Mr Dean Knudson
Deputy Secretary
Department of Climate Change, Energy, the Environment and Water
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21 July 2023

Dear Mr Knudson

Re: *Wired for change: Regulation for small electrical products and solar photovoltaic (PV) system waste*

Thank you for the opportunity to provide feedback on the *Wired for change: Regulation for small electrical products and solar PV system waste* discussion paper. The Waste Management and Resource Recovery Association of Australia (WMRR) is the national peak body for Australia's $15.8 billion waste and resource recovery (WARR) industry. With more than 2,000 members from over 500 entities nationwide, we represent the breadth and depth of the sector, within business organisations, the three (3) tiers of government, universities, and non-government organisations (NGOs).

WMRR notes that the intention of the paper, is to seek views on a proposal for a *regulated product stewardship scheme.* As noted in the May 2023 review by the Product Stewardship Centre of Excellence- *Evaluating Product Stewardship benefits and effectiveness,* 'product stewardship' also includes extended producer responsibility (EPR), which looks to extend a producer's financial responsibilities to the collection, recycling, and safe disposal of products at the post-consumption stage of the lifecycle*,* in other words, such regulation is designed to manage *the lifecycle* of products (and their impacts). Regrettably this current paper does not yet, address lifecycle, but rather places too great an emphasis on the post consumption stage of a product's lifecycle (collection), with insufficient emphasis on the design, production and consumption stages. The model as currently proposed looks very similar to a 'tax' that enables a producer to effectively, 'pay and throw'.

Whilst this paper does focus on some of the problems that e-waste currently creates in Australia (inclusion of hazardous materials, the loss of and critical and valuable materials, inadequate onshore recycling and the need to divert from landfill), the very end-of-pipe scheme proposed, in WMRR's view, does not address all these sufficiently nor remaining challenges such as consumption, generator obligations, end markets, design (for example, inferior quality (cheap and or dangerous), inbuilt obsolescence and lack of durability). These problems cannot be solved with a simple fee at the border, that once paid appears to absolve producers of most of the responsibility and places no obligation on improved environmental outcomes or product development. Further, in WMRR's view there are in fact two (2) schemes under consideration here (not one (1)), given solar PV products are markedly different (design, consumption behaviours, life cycle and scale) to small electrical and electronic items (SEEE).

WMRR would encourage the government to further develop these schemes to capture both local and international advances in this area. For example, the recent findings in the research undertaken for the Federal Government by the Centre of Excellence (referred to above) are not yet reflected. This work found that the five (5) key elements necessary for a successful product stewardship scheme, are –

- high levels of industry or business investment and participation;
- Clearly defined objectives including measurable environmental, social, and economic performance indicators that allow for continual assessment of the effectiveness;
- Good governance;
- Use of financial incentives (across the supply chain)—to drive behaviour change of businesses, consumers, repairers, collectors, sorters, and recyclers; and
- Effective marketing —leading to high awareness and increased user participation.

WMRR also urges the department to accept *all* the objectives of the EU's WEEE Directive 2012/19/EU in developing Australia's regulated schemes. This Directive recognises the difference and complexities of materials involved, different markets required for products, the need for producers to remain involved and obligated through the lifecycle of the product to increase reuse, enable repair and encourage redesign. Whilst several of the WEEE objectives, also exist in the *Recycling and Waste Reduction Act* 2020, these also have not been captured to date in the proposed scheme, including the Act's objects-s3(2):

(b) encouraging and regulating the reuse, remanufacture, recycling and recovery of products, waste from products and waste material in an environmentally sound way; and

(c) encouraging and regulating manufacturers, importers, distributors, designers and other persons to take responsibility for products, including by taking action that relates to:

(i) reducing or avoiding generating waste through improvements in product design,

(ii) improving the durability, reparability and reusability of products; and

(iii) managing products throughout their life cycle.

