

Submission on the Department of Environment and Energy Review of the Product Stewardship Act 2011, including the NTCRS



June 2018

Status of this Submission

This Submission has been prepared through the Municipal Waste Advisory Council (MWAC) for the Western Australian Local Government Association (WALGA). MWAC is a standing committee of WALGA, with delegated authority to represent the Association in all matters relating to solid waste management. MWAC's membership includes the major Regional Councils (waste management) as well as a number of Local Government representatives. This makes MWAC a unique forum through which all the major Local Government waste management organisations cooperate.

This Submission therefore represents the consolidated view of Western Australia Local Government. However, individual Local Governments and Regional Councils may have views that differ from the positions taken here.

This Submission was considered and endorsed by the Municipal Waste Advisory Council on Wednesday 27 June 2018.

Executive Summary

The Association welcomes the opportunity to comment on the *Review of the Product Stewardship Act 2011, including the National TV and Computer Recycling Scheme Consultation Paper*. The Association acknowledges the consultation undertaken to date and looks forward to a more holistic approach to the development and implementation of Product Stewardship Schemes that provide an improved level of service to the Western Australian community.

The Review presents an opportunity to address the entire lifecycle impact of products, and support the development of local recycling/recovery industries. It is suggested that future Schemes are designed to reflect all objects of the Act, assigning manufacturers, importers, distributors and Arrangements with a financial or physical responsibility to manage actual end-of-life impacts, as opposed to projected end-of-life impacts. There is support for the recovery of costs currently experienced by the Department in providing regulatory oversight of Schemes (i.e. dedicated, permanent resources). However, it is also essential that Schemes are designed to cover the costs incurred by Local Government in implementing Schemes.

With respect to the NTCRS, there is a need to apply the recycling target on a jurisdictional basis, and specify the amount of material that Arrangements must collect from individual sites to fulfil reasonable access requirements. The current approach to reasonable access has not delivered equitable access to services in Western Australia, with the bulk of collections occurring in the metropolitan area.

The Association considers that the delivery of fewer Schemes, that address multiple classes of similar products, could facilitate consistent engagement with the community, Local Government and the resource recovery industry. The Government must commit to taking decisive action to implement either Mandatory or Co-regulatory Schemes for classes of products that have been identified as a priority through the Minister's annual product list, where industry does not commit to implement a Voluntary Scheme that meets a certain level and type of service.

Recommendations

General Comments

Recommendation: That the term 'shared responsibility' is clearly negotiated, understood and agreed to by all parties on a long term basis, with respect to roles and responsibilities in implementing Product Stewardship Schemes, in terms of financial and physical responsibility for end-of-life management.

Recommendation: That Product Stewardship Schemes are designed to fund the implementation of each party's roles and responsibilities, on an equal basis.

Recommendation: That Product Stewardship Schemes are designed to address multiple classes of products, and engage the community, Local Government and the resource recovery industry in a consistent manner.

TOR 1. The extent to which the objects of the Act are being met and whether they remain appropriate.

Recommendation: To demonstrate the effectiveness of a Scheme, there must be a thorough and clear adherence to all objects of the Act, with respect to the entire lifecycle of the product.

Recommendation: That Product Stewardship Schemes are designed to reflect all objects of the Act, by:

- Assigning manufacturers, importers, distributors and Arrangements with a financial or physical responsibility for managing actual end-of-life impacts, as opposed to projected end-of-life impacts and/or
- Prohibiting the sale or distribution of new products, where there is no clear pathway to manage end-of-life impacts in an environmentally sound manner.

Recommendation: Amend the Product Stewardship criteria to reflect the original criteria of the Product Stewardship Bill.

Recommendation: That the RIS process is undertaken using tools that assess the impact of different regulatory interventions on classes of products, from a whole of life perspective.

TOR 2. The effectiveness of the accreditation of voluntary product stewardship schemes and the Minister's annual product list in supporting product stewardship outcomes.

Recommendation: Accreditation should only be awarded to Voluntary Product Stewardship Schemes that demonstrate their effectiveness against pre-determined criteria.

Recommendation: The Government acts strongly to implement Mandatory or Co-Regulatory Product Stewardship Schemes when Voluntary Product Stewardship Schemes do not prove effective for listed priority products.

Recommendation: That the Department provides one source of information to Local Government and industry that clearly and concisely identifies the Government's priorities.

TOR 3. The operation and scope of the National Television and Computer Recycling Scheme.

Recommendation: To improve transparency on the operation of the NTCR Scheme, require direct reporting of material exported for reuse.

Recommendation: That any proposal to change scaling factors, conversion factors, and waste arising, takes into account potential impacts on Local Government.

Recommendation: Amend the parameters of the NTCRS to ensure the recycling target is applied on a state by state basis.

Recommendation: Review the definition and application of reasonable access for the NTCRS, to deliver more equitable access to services in Inner Regional, Outer Regional and Remote areas.

Recommendation: To comply with the reasonable access requirements of the NTCRS, Arrangements must collect a minimum amount of material annually from each collection site. Where this does not occur, Arrangements must justify why the service provided should count toward the achievement of reasonable access, by demonstrating:

- a. That the opening hours, days and location of collection sites / events facilitated community access
- b. That an acceptable level and type of advertising was undertaken for each collection site / event
- c. That the Local Government was provided with sufficient notification of a collection event to promote it to the community.

Recommendation: That policy settings relating to waste-to-energy reflect community expectations, with respect to its place in the waste management hierarchy, and any potential impacts on existing resource recovery businesses.

Recommendation: Expand the scope of the NTCRS to include similar classes of products that have been, or are currently included on the Ministers annual list. Including batteries, photovoltaic systems and electrical and electronic products.

Recommendation: That sufficient staff resources are made available to the Department.

Recommendation: That Arrangements use consistent branding of the NTCRS, as opposed to individual brands.

Recommendation: That the Department recovers the costs associated with providing regulatory oversight of the NTCRS, on the condition that revenue is used to fund permanent, dedicated resources within the Department.

Recommendation: That Local Government is permitted to recover costs associated with implementing the NTCRS.

TOR 4. The interaction of the Act with other Commonwealth, state and territory and local government legislation, policy and programs.

Recommendation: Each jurisdiction takes a leadership role in progressing action on a distinct class of products included on the Ministers annual list.

TOR 5. International and domestic experience in the use of product stewardship to deliver enhanced environmental, social and economic outcomes through product design, dissemination of new technologies and research and development.

No Recommendations.

1. Introduction

Local Government welcomes the opportunity to comment on the Consultation Paper. From the breadth of the reforms proposed, it is clear that the Department is committed to considering a number of issues that have had an adverse impact on the design, implementation and uptake of Product Stewardship Schemes in Australia.

Local Government currently interacts with, and contributes to the outcomes of, the *Product Stewardship Act 2011* and the National TV and Computer Recycling Scheme (NTCRS), by:

- Providing and/or operating collection sites
- Facilitating, or transporting collected material to markets
- Promoting various Schemes to the community.

This Submission provides general comments on the implementation of Product Stewardship in Australia, then addresses the specific questions which are outlined in the Department's Consultation Paper.

2. General Comments

The Association considers that the Review presents an opportunity to address issues with shared responsibility, cost recovery and consistent service delivery. These issues apply to the development of future Schemes and the improvement of current Schemes.

