suggestions to improve terminology under WARR legislation and the application of the waste levy in Western Australia.	Nil Response
Chapter 9 - Modernising landfill licensing and levy liability for waste disposal		
9.1	<p>If you are a waste stakeholder, what is your preferred option for the landfill licensing categories under the EP Act? Please provide supporting information where possible to support your response.</p> <p>Option 1: Maintain five landfill categories</p> <p>Option 2: Three landfill categories – Waste Disposal to Land</p> <p>Option 3 – Single landfill category – Waste Disposal to Land</p>	<p>WRIWA supports Option 3</p> <p>This will improve management of the waste levy and aligns WA with other jurisdictions. We see value in a further process, following the closure of these submissions, to model and clarify that the implications of this Option achieve its intended purpose. Key stakeholders should be given the opportunity to consider all of the submissions and we would support a forum to consider and to work through any issues.</p>
9.2	Should Category 89 landfills be	WRIWA considers that all landfills should be brought together under a common licensing system to avoid

CLOSING THE LOOP – WRIWA RESPONSE FOR PUBLICATION

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	required to be licensed under the EP Act to improve the management of environmental and health risks, or for the effective implementation of the waste levy? Please provide evidence where possible to support your response.	anomalies and support the implementation of the Waste Strategy 2030.
9.3	If you are a local government with a Category 89 landfill, please provide information on the benefits or costs associated with the licensing of Category 89 landfills under Options 2 and 3.	Nil Response
9.4	If a licensing exclusion is available for Category 89 landfills, please comment on a proposed scope of the exclusion, and a justification for the approach.	Nil Response
9.5	Should operators of Category 66 landfill premises that accept hazardous wastes be liable to pay the waste levy as “waste disposal premises”?	Yes; there should be no exemptions as these could be used to avoid the intentions of the Waste Strategy 2030.
9.6	Please provide feedback on the proposed approach for Category 53 (fly ash disposal) outlined in section 9.1.5 – Should fly ash disposal be regulated as a separate process, or should it be regulated as a licensed landfill?	Fly Ash can be recycled to be used in concrete products road base and barriers; however fly ash that is not recycled should be regulated and placed in a licenced landfill as it is a waste.
Chapter 10 - Simplifying the solid waste licensing categories		
10.1	Please identify a preferred option for regulating solid waste storage premises outlined in Options 1, 2 and 3. Please provide information where available. Option 1: Maintain existing category	WRIWA supports Option 1 We can see value in a further process following the closure of these submissions to model and clarify that the implications of this Option achieves its intended purpose. Key stakeholders should be given the opportunity to consider all of the submissions and we would support a forum to consider and to work through any issues.