The current proposal, whilst appearing to compel participation in payment by liable parties, does not require their ongoing participation in the scheme. It lacks emphasis on extending the lifecycle for these products or creating a real circular economy, with no real obligations on producer responsibility and only tokenistic regard to consumption and necessary behavior change. The demand for recycled e-product materials is not covered and the paper almost assumes that there is a market for these materials, with 'competition' between network operators given the assumed markets, seen as key to keeping costs low. However, as the paper notes the Basal Convention limits export of contaminated materials and recycling lowers the value of end products. Without an emphasis on extending product life (repair and re-use, as well as design obligations), requiring design standards to be followed (including designing out of problematic materials) or holding generators genuinely responsible (e.g., buying material back) Australia will continue to struggle to recycle these complex materials. Noting that landfill bans, in and of themselves (that is without alternatives) do not work!

The concept of a network operator taking responsibility for collection and recycling in a scheme that fails to address the lifecycle and market issues, and thinking that competition is the correct incentive,

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fails to reflect that the products that are being dealt with under this scheme are not homogenous beverage cans, but rather complex and sometimes hazardous materials that requires a systematic approach to lifecycle management in order to address environmental and health harm but also to create a circular economy.

As Australia rapidly moves towards its 2030 targets of an average of 80% resource recovery across all waste streams, 10% reduction in waste generated per person and the creation of a circular economy, it is vital that considered policy leveraging all aspects of the supply chain is utilised in developing EPR schemes in Australia. Currently Australia's resource recovery rate remains stagnated at 62% with over 28 million tonnes of materials going to landfill. To change this, we need greater and stronger policy emphasis on EPR to address complex materials such as these. Government needs to also ensure that proposed schemes are 'future fit', in considering future models of ownership for SEEE and other products that have moved more to leasing and sharing rather than owning, all part of being a resource efficient and circular economy. The paper should not assume business as usual in Australia, and should consider current trends continue, as well as looking to overseas and the current emphasis on design, lifecycle, incentives, transparency of cost, etc.

WMRR's looks forward to continuing to work with the department on these important responses to the consultation questions can be found at Annexure A. Please contact the undersigned if you wish to further discuss WMRR's submission.

Yours sincerely

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Annexure A

Submission:

1 Introduction 1.1 Purpose 1.3 The problem with e-waste	As mentioned in the cover letter, the discussion paper focuses heavily on the end-of-pipe of e-products without addressing the lifecycle. The paper whilst capturing some of the challenges with e-waste, however, fails to fully articulate the full scale of the challenge (lack of generator responsibility, problems with design and durability, consumption behaviours, lack of durability, marker failure for recycled materials, lack of reuse and repair, hazards and hazardous, etc) and as a result possibly, the proposed scheme does not address all the challenges. The reality is that the problems cannot be solved through a collection system alone, and require strong, well thought out policy responses throughout the lifecycle of these products.
1.4 What products would be covered by potential regulation	Whilst the final scope of the regulated scheme remains unclear, due to the possibility that there will also be voluntarily accredited schemes, there is also a lack of clarity or understanding within the paper of the different products involved (PV verse SEEE), as well as the difference between household and commercial SEEE. Grouping SEEE and solar PV together is problematic as there are very large differences between consumption, size and lifecycle of SEEE products verse solar panels, with very different suppliers/ manufacturers. The Federal Government has already undertaken work on PV panels, and it should be encouraged to rapidly accelerate a mandatory regulatory EPR scheme for this product class. PVs must be a separate scheme from SEEE, given there are vastly different collection, installation and storage requirements, let alone size. Going beyond the proposed scheme to consider consumption habits and design, we see further divergence between PV and SEEE.
1.5 Role of the Australian Government in managing e-waste	The federal government should be taking a stronger lead through the scheme by setting in place objectives and guiding principles for an Australia wide scheme that creates a true EPR scheme as discussed in our cover letter. In the instance of e-products with the vast majority imported to Australia without strong and internationally aligned regulations Australia runs the risk of becoming the dumping ground for e-products.
1.6 Roles of state and territory governments	The scheme should be developed leveraging the powers of State and Federal Government together. In 2023 we should be seeing a comprehensive scheme design that enables all jurisdictions to work together to implement their parts of the scheme in an agreed and consistent fashion, in order that issues such as implementation, compliance and enforcement as well as resourcing are agreed before