Shared Responsibility

The Association agrees that there is a need to share responsibility when it comes to the implementation of Product Stewardship. However, it is essential that there is a clear definition and agreement on what is meant with respect to roles and responsibilities when using this term. Local Government in Western Australia has a significant, but disproportionate, role implementing various Product Stewardship Schemes, in terms of financial and physical responsibility for end-of-life management when compared with other parties in the supply chain. Roles and responsibilities in implementing Product Stewardship Schemes must be clearly negotiated, understood and agreed to by all parties on a long term basis. Specifically, the waste management industry, product manufacturers, importers, distributors, Arrangements, and all levels of Government.

Recommendation: That the term 'shared responsibility' is clearly negotiated, understood and agreed to by all parties on a long term basis, with respect to roles and responsibilities in implementing Product Stewardship Schemes, in terms of financial and physical responsibility for end-of-life management.

Cost Recovery

Product Stewardship Schemes should be designed in such a way that manufacturers, importers and distributors and Arrangements are financially or physically responsible for the end-of-life management of products. Local Government considers the term 'management' to include the establishment and operation of collection sites, transportation of material to market, community engagement and refurbishment/resource recovery. All parties to Product Stewardship Schemes, should be empowered to commit to implementing their roles and responsibilities on an equal basis.

Unlike manufacturers, importers, distributors and Arrangements, Local Government is not able to recover the costs of delivering these services from a wide revenue base. The NTCRS was designed with a requirement that collection sites accept TVs and Computers free of charge. This has proved to be a significant impost on Local Government, with some funding the operation of collection points, in addition to contributing to the cost of recycling material collected under the NTCRS. Others are funding the management of material collected outside of the NTCRS, as a result of the limited scope of the Scheme and challenges negotiating equitable agreements with Arrangements. This includes material that is in scope – such as TV and computers, as well as material that is out of scope – such as TV peripherals. As discussed in response to TOR 3, Local Governments should be able to recover the costs of providing/operating collection sites, and providing/facilitating the transport of materials to market - from manufacturers, importers, distributors and Arrangements.

Recommendation: That Product Stewardship Schemes are designed to fund the implementation of each party's roles and responsibilities, on an equal basis.

Consistent Service Delivery

Product Stewardship Schemes operate independently from one another, delivering different types and levels of services. This has resulted in a less than desirable situation where Arrangements compete for the attention and support of Local Government, industry participants and the community. Local Government is required to navigate a web of different governance arrangements, approaches to community engagement and service

delivery. This leads to a disjointed approach and inconsistent public experience. The delivery of fewer Schemes that address multiple classes of products, with consistent branding, could facilitate better engagement with the community, Local Government and the resource recovery industry.

Recommendation: That Product Stewardship Schemes are designed to address multiple classes of products, and engage the community, Local Government and the resource recovery industry in a consistent manner.

3. Response to Questions

TOR 1. The extent to which the objects of the Act are being met and whether they remain appropriate.

- *Are the objects of the Act still relevant and appropriate?*

The Association considers that the objects of the *Product Stewardship Act 2011* are relevant and appropriate, but yet to be effectively implemented in the design of Product Stewardship Schemes. As a policy tool, Product Stewardship can be used to address the entire lifecycle impact of a product. The Association considers that substantial benefits could be delivered to the economy, by revisiting how the Act is used in the design of Schemes. All Schemes should reflect the objects of the Act, in their entirety.

To date, Product Stewardship Schemes have tried to effect change using loosely defined market development activities, community/industry engagement, voluntary commitments to dispose of materials in an environmentally sound manner, or change which party contributes financially to collection, processing, recycling or disposal costs at end-of-life. These activities have been viewed by industry and regulators as a way to begin addressing the lifecycle impacts of various products, as these approaches do not require a fundamental rethink to manufacturing and consumption. The Schemes that have delivered the best results, have required industry to make an up-front contribution on projected end-of-life management costs.

Unfortunately, the current approach has not addressed, or resolved, the complexities of the market forces and costs experienced by the waste management industry. Future Schemes must be designed in such a way that manufacturers, importers and distributors and organisations tasked with delivering Schemes, such as Arrangements, are financially or physically responsible for managing actual end-of-life impacts, as opposed to projected end-of-life impacts.

Alternatively, an approach could be taken where manufacturers, importers and distributors are prohibited from selling or distributing new products, where there is no clear pathway to manage end-of-life impacts in an environmentally sound manner. Reframing Product Stewardship in such a light, would encourage those producing or selling products to consider the lifecycle impacts of their products, and assist with a transition to a circular economy.

Recommendation: To demonstrate the effectiveness of a Scheme, there must be a thorough and clear adherence to all objects of the Act, with respect to the entire lifecycle of the product.

Recommendation: That Product Stewardship Schemes are designed to reflect all objects of the Act, by:

- **Assigning manufacturers, importers, distributors and Arrangements with a financial or physical responsibility for managing actual end-of-life impacts, as opposed to projected end-of-life impacts and/or**
- **Prohibiting the sale or distribution of new products, where there is no clear pathway to manage end-of-life impacts in an environmentally sound manner.**
- *Are there significant gaps in the objects and the product stewardship criteria, e.g. are there possible outcomes of product stewardship schemes that would be desirable but would not fit under the existing legislation?*

The current criteria forms a substantial barrier to the adoption of Mandatory or Co-regulatory approaches, as it is difficult to prove these impacts are occurring through the Regulatory Impact Statement (RIS) process (further comment is provided in response to the question on the design of the Act).

It is recommended that the criteria are amended to reflect those of the original Product Stewardship Bill, specifically:

- (d) reusing, recycling, recovering, treating or disposing of the products involves a significant cost to the Commonwealth, or State, Territory or local governments;
- (f) taking action to reduce those impacts will offer business opportunities that would make a contribution to the economy.

Recommendation: Amend the Product Stewardship criteria to reflect the original criteria of the Product Stewardship Bill.

- *Are existing product stewardship schemes such as the National Television and Computer Recycling Scheme, and Australian Government accredited voluntary arrangements such as MobileMuster and Fluorocycle effective in addressing the objects?*

Table 1 provides a comparison of the objects of the *Product Stewardship Act 2011*, with the publically stated purpose of the resulting Schemes. It is clear that these Schemes vary in their effectiveness and suitability in addressing all of the objects of the Act. For example, the NTCRS does not address the lifecycle impact of these products (waste avoidance, waste reduction, or the use of hazardous substances). The lack of requirements for data capture, management and reporting for Fluorocycle does not clarify what impact, if any, this Scheme has had on tonnes collected for recovery, or reduction in cost to State and Local Government recycling programs.

Table 1: Comparison of the objects of the *Product Stewardship Act 2011*, and the publically stated objectives / purpose of resulting Schemes.

