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Ms Carolyn Jackson
Deputy Secretary
Regions, Environment, Climate Action and First Peoples
Department of Energy, Environment and Climate Action
8 Nicholson St East MELBOURNE VIC 3002

26 February 2024

Dear Ms Jackson

REGULATORY IMPACT STATEMENT FOR THE CIRCULAR ECONOMY (WASTE REDUCTION AND RECYCLING) (MANDATORY SERVICE PROVISION AND OTHER MATTERS) REGULATIONS 2024 AND THE HOUSEHOLD WASTE AND RECYCLING SERVICE STANDARD 2024

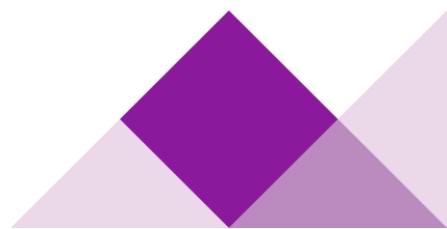
I would like to thank your staff at the Department of Energy, Environment and Climate Action (the Department) for working with the team at Better Regulation Victoria to prepare a Regulatory Impact Statement (RIS) for the Circular Economy (Waste Reduction and Recycling) (Mandatory Service Provision and Other Matters) Regulations 2024 (the proposed Regulations), and the Household Waste and Recycling Service Standard 2024 (the proposed Standard).

As you know, the Commissioner for Better Regulation provides independent advice on the adequacy of the analysis provided in all RISs in Victoria. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be written clearly so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 22 February 2024 meets the adequacy requirements set out in the *Subordinate Legislation Act 1994*.

Background and Problems

In 2021, the Victorian Government enacted the *Circular Economy (Waste Reduction and Recycling) Act 2021* (the Act), which implements the Government's commitments in *Recycling Victoria: a new economy* (the CE Policy), which was published in 2020. The Department explains that the CE Policy aims to provide a new, consistent, transparent and high-quality household waste and recycling system in Victoria.



To achieve this aim, the Act introduced an obligation on councils and Alpine Resorts Victoria (ARV), which are responsible for providing or procuring municipal waste and recycling services for residents, to provide four core streams of waste services (general rubbish, mixed recycling, glass recycling, and food organics and garden organics (FOGO)) by a date to be prescribed in the proposed Regulations. The Act also provided for the setting of minimum standards for the provision of these services.

The Department explains that these reforms are required to improve the quantity, quality and value of recycled materials in Victoria, which will:

- reduce the environmental harms of not recycling material, such as harms from the extraction of raw materials and greenhouse gas emissions from landfill;
- reduce the loss of value from contaminated recycling and from landfilling materials;
- improve amenity through limiting the use of landfills.

The Department explains that the recovery of household waste streams is limited by:

- incorrect sorting of waste – e.g. placing non-recyclable materials in mixed recycling may contaminate and prevent otherwise recyclable materials from being recycled;
- limited separation of household recycling – e.g. broken glass may contaminate mixed recycling and prevent otherwise recyclable materials from being recycled;
- inconsistent waste services being provided across the state – e.g. a recyclable material may be accepted in one council but not another; and bin lid colours used to identify each waste type also vary across councils, which leads to confusion;
- recent disruptions to the waste and recycling industry in Victoria – e.g. the closure of SKM Services in 2019 resulted in recyclable materials being sent to landfill to avoid stockpiling dangerous amounts of material; and
- variable commodity prices and demand for recycled materials – e.g. poor material separation results in low value recycled materials, which discourages investment into the recycling sector, perpetuating a vicious cycle.

Options

The Department analyses four options in detail to increase the quantity, quality and value of recycled materials:

1. Councils and ARV must provide a kerbside FOGO service where a kerbside general rubbish service is provided and a kerbside glass service where a kerbside mixed recycling service is provided from 1 July 2025. Where kerbside glass and FOGO is provided, it is on a compulsory basis (no opt-in or opt-out allowed);
2. Councils and ARV must provide kerbside glass recycling and FOGO services where reasonably practicable from 1 July 2025. Residents may opt-out of receiving a FOGO service if they can manage FOGO materials at home;
3. as per Option 1, but the commencement date is 1 July 2027; and
4. as per Option 2, but the commencement date is 1 July 2027.