CLOSING THE LOOP – WRIWA RESPONSE FOR PUBLICATION

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	<p>descriptions Option 2: Clarifying solid waste licensing Categories 61A and 62 Option 3: Merging solid waste categories and used tyre storage categories</p>	<p>We do NOT support Option 3 (at all). Shredded tyres (TDF) and Crumbed Rubber are highly refined products not waste. This position is consistent with TSA and ATRA definitions and those definitions contained in the COAG waste ban definition. That is, TDF and certainly rubber crumb, do not equal waste but are considered products and therefore not subject to the waste ban.</p> <p>It is our strong recommendation that DWER should not seek to impose a stockpile threshold to trigger a licence, but should rather impose a processing threshold per annum.</p>
10.2	<p>Will the proposed changes to the solid waste categories (Categories 56, 57, 61A, 62) support further re-use and reprocessing of solid waste and used/waste tyres? Please provide evidence or further information.</p>	<p>Yes, as operators are forced to become licensed, illegitimate operators with insufficient safety, environment and operational controls will be either forced from the market or forced to invest in appropriate levels of infrastructure. This will lead to safer, environmentally compliant industry participants and hence reduce risks to human health and the environment.</p>
10.3	<p>Under Option 3, the proposed licensing threshold for the new category which merges Categories 13, 61A and 62 will be 1000 tonnes or more per year. Please provide feedback on the impacts of this proposed threshold.</p>	<p>As in 10.2. The risk of adopting a waste tyre definition that is contradictory to that which is in the COAG waste ban documentation is that illegitimate tyres recyclers may be able to absorb fluctuations in offshore commodity markets (e.g. TDF) leaving the more likely to stockpile domestically.</p> <p>If TDF was considered a "waste" not a "product" under the new definitions, it could limit legitimate operators' ability to weather short-term market anomalies as the TDF would incorrectly occupy stockpile volume within the operator's licence</p>
10.4	<p>Please provide feedback on the proposal to regulate large MRFs under Options 2 and 3. Please provide evidence or further information where available.</p>	<p>Material Recovery Facility owners do not have an issue being licensed.</p> <p>However we would add that due consideration needs to be given by the regulator to the vagaries of offshore markets and at times unreliable international logistics.</p> <p>Over regulation on stockholding at MRFs may have unintended consequences and result in more recycling in landfill.</p>
10.5	<p>If you are the occupier of a used tyre storage facility, what will be the potential benefits or costs impacts if Option 3 is implemented? Should tyre storage premises which store more than 100 used or waste tyres (but less than 500 used or waste tyres) and less than five tonnes of</p>	<p>Again, the trigger for the requirement to hold a licence should not be a stockpile limit. The requirement should be based on a processing volume per annum being exceeded.</p> <p>We have seen this fail in Victoria where the requirement to hold a licence for tyre storage and processing facilities is based on a maximum stockpile limit of 5,000 EPU's at any one time. This has proven ineffectual; instead, it should be based on the number of tyres that are processed. Furthermore, the Vic EPA have found regulating against unlicensed sites far harder than regulating licensed operators. As a result of this defect in the licensing process, Victoria has only ONE licensed tyre recycler: Tyrecycle.</p>

CLOSING THE LOOP – WRIWA RESPONSE FOR PUBLICATION

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	tyres, be subject to licensing? Please provide evidence or further information.	There would be some extra compliance costs, but that investment will drive superior standards across all facets of the operations of licence holders.
10.6	Please provide feedback on whether metal scrap yards in Western Australia should be licensed under Category 47 because of potential risks to human health and the environment.	Scrap metal facilities with onsite fragmentising (shredding) operations need to be licensed under category 47. Shredding operations handle large amounts of raw shredder feed which can present Health / Safety and Environmental risks, scrap metal facilities that operate without shredding activities could be assessed on a case by case basis to establish suitable licencing coverage. Sims Metal Management would appreciate the opportunity to discuss this topic further.
Chapter 11 - Minimising stockpiling at waste storage premises		
11.1	<p>Please provide feedback on the proposal in Option 2, which will impose the waste levy if waste is not removed from specified waste storage facilities within 12 months if it is not processed, and it is not going to be sold or used. If you are the operator of a waste facility, what are the potential consequences or impacts of this proposal? Please provide evidence or further information.</p> <p>Option 1 – No levy for stockpiling at solid waste storage premises.</p> <p>Option 2 – Levy liability for solid waste facilities, depots, and used tyre storage premises that stockpile waste for over 12 months.</p> <p>Option 3: Upfront levy payment for waste storage premises, with levy exemptions</p>	<p>WRIWA supports Option 2 as it will allow DWER to more effectively police the levy and will provide financial incentives to remove waste stockpiles and encourage genuine recycling.</p> <p>We see value in a further process, following the closure of these submissions, to model and clarify that the implications of this Option achieve its intended purpose. Key stakeholders should be given the opportunity to consider all of the submissions and we would support a forum to consider and to work through any issues.</p> <p>Option 2 will support recycling and contribute to new waste opportunities however further support of government is needed to assist in developing policy to create new markets for recycled products similar to the Roads to Reuse.</p>
11.2	Please provide feedback on the proposal in Option 3, which will impose upfront levy liability and payment, with transport related levy exemptions. If you are the operator of a waste facility, what are the	<p>WRIWA does not support Option 3:</p> <p>Legitimate companies in the waste and recycling industry are investing in plant and equipment to maximise resource recovery. Many of these facilities are located on landfills. Materials enter the site and quantities are recorded (soon via mandatory weighbridges). Materials are then processed through resource recovery plants. Large quantities of material resulting from resource recovery are then held on site while they are sold and transported off site.</p>