Objects of the Act	NTCRS¹	MobileMuster²	Fluorocycle³
<p><i>Object—reducing impact of products</i></p> <p>(1) It is an object of this Act to reduce the impact:</p> <p>(a) that products have on the environment, throughout their lives; and</p> <p>(b) that substances contained in products have on the environment, and on the health and safety of human beings, throughout the lives of those products.</p>	<p>The scheme has three main objectives, which together mean better management of e-waste:</p> <ul style="list-style-type: none"> •reduce waste to landfill, especially hazardous materials found in e-waste •increase recovery of reusable materials in a safe, scientific and environmentally sound manner •provide access for households and small businesses across Australia to an industry-funded recycling service. 	<p>MobileMuster provides a free mobile phone recycling program that accepts all brands and types of mobile phones, plus their batteries, chargers and accessories. It is the mobile phone industry’s way of ensuring old mobile phone products don’t end up in landfill - but instead are recycled in a safe, secure and ethical way.</p> <p>...MobileMuster is the only government accredited mobile phone recycling program in Australia. The program gained accreditation in 2014 under the Product Stewardship Act 2011 which provides a framework to effectively address the environmental, health and safety impacts of a product or material across its full lifecycle, from manufacture to disposal.</p> <p>The mobile phone industry is constantly working to reduce the environmental and human health impacts of their products, across their entire lifecycles. This includes:</p> <ul style="list-style-type: none"> •Improving how efficiently resources are used in the 	<p>FluoroCycle is a scheme that aims to increase the recycling of lamps that contain mercury and reduce the amount of mercury entering the environment.</p> <p>To achieve this, FluoroCycle provides a national, voluntary scheme which businesses, government agencies and other organisations can join as Signatories. The scheme gives public recognition to Signatories for their commitment to recycling.</p>
<p>(2) It is Parliament’s intention that this object be achieved by encouraging or requiring manufacturers, importers, distributors and other persons to take responsibility for those products, including by taking action that relates to the following:</p> <p>(a) avoiding generating waste from products;</p> <p>(b) reducing or eliminating the amount of waste from products to be disposed of;</p> <p>(c) reducing or eliminating hazardous substances in products and in waste from products;</p> <p>(d) managing waste from products as a resource;</p>			

¹ Department of Environment and Energy (Undated). About the Scheme. Available online. <http://environment.gov.au/protection/national-waste-policy/television-and-computer-recycling-scheme/about>.

² MobileMuster (2018). About. Available online. <https://www.mobilemuster.com.au/about/>.

³ FluoroCycle (2018). Overview. Available online. <http://www.fluorocycle.org.au/overview.php>.

(e) ensuring that products and waste from products are reused, recycled, recovered, treated and disposed of in a safe, scientific and environmentally sound way.		production of mobile phones •Ensuring that mobiles collected are recycled to the highest environmental standards •Minimising waste in the manufacture, production, use and disposal of mobiles and accessories •Reducing risk to human health through better management of product manufacturing and disposal (e.g. ensuring safe work environments)	
<p><i>Other objects</i></p> <p>(3) The following are also objects of this Act:</p> <p>(a) to contribute to Australia meeting its international obligations concerning the impacts referred to in subsection (1);</p> <p>(b) to contribute to reducing the amount of greenhouse gases emitted, energy used and water consumed in connection with products and waste from products.</p>			

- *Is the design of the Product Stewardship Act a significant determining factor, either positive or negative, in the effectiveness of product stewardship, or are other factors more important?*

The Association considers that the processes used to ascertain if products are worthy of attention under the *Product Stewardship Act 2011* are time consuming, difficult to engage with and make action difficult in situations where there is limited political will and/or Government resources. In recent times, it has been increased community awareness of the impact of waste and how it is managed that has encouraged certain sectors to take steps to reduce the environmental impact of their products, as opposed to the *Product Stewardship Act 2011*.

The RIS process frequently inhibits the use of Mandatory or Co-regulatory approaches under the Act, due to the emphasis placed on the cost/benefit analysis and a preference that any financial burden on industry (or Government) must be minimised. Although there are methodologies which can take into account public opinion and willingness to pay, these are not widely used. The focus on avoiding any additional cost to industry ignores the substantial costs that are already paid by society as a whole (frequently through Local Government rates), as opposed to those who actually produce and use certain products. The use of different tools, such as a lifecycle analysis, offers an alternative method to assess the impact that different regulatory interventions could have, from a whole of life perspective.

Recommendation: That the RIS process is undertaken using tools that assess the impact of different regulatory interventions on classes of products, from a whole of life perspective.

TOR 2. The effectiveness of the accreditation of voluntary product stewardship schemes and the Minister’s annual product list in supporting product stewardship outcomes.

- *Has the accreditation of voluntary product stewardship arrangements been beneficial to those arrangements, their participants and stakeholders?*

Local Government has been an important stakeholder in the implementation of the two Voluntary Product Stewardship Schemes currently accredited under the Act. The Association sees limited benefit in the accreditation process, as there is no requirement that Product Stewardship Schemes demonstrate their effectiveness against pre-determined criteria, such as a level and type of service offering. As indicated, the Association considers that Fluorocycle is an ineffective Product Stewardship Scheme.

It must be noted that the majority of Voluntary Schemes operate outside the accreditation process established by the Act. While there are examples where Voluntary Schemes have arisen from a genuine industry commitment to reduce the entire lifecycle impact of a product, these are outweighed by examples where the key driver has been industry resistance to Government intervention and/or a lack of political will or Government resources to intervene.

Local Government does support the concept of industry led Schemes, as this approach has the potential to reduce the administrative burden on Government and places more onus on the industry regarding the type of

products it produces. However, there must be an acknowledgement that there have been situations where voluntary, industry led action has been less than effective in the WA context, and has not met the expectations of the community.

Recommendation: Accreditation should only be awarded to Voluntary Product Stewardship Schemes that demonstrate their effectiveness against pre-determined criteria.

- *What would support the development of greater value in the accreditation process?*

The Department must provide clear guidance on what constitutes an acceptable level and type of service offering for Voluntary Schemes, and the various design options available to deliver these outcomes. By establishing a minimum standard, the Department will be better equipped to develop and promote a respected, attractive brand to industry.

Every year, the Minister publishes a list, in accordance with S.108A of the Act which identifies those products for which the Minister will consider – in that financial year – whether some form of accreditation or regulation under the Act might be appropriate. If an industry that supplies a class of product that is included on the Ministers annual list indicates it has no intention of operating a Voluntary Scheme in accordance with this minimum standard or seeking accreditation, Government must act in the following financial year to implement either a Mandatory or Co-regulatory Product Stewardship Scheme.

Recommendation: The Government acts strongly to implement Mandatory or Co-Regulatory Product Stewardship Schemes when Voluntary Product Stewardship Schemes do not prove effective for listed priority products.

- *How can the accreditation process for voluntary product stewardship schemes better support the development of successful product stewardship schemes?*

Local Government's definition of a successful Voluntary Scheme may differ to that of industry and Government. Employing a voluntary industry led approach where the concept of Product Stewardship is not widely understood or previously adopted, can result in conflict between community expectations, as well as factions within industry itself in the design phase of a Scheme. This was observed in the formation of both the battery, and tyre, Voluntary Schemes. Local Government supports the establishment of specific criteria on the level and type of service that a Voluntary Scheme must deliver – and the various design options available to deliver these outcomes. This criteria could be used by the Department when considering accreditation and later to assess compliance. It is only through the development and promotion of clear criteria that the performance of Voluntary Schemes can be assessed and assurance can be provided to Local Government and the community that industry is committed to, and actively addressing, the entire lifecycle impact of its products.

