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Waste Division
Department of Water and Environmental Regulation
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Via email to wastelevyreview.query@dwer.wa.gov.au
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Dear Madam/Sir,

Thank you for the opportunity to provide feedback on the *Closing the Loop: Waste Reforms for a Circular Economy* (the Circular Economy paper) and *Review of the Waste Levy* paper (the Waste Levy paper) released in February 2020 by the Department of Water and Environmental Regulation (DWER). While slightly different in focus, each paper addresses a range of common issues relevant to waste policy. For this reason, we provide the below comments to address issues raised by both papers.

Reinvestment into waste-related activities

There is a clear need for further investment by the government into infrastructure to support the objectives of the waste strategy and changes to the waste levy. In that context, we note that only 25 percent (\$20.75 million) of the forecast waste levy revenue is allocated to waste-related activities.

It is useful to revisit the origins of the levy. A waste levy was first introduced in Western Australia in 1998, through the *Environmental Protection (Landfill) Levy Act 1998*. In the Second Reading Speech of the Act in October 1997, it was explained that money raised through the levy would “make a significant contribution to Western Australia by providing funding for projects to reduce the environmental and health impacts of our wastes”. Income from the levy was to be used to fund programs approved by the Minister relating to the “management, reduction, re-use, recycling, monitoring or measurement of waste and administering the fund”. As the then Minister for Environment explicitly noted, the levy was “not to be used to fund other normal ongoing operations of the Department”.

Indeed, over time, the levy has supported efforts by successive governments in managing the State’s waste. However, with the express acknowledgement by DWER that only a quarter of the forecast waste levy revenue is allocated to waste-related activities, the execution of the levy has clearly drifted significantly from its original intent. We would encourage consideration of increasing the percentage of money raised by the levy that goes to waste-related activities, particularly into supporting the establishment of recycling and re-use facilities.

To guide this, Alcoa encourages consideration of the amount reinvested in comparable jurisdictions, such as Queensland. Between 2019-2022, Queensland expects to reinvest over 70 per cent of funds generated through its waste disposal levy to advance payments to councils, scheme start-up and operational costs, and industry programs. At a national level, in 2019-20 it is estimated that of the \$1.54 billion in funds raised only 37 per cent (around \$569 million) will be reinvested into waste and recycling activities.

Whilst the levy is one lever to shift behaviour, it would be more effective if the revenue was used to facilitate the transition to a circular economy. This could be achieved by lowering economic barriers for entering the recycling market or funding the development of new/improved recycling technologies or developing new products from existing recycling streams.

Increasing the levy

One of the central pillars of the consultation papers is that the government is able to effectively shift market behaviour by increasing the waste levy; the paper then quickly adopts this assumption and moves to a discussion of “how much” the levy should be increased to create behavioural change. The complexity of any market, including the waste and reuse market, demands a more nuanced approach to incentivising specific market behaviour.

This can be illustrated by example:

- it costs approximately \$690 to send a heavy vehicle (HV) tyre to landfill; while
- the same tyre would cost approximately \$1,743 to recycle with a market that is entirely export-oriented.

This example demonstrates that for the levy to be effective in driving industry to recycle over sending HV tyres to landfill, it would need to be significantly higher than it currently is. If the cost of landfill is still cheaper than the alternative, that extra amount charged by the levy is simply an additional cost to business and may not create the outcome sought by Government. The conclusion to be drawn from this is that the levy is not always the most effective tool to promote behaviour change in the waste market; in this example, establishing competitive recycling facilities would be more effective than simply scaling up the levy. The risk of increasing the levy, without understanding the market, is that the levy becomes, effectively, a tax.

As the *White Paper on the Review of Waste Levies in Australia* of the National Waste and Recycling Industry Council from October 2019 notes, “levies are an effective regulatory tool to stimulate recycling when the cost of recycling is lower than the cost of landfill, there is a stable market for the recycled goods, and businesses have appropriate and long-term sites to process the materials” (our emphasis). There are a range of preconditions that the government needs to address before it further increases the levy.

Waste data

As the Waste Levy paper notes, data is key to mitigating the risk that an increase in the waste levy drives a further increase in the storage and stockpiling of waste; data is needed to understand waste volumes and flows into re-use and recycling facilities. Without a robust database of waste-related information it is difficult to tailor a policy response without the risk that the response is ineffective. While Alcoa agrees that recent changes to the WARR Regulations will begin to improve the data holdings, a reasonable period is required to give that data statistical integrity for it to be useful as a policy guide. In this context, contemplating further increases in the waste levy before a range of data is available is premature and risks exacerbating a problem that is not well understood.

Given the recent data reporting changes to the WARR Regulations, Alcoa questions whether the mass balance data reporting proposals outlined in the Closing the Loop paper are also premature. We propose that Option 1 should be adopted whilst the recent changes mature and then a separate consultation on mass balance reporting be undertaken if it is still considered imperative to meeting the objectives of the Waste Strategy 2030.

Expanding the scope of the levy

Alcoa recognises that the Perth and Peel regions encompass a significant majority of the State's population and, accordingly, its waste management needs.

Prior to giving effect to the expansion of the waste levy into regional areas, Alcoa supports up-front investment into a feasibility study on what types of facilities might be necessary to meet waste disposal demand. This would, again, benefit from consolidated waste data over a range of years. Without genuine alternative to landfill, an expansion of the levy into regional areas will not produce the outcomes sought under the Waste Strategy 2030.

The Waste Levy paper highlights the situation of specific types of waste (construction and demolition and organic wastes) that may be best recovered locally with simple processing infrastructure. However, without data relating to the types, use and flow of waste in regional areas, it is difficult to provide support for this assessment. It may be that regional re-use and recycling hubs, with more complex facilities to manage a greater variety of waste, is a better option – and one which could diversify regional economies.

