



**AUSTRALIAN COUNCIL
OF RECYCLING**

Consultation Regulation Impact Statement:

Phasing out certain waste exports

February 2019



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Closing date for submissions is 12 February 2020

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Consultation questions

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

The overall identification that Australia's recycling needs greater domestic capability and capacity and less reliance on export is correct; however, some of the details and inferences in the problem statement are not.

The summary states that *"difficult-to-sort recyclable material has been managed through exports"*, but this is not fully the case. For example, paper from commercial and industrial sources is not difficult to sort and for many years has been managed through exports because the means of production and market demand have been available overseas. Also, some difficult to sort plastics have been and will continue to be managed locally.

The summary states that *"this makes Australia's waste management and recycling system vulnerable to policy changes in international markets"*; however, this is only one element. Australia's recycling industry is part of a global market whereby suitable quality materials are globally traded. Any international trade is vulnerable or dependent on a range of factors, not only policy changes but is fundamentally exposed to supply and demand as well as influenced by factors such as access to market, logistics, competition and alternative and substitute materials.

The summary further states that *"...it is likely exports of recyclable material will no longer be cost-effective or permissible..."*. Fundamentally the export of recyclable material will remain cost-effective where there is a demand for the material and willingness to either: (a) pay a price that compensates

operators sufficiently for the handling and processing of the material, or; (b) charge a fee that is less than alternative disposal methods.

ACOR expects that export of valuable commodities can and should remain a viable and cost-effective activity for the foreseeable future. Indeed, ACOR expects export will be needed for some recyclables for at least the short to medium term.

Overall, the problem as stated presents the export of waste as being all together problematic and in need of policy intervention. Only a selection of waste – a small proportion of total - that is currently exported is in fact problematic.

It is in Australia's interest to build more local recycling capability and capacity as it will generate improved economic and environmental outcomes. However, that does not mean either that Australia's whole waste management and recycling industry is fundamentally flawed or has been somehow largely based on activities deemed to be somehow inappropriate.

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

With respect to the recycling sector, the problem of disruption to export markets has already had the effect of reducing prices and constraining end markets for specific categories of materials. This has generally exposed the recycling industry to the need to rapidly respond to changing market conditions.

Broader effects are that the recycling sector will move to invest in new technology, systems and plant and equipment in order to be able to meet changed or changing international and domestic market standards, specifications and requirements – if there is a likelihood of uptake of recycled content products.

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

ACOR and its member companies have a great deal of information that may inform the characterisation of the problems identified.

ACOR remains available to discuss and share this information if needed.

ACOR notes that one aspect inherent in the identified problems is the need to develop more local demand for recovered materials. That is, developing greater local demand to take recovered and reprocessed paper, plastics, glass and tyres and use them as a substitute and alternative for virgin materials to make new products and infrastructure.

ACOR has supported independent research into this area – specifically looking at the use of glass, plastics and tyres in road building (see Public Procurement of Road Building Materials – Research into Recycled Content, MRA Consulting Group, October 2019 at https://www.acor.org.au/uploads/2/1/5/4/21549240/171019_public_procurement_of_road_building_materials_acor_report_final_3.pdf)

As this report and others show, there is sufficient potential demand in Australia to ultimately use substantially more if not all of some of the recovered and reprocessed materials Australia produces, which thereby supports the problem statement.

4. 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.

No.

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

Yes. ACOR agrees that achieving better protection of environment and human health and ensuring Australia's waste and recycling sectors can manage restrictions in global markets are sound policy objectives.

Better protection of environment and human health is fundamentally served by more recycling as the appropriate recovery and recycling of materials generally provides reduced impacts related to raw material extraction, reduced energy consumption, avoided greenhouse emissions and improved amenity. Therefore, better protection will be served to the extent that the policy enables increased diversion of waste from landfill.

Managing restrictions in global markets requires an understanding that some exports are in fact economically appropriate and environmentally neutral. The policy objective will not be achieved if the mechanism to give effect is a blanket ban.

6. 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.

Yes. ACOR submits that Governments should also be pursuing market development and procurement programs to underpin growth in local demand for recycled materials in order to assist addressing the problems.

In our submission to the discussions paper, ACOR identified that local market development is needed to provide the demand for the materials that will be collected, sorted and processed locally.

Building that local demand requires consideration that recovered and processed materials may be fit for purpose for making new products or infrastructure, but in many cases our economic drivers, standards and manufacturing practices have weighted material choice predominantly to the use of virgin materials.