Industry should be required to maintain evidence records of their ongoing compliance with the accreditation criteria. The Department could reserve the right to request evidence from participants for audit purposes. This would provide reassurance to Local Government and communities regarding the end destination of waste materials. Furthermore, this approach could provide incentive and motivation for industry to seek accreditation, as it would be a valued commodity.

Local Government maintains that new Product Stewardship Schemes should leverage off the success of existing Schemes and collection networks. Schemes must also reflect all the objects of *Product Stewardship Act 2011*.

- *How can the development and use of the Minister's annual product list be enhanced?*

It is a requirement of the *Product Stewardship Act 2011* that the Minister publishes an annual list of classes of products that have been identified as a priority for possible accreditation or regulation. Substantial time, effort and political will is required to develop and implement Product Stewardship Schemes using this approach⁴. As previously stated, Local Government supports an approach where action is taken on classes of products that

⁴ Department of the Environment and Energy (2018). Appendix 1. Review of the Product Stewardship Act 2011, including the National Television and Computer Recycling Scheme. Available online. <http://environment.gov.au/protection/national-waste-policy/product-stewardship/consultation-review-ps-act-incl-ntcrs>.

have been identified as a priority for possible accreditation or regulation on the Minister's annual product list for 12 months, if no action has been taken by industry in that year.

At the consultation session on 5 June 2018, it was noted that the Department had recently undertaken consultation on the development of a set of principles and processes to guide strategic national prioritisation of action to minimise the environmental impacts of waste from products. Local Government acknowledges that the *Draft Assessment Action Escalation (AAE) Process and Work Plan* could potentially provide a way for Local Government to raise issues for inclusion on the agenda of the Meeting of Environment Ministers (MEM). However, it is still not clear how Local Government can influence this process, as it appears that all jurisdictions have to agree that each issue is a priority, and who will complete the required work. There are limited resources available within Local Government to undertake this type of strategic waste management activity. In many cases, Local Government already funds State jurisdictions to undertake this work, through payment of substantial Landfill levies.

As noted in the Association's Submission on the Department's *Draft Assessment Action Escalation (AAE) Process and Work Plan*, it is not clear how duplication of effort will be avoided between this initiative and the Minister's annual product list. One source of information should be provided to Local Government and industry that clearly and concisely identifies the Government's priorities.

Recommendation: That the Department provides one source of information to Local Government and industry that clearly and concisely identifies the Government's priorities.

TOR 3. The operation and scope of the National Television and Computer Recycling Scheme.

- *Are periodic updates to the scaling factors an adequate way of dealing with the export of products for reuse, or should further consideration be given to direct reporting of export for reuse?*

The Association supports direct reporting of export for reuse, as this would improve transparency on the operation of the Scheme. It is important that data is presented that demonstrates the NTCRS is effective, and meeting community expectations on the full lifecycle impacts of products. The Department could investigate the approach implemented in the UK, where each waste handler is required to report on the end destination of managed materials. This approach has allowed targets to be introduced and assessed on components of the Waste Hierarchy that are traditionally difficult to engage with, such as landfill diversion and reuse.

Any proposal to change scaling factors, conversion factors, and waste arising must consider the potential impacts that this will have on Local Government. It is imperative that sufficient funds are generated to support an industry led and operated Scheme, as opposed to a Scheme that is financially underpinned by Local Government. The design of the NTCRS allows manufacturers and importers to acquit their responsibilities by making an up-front contribution on projected end-of-life management costs, which is accommodated as a pass through cost directly to consumers. There is a risk that the funds raised in any given year will not always meet community demand for, and the cost of, managing products at end-of-life. This concern is relevant, given the increasing number of light weight electronic products coming onto the market. Accurate information is required on the actual amount of material that becomes waste in any given year – instead of estimates that are likely to undermine any increase in the recycling rates.

Recommendation: To improve transparency on the operation of the NTCR Scheme, require direct reporting of material exported for reuse.

Recommendation: That any proposal to change scaling factors, conversion factors, and waste arising, takes into account potential impacts on Local Government.

- *Are periodic updates to product codes and conversion factors an adequate way of ensuring the scheme remains accurate and fair for to liable parties, or should consideration be given to other approaches to allocating liability?*

As per response to previous question.

- *Is intervention needed to ensure equitable distribution of collection services around Australia? If so, what should be done?*

It is essential that there is equitable distribution of collection services across Australia. The Association considers that immediate intervention, and changes to the Scheme, are required to ensure this outcome is achieved.

The NTCRS has delivered significant improvements in the Australian recycling rate of TV and Computers. Local Governments initial experience with the Scheme was positive, with the cost of recycling TVs and Computers reduced. Unfortunately, Local Government confidence in the Scheme was undermined by the actions taken by certain Arrangements in late 2014 - to limit their involvement to the minimum legislated requirements for collected tonnes and number of access points provided. Contracts to host permanent collection sites were either terminated or reduced, with no prior warning that this was about to occur or offer to negotiate. Regional/remote sites across Australia were most likely to have their services terminated or reduced. Western Australia has many sites within this classification, due to the dispersed nature of its population.

While the increase in recycling targets has alleviated some pressure on Local Government, the impacts have not been realised in WA to the same degree as other jurisdictions. This relates to both the scope of service provided and the amount of material collected. The Association is aware that 18 of the 62 Western Australian collection sites accepting material in the 2015/16 Financial Year, were underpinned by Local Government. In this period, 95% of the material recovered in Western Australia was collected at these Local Government sites (950,882kg).

Figure 1 provides a comparison of the kilograms collected by Arrangements in each jurisdiction, as reported by the Arrangements for the 2016/17 Financial Year⁵. A complete comparison of the information extracted from the Annual Reports is provided in Appendix 1 of this Submission (NOTE: minor calculation errors were present in the Annual Reports). In viewing this information, it should be noted that:

- The requirements for reasonable access (i.e. number of collection sites) differ between jurisdictions related to population,
- The minimum amount of material that must be collected by Arrangements differs and relates to the number of liability parties who are members of that Arrangement.

From the data available it appears not all Arrangements are not providing similar levels of service. While the requirements for reasonable access may technically be met by Arrangements, the effectiveness of some collection sites is debatable - given the amount of material collected. Nationally, ANZRP collected 60.83% of material, followed by MRI PSO (17%), Ecycle Solutions (12.7%) and EPSA (8.77%). As EPSA did not provide a State by State, or regional breakdown of the services they provided, kilograms collected are recorded as N/A in Figure 1 and 2.

⁵ Department of Environment and Energy (accessed June 2018). Approved Co-Regulatory Arrangements - Annual Reports. Available online. <http://environment.gov.au/protection/national-waste-policy/publications#research-ewaste>.

