

TERMS OF REFERENCE

Essential Services Commission review of waste and resource recovery services in Victoria

August 2019

1. Referral

1.1 Pursuant to section 10 (g) of the Essential Services Commission Act 2001 (the ESC Act), as Minister responsible for administering the ESC Act, and after consultation with the Minister for Energy, Environment and Climate Change, I refer to the Essential Services Commission (the commission) for advice on how the Victorian Government can address issues of competition, system-level resilience, service quality and greater transparency in the waste and resource recovery sector.

1.2 I request that the commission have regard to the Victorian Government's objective to establish a resilient waste and resource recovery sector in Victoria that:

- provides services to households that are cost-effective, safe and reliable;
- is informed by the Government's environmental sustainability objectives; and
- can adapt to and withstand market disruptions, as well as opportunities for improved efficiency and innovation, for long-term viability.

2. Scope of the review

2.1 The review should consider the potential for waste and resource recovery services to be regulated as an essential service under the ESC Act or other regulatory mechanism as a means of improving the efficiency, innovation and long term viability of the market.

Consideration should be given to the following:

- community and business expectations in relation to the quality, reliability of waste and resource recovery services, and the need for providers to comply with environmental and safety regulations;
- the structure and contractual arrangements of the supply chain from collection, sorting, storage, processing through to disposal, including allocation of risk across the supply chain;
- concentration of the recycling industry and any barriers to market-led investment at different points in the supply chain, incentives for long-term investment, and the financial viability of the sector;
- whether there are information asymmetries, market power or other sector attributes undermining the effective operation of a competitive market; and
- opportunities to improve transparency of cost/price information to councils and communities.

2.2 When providing your advice, I expect you to consider the costs and benefits of the options you have considered.

2.3 The commission's scope of review excludes advice in relation to changing the environmental and workplace regulatory frameworks applying to the waste and resource recovery sector.

2.4 The commission should consider work underway or in development, including the following:

- Recycling Industry Strategic Plan (2018)
- Circular Economy Issues Paper (2019)
- Statewide Waste and Resource Recovery Infrastructure Plan (2018), including the Victorian Organics Resource Recovery Strategy, the Victorian Market Development Strategy, the Victorian Education Strategy
- The *Environment Protection Amendment Act 2018*
- Waste Management Policies, particularly Combustible Recyclable and Waste Materials (2018), E-waste (2019) and Used Packaging Materials (2012)
- Recovering and Reprocessing Resources from Waste, June 2019 (Victorian Auditor-General Office's report)
- the Government's objectives for local government.

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3. Review process

3.1 I request that the commission undertake any consultation it considers necessary with relevant stakeholders during this review including:

- Local government, Local Government Victoria and the Municipal Association of Victoria
- Metropolitan and Regional Waste and Resource Recovery Groups
- Relevant government departments and agencies, including Sustainability Victoria (SV) and Environment Protection Authority Victoria (EPA)
- Relevant businesses and industry groups, such as the Waste Management and Resource Recovery Association of Australia, Victorian Waste and Management Association, Australian Council for Recycling, National Waste and Recycling Industry Council and the Australian Packaging Covenant Organisation.

4. Outputs

4.1 I am requesting that you provide:

- Initial confidential high level options for the design of a regulatory regime for the waste and recycling sector to address issues of competition, service quality and transparency by Friday 11 October 2019
- Later advice associated with implementing the government's preferred options at a time to be agreed, following development of the initial advice.

5. Background

The waste and resource recovery sector provides services which are important for public health and environment protection, which are expected and relied upon by the community in Victoria. The kerbside waste and recycling system relies on private market dynamics, with facilities owned by private operators and local government.

Recent market disruptions have significantly impacted many waste services including Victoria's kerbside recycling system. The significant decline in the value of many recovered materials has reduced processors' revenue and impacted the viability of kerbside services under existing pricing arrangements. Limited availability of alternative recycling markets combined with limited capacity of the recycling industry to locally process or safely stockpile recyclables resulted in further disruptions to the sector. This included:

- sending recyclable materials into landfill
- temporarily suspending kerbside collection in some councils
- increased costs to households
- increased costs to Government to clean up stockpiles and contaminated sites.

While the significant regulatory reform being undertaken through permissioning and licensing changes for recycling facilities (under the new *Environment Protection Act 2017*) is a key step forward, it only covers part of the sector and is focused on improving safety and amenity of sites, not delivery of services to households and businesses.

The government has committed more than \$135 million over the last four years to support its waste and resource recovery objectives. This includes but is not limited to the:

- Development and release of the *Recycling Industry Strategic Plan* in July 2018, which sets out a \$37 million three-year program of work to develop markets for recovered resources, improve the quality and value of recovered materials, facilitate collaborative procurement and improve the safety of operations in the sector;
- Development of a circular economy policy and action plan, which will consider how government can improve materials productivity and reduce waste throughout the economy;
- Recycling Industry Reform Package, announced through the 2019/20 State Budget, which includes further measures to support the recycling sector (including this review) and to help reduce plastic pollution;

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- Development and implementation of the *Statewide Waste and Resource Recovery Infrastructure Plan* which is supported by the *Victorian Organics Resource Recovery Strategy*, the *Victorian Market Development Strategy*, and the *Victorian Education Strategy*;
- Ban on lightweight plastic shopping bags which will come into place by late 2019;
- Ban of e-waste from landfill (effective from July 2019);
- Preparation of the plastic pollution plan (to be released in 2019) to provide a suite of actions targeting the reduction of plastics use to minimise pollution;
- Seeking advice from Infrastructure Victoria on future investment options in the waste and recycling sector;
- Reforming the licensing of waste storage facilities within the EPA; and
- Commitment to review the landfill levy.



Office of Robin Scott MP

Assistant Treasurer
Minister for Veterans

Level 5, 1 Macarthur Street
Melbourne Victoria 3002
Telephone: +61 3 9651 1044
DX 210759

Ms Kate Symons
Commissioner and Acting Chair
2 Lonsdale Street
MELBOURNE VIC 3000

Dear Ms Symons

**WASTE AND RESOURCE RECOVERY SERVICES REVIEW: TERMS OF REFERENCE
FOR THE ESSENTIAL SERVICES COMMISSION**

In accordance with my powers under section 10(g) of the *Essential Services Commission Act 2001*, I refer the Essential Services Commission the attached Terms of Reference to review waste and resource recovery services in Victoria.

If you have any queries on this matter please contact Annette van Rooyen, Director, Energy, Resources & Environment in the Department of Treasury and Finance on 9651 5351.

Yours sincerely

Robin Scott MP
Assistant Treasurer
Minister for Veterans

15 AUG 2019