Alcoa strongly supports a close consideration of the compliance and enforcement costs associated with an expansion of the waste levy into regional areas.

Setting future levy rates

The Waste Levy paper seeks specific feedback on how to balance responsiveness and predictability in setting the waste levy. It is our view that a three-year fixed-rate period with an associated review of performance and new data over that time would meet the government's need to adapt to emerging knowledge and also support stability for industry in planning its operations.

Clarifying the application of the waste levy

The focus of the Closing the Loop paper in relation to the application of the waste levy is on expanding the scope of the levy without a more deliberate analysis of the underlying problem it is seeking to solve, i.e. levy avoidance.

Levy avoidance through stockpiling of waste is of concern but as Alcoa has noted in its accompanying comments on the Waste Levy paper, tackling stockpiling is made particularly challenging without a clear picture, informed by data, of the extent of the issue. A better base understanding of how much waste material (in this case, construction and demolition waste), is being stockpiled would then inform an approach on what measures would best stimulate a market for this material. Expanding the levy to received wastes may have an unintended consequence of encouraging direct landfilling and undermine the development of markets.

More concerning is the proposal to extend the scope of the levy to waste that is stored and/or disposed of on-site. This approach is at odds with the more mature levy policies of NSW and Victoria which have been repeatedly presented as useful comparators throughout this consultation process. Applying the levy to on-site generation does not create an equal approach as onsite facilities already incur charges for licencing and management. These facilities already have an in-built incentive to reduce waste to landfill as it reduces operation and maintenance costs. Adding additional fees in the form of a levy risks incentivising the use of community landfills as these will be a competitive alternative. In turn, this has to the potential to create additional risks relating to transportation of waste material and increasing the utilisation of community resources.

Modernising landfill licensing and levy liability for waste disposal

The issue of modernising landfill licensing has been raised in earlier consultations on waste policy. Alcoa remains concerned that the proposal of significant amendment to Schedule 1 of the *Environmental Protection Regulations 1987* (WA) (EP Regulations) to streamline the landfill categories will affect several hundred licences across the State and create a significant burden on

companies, like Alcoa, and will be a burden on the internal resources of DWER; which in turn has potential to further impact companies who rely on DWER's resources for the timely processing of licenses, approvals and other regulatory activity. In addition, altering licencing thresholds, in particular those which relate to waste tyre storage, will increase the regulatory burden for mining companies; the weight of individual tyres used for earth moving vehicles exceeds the proposed minimum threshold for relevant licencing and will frequently trigger licencing requirements. The Closing the Loop paper does not articulate the purpose of altering the categories and does not acknowledge that essential changes to the category descriptions could be completed while retaining the current landfill categories.

Alcoa would also be concerned if changes related to legislative terminology such as 'waste deposited' and the broadening of landfill category descriptions were made in the absence of a waste derived material framework and clarity over the definition of waste. Failure to implement a suitable framework prior to this kind of legislative change will result in the broadening of levy collection but at the cost of developing waste re-use markets. The current focus of legislative reform should be on clarifying the definition of waste and the development of waste derived material framework to support the development of re-use and recycling markets.

It continues to be fundamentally important to Alcoa that proposed licensing exclusions for minerals processing waste are upheld and are managed separately to landfills and without the application of the waste levy. Were this to change, it would put at risk the ability for Alcoa to maintain its operations.

Aligning the EP ACT with waste avoidance and resource recovery objectives

As Alcoa has submitted during previous consultations on this topic, the *Environmental Protection Act 1986* (WA) has extensive powers relating to the control and management of waste. It remains unclear how the existing powers have failed to achieve an intended outcome or, for example, instances where the Director General of DWER has sought to use these extensive powers and found them to be insufficient. It is noted in the Closing the Loop paper that it may be difficult to issue licence conditions to address important waste management issues but does not articulate what particular aspect of that activity creates difficulties.

In that context, we note that a number of the recommended amendments to the EP Act seek to provide powers that already exist. For example, under 7.3.2, dot point three, the CEO is already able (i.e. is not restricted) to have regard to the *Waste Avoidance and Resource Recovery Act 2007* (WA) and Waste Strategy when considering the granting of licences or setting licence conditions. Similarly, in relation to dot point four, s 62 and 62A of the EP Act allow the CEO to create conditions to meet the items listed. Alcoa strongly supports that no further changes are made to the EP Act until the full range of existing powers are demonstrated to be insufficient to meet waste management objectives (i.e. Option 1).

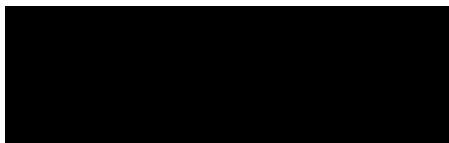
Conclusion

At the heart of the policy challenge faced by Government in making changes to the ways in which waste is managed is the sequencing of those proposed changes. While Alcoa applauds the objectives of undertaking wholesale review across the breadth of waste policy issues in WA, we strongly urge that change be approached in a way that leads to coherent, predictable and effective outcomes.

As we have outlined in our response to both papers, many of the outcomes sought can be achieved under existing legislation and regulations; we would encourage an internal review of how the existing frameworks could be better leveraged to achieve the desired results. Those issues that require legislative amendment, in many ways, revolve around bedding down fundamentals, including the definition of "waste" and better understanding, through data analysis, the flows of waste of all types throughout the State. It is only after these pieces are in place that the task of, for example, determining how best to apply the waste levy, can be tackled.

Alcoa thanks the DWER for the opportunity to provide comment on its waste reform project and looks forward to seeing the outcomes of the consultation process.

Yours sincerely



Soolim Carney
Regional Environment Manager - Australia