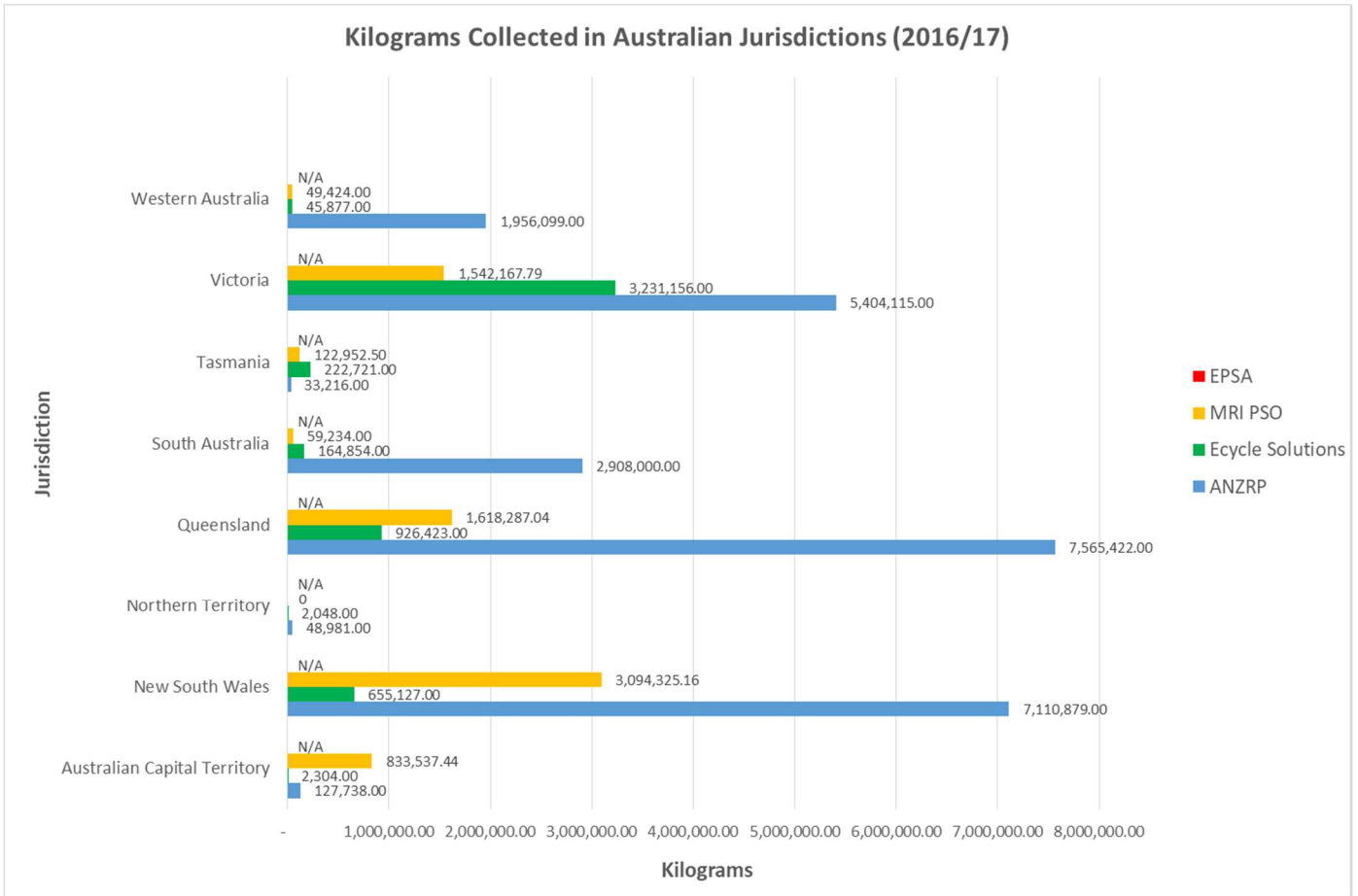


Figure 1: Comparison of kilograms collected by Arrangements in each Australian jurisdiction (2016/17).

The parameters used to design the Scheme have resulted in a situation where material is most likely to be collected in populated areas. A comparison of the amount of material collected by the **three** Arrangements, that provided jurisdictional data for the 2016/17 Financial Year, shows that only 5.44% of material came from Western Australia. Western Australia accounts for approximately 10% of Australians⁶, therefore it is clear that although the Arrangements are meeting the national recycling target, the service provision nationally is not equitable. There is an urgent need for the recycling target to be applied on a state by state basis.

Figure 2 provides a comparison of the kilograms collected by Arrangements in Western Australia in the 2016/17 Financial Year, using the different classifications of reasonable access. In Western Australia, Arrangements have predominantly concentrated their efforts in the metropolitan area – with 92% of material collected in this region. With the exception of the Northern Territory and Tasmania, this finding is replicated in jurisdictions across Australia.

The definition and application of reasonable access must be revisited to deliver more equitable access to services. Additionally, Arrangements should be required to demonstrate that services have been advertised and operated in a manner that facilitates the collection of material from regional and remote areas.

⁶ Australian Bureau of Statistics (2017). 3101.0 - Australian Demographic Statistics. Available online. <http://www.abs.gov.au/AUSSTATS/abs@.nsf/allprimarymainfeatures/30125843DE7F366ECA2582570013F5FE?opendocument>.

