

Submission to the Productivity Commission Right to Repair Issues Paper

February 2021



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.

Due to the timeframe for Submissions, this Submission has not yet been considered by MWAC. It will be put before the Council at the upcoming meeting on Wednesday, 24 February. The Productivity Commission will be informed of any changes to this Submission following consideration by MWAC.

Introduction

The Western Australian Local Government Association (Association) welcomes the opportunity to comment on the *Right to Repair Issues Paper* which seeks to improve the consumer's ability to repair faulty goods, or access repair services, at a fair price. By examining the range of issues including the barriers and enablers impacting the Australian repair market the outcomes of the Inquiry will be an important step in accelerating a nationwide shift towards a sustainable circular economy.

Waste management is a significant activity for Local Government. In 2018-19, Western Australian (WA) Local Governments collected almost 1.5 million tonnes of domestic waste and spent an estimated \$311 million in the delivery of waste services¹. This includes \$77.57 million² paid in waste levies for waste disposed of to landfill. The 'reuse and repair' approach holds enormous potential to move the state to a low-waste society by reducing waste generation, increasing the amount of resources recovered and reducing disposal to landfill for both the metropolitan and non-metropolitan areas. Local Government supports the development of effective legislation that will strengthen consumers' Right to Repair as there are clear economic, environmental and community benefits.

While all Australians have a role to play in supporting resource recovery, and reducing the generation of waste, the transition towards a circular economy does not begin with the consumer. Local Government has consistently supported product stewardship and extended producer responsibility as ways of ensuring that businesses and industries, which includes manufacturers and brand owners, are financially or physically responsible for the entire lifecycle of their products. Right to Repair and end-of-life options must be factored into the cost of products before they enter the market.

In December 2020, WALGA undertook a short online survey of Local Government seeking feedback on the potential for Right to Repair legislation that could extend the life of products and reduce waste going to landfill. Forty-four Local Governments responded to the survey with 95% indicating that they supported federal action to introduce laws to improve consumers' Right to Repair options. Local Government survey responses have provided the context for comments in this Submission.

¹ Waste Authority, The 2018–19 census of Western Australian Local Government Waste and Recycling Services, pg. 8 and 26.

² Waste Authority, The 2018–19 census of Western Australian Local Government Waste and Recycling Services, pg. 14.

Information Request 1

- What would a 'right to repair' entail in an Australian context? How should it be defined?

The approaches exemplified in Right to Repair reforms from the European Union and United States provide a foundation on which the Commonwealth Government can shape Right to Repair legislation in Australia.

Key elements include:

- Designing durable goods that can be disassembled with commonly available tools
- Making spare parts and service information available to anyone, including independent service providers and community-led repair centres
- Giving consumers the freedom and confidence to have their durable goods repaired by a service provider of their choice at a fair price, or the option to perform their own repairs if suitably qualified
- Phasing in requirements to ensure upgradability of software and hardware, and the ability to replace hardware components such as batteries and screens
- Requiring durable goods to be labelled with lifetime expectancy and reparability information.

Information Request 2

- What types of products and repair markets should the Commission focus on?
- Are there common characteristics that these products share (such as embedded technology and software or a high/low degree of product durability), and which characteristics would allow policy issues to be considered more broadly?
- If there are particular products that the Commission should focus on, what are the unique issues in those product repair markets that support such a focus?

The type of products that the Commission should focus on are those made from non-renewable resources, which are difficult or very expensive to recover. This approach would facilitate a transition to a circular economy.

Repair markets include manufacturer or independent repair services, community-led reuse and repair centres, or suitably qualified individuals that engage in activities to restore products – that are damaged, faulty, or worn – to a usable condition. Repair markets should be considered for all durable goods, including consumer electronics, sporting goods, household and office appliances and furnishings, vehicles, and machinery. When consumers purchase durable goods, often at higher costs, there is a reasonable expectation that these goods will last for an extended period of time and be repairable – regardless of individual choices to repair, replace, or live without.

Consumption of electrical products has surged in recent decades and unsurprisingly correlates to electronic waste (e-waste) becoming one of the fastest growing waste streams. Safeguarding strategies such as Technological Protection Measures (TPMs) are used to control manufacturer copyrights, however they also prevent consumers from carrying out repairs or any other form of modification to products. In the WALGA survey, 39% of Local Governments indicated that they had experienced barriers to repairs that resulted in costly or wasteful outcomes. The majority of comments were focused on the inability to carry out simple repairs on IT devices due to TPMs, difficulties in obtaining spare parts particularly for older products, and high costs of engaging local service providers owing to the absence of competition. Many non-metropolitan Local Governments also noted geographical barriers to repair. Service providers are lacking in remote areas and in most circumstances the cost of sending goods away to be repaired far outweighs the cost to purchase new products. This has led to the proliferation of discarded durable goods in circumstances where Local Governments already face significant waste management challenges due to distance.