Options 2 and 4 provide councils and ARV with some discretion over when to provide kerbside or alternative drop-off services. Under these options, councils may choose not to provide a kerbside service if there is insufficient space for additional bins, insufficient access for collection vehicles, or if residents are too geographically dispersed.

The Department considers, but does not analyse in detail, its preferred options relating to:

- providing councils the option to deliver the FOGO service through separate food and garden organics collections where it is not practicable to combine them;
- the following variations to the list of acceptable materials under each stream:
 - where processors can process soft plastics, it should be included in mixed recycling to encourage investment in advanced recycling; and
 - not to accept plastic caddy liners in the FOGO stream, based on feedback from processors that doing so would cause processing issues.

Impact Analysis

The Department analyses the options in comparison to the base case of the proposed Regulations and Standard not being made. The base case assumes that councils and ARV will complete their rollouts according to their agreed waste service transition plans. Councils and ARV have documented plans to provide glass services by 2027 and FOGO services by 2030 and are at varying stages of transitioning their service offerings in response to the CE Policy and obligations under the Act. The Department notes that the Victorian Government is providing funding to support councils and ARV with the transition. As such, the analysis in the RIS assesses the impacts of providing these services earlier or with a higher ratio of kerbside provision than is currently planned for. The analysis does not assess the impacts of realising councils' and ARV's existing transition plans.

The Department uses a cost-benefit analysis to quantify six key variables over 10 years, to inform a multi-criteria analysis (MCA) by analysing quantifiable impacts. The CBA models six key variables over 10 years, which are:

- tonnage of materials collected;
- collection and processing costs;
- drop-off point operating costs;
- recovery of organic waste and separated glass;
- reduced greenhouse gas emissions; and
- changes in the commodity value of materials.

The Department explains that the key variable which drives the impacts is the timing and extent of the provision of kerbside services under the option compared to the base case; each additional household with a kerbside service drives both higher costs (e.g. collection costs) and higher benefits (e.g. avoided greenhouse gas emissions). In early years of the model, the primary effect of the options is to bring forward service provision relative to the

base case, while in the latter years of the model, the primary effect of the options is to increase the provision of kerbside services above some councils' plans in the base case.

The Department explains that councils are expected to incur an initial net cost when the options commence to provide bins, but in each subsequent year, councils experience cost savings; this outcome is because the savings councils enjoy in processing and disposal costs due to less contaminated waste streams outweigh the costs of collecting additional bins. The Department explains that avoided greenhouse gas emissions reflect the impact of additional FOGO recovery and that the increased value of recycled material is primarily due to the removal of glass contamination from the mixed recycling stream resulting in a significant improvement in the value of recycled paper and cardboard from mixed recycling bins.

The Department explains that waste levy revenue received by the Victorian Government will fall under the options due to increased diversion from landfill. The Department explains that since increasing the rate of diversion from landfill is an explicit goal of the Victorian Government, which entails a reduction of the landfill levy, this cost was not considered when deciding on a preferred option. The Department notes that Recycling Victoria will incur costs to communicate and enforce the Regulations and Standards. The Department explains that landfill operators and some recyclers will face reduced volumes due to higher rates of stream separation under the options, reducing their profit, but that the sector will have a net benefit when the increased value of recycled material is considered.

The CBA results are summarised in the table below:

Impact \$millions NPV	Option 1	Option 2	Option 3	Option 4
Reduced costs to council	26.1	21.3	9.9	7.9
Avoided greenhouse gas emissions	93.4	73.5	48.0	33.3
Increased value of recycled material	105.2	92.1	36.2	26.0
Reduced waste levy for the Victorian Government	-121.9	-89.9	-70.4	-44.5
Direct cost to the Victorian Government	-5.7	-5.7	-5.7	-5.7
Lost industry gate fee profit	-12.1	-9.8	-5.7	-3.9
Net benefit	85.1	81.5	12.3	13.2
Net benefit excluding lost waste levy	207.0	171.4	82.7	57.6

The Department explains that many of the impacts of the proposed Regulations and Standard cannot readily be quantified. As a result, the Department uses an MCA to capture these impacts and arrive at a preferred option. The MCA considers five benefit criteria and three cost criteria, which are:

Benefits:

- cost savings for councils (10 per cent);
- increased value of recyclables and FOGO (10 per cent);
- improved investment and economic efficiencies (10 per cent);
- reduced harm to the environment and amenity (10 per cent); and
- reduced greenhouse gas emissions (10 per cent).