CLOSING THE LOOP – WRIWA RESPONSE FOR PUBLICATION

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	potential consequences or impacts of this proposal? Please provide evidence or further information.	WRIWA strongly opposes 'stockpiling' for the purpose of levy avoidance but legitimate stockpiles are inevitable due to the lag between production and off-site disposal. Option 3, if adopted, would produce untenable upfront costs. While some companies may have the financial capacity to bear these costs, many would not.
11.3	The proposals in Options 2 and 3 are intended to address long-term waste stockpiling at waste storage facilities. Will the proposals in Options 2 and 3 provide a sufficient financial incentive to remove waste stockpiles at waste storage facilities?	It is our view that Option 2 provides a sufficient financial incentive to stop stockpiling but only if sufficient resources are applied to monitor and enforce compliance.
11.4	If you are a local business specialising in the re-use, reprocessing or recycling of waste materials, will the proposals in Options 2 and 3 support your business, or contribute to new business opportunities in waste? Please provide evidence or further information.	<p>WRIWA members operate the majority of the private landfills and recycling facilities in the state. Of significance, four of our members have been pre-qualified to supply recycled crushed concrete to the Roads to Reuse project.</p> <p>Currently much of the material that could be recycled is being held in stockpiles and/or diverted to rural landfills. This has reduced gate prices at legitimate recycling businesses where the levy applies and negatively impacted the ability of those business to meet the costs of recycling. It is also impeding the development of the recycling industry who are competing for C&D product against what is affectively low cost illegal landfilling operations. It is our view that if this option is implemented it will significantly reduce levy avoidance and support the recycling industry.</p> <p>Tyre stockpiles in other jurisdictions have generally been removed by regulators and governments at taxpayers' expense. This is due to the very high cost of remediation and the fact that generally the gate fee has already been consumed/spent by the operator. Therefore, we recommend aggressive regulation/enforcement to drive costs to the illegitimate operator wherever possible, not to the public purse.</p>
Chapter 12 - Waste levy exemptions		
12.1	Please provide feedback on Option 2, which intends to clarify and strengthen existing waste levy exemptions. If you are the licensee of a waste facility, what are the expected impacts or benefits of these proposed changes? Please provide evidence or further	<p>WRIWA supports Option 2.</p> <p>This option will improve the management of the levy and align WA with other jurisdictions.</p> <p>We see value in a further process, following the closure of these submissions to model and clarify that the implications of this Option achieve its intended purpose.</p> <p>Key stakeholders should be given the opportunity to consider all of the submissions and we would support a forum to consider and to work through any issues.</p>

CLOSING THE LOOP – WRIWA RESPONSE FOR PUBLICATION

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	<p>information. Option 1: Maintain existing exemptions Option 2: Key amendments to the waste levy exemptions for waste disposal, retrospective time limit for exemptions (24 months); no exemptions if CEO calculated the leviable waste. Option 3: Revised exemptions (option 2) and new transport levy exemptions (limited to 12 months</p>	
12.2	Please provide feedback on the proposed time limit for retrospective applications or an exemption under Option 2, including potential impacts.	<p>WRIWA does not support option 3. C&D recycling, and generally all waste recycling, is still at an early stage of its development. Moreover, we are still at a very early stage of market acceptance for many of the products. Consequently it would be difficult for industry to make firm upfront/prospective commitments to transporting specified quantities of the recycled materials away from their facility.</p>
12.3	Please provide feedback on the proposed levy exemptions relating to regulation 5(1)(b) in Option 3. Are the proposed exemptions and timeframes for removing the waste suitable?	<p>WRIWA does not support Option 3</p>
12.4	Please provide general feedback on the proposed waste exemptions, and if other waste levy exemptions need to be considered to support the Waste Strategy 2030. Please provide evidence or further information.	<p>Nil Response</p>
<p>Chapter 13 - Improving solid waste reporting from waste facilities</p>		
13.1	<p>If you are a licensee or occupier of a licensed waste facility, please provide feedback (with supporting information) on your preferred option in relation to solid waste data reporting. Please provide evidence or further information. Option 1 – Maintain existing waste reporting approach</p>	<p>WRIWA supports the progressive implementation of Option 2 followed by Option 3. We see value in a further process, following the closure of these submissions, to model and clarify that the implications of this Option achieve its intended purpose.</p> <p>Key stakeholders should be given the opportunity to consider all of the submissions and we would support a forum to consider to work through any issues.</p> <p>WRIWA considers that Option 2 will provide a significant financial incentive to stop stockpiling for the purpose of levy avoidance.</p>