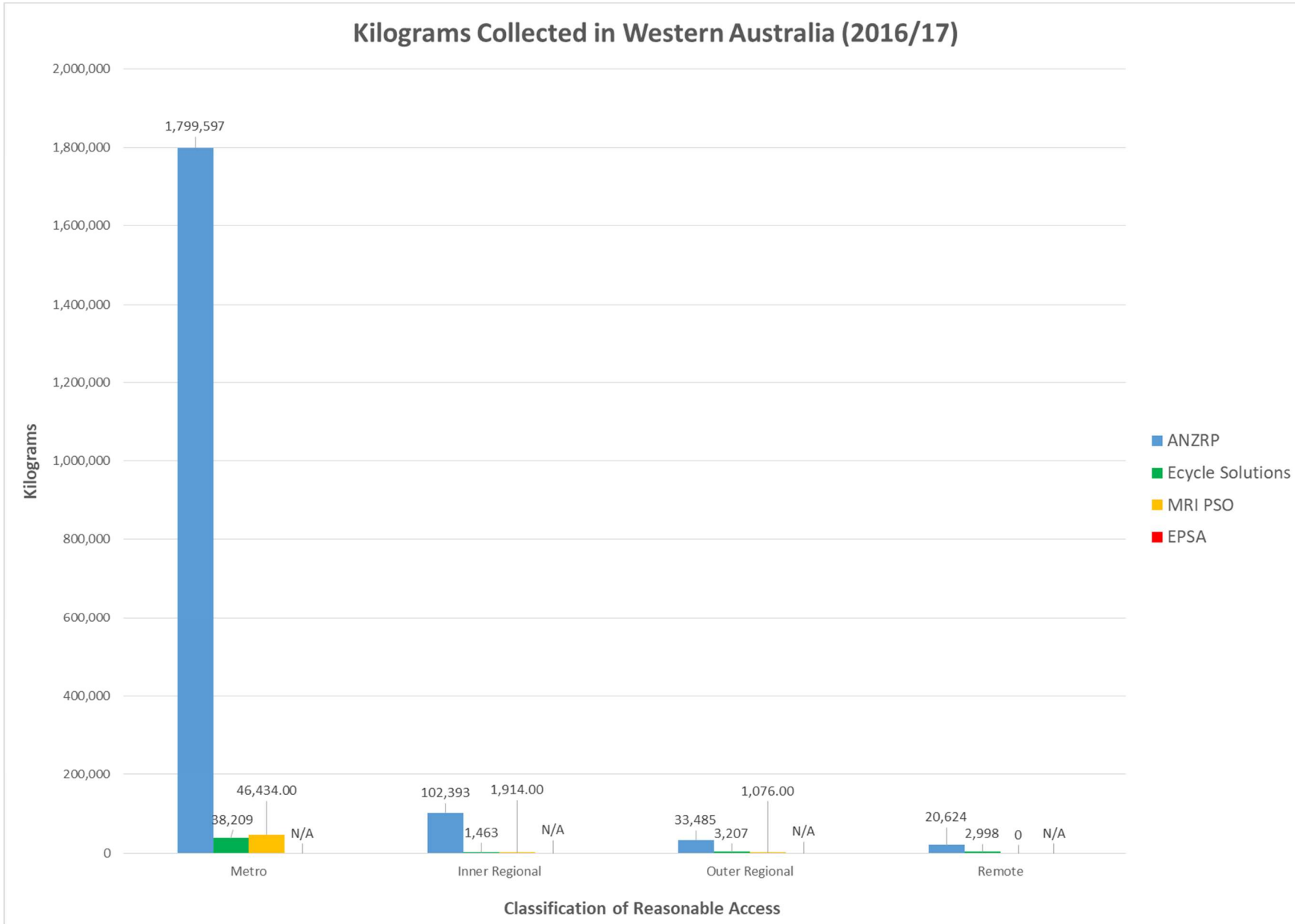


Figure 2: Comparison of kilograms collected by Arrangements in Western Australia (2016/17).

Recommendation: Amend the parameters of the NTCRS to ensure the recycling target is applied on a state by state basis.

Recommendation: Review the definition and application of reasonable access for the NTCRS, to deliver more equitable access to services in Inner Regional, Outer Regional and Remote areas.

Recommendation: To comply with the reasonable access requirements of the NTCRS, Arrangements must collect a minimum amount of material annually from each collection site. Where this does not occur, Arrangements must justify why the service provided should count toward the achievement of reasonable access, by demonstrating:

- a. That the opening hours, days and location of collection sites / events facilitated community access
- b. That an acceptable level and type of advertising was undertaken for each collection site / event
- c. That the Local Government was provided with sufficient notification of a collection event to promote it to the community.

- *Should co regulatory arrangements be required to report on the amount material sent for energy recovery?*

The Department must ensure that policy settings relating to waste-to-energy reflect community expectations. Particularly with respect to Waste to Energy's place in the waste management hierarchy, and any potential impacts on existing businesses operating resource recovery facilities. In designing policy settings, to ensure that circular economy principles are followed, the Department must ensure that preference is given to domestic as opposed to international end-of-life management.

Recommendation: That policy settings relating to waste-to-energy reflect community expectations, with respect to its place in the waste management hierarchy, and any potential impacts on existing resource recovery businesses.

- *Should the amount of material able to be sent for energy recovery be increased beyond the current, implied limit of 10 per cent?*

As per response to previous question.

- *Should the scheme be expanded to include other products? If so, what criteria should be used to determine what the products should to be included, and what factors would need to be considered in expanding the scheme?*

Local Government supports an expansion of the NTCRS to include other products, in a manner that aligns with community expectations. Considerable feedback has been received from community members wishing to dispose of products such as TV peripherals, and other items with a plug and/or embedded battery at collection points managed by Local Government.

As referred to in Section 2 of this Submission, Product Stewardship Schemes should be designed to address multiple classes of products, as this facilitates consistent engagement with the community, Local Government and the resource recovery industry. There is also support for the amendment of the Product Stewardship criteria, to reflect the original criteria of the Product Stewardship Bill. Particularly those criteria that recognise cost impacts on Local Government, and opportunities to develop local recycling/recovery industries.

Batteries, photovoltaic systems and electrical and electronic products have been repeatedly placed on the Ministers annual list. An expansion of the scope of the NTCRS to include these classes of products would help to establish an end-of-life management pathway for products with similar characteristics, facilitating consistent engagement with the community, Local Government and the resource recovery industry. It is imperative that the Government takes immediate steps to expand the scope of the NTCRS, given the time it will take to work through the conflicting views and interests of stakeholders, and fulfil the requirements of the RIS process.

Recommendation: Expand the scope of the NTCRS to include similar classes of products that have been, or are currently included on the Ministers annual list. Including batteries, photovoltaic systems and electrical and electronic products.

- *Are there improvements you would like to see to the schemes administration, monitoring and compliance processes? If so, what are the highest priorities?*

There is support for addressing those matters listed under “clarification and improvement of administrative, reporting and assurance processes” on page 21 of the Consultation Paper. Furthermore, the Department could investigate use of the approach implemented in the UK, where each waste handler is required to report on the end destination of managed materials. It is important that Arrangements are reporting information in a manner that allows an assessment to be made on the effectiveness of the NTCRS from a whole of life perspective, and what changes are required to further improve its performance. For this to be achieved, sufficient staff resources must be made available to the Department.

The Association suggests that the use of consistent branding of the Scheme by Arrangements, as opposed to individual brands - could facilitate improved recognition of the Scheme in the community.

Recommendation: That sufficient staff resources are made available to the Department.

Recommendation: That Arrangements use consistent branding of the NTCRS, as opposed to individual brands.

- *Would you support legislative changes to enable administration of the scheme to be underpinned by cost recovery?*

The Association supports this proposal, on the condition that permanent, dedicated resources are provided to the Department to provide regulatory oversight of the Scheme, assess data on the end destination of collected material, implement strengthened targets and engage stakeholders such as Local Government. It is common practice for environmental agencies across Australia to employ various models of cost recovery for environmental regulation⁷.

In supporting the Departments proposal for cost recovery, Local Government considers that it is appropriate that it too is permitted to recover the costs associated with implementing this, and other Schemes. The competition between Arrangements has resulted in a situation where industry will give their ‘business’ to Arrangements that present the best value for money. At times, this is at the expense of Local Government. This issue was articulated in the EPSA Annual Report 2016/17 (pg 8):

“There is no doubt that the recycling volume is key to the outcomes of the scheme but securing volume is becoming more difficult day by day. There is a lengthy process involved to get to a position of secured volume and even then there is no certainty on what volume will actually be collected. In addition to this we are entering a period whereby it’s the dollars that count, how much is the Arrangement willing to pay to secure volume is the often asked question. At some stage, the cost associated with delivering a fully compliant outcome and cost effective proposition for members will come into conflict.”⁸

ANZRP has reported a decrease in the cost passed onto its members, to less than half of what it was five years ago⁹. The same cannot be said for those Local Governments that are financially underpinning the logistics of the Scheme in Western Australia. ANZRP are collecting approximately 95% of the material in WA. The organisation has expressed, in the 2016/17 Annual Report, a view that it does not ‘pay for waste’¹⁰. The Association challenges this view and approach. As identified in previous sections of this Submission, substantial costs are experienced by those Local Governments that provide and/or operate collection sites, transport collected material to market, promote the Scheme to the community and cover other costs associated with the

⁷ Media Statements (2018). Improved cost recovery model to help speed up environmental approvals and support economic growth. Available online. <https://www.mediastatements.wa.gov.au/Pages/McGowan/2018/05/Improved-cost-recovery-model-to-help-speed-up-environmental-approvals-and-support-economic-growth.aspx>.