It is not therefore the decision of the product manufacturer alone that grows demand for recycled materials; it is also the surrounding economic signals, standards and compliance regimes.

There is also a chicken and egg factor. Access to secure and stable markets for recycled materials is needed, but such markets do not exist until sufficient suitable quantities of recycled materials are available and prove themselves.

The COAG decision and governments' waste policies and programs are indicating greater understanding of the need to develop demand in order to make recycling more sustainable.

This is welcome as such market development and procurement programs will be needed to address the implications of Asian restrictions and the COAG decision.

In the absence of local market development and material procurement, materials banned from export may have no local end-use.

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

ACOR is an industry association.

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

It has kept us extremely busy supporting members and helping Governments to understand the issues and potential responses.

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

Australia's recovered materials would have even more constrained markets.

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

Yes, there is but while the initiatives listed in the CRIS are not an exhaustive list of all Government or industry-led, it captures the key initiatives and impacts.

If this question is intended to determine whether there are other initiatives that may make Option 1 more effective, ACOR notes that it does not support Option 1 as being sufficient to meet the policy objectives.

11. Does the status quo achieve the policy objectives?

No.

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

There are some very good laws and policy in place now that pursue the objectives of improved environmental and human health protection, but at a national level, more is needed to address the problem.

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

Effective but limited in addressing the full extent of the problems.

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

No.

15. 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?

ACOR has extensive experience, insights and learnings that can assist in a future education campaign.

ACOR respects and understands that this question is asked in the context of the CRIS an Option 1, and while ACOR is supportive of education campaigns as part of improving environmental and human health outcomes, better education alone is not sufficient reason to make Option 1 capable of meeting the policy objectives.

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

Yes.

With respect to other benefits, depending on implementation and enforcement, both Options may generate a range of benefits.

It is reasonable to expect that properly implemented, the policy will enhance community benefits that could manifest in the form of greater community and consumer confidence in the recycling system and in turn improve participation rates and associated environmental benefits.

With benefits it is also reasonable to expect that the policy will increase the net environmental benefits achieved through recycling. That is, the usual recycling benefits of avoided landfill, avoided raw material extraction, greenhouse gas reductions and energy efficiency will be augmented through local production that negates or reduces the environmental impacts of export. Those environmental impacts relate mainly to energy consumption for the handling and movement of materials, consumption that will not be needed if materials are processed locally.

With respect to other costs, these are potentially the flip side of the potential benefits. If the policy is not properly implemented and does not adequately facilitate the transition to more local capacity and capability to properly recycle the materials that can no longer be exported, then increased landfill and stockpiling may eventuate.

With respect to unintended consequences, ACOR agrees with the assessment of the additional impacts of Options 2(a) and 2(b). Any other unintended consequences are likely to be extensions of those listed financial and environmental impacts if Australia recycling facilities cannot absorb the materials that would have been exported.

17. 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?

ACOR advocates that the ban should be designed to:

- Ensure clear definitions of “waste” and “value-added” that are consistent with industry terminology and fully reflect current practices
- Ensure the definitions for paper and plastic in particular allow for the export of properly sorted and clean material
- Include a mechanism to enable application, assessment and adjudication to determine whether a specific product is subject to the ban or not, and to provide for exemptions to be considered and, if warranted, granted
- Ensure incentives are in place to support local domestic processing capacity of the materials subject to the ban
- Allow for future opportunities to expand the ban with other materials

Specifically, ACOR also advocates that the policy should bring forward the ban on tyre exports to July 2020 as Australia already has the capacity and capability to process more end-of-life tyres locally.

18. 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.

Yes. As the discussion paper sets out, properly managed and value-added materials should still be able to be exported.

In the context of the proposed ban, paper, plastic and tyres in particular should still be able to be exported.

The definition of value-adding for paper being “paper pulp” in the discussion paper needs to be changed.

In the recycling industry and in the paper industry the term pulp specifically means a fibrous material that is made from mechanical or chemical processes that separates and prepares wood or recovered paper fibres in readiness for paper making. In recycled paper for example, pulp is made from used papers being submerged in warm or hot water and mechanically agitated to make a pulp.

As such, the current definition that value-added paper that can be exported would be “paper pulp” is not consistent with current industry practice. If not changed, this definition would be detrimental to the stated objectives of the ban as it would stop recovered paper materials going to good environmental outcomes.

