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To whom it may concern,

The Australian Council of Recycling (ACOR) welcomes the opportunity to comment on the Consultation Draft in relation to the proposed provisions to support the new End of Waste (EOW) framework.

ACOR is the peak national industry association representing the resource recovery industry with 35 large companies and some local governments with public assets in waste management and resource. We represent a diverse group of members, including local councils, public and private resource recovery and recyclers with different interests in the design and implementation of the EOW framework. This submission reflects a very brief consultation with ACOR members. While has previously called for reformation of the BUA framework and ACOR broadly supports its intent, possible areas of concern are specified below.

- The draft EOW framework does not focus on the rules regarding regulated waste tracking with respect to EOW. Its implementation may potentially repeat the limitations of the BUA system in which regulated wastes being transported to a BUA holder for beneficial use are not currently required to be tracked. ACOR believes this was not the intention of the BUA system, although it may create misinterpretation of the legislation.

There will be two main categories of registered resource producer under an EOW Code:

- The original waste producer who processes his own waste to make a waste derived resource; and
- Commercial Waste Reveal Facilities who receive waste generated by others, and then process it to make a waste derived resource.

It is important that the regulated waste tracking requirements are properly articulated for the above two scenarios. It is unclear why regulated wastes being transported to commercial facilities holding a BUA or EOW Code/Approval should be exempt from tracking. The exemption could only be for EOW compliant resources being transported from registered resource producers to

legitimate end user markets. The lack of transparency regarding untracked regulated wastes may create opportunities for illegitimate operators to bypass the system.

- The Queensland EOW framework under the Waste Reduction and Recycling Act 2011 (WRR Act) resembles the end of waste provisions established by the European Union under Article 6 of the Waste Framework Directive 2008/98/EC, which states:

*1. Certain specified waste shall cease to be waste within the meaning of point (1) of Article 3 when it has undergone a recovery, including recycling, operation and complies with specific criteria to be developed in accordance with the following conditions:*

- (a) the substance or object is commonly used for specific purposes;*
- (b) a market or demand exists for such a substance or object;*
- (c) the substance or object fulfils the technical requirements for the specific purposes and meets the existing legislation and standards applicable to products; and*
- (d) the use of the substance or object will not lead to overall adverse environmental or human health impacts.*

- The EOW in QLD differs from the EU version in that it fails to emphasise the importance of demonstrating that “*a market or demand exists for such a substance or object*”.

In applying the EU Waste Framework Directive, the United Kingdom has recognised this issue in its end of waste test advice according to this web link:

<https://www.gov.uk/guidance/turn-your-waste-into-a-new-non-waste-product-or-material>

“*This test assesses whether:*

- *the waste has been converted into a distinct and marketable product, this means:*
  - *the waste has been turned into a completely new product, e.g. a playground surface is produced from waste tyres*
  - *the new product is different from the original waste (minor changes to its composition may not be sufficient), e.g. non packaging plastic recycled material is processed to make new plastic products*
  - *there is a genuine market for the material so it will definitely be used – if its stored indefinitely with little prospect for use the material remains waste*
- *the processed substance can be used in exactly the same way as a non-waste*
- *the processed substance can be stored and used with no worse environmental effects when compared to the material it is intended to replace”*

There is a risk that focussing on a proposed use of a waste derived resource without considering the market demand for such a material will lead to loopholes whereby unwanted materials (that would otherwise be considered regulated waste) can be disposed of inappropriately without tracking.

- All existing requirements for waste management licensing should be met by commercial operators holding a BUA under the current system or an EOW approval under the proposed new system, where raw waste is received for a gate fee off site and then processed into a waste derived resource.
- All operators who choose to operate under an EOW code should be registered with the Department to allow appropriate and consistent regulation and compliance. ACOR considers that the Department should establish a regime to ensure that all EOW operators are subject to an auditing program to monitor compliance with the conditions of the applicable EOW code. This is similar to the auditing regime applied to operators holding an Environmental Authority. Verifying compliance is essential as once the relevant waste has been sold or given away by the resource producer, there is little to no visibility on the use of the material subject to the EOW code. This is even more critical for liquid wastes which are more difficult to track given their physical nature.
- Clause 3.2.5 of the consultation brief in relation to sections 173N states that conditions can only be applied to the holder of an EOW approval. Consideration should be given to how the Department would verify that the waste derived resource has been legitimately sold or given away as a product and not disposed of by other means.
- Regarding clause 3.2.10 of the consultation brief, more transparency needs to be given to the application fees. ACOR recommends that the Department does not require operators who undertake existing waste related environmentally relevant activities to pay a fee to utilise an EOW code as such operators are already registered with the Department and pay an annual licensing fee. Many of these ERA holders have already recycled waste into commodities such as commingled recyclables into saleable commodities like plastics, aluminium and steel, demolition concrete into aggregate, waste oil into fuel oil and lubes. It will be a doubling up of red tape on existing recyclers by applying an extra financial and administrative burden on ERA's that are inherently aimed at EOW status and waste recovery.
- When deciding an application for an EOW approval or amendment, we propose that the Department consider how the EOW code interacts with the existing state and federal regulatory setting. For example, used oil was flagged by the Department during previous consultation papers as a potential waste stream that could be eligible for an EOW code. Any use of used oil under such a provision should not be assessed without consideration to the following:
  - Used oil is a hazardous waste under the Basel Convention;
  - Used oil is covered within the National Product Stewardship Scheme for Oil; and
  - Used oil is a priority waste under the Queensland Waste Strategy developed by the Department.

- End of waste should not be an easy way of producing poorer quality material with unacceptable damage to the environment.
- The cost of the EOW process should remain low to prevent negative economic impacts to waste and recycling companies.
- There is no focus on the scope and timeframe of the process. Further information is needed to understand when the changes will be made.

ACOR welcomes the concepts inherent in the new EOW framework. However, ACOR is very concerned about the limited time frame for submissions, particularly as government had indicated this would be forthcoming well over a year ago, yet an entire industry has been given weeks to respond. A more measured process with genuine industry consultation is advised to avoid unintended and perverse outcomes. ACOR stands ready to assist in this regard.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'G. Musgrove', written in a cursive style.

Grant Musgrove

Chief Executive Officer