CLOSING THE LOOP – WRIWA RESPONSE FOR PUBLICATION

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	<p>Option 2: Mass Balance Reporting – within 800 km of Perth metropolitan Region</p> <p>Option 3: Mass balance reporting – statewide approach</p>	
13.2	Are there any other waste data reporting approaches which should be considered as an alternative for Options 1, 2 and 3?	WRIWA would like to see a harmonised approach to waste tracking across all States and Territories.
13.3	If you are a licensee or occupier of a licensed waste facility, do you collect information on the weight or volume of waste, and the type of waste, received by your facility? If yes, do you store this data electronically?	All WRIWA members collect and store data digitally.
13.4	What would be the expected cost impacts for licensed waste facilities to implement new reporting requirements under Options 2 and 3 (e.g. data collection, electronic record keeping, and monthly reporting)? Please provide evidence or further information.	<p>Without seeing an example of the format by which DWER will require data to be presented, it is difficult to provide a cost. We would suggest that if DWER proceed with this proposal, a survey of providers is undertaken to understand the most common data collection platforms used in industry.</p> <p>Costs will be minimised if providers can more easily integrate their systems with DWER’s required format. However WRIWA considers that costs incurred by business for a reasonable system that meets compliance would be small compared with the overall costs to legitimate business of competing with non-compliant businesses.</p> <p>Any system that is implemented to validate Mass Balance reporting needs to be robust, independent and will require significant resources by DWER to ensure compliance. WRIWA rejects the notion of ‘honour systems’ that rely on unvalidated data from facilities – these are untenable. The provisions in Chapter 14 are supported by WRIWA but it needs to be clearly articulated that those provisions will apply to Mass Balance reporting and not just generally to levy avoidance. The market impact more than outweighs any small administrative costs.</p>
13.5	Please provide feedback on the proposed timeframes and data requirements under Options 2 and 3, and if they support the collection of accurate solid waste data across the State. Please provide evidence or further information.	<p>WRIWA proposes a progressive rollout over 6 months for Option 2 with a further 6 months for Option 3.</p> <p>We do not agree that annual reporting is satisfactory at any type of premises whether subject to the levy or not. Licensees or occupiers should be required to report monthly.</p>
13.6	Introducing mass balance reporting	Yes there is a close alignment with the proposals in Chapter 11.