⁸ EPSA (2016/17), Product Stewardship TVs and Computer Annual Report. Available online <http://www.environment.gov.au/system/files/resources/6a065720-9d3a-433e-8141-90bb316e770e/files/epsa-annual-report-2016-17.pdf>

⁹ ANZRP (2016/17). Annual Report 2016/17. Available online. <http://environment.gov.au/protection/national-waste-policy/publications/anzrp-annual-report-2016-17>

¹⁰ ANZRP (2016/17). Annual Report 2016/17. Available online. <http://environment.gov.au/protection/national-waste-policy/publications#research-ewaste>.

Scheme. For Local Government to recover these costs through the Scheme is fair and equitable and demonstrates a real commitment by producers to managing all of the costs associated with their products.

The following case studies are provided to show the estimated costs experienced by Local Governments in collecting e-waste. While they are not NTCRS funded, collected material does contribute to NTCRS targets.

Table 2: Case Study 1 - City of Wanneroo collection event.

Local Government Contribution to the National TV and Computer Recycling Scheme (NOTE: this collection event included a wider scope of material than that of the NTCRS)		
Activities that contribute to the Scheme	Costs which should be included	2017/18*
Administration		
Management of TV and Computer Scheme (i.e. Manager's time)	Staff time	\$150.00
Responding to public enquiries and complaints	Staff time	\$318.83
Arranging pickup of TVs and Computers with contractor	Staff time	\$425.10
Other administrative activities (please specify)		
Total Administration cost:		\$893.93
Promotional Activities		
Updating of website	Staff time/Contractor time	\$260.00
Newspaper advertising - design of ads / placement	Staff time/Contractor time	\$1,000.00
Flier/brochure advertising - design of fliers / printing / distribution	Staff time/Contractor time	\$500.00
Other promotional activities (please specify)	Variable Message Board Hire	\$4,200.00
Total Promotional cost:		\$5,960.00
Operation of Permanent TV and Computer Scheme Drop off		
Sorting and storing of TVs and Computers	Staff time	\$4,250.00
Vehicle use and maintenance (e.g. forklift, truck)	Staff time, fuel, parts	
Other operational activities (e.g. use of weighbridge)		
Total Operational Cost:		\$4,250.00
Infrastructure upgrades		
TV and Computer storage infrastructure	Purchase & installation	\$1,320.00
TV and Computer related signage	Purchase & installation	
Other infrastructure costs (please specify)		
Total Infrastructure cost:		\$1,320.00
TOTAL cost:		\$12,423.93

Table 3: Case Study 2 - Bunbury Harvey Regional Council collection site.

Local Government Contribution to the National TV and Computer Recycling Scheme (NOTE: this collection site predominately accepts material within the scope of the NTCRS)		
Activities that contribute to the Scheme	Costs which should be included	2016/17*
Administration		
Management of TV and Computer Scheme (i.e. Manager's time)	Staff time	\$1,300.00
Responding to public enquiries and complaints	Staff time	\$1,300.00
Arranging pickup of TVs and Computers with contractor	Staff time	
Other administrative activities (please specify)		
Total Administration cost:		\$2,600.00
Promotional Activities		
Updating of website	Staff time/Contractor time	\$150.00
Newspaper advertising - design of ads / placement	Staff time/Contractor time	
Flier/brochure advertising - design of fliers / printing / distribution	Staff time/Contractor time	
Other promotional activities (please specify)		
Total Promotional cost:		\$150.00

Operation of Permanent TV and Computer Scheme Drop off		
Sorting and storing of TVs and Computers	Staff time	\$3,380.00
Vehicle use and maintenance (e.g. forklift, truck)	Staff time, fuel, parts	
Other operational activities (e.g. use of weighbridge)	Transport to Perth	\$2,400.00
Total Operational Cost:		\$5,780.00
Infrastructure upgrades		
TV and Computer storage infrastructure	Purchase & installation	
TV and Computer related signage	Purchase & installation	\$400.00
Other infrastructure costs (please specify)		
Total Infrastructure cost:		\$400.00
TOTAL cost:		\$8,930.00

Table 4: Case Study 3 - Western Metropolitan Regional Council collection site.

Local Government Contribution to the National TV and Computer Recycling Scheme (NOTE: this collection site predominately accepts material within the scope of the NTCRS)		
Activities that contribute to the Scheme	Costs which should be included	2016/17*
Administration		
Management of TV and Computer Scheme (i.e. Manager's time)	Staff time	\$150.00
Responding to public enquiries and complaints	Staff time	\$300.00
Arranging pickup of TVs and Computers with contractor	Staff time	\$100.00
Processing haulage & recycling invoices etc.	Staff time	\$400.00
Total Administration cost:		\$950.00
Promotional Activities		
Updating of website	Staff time/Contractor time	\$120.00
Newspaper advertising - design of ads / placement	Staff time/Contractor time	\$300.00
Flier/brochure advertising - design of fliers / printing / distribution	Staff time/Contractor time	\$0.00
Other promotional activities (please specify) Site visits/community education	Staff time/Contractor time	\$180.00
Total Promotional cost:		\$600.00
Operation of Permanent TV and Computer Scheme Drop off		
Sorting and storing of TVs and Computers	Staff time	\$1,250.00
Vehicle use and maintenance (e.g. forklift, truck)	Staff time, fuel, parts	\$0.00
Haulage to e-waste recycler	Contractor cost	\$3,000.00
Bycatch disposal costs	Contractor cost	\$400.00
Total Operational Cost:		\$4,650.00
Infrastructure upgrades		
TV and Computer storage infrastructure	Purchase & installation	\$0.00
TV and Computer related signage	Purchase & installation	\$200.00
Other infrastructure costs (please specify)		\$0.00
Total Infrastructure cost:		\$200.00
TOTAL cost:		\$6,400.00

Recommendation: That the Department recovers the costs associated with providing regulatory oversight of the NTCRS, on the condition that revenue is used to fund permanent, dedicated resources within the Department.

Recommendation: That Local Government is permitted to recover costs associated with implementing the NTCRS.

TOR 4. The interaction of the Act with other Commonwealth, state and territory and local government legislation, policy and programs.

- *Has the interaction between the Product Stewardship Act (including the National Television and Computer Recycling Scheme, accredited voluntary product stewardship arrangements and work on products listed on the Minister's product stewardship list) and state, territory and local government legislation, policy and programs been effective?*

As discussed previously, considerable time, effort and political will is required to develop and implement Product Stewardship Schemes under the framework established by the Act. Where issues with political will and/or Government resources are replicated at a jurisdictional level, the Act can be used as a reason not to take local action, as required in Western Australia by the *Waste Avoidance and Resource Recovery Act 2007*.

- *How can interaction between the Product Stewardship Act and state, territory and local government legislation, policy and programs be enhanced?*

In responding to the Federal Department of the Environment and Energy on its Assessment, Action, Escalation Process and Work Plan, the Western Australian Department of Water and Environmental Regulation was not identified as taking action or contributing to the development of national schemes. Interactions between the *Product Stewardship Act 2011*, and state, territory and Local Government legislation, policy and programs could be enhanced by requiring that each jurisdiction takes a leadership role in progressing action on a distinct class of products included on the Ministers annual list.

Recommendation: Each jurisdiction takes a leadership role in progressing action on a distinct class of products included on the Ministers annual list.