ACOR suggests that the Department and the COAG revises the definition of value-added for paper to include the following:

- Pre-consumer / post-industrial sorted and baled grades of paper and cardboard
- Post-consumer sorted and baled grades of paper and cardboard

ACOR is of the view that such a definition aligned with the stated objectives of the ban as these processes would sort the papers, ensure contamination is removed and that is ready for further use in pulping and paper making.

ACOR also suggests that it may be beneficial for the operation of the ban for there to specifically identified the grades of paper that can be exported. For example, sorted grades of paper such as Old Corrugated Carboard (OCC) and Old Newsprint (ONP) are known and accepted grades of sorted and baled paper in the recycling and paper making industries. ACOR offers to work with the Department and COAG to develop a specified list of grades that can be exported.

With respect to plastics, ACOR suggests that definition could be broadened to also allow for the export of whole plastic bottles and packaging as long as it is sorted into single polymer streams and decontaminated.

ACOR’s assessment is that about 50% of the plastics currently being exported could potentially be processed and used locally. This is based on capacity that is currently planned or being implemented.

However, longer term, and in time for the ban on plastics exports by July 2021, there may not be sufficient washing, flaking and pelletising in Australia. Therefore, under the definition of value added in the discussion paper, sorted and otherwise good quality recovered plastics may not be able to be exported and may not be able to be processed locally.

Further, ACOR makes this suggestion on the basis that the objective of the ban is to stop the export of mixed and dirty plastics. A requirement that to be value added, plastics would either be flaked or pelletised, or sorted into a dedicated polymer stream and decontaminated, would achieve that objective.

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

ACOR is of the view that the penalty must be sufficient to outweigh the benefits any non-compliant operator may gain from inappropriate / non-compliant exports.

ACOR would suggest that while financial penalties are fundamental, also having provisions to stop a company operating and make the company liable for any clean-up costs would be appropriate.

20. 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.

Firstly, businesses reliant on export in many cases are already losing income and facing increased costs. This has happened since early 2018 as the global prices paid for materials declined and the need to meet higher material specifications meant operators had to expend more labour and more capital to clean up product.

This effect has been most noticeable for paper and plastics. Tyres have not been impacted by the global policy changes, and its export price fluctuations are part of the usual global trade. For glass, very little is exported and there has not been a significant change in recent times.

Secondly, ACOR expects that the export prohibition will ramp up operating costs further. ACOR has not undertaken detailed analysis on this to date but expects that the application of a further layer of specifications or standards will require businesses to do more work and therefore will add further costs.

Thirdly, with respect to compliance costs, ACOR expects there will be compliance costs related to record keeping, reporting and perhaps accreditation and auditing.

Lastly, as much as industry can and will absorb reasonable costs, some are likely going to be passed on. For example, on current experience and in most cases the paper and plastics that has been subject to greatest disruption in recent times has been that from households. While industry has absorbed some costs, the current and any increased costs will need to be passed on primarily to local government as the contractor for household recycling services.

21. 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.

There is a range of ways that changes of law are managed in contracts but fundamentally parties agree that any such changes need to be factored in and, if needed, changes made to terms and conditions of the contract.

ACOR has not undertaken an assessment of what costs would be triggered or caused by a prohibition or restriction.

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

This is a very complicated and far-reaching question.

ACOR has not had the time or means to conduct the assessments that are needed to respond to this fully. Further, ACOR observes that the CRIS does not provide sufficient detail on the Options and how they may work operationally to enable such economic modelling and assessment to be done.

Nonetheless, ACOR appreciates that the CRIS is in a compressed timeframe that is justified by the need to do something quickly, and we can make some observations and comment.

With respect to price, ACOR notes that for paper, plastics and tyres these are globally traded commodities and prices are set by the global market. The quantity and type of material that will be affected by an export prohibition or restriction in Australia is not sufficient to alter global supply and demand, and therefore is not going to impact global price.

The prices achieved in Australia for the sale of plastics and paper – whether that material is for domestic use or exporting – is linked to the global price. Prices vary due to factors such as quality, specification and transport costs, but are linked to global prices.

It is therefore expected that none of the Options will have any significant impact on price.

With respect to competition, the stated objectives of the policy include keeping more materials in Australia for recycling and increasing domestic processing capacity and capability. While the fundamental impact therefore is growth in volumes of materials processed, it is possible that it could either increase or decrease competition.

Competition may increase because the greater availability of materials for recycling will spawn investment from multiple existing players and new operators as a local market grows.

