



COVER SHEET FOR SUBMISSIONS

Overview

The Department of the Environment and Energy, on behalf of all Australian governments, has released a Council of Australian Governments' (COAG) consultation Regulation Impact Statement (RIS) on phasing out certain waste exports. The Department is inviting members of the public and industry to provide submissions. Submissions should be provided by **12 February 2020**.

Contact details

CONSULTATION RIS - PHASING OUT CERTAIN WASTE EXPORTS

Organisation (if applicable)			Australian Sustainable Business Group
Title	Mr	Name (required)	Andrew Doig
Position within organisation (if applicable)			CEO
Postal address (required)			31 Lady Penrhyn Drive, Beacon Hill, NSW
Email address (required)			andrew@asbg.net.au
Phone number (optional)			02 9453 3348

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Submission instructions

Submissions are due by 12 February 2020. Any submissions received after this date will be considered at the Department's discretion.

Submissions should be sent electronically, preferably in Microsoft Word or other text-based formats, to the email address below.

All submissions must include this cover sheet and reference the project name.

Submissions should be sent to:

Email: coagwasteexportban@environment.gov.au



Australian Government

Department of the Environment and Energy

Post: National Waste and Recycling Taskforce
Department of the Environment and Energy
GPO Box 787
CANBERRA ACT 2601

For further information please call 1800 803 772.

AUSTRALIAN SUSTAINABLE BUSINESS GROUP'S

Submission on

**Consultation Regulation Impact Statement
Phasing out certain waste exports**

February 2020



Sydney, Brisbane

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EXECUTIVE SUMMARY

The Australian Sustainable Business Group (ASBG) welcomes the opportunity to comment on the Council of Australian Government's (COAG) [Consultation Regulation Impact Statement Phasing out certain waste exports \(RIS\)](#).

ASBG considers the lack of an economic and risk assessment in the RIS is not consistent with the Commonwealth Government's Best Practice Regulation Guidelines. While the RIS is a consultation draft, it makes reference to the considerable cost impacts quote:

This could cause some businesses to downsize or close completely, resulting in lost economic activity and employment. The cost of unemployment and reduced business activity and investment are impacts that should be considered in developing policy in this area.

Asking stakeholders for their benefits and costs appears to abrogate the economic and risk assessment to them. This is considered a poor approach as such cost – benefit modelling is largely undertaken by Government, then presented to stakeholders in the consultation phase, so errors, issues and improvement with the modelling can be received then adjustments made accordingly. With no modelling available, this approach cannot be undertaken, which brings questions as to the importance of cost benefit and risk assessment by the COAG in the Waste Export Ban (WEB).

Paper exports will be, by far, the most impacted with an expected 1.11 million tonnes being affected. The likely result of a WEB on paper products, with narrow value added exemptions, would result in a major disruption to the paper and cardboard recycling collection and sorting sector. The expected commercial loss, before any new recycling infrastructure can be built, assuming it is feasible, is \$275 million per annum. Australia's remaining paper mills treat newsprint as a contaminant, as only purpose made newsprint mills prefer it, but all of these are now overseas. Consequently, a WEB will send the signal that only high grade paper and cardboard will be accepted and about 40% should not be collected. Kerbside paper collection will be hardest hit as it generally contains the highest contamination levels. Recovery to rebuild a damaged collection system may take years if not decades.

The RIS cites benefits claimed by a using a WEB including; business certainty, stopping problematic waste exports and to encourage industry investment. ASBG considers a third option should be included:

Use a gate keeper (Basel Convention) approach to screen recyclates for export.

ASBG envisages the gate keeper role will only apply to certain export countries, with for example OECD countries exempt with other considerations proportional to the waste material and destination facility.

Consequently, ASBG recommends the consultation RIS be redone complete with the third option and a comprehensive economic and risk assessment on the costs and benefits on all three options. It should then be subject to a round of public consultation before the preferred option is chosen and the final RIS made.

ASBG is also concerned over the support processes the Government is proposing and the impacts it may have on increased export of value added recycled materials. Support is to increase recycling infrastructure, if the outcome is to increase exportable materials. Challenges that the exported value added recycled materials are subsidised must be considered. So use of grants, subsidies, use of waste levies etc to financially support a value added recycling industry needs to avoid claims of being subsidised and taken to the World Trade Organisation as unfair trading practices.