Local Government recognises the value in salvaging usable goods from the waste stream with 75% of survey respondents indicating that they actively facilitate reuse or repair options for their communities. Almost 41% of these Local Governments operate reuse shops to redistribute usable goods. Local Governments provided a range of support to community-led repair services, 25% of Local Governments assist with advertising, 20% of Local Governments provide venues and 18% of Local Governments provide some form of financial support. Community-led repair services have been steadily growing in popularity across Australia and the well-established Bower Reuse and Repair Centres in New South

Wales successfully demonstrate a model that could be replicated nationwide. Bower works in partnership with Sydney metropolitan Local Governments to facilitate sessions where community members are provided with advice, supervision and tools to fix items. While there is significant potential for this type of model to be more broadly replicated, WA Local Governments have highlighted the need for resourcing support from State and Federal Government to ensure that repair programs can be adequately staffed to cope with high volumes of goods brought in for repair, as well as provide opportunities to train and upskill volunteers.

Information Request 7

- What are Australia's current policy settings for managing the potential environmental and health effects of e-waste (such as landfill bans, the National Television and Computer Recycling Scheme or Mobile Muster)? Are these policy settings broadly right — that is, are they proportional to the impacts of e-waste on the community?
- How can a right to repair policy further reduce the net costs of e-waste in Australia, and would such an approach be an effective and efficient means of addressing the costs of e-waste to the community?

The National Television and Computer Recycling Scheme (NCRS) 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 WA collection sites accepting material in the 2015/16 financial year, were underpinned by Local Government. In this period, 95% of the material recovered in WA was collected at these Local Government sites (950,882kg).

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 NCRS 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 NCRS. Others are funding the management of material collected outside of the NCRS, 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. 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.

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.

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 providing repair options and 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.

Information Request 8

- What policy reforms or suite of policies (if any) are necessary to facilitate a 'right to repair' in Australia?
- Are there any other barriers to repair and/or policy responses that the Commission should consider?

WALGA's analysis of the current Australian product stewardship schemes indicates that they are primarily focused on recycling (and shifting the costs associated) rather than improving the lifespan of products. The development of Right to Repair legislation must consider the need to adopt strong regulatory measures that will guide the choices of manufacturers. All durable goods made, imported and sold in Australia must be manufactured in accordance with product standards to ensure that products are designed to be long-lasting, easily repairable, upgradable (in relation to electronic products) and ultimately recyclable at end of life.

One of the examples given by Local Government was:

"Manufacturers adopting strategies that mean products rapidly become obsolete and require a replacement (which include designing products in a way that prevents repair). Not designing products that can be taken apart easily e.g. instead of using screws/rivets to hold pieced together, they are glued or fused. And if they do use screws they are usually specialised so a specific tool needs to be used. In other instances proprietary tooling is required to take certain parts apart."

Other policy considerations:

- Reviewing product stewardship legislation to ensure repair and reuse are prioritised
- Establishing incentives or tax concessions for repair/repairers
- Enacting laws prohibiting planned product obsolescence
- Requiring durable goods to display lifetime expectancy and reparability information
- Requiring manufacturers to provide independent service providers and community-led repair centres with access to spare parts, specialised tools and service information
- Requiring manufacturers to produce and ensure that spare parts are readily accessible for a specific period of time
- Labelling on electronic goods to inform consumers that these products must be taken to drop-off locations for reuse, repair or disposal and cannot be placed in Local Government kerbside bin systems
- Encouraging manufacturers to shift their profit model from that of selling goods to that of providing services
- Prohibiting the sale or distribution of new products, where there is no clear pathway to repair or manage end-of-life impacts in an environmentally sound manner.

Conclusions

Effective Right to Repair legislation has the potential to benefit Local Government and the community by:

- Avoiding waste generation and reducing the amount of waste going to landfill
- Raising awareness of the value of resources, sustainable design and manufacturing
- Generating employment opportunities and skills training
- Providing a source of affordable goods, particularly e-waste, to low income earners and other disadvantaged groups in the community.