Competition may decrease however if existing smaller players or potential new entrants are either unable to secure supply of materials for processing, or other barriers to entry or expansion are prohibitive.

The likelihood of either impact is of course dependent on the final design of the intervention.

As noted previously, ACOR also highlights that overall the policy needs to understand that there needs to be support for market development and research in order to develop more local demand to actually use the recovered materials in manufacturing or infrastructure.

If that objective is achieved, it would be expected that competition would increase and there would be new downstream economic activity locally, which was previously overseas.

23. 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:

- a. What is the infrastructure capacity gap that will need to be filled?**
- b. How long will it take to commission the infrastructure?**
- c. What is the cost of building the infrastructure and who will bear this cost?**

ACOR is of the view that the underlying infrastructure and markets exist, but that work is needed that will take time.

With respect to capacity, agrees that the ban will achieve this but encourages consideration be given to transition arrangements and providing support to the recycling industry.

It is noted that the National Waste Policy Action Plan 2019 proposes to support market development for recycled materials and products and has a range of specific actions that will be undertaken by Government in order to develop and grow local markets for recycled materials.

Those actions are inherently good, but all Governments in Australia will need to immediately provides incentives to ensure the 1.4 million tonnes of recovered and recyclable materials that are likely to be subject to the ban have a local demand.

ACOR and its members are totally supportive of the intention to increase the domestic Australia capacity and capability to be able to process more or all of the recyclable materials that are recovered in Australia.

Such a goal is long term and determined by myriad issues.

For example, the development of local reprocessing infrastructure is not only dependent on the availability of secure feedstock and funding / capital (both in themselves complex and time consuming to achieve), but also intricate factors such as land access, energy supply, permitting and licensing.

These matters are all long-term to deal with.

Access to suitable sites for recycling facilities is constrained in all Australian capital cities. While it is more readily available in regional and rural areas, such sites may not be optimal for access to material or logistics.

Local Government permitting, interactions with State planning authorities and environmental approvals and licensing are becoming more complex, costly and time consuming in all Australian States and Territories.

While ACOR and the recycling industry accepts that such checks and balances are necessary for good governance, land use and environmental performance, it is concerned that it can take a year or more to achieve the development, commissioning and operation approvals for even a fairly simple recycling site.

In essence, Governments need to appreciate that for Australia to increase its domestic processing capacity and capability will require a range of incentives and will take time.

The other side of the issue is of course the local demand for the materials. As noted, ACOR has supported independent research into this area – specifically looking at the use of glass, plastics in road building (see earlier reference to this report).

As this report and others show, there is sufficient potential demand in Australia to ultimately use substantially more if not all of some of the recovered and reprocessed materials Australia produces.

Like the issue of building capacity, the building of demand will take time.

Building demand requires consideration and management of issues such as connection into currently largely unconnected markets, quality assurance and price parity.

Recovered and processed materials may be fit for purpose for making new products or infrastructure, but in many cases our economic drivers, standards and manufacturing practices have weighted material choice predominantly to the use of virgin materials.

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

Possibly.

ACOR is of the view that 2(a) is superior to 1, but whether it is superior to 2(b) is not so clear.

Under 2(a), from what is contained in the CRIS, it seems there would be no Government intervention or financial assistance or support. This seems somewhat incongruous with current practice. In reality State, Territory and local Governments are undertaking a range of interventions in waste and recycling and new policies and programs are under active development.

While these current and pending Government interventions are not specifically prohibiting or restricting export of materials, the interaction of these interventions with market development, procurement and local infrastructure mean they will inextricably have impacts and outcomes that are inter-related with the export ban.

It is therefore assumed that the proposed structure of 2(a) means there would be no Australian Government intervention for the export ban. If that assumption is correct, ACOR is concerned that a simple regulatory intervention under 2(a) may not fully achieve the potential benefits.

ACOR suggests that while the market and State, Territory and local Governments could address the other financial issues and general support needed to fully achieve benefits, the Australian Government would at a minimum need to understand and coordinate its regulatory intervention and enforcement with the market and those other interventions.

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

Yes. ACOR is of the view that 2(b) is a superior approach.

As noted above, State, Territory and local Governments are undertaking a range of interventions in waste and recycling and new policies and programs are under active development. The targeted interventions listed in the CRIS can be coordinated with these and seek to mutually extend, enhance and complement each other for optimal outcomes.

ACOR is of the view that properly structured and delivered, 2(b) can also integrate with the market and ultimately lead to the most efficient and effective outcome for the Australian economy.