	implementation. The failure to cooperate and agree responsibilities and funding between jurisdictions can lead to unintended negative outcomes such as we have seen with export bans where federal legislation has placed increased risks on state with compliance not being adequately resourced, leading to noncompliance, as well as creating significant market intervention and increased risk (e.g. stockpiles). The Australian community and business have been fortunate enough to see EPR schemes such as container refund schemes implemented almost nationally and are keen to see consistency in schemes adopted across states- as such, we should work to ensure that there is a clear national objective with consistent implementation.
3 Australian context 3.1 National waste policy action plan	As mentioned above there are a number of targets in the *National Waste Action Plan* that have not been mentioned (or addressed) in the paper. For example, the 10% reduction in waste production per capita, could be addressed if producers/ manufacturers were also obliged to design better (by designing for durability, repair and reuse etc.) and a national educational and behavioural change campaign encouraged considered and informed consumption, with systems also established for share, repair and re-use. Messaging to-date struggles to raise the need to consider our consumption habits and take responsibility for the waste material we create (whether as an individual, company, facility, etc.) and move beyond the collection and disposal costs.
3.2 State and territory legislation and policy	To move beyond the current 62% resource recovery rate in Australia, it is vital that we utilise EPR schemes to address clear market failure and ensure generator responsibility for the life cycle of products. Ideally given that we operate in a national common market we have Australia wide schemes that ensure full life cycle compliance, but also draw upon international best practice. The federal government has a clear role in establishing the national direction for leading the way in moving to a circular economy, supporting and enabling state and territory governments to move beyond landfill bans and recycling, to implement policy and initiatives that support higher order resource management, as well as the waste management hierarchy objectives.
3.3 Regulation of hazardous waste exports and other waste exports and imports	The discussion paper itself notes that there are real complexities in Australia in managing materials within e-waste products given both export bans in place and the obligations that exist under the Basel Convention. However the model proposed fails to address these challenges by placing no obligation

3.4 Waste exports under the RAWR Act 3.5 Current product stewardship schemes covering e-products	on generators to improve design of products to reduce environmental harm, any obligation to reuse materials nor enable disassembly for recovery. These significant challenges cannot be addressed by the creation of a 'competitive' collection network, when there is no end market developed for these materials. Further, the proposal to *keep costs down* through this alleged competition, will not result in investment in infrastructure to recover these materials. A true EPR scheme needs to cover all aspects of lifecycle and recognize the role of design and recovery and the ability to charge differently when there is a real emphasis on life cycle management by the manufacturer (designing well, repairing, open source). In fact, repair and reuse do not need to be linked to fees per sei but scheme targets as suggested by the Productivity commission's Right to Repair report which advocates for broader scheme targets. The reality is that the entire supply chain and lifecycle must be linked, and the producer must remain compelled to participate in all parts of the products lifecycle including standards and obligations, which is why WMRR advocating for a genuine EPR scheme that focuses on lifecycle and not simply collection. In the absence of a comprehensive scheme similar to the WEEE Directive 2012/19/EU, WMRR has real concerns that Australia will become a dumping ground for products that do not meet the standards of other countries, such as those in Europe.
4 International context 4.1 Approaches taken to e-stewardship internationally 4.2 International approaches to large-scale solar	As mentioned above WMRR considers that the WEEE Directive 2012/19/EU is a far more comprehensive scheme and approach that should be adopted in Australia. This directive states that *…."Member States should encourage **producers to take full responsibility for the WEEE collection**, in particular by financing the collection of WEEE throughout the entire waste chain, including from private households, in order to avoid separately collected WEEE becoming the object of suboptimal treatment and illegal exports, to create a level playing field by harmonising producer financing across the Union and to shift payment for the collection of this waste from general tax payers to the consumers of EEE, in line with the 'polluter pays' principle."* *"In order to give maximum effect to the concept of producer responsibility, each producer should be **responsible for financing the management of the waste from his own products.** The producer should be able to choose to fulfil this obligation either individually or by joining a collective scheme. Each producer should, **when placing a product on the market, provide a financial guarantee to prevent costs for the management of WEEE** from orphan products from falling on society or the remaining producers. The responsibility for the financing of the management of historical waste should be shared*