Costs:

- additional burden to councils of an accelerated rollout (30 per cent);
- lost gate fee profits for industry (10 per cent); and
- direct cost to the Victorian Government (10 per cent).

Using the MCA, the Department assesses Option 4 as its preferred option. The Department notes that while Options 1 and 2 have the highest net benefits from the CBA, the CBA does not account for the difficulties or risks of bringing forward the obligation to provide a four-stream service to 2025. The Department explains that this timing will likely result in significant logistical and administrative challenges for councils and ARV including renegotiating contracts, supplying new infrastructure, and delaying or stopping other council or ARV projects to allocate sufficient funds to provide the four waste streams.

The Department explains that bringing forward the obligation to provide a four-stream service to 2025 may also jeopardise the benefits of the reform if it does not give sufficient time for information on the four-stream system to be communicated to households. This approach may compromise the benefits of better sorted streams, reducing public confidence in the reforms and further compromising household sorting behaviours. Further, if some councils are not able to meet a 2025 deadline, the CBA results would overstate the benefits of Options 1 and 2, as the CBA assumes full compliance. The Department states that while a 2025 date is not preferred to introduce a state-wide obligation to provide the four waste streams, it notes the CBA demonstrates significant benefits to councils of rolling out these services as soon as possible.

The Department explains that while the CBA suggests that Option 3 (mandatory kerbside services) would deliver a higher net benefit than Option 4, Option 4 is preferred because it would impose a lower burden on councils and ARV by not requiring them to provide kerbside services in cases where it is not reasonably practicable.

The Department acknowledges that households will bear additional costs, such as sorting costs and costs to use a drop-off service. The Department explains it does not explicitly capture these costs in the RIS as it could not accurately estimate them. The Department also notes that it believes that these costs are likely to be minor in per-household terms.

Implementation and Evaluation

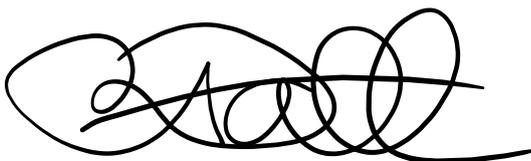
The Regulations and Standards are proposed to commence on 1 July 2027. The RIS explains that Recycling Victoria (RV), a business unit within the Department, is responsible for supporting councils and ARV with implementing the proposed Regulations and Standards. The Department explains that RV is developing a detailed implementation plan, which will be published once the Standard is made. RV will also be responsible for monitoring compliance with the proposed Regulations and Standard once it commences. To monitor compliance, RV intends to implement an annual performance approach, and will assess compliance using information and data from the community, local Government and industry.

The RIS explains that the transition to a four-stream service is supported by funding for councils and ARV, which will help offset the costs of a council or ARV implementing the reform. Sustainability Victoria will also support implementation by preparing a household education and behaviour change program to educate Victorians on how to reduce their household waste and recycle more effectively. The Department notes that this program will be delivered by councils and ARV to its residents.

The RIS also explains that the Act requires that the Standard must be reviewed by the Minister at intervals no longer than three years, which may result in amendments to the Regulations or Standard. The Department notes that as the Standard is proposed to be made in 2024, the first review will be due before the obligation to provide the services in the Regulations commences and before the Standard commences in 2027. The Department considers this timing appropriate, as it will allow any advancements in the sector (such as potential advances in soft plastic recycling) between 2024 and 2027 to be adopted before the Standard commences.

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact my office on (03) 7005 9772.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cressida Wall', written over a white background.

Cressida Wall

Commissioner for Economic Growth and Better Regulation