1 INTRODUCTION

The Australian Sustainable Business Group welcomes the opportunity to comment on the Council of Australian Government's (COAG) [*Consultation Regulation Impact Statement Phasing out certain waste exports \(RIS\)*](#), which is being led by the National Waste and Recycling Taskforce.

The [Australian Sustainable Business Group](#) (ASBG) is a leading environment and energy business representative body that specializes in providing the latest information, including changes to environmental legislation, regulations and policy that may impact on industry, business and other organisations. We operate in NSW and Queensland and have over 110 members comprising of Australia's largest manufacturing companies and other related businesses.

ASBG represents a broad range of industries and businesses, consequently represents the business waste generation areas and the concerns affecting them. Business wishes to reduce waste to landfill, recycle and reuse wastes made and supports government policy in this direction. ASBG supports the continuing export of recyclate commodities (called recyclate streams in this report) which meet international and local acceptable standards for recycling. In this context export is an essential way for Australia to better participate in an internationally based circular economy. Consequently, if a Waste Export Ban must be imposed, it must do so to maximise recycling in Australia and minimise waste to landfill.

This submission is a follow up on our December submission and expands on its themes and recommendations. It considers three basic issues arising out of the RIS discussion paper:

- The lack of economic assessment on the Waste Export Ban
- Expected costs and market impacts
- Addressing environmental issues associated with export of recyclates

ASBG considers COAG, the National Waste Policy and or NEPC/NEPM process has a significant contribution to make and provide an effective and efficient framework for other jurisdictions and stakeholders generating and managing waste and recyclables to use.

2 RIS AND ECONOMIC ASSESSMENT

ASBG assumes that the RIS, being a consultation RIS is not required to fully follow COAG’s [Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies](#) (BPRG) which includes a strict list of principles. The consultation RIS has a long way to go to meet the final RIS requirements and it is considered to be a fact finding exercise and a poor consultation draft as there is little covered in the required areas in the BPRG.

Table 1 lists the principles for BPRG and ASBG’s comments in relation to the RIS and its coverage.

Table 1 Consultation RIS v Best Practice Regulation Guide	
Principle	Comment
Establishing a case for action before addressing the problem	The RIS does not properly identify or explain the problems with waste exports, nor does it show why the export ban is a reasonable solution. This was discussed in ASBG’s first submission on the WEB in December 2019. Just because export markets of recyclates currently has head winds, does not mean they have evaporated. Markets fluctuate and their use to create a circular economy is essential to minimise waste to landfill.
Consider a range of feasible options	Only two are given; the export ban or current status. ASBG considers a third option should be added: A third option is recommended; a Basel Convention Style gatekeeper role to apply for waste exports to certain countries and only for certain recyclate streams. See section 5 for details.
Use the option which provides the greatest net benefit	There is no economic assessment provided in this RIS. At best this means the Government is leaving it up to the stakeholders to provide such data. Such an approach is a poor substitute for the use of an independent economic assessment of the costs and benefits associated with the WEB. As a consequence, stakeholders have no opportunity to review the cost-benefit process used to select the preferred option. This is poor consultation and appears non-compliant with the BPRG. ASBG discusses some of the likely costs associated with the WEB in section 3.
Undertake a risk analysis	No risk assessment has been provided. Again this appears to leave the risks to be identified by stakeholders. As with the economic assessment both will need to be checked and verified before such assessment should be used to make Government decisions.
It should not restrict competition	Under Appendix E of BPRG, Competition Effects of the WEB may fail in the following areas: <i>Significantly alters the cost of entry to a supplier:</i> With no export market, the market for the banned recyclates will have shrunk, likely to the point where a commodity has negative value. Only large players with significant capital may enter this market due to the enormous economies of scale required to make new recycling infrastructure economically viable. <i>Significantly alters the standards of the service:</i> A large portion of collected recyclates, especially those of higher contamination levels will have no market compared to having an export market. Unless significantly improved, these will likely be sent to landfill. <i>Significantly alter costs of some suppliers relative to others:</i> Those suppliers with higher contamination levels will be faced with either landfill gate fees, or paying downstream recycling facilities to accept their streams. The WEB will greatly limit the size of the market and only the highest quality recyclates will be accepted and even then be faced with a gate fee compared to permitting export markets to continue. <i>Would a WEB alter suppliers’ incentives to compete vigorously:</i> Yes, with a much smaller market available increased pressure on supplied recyclates will permit downstream processors to push competition to require payments and then only select a portion of the total generated market to be processed. Suppliers will be forced to choose from a recycling fee vs a landfill gate price, in contrast to also having export markets.