- *To what extent can, or should, product stewardship schemes support broader government objectives, and assist in adapting to changes in market conditions?*

As discussed in response to TOR 1, Product Stewardship has the potential to deliver significant benefits to the economy. Product Stewardship Schemes could be used to support broader government objectives such as a transition to a circular economy. By requiring that manufacturers, importers and distributors of products consider and accommodate improvements to total lifecycle impacts, the Government could support the development of local recycling/recovery industries, which will be an integral part of transiting to a circular economy in WA and Australia.

TOR 5. International and domestic experience in the use of product stewardship to deliver enhanced environmental, social and economic outcomes through product design, dissemination of new technologies and research and development.

No questions were posed in the Consultation Paper on TOR 5. While it is important to understand developments in other countries, the resourcing constraints currently experienced by the Department would make this difficult, while also establishing minimum standards for Product Stewardship Schemes and strengthening the governance arrangements of the Schemes that are already in place.

Conclusion

The Association welcomes the approach that has been taken to consultation on the review of the Act, and looks forward to participating in the development and implementation of effective Product Stewardship Schemes that deliver equitable access to services. Substantial benefits to the economy could be realised by addressing the entire lifecycle impact of products.

The model of shared responsibility that has underpinned the implementation of Product Stewardship Schemes to date, has its limitations. It is clear that risks associated with implementing Schemes have not been evenly shared between all parties. Local Government, as the first point of call for the community on waste issues, has a far greater liability and risk than either the Government or industry.

The Government is uniquely placed to address this issue, by requiring that future Schemes reflect all objects of the Act, and that manufacturers, importers, distributors and Arrangements are financially or physically responsible for managing actual end-of-life impacts, as opposed to projected end-of-life impacts.

The Association considers that the delivery of fewer Schemes that address multiple classes of similar products, could facilitate consistent engagement with the community, Local Government and the resource recovery industry. The Government must commit to taking decisive action to implement either a Co-regulatory or Mandatory Scheme for classes of products that have been identified as a priority through the Minister's annual product list, where there is no appetite by industry to implement a Voluntary Scheme that fulfil the requirements of pre-determined criteria.

Appendix 1: Kilograms Collected by Arrangements (2016/17)

Table 5: ANZRP Annual Report 2016/17.

State/Territory	Total weight collected (kg) by area	Total weight collected (kg) by jurisdiction	Total weight collected (% of total) by jurisdiction
Australian Capital Territory	Metro (127,738) Inner Regional (N/A) Outer Regional (N/A) Remote (N/A)	127,738	0.51%
New South Wales	Metro (5,054,857) Inner Regional (1,246,835) Outer Regional (670,613) Remote (138,574)	7,110,879	28.27%
Northern Territory	Metro (N/A) Inner Regional (N/A) Outer Regional (712) Remote (48,268)	48,981	0.19%
Queensland	Metro (4,852,139) Inner Regional (1,925,451) Outer Regional (746,061) Remote (41,771)	7,565,422	30.08%
South Australia	Metro (2,249,532) Inner Regional (462,778) Outer Regional (165,592) Remote (30,098)	2,908,000	11.56%
Tasmania	Metro (2,562) Inner Regional (30,143) Outer Regional (508) Remote (3)	33,216	0.13%
Victoria	Metro (3,752,300) Inner Regional (1,266,658) Outer Regional (385,158) Remote (N/A)	5,404,115	21.48%
Western Australia	Metro (1,799,597) Inner Regional (102,393) Outer Regional (33,485) Remote (20,624)	1,956,099	7.78%
Total	Metro (17,838,724) Inner Regional (5,034,258) Outer Regional (2,002,129) Remote (279,339)	25,154,451	100%

Table 6: Ecycle Solutions Annual Report 2016/17.

State/Territory	Total weight collected (kg) by area	Total weight collected (kg) by jurisdiction	Total weight collected (% of total) by jurisdiction
Australian Capital Territory	Metro (2,304) Inner Regional (N/A) Outer Regional (N/A) Remote (N/A)	2,304	0.04%
New South Wales	Metro (612,831) Inner Regional (33,868) Outer Regional (7,825) Remote (602)	655,127	12.48%
Northern Territory	Metro (N/A) Inner Regional (N/A) Outer Regional (466) Remote (1,582)	2,048	0.04%
Queensland	Metro (893,783) Inner Regional (10,568) Outer Regional (20,749) Remote (1,323)	926,423	17.64%
South Australia	Metro (148,952) Inner Regional (12,733) Outer Regional (1,552) Remote (1,616)	164,854	3.14%
Tasmania	Metro (208,316) Inner Regional (12,853) Outer Regional (N/A) Remote (1,553)	222,721	4.24%
Victoria	Metro (3,117,368) Inner Regional (90,894) Outer Regional (22,895) Remote (N/A)	3,231,156	61.54%
Western Australia	Metro (38,209) Inner Regional (1,463) Outer Regional (3,207) Remote (2,998)	45,877	0.87%
Total	Metro (5,021,763) Inner Regional (162,379) Outer Regional (56,695) Remote (9,675)	5,250,511	99.99%

Table 7: MRI PSO Annual Report 2016/17.

State/Territory	Total weight collected (kg) by area	Total weight collected (kg) by jurisdiction	Total weight collected (% of total) by jurisdiction
Australian Capital Territory	Metro (833,537.44) Inner Regional (N/A) Outer Regional (N/A) Remote (N/A)	833,537.44	11.39%
New South Wales	Metro (2,939,135.16) Inner Regional (129,580.00) Outer Regional (25,610.00) Remote (N/A)	3,094,325.16	42.27%
Northern Territory	Metro (N/A) Inner Regional (N/A) Outer Regional (N/A) Remote (N/A)	N/A	0%

Queensland	Metro (1,600,727.04) Inner Regional (10,365.00) Outer Regional (7,195.00) Remote (N/A)	1,618,287.04	22.11%
South Australia	Metro (33,948.00) Inner Regional (7,152.00) Outer Regional (N/A) Remote (18,134.00)	59,234.00	0.81%
Tasmania	Metro (N/A) Inner Regional (122,952.50) Outer Regional (N/A) Remote (N/A)	122,952.50	1.68%
Victoria	Metro (1,182,570.69) Inner Regional (219,891.10) Outer Regional (139,706.00) Remote (N/A)	1,542,167.79	21.07%
Western Australia	Metro (46,434.00) Inner Regional (1,914.00) Outer Regional (1,076.00) Remote (N/A)	49,424.00	0.68%
Total	Metro (6,636,352.33) Inner Regional (491,854.60) Outer Regional (173,587.00) Remote (18,134.00)	7,319,927.93	100.01%

Table 8: EPSA Annual Report 2016/17.

State/Territory	Total weight collected (kg) by area	Total weight collected (kg) by jurisdiction	Total weight collected (% of total) by jurisdiction
Australian Capital Territory	N/A	N/A	N/A
New South Wales	N/A	N/A	N/A
Northern Territory	N/A	N/A	N/A
Queensland	N/A	N/A	N/A
South Australia	N/A	N/A	N/A
Tasmania	N/A	N/A	N/A
Victoria	N/A	N/A	N/A
Western Australia	N/A	N/A	N/A
Total	N/A	3,626,000	100%