CLOSING THE LOOP – WRIWA RESPONSE FOR PUBLICATION

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	will support other proposals outlined in this paper (e.g. Chapter 11 – waste stockpiling). Will Options 2 and 3 (and Appendix 1) align with other legislative proposals in this paper?	
13.7	What other factors need to be considered to establish mass balance reporting in Western Australia for solid waste, and if progressed, what should be the timeframe for its introduction?	<p>The system of measurement, independent validation and external audits need to be designed into the proposal. This measure will not be effective if it is operated as an honour system.</p> <p>Chronic, systemic levy avoidance is a feature of the effects of the current regulation, disadvantaging honest operators. Mass Balance reporting has been used effectively in other jurisdictions as an adjunct to regulation to control levy avoidance.</p>
Chapter 14 - Compliance and enforcement measures for waste		
14.1	<p>Please provide feedback on the compliance measures to address unlawful waste disposal under Option 2. What are the potential benefits and impacts for waste stakeholders? Please provide evidence or supporting information.</p> <p>Option 1: No changes to the EP Act Option 2: Options to minimise unlawful disposal of waste</p>	<p>WRIWA strongly supports the implementation of Option 2.</p> <p>We see value in a further process, following the closure of these submissions, to model and clarify that the implications of this Option achieve its intended purpose. Key stakeholders should be given the opportunity to consider all of the submissions and we would support a forum to consider and to work through any issues.</p> <p>Levy avoidance currently exceeds levy collected. Honest operators are competing with those who are using unintended consequences of the existing compliance regime to avoid paying the Levy. Without significantly stronger enforcement measures, other changes will be ineffective.</p>
14.2	<p>Please provide feedback on the proposed GPS and record-keeping requirements for vehicles carrying leviabale waste in the Perth metropolitan region under Option 2. What types of trucks, and which waste streams, should be tracked by GPS to minimise unlawful waste disposal in Western Australia? Do all waste transportation vehicles require tracking? Please provide evidence or further information.</p>	<p>WRIWA strongly supports this measure. Evidence supporting this requirement has previously been provided confidentially to the Director General of DWER. While DWER has subsequently taken action to address the specific situation reported by WRIWA, the trucking companies have moved on to other illegal facilities.</p> <p>The majority of the waste being carted for levy avoidance is either Construction and Demolition waste (C&D) or Construction and Industrial waste (C&I).</p> <p>We are not aware of any significant issues in either the MSW, Kerbside Recycling or E-Waste areas and would <i>not</i> recommend GPS tracking in those areas.</p> <p>There is a large pool of ‘at hire’ trucks carting on behalf of the C&D industry as well as ‘owner operator’ C&D trucking fleets and both of these would require GPS tracking.</p>

CLOSING THE LOOP – WRIWA RESPONSE FOR PUBLICATION

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		The majority of the C&I waste is carted by the bin companies, and there is also some crossover with some C&D waste being carted by bin companies. All bin trucks will require GPS tracking.
14.3	Please provide feedback on the proposed imprisonment option for serial waste offenders committing multiple breaches of the EP Act under Option 2, and whether this penalty be a suitable deterrent for illegal waste activity.	<p>WRIWA supports substantial penalties for serial waste levy avoidance offenders including imprisonment. In the 2018- 2019 period the state collected \$83 million in Levy. WRIWA provided DWER with confidential evidence suggesting that levy avoidance for the same period was > \$93.35 million.</p> <p>The levy avoidance industry is not opportunistic, it is systematic, well organised and significantly it is extremely profitable for the participants.</p> <p>The incentives for avoidance are high but at present the penalties are low. In the United Kingdom the disparity between the low level of penalties under environmental regulations and the high level of penalties for drug trafficking (for example) have seen the criminal underworld shift into illegal dumping: https://www.abc.net.au/radionational/programs/backgroundbriefing/criminal-waste/10925494</p>
14.4	Please provide information on any other compliance and enforcement proposals which could be considered to address illegal waste disposal in Western Australia	Transfer Stations must be explicitly captured by the provisions in Chapter 8
Chapter 15 - Improving the administration and collection of the waste levy		
15.1	<p>If you are the licensee of a landfill that submits levy returns, please provide feedback on Option 2, including the proposal to issue a notice of assessment. Please provide evidence or further information.</p> <p>Option 1: Maintain existing levy return system</p> <p>Option 2: Reforming the waste levy return framework</p>	<p>WRIWA supports Option 2</p> <p>We see value in a further process, following the closure of these submissions, to model and clarify that the implications of this Option achieve its intended purpose.</p> <p>Key stakeholders should be given the opportunity to consider all of the submissions and we would support a forum to consider and to work through any issues.</p> <p>It has been our concern that Levy returns may not accurately reflect the amount of leviable waste received and we welcome any improvements.</p>
15.2	What other changes should be considered to improve the administration and collection of the levy? Please provide evidence or further information.	WRIWA supports banning the burial of tyres in any form, whether whole, baled or shredded.

CLOSING THE LOOP – *WRIWA RESPONSE FOR PUBLICATION*