	by all existing producers through collective financing schemes to which all producers that exist on the market when the costs occur contribute proportionately." The proposed scheme design principles and objectives do not adequately address extending the lifecycle for these products, no real obligation has been placed on the generator (beyond a fee- that is proposed to be minimised through 'competition'), and only tokenistic regard to consumption and real behaviour change.
5. Proposed Regulatory Approach 5.1 Purpose of proposed scheme 5.2 Scheme design 5.3 Liable parties 5.4 Funding the scheme	WMRR continues to advocate for a comprehensive EPR scheme that addresses the lifecycle of products. An example of such a comprehensive approach is again contained in the WEEE Directive- *The overall goals of the WEEE directive are to reduce the negative environmental and health impacts of e-waste disposal and to increase sustainable use of resources. The directive works to:* • *reduce the amount of e-waste that ends up in landfills* • *encourage **redesign** of EEE so that it can be dismantled and properly disposed of* • *increase **re-use** of WEEE and its components and materials*. *To achieve these goals, WEEE requires Member States to set specific targets for the amount (by weight) of EEE collected, recycled, and recovered.* In comparison to the WEEE Directive the proposed scheme only addresses very limited parts of the supply chain with overemphasis on diversion from landfill. WMRR advocates for the inclusion of the additional WEEE directive points along with broadening the goals to reflect a strong EPR scheme that recognises the life cycle of products and the ability of regulation to shape not just the collection of materials at end-of-life but the design of better products and their increased repair and reuse. WMRR advocates the adoption of the above objectives. WMRR supports liable parties being required to comply and participate in the scheme, with clear standards set for participation and compliance- this must not be a tick box exercise for producers, but rather drive real change in design and behaviour. The true cost of the scheme must be met by the generators and must have incentives within it (such as Eco modulation) to drive both compliance and innovation. By having the generator remain engaged in the lifecycle and responsible for the true cost of end of life there is far greater incentive to improve

5.5 Structure of proposed scheme	design and manage material re-use. Attempts to reduce recycling costs through competition and failing to address design and current market failure, will not succeed to manage e waste in Australia. The paper fails to clearly explain how the scheme and existing (or new) voluntary accredited schemes will operate, making it unclear what is within scope. As mentioned above there are clearly two (2) schemes required, one (1) for PV and one (1) for SEEE.
6. Small electrical and electronic equipment 6.1 Product scope 6.2 Targets and obligations	As stated above the schemes do need to be separated and within the SEEE scheme products need to be mapped to determine different consumption and use patterns between households and businesses. This will reflect end-of-life collection opportunities and barriers as well as providing opportunities for network operators to harness this information and support repair and reuse. The paper notes the Basel Convention and how it is and will have an impact post 2025 however does not link this responsibility back to the product steward. There should be obligations to reduce the amount of contaminated waste and the cost burden associated with disposal should also be factored in. Product stewards should be obligated to include more information about their products to support repair and reuse and educate consumers on how recoverable items are. As the paper makes clear safe disposal, repair and reuse are not simple matters and the easiest solution is encouraging less consumption in the first instance. Targets must go beyond amounts recycled and include repair and reuse. The department should also investigate targets for local remanufacturing and reuse.
7 and 8. PV systems .	This must be a separate scheme with the producers as liable parties compelled to be part of all stages of this scheme. Products need to be mapped to determine different consumption and use patterns between households, businesses and solar farms. This will reflect end-of-life collection opportunities and barriers as well as providing opportunities for network operators to harness this information and support consumption behaviours, repair and reuse. This is being considered with tyres as the quantity, sizes and consumer varies across sectors without large variance in product materials.