Principle	Comment
Provide effective guidance to relevant regulators	The WEB proposal is simple and can be implemented at the Commonwealth/COAG level.
Ensuring the regulation remains relevant	There has been no discussion on review of the final decision. If a WEB is introduced it should be subject to a review, say within 3 years minimum.
Consulting with key stakeholders	Generally this process has been good, but there is little indication the Government will act on the majority position to abandon the WEB.
Action should be effective and proportional	Application of a WEB has not been demonstrated to be effective and proportional, in fact it will send more recyclable to landfill than permitting the on-going export market to continue. ASBG's third option, in section 5, is considered to be in proportion to the problems caused by the exporting of waste.

3 EXPECTED COSTS OF THE BAN

ASBG has collected rough expected costs and impacts from its members. Here are three examples of feedback:

1. Orora has indicated with a WEB it would reduce its cardboard purchases to its production capacity, down from its current 600 Kt p.a, to 450 Kt p.a. This means 150 Kt currently exported, simply will not be collected. So where will it go if it cannot be exported? Simply to landfill and this comes with a huge cost in the Sydney area of around \$375/t gate fees for non-putrescible waste. This roughly translates to a cost of \$56 million in disposal fees. As Orora only accepts Business to Business (B2B) cardboard, largely from the local retail market, this collection market will shrink with smaller retailers no longer source separating and recycling their cardboard.
2. NewsPrintWorks, which represent the newspaper industry, states with the closure of the Albury mill that newsprint can only maintain its high recycling rate if old newspapers can continue to be exported. It estimates that with the WEB newsprint recycling will drop by half from >74% to around 37%. Note that existing recycling paper mills cannot take more than 15% newsprint, so the remainder will have to go to landfill, or perhaps EfW, but only WA has this.
3. Worldwide demand for clean paper and cardboard is strong, but domestic Australian capacity to recycle is limited. Australian consumption of paper, cardboard, imported printed matter and stationery is 3.54 million tonnes. Some 2.69 million tonnes are recovered for recycling but onshore processing handles only around 1.56 million tonnes (GAH Consulting).

This leaves exports of 1.11 million tonnes, which will be affected by a WEB.

3.1 Cost Estimate for Paper

Data on the average cost of landfill gate fees is changing rapidly especially with large waste levy increases in Queensland and South Australia. As most of the volume of waste comes from major cities ASBG estimates the average cost across Australia of transport and disposal to landfill is around \$200/t. Given that 1.11 Mt is being exported and is being paid for (assuming \$50 avg/t), then paper exports are making \$55 million. So if the WEB was introduced and the Australian mills could not absorb the extra capacity the 1.11 Mt would legally need to go to landfill at a total cost/loss of \$275 million p.a.

Building domestic manufacturing capacity remains challenged by high energy costs, distance from markets and strong offshore competition. Furthermore, these exports are important to help existing domestic paper recycling mills manage stockpiles and seasonal supply variations in a cost-effective manner. Additionally, Australia's paper recycling mills are geared up to produce a small range of products largely cardboard and white board. As a consequence, many collected grades of paper and cardboard do not have a domestic paper mill. Existing Australian paper mills considers many paper based products contamination including:

- Office papers,
- Liquid paper board containers
- Magazines and flyers
- Newspapers
- Printers off-cuts (except cardboard)

Australia needs to continue to export paper suitable for recycling as it is unlikely to develop a new manufacturing base to reprocess it all. New paper mills are a massive CAPX investment, costing around \$1b. Unless a suitable market is found for its outputs it will not be built. Even then only the most

profitably paper and cardboard types will be selected for input. In contrast the export market offers a range of mills where the above list can be economically recycled in an international circular economy.

R1 ASBG recommends that a detailed economic and risk assessment of the Waste Export Ban be undertaken and subject to additional public consultation prior to the final RIS being prepared.

3.2 Need For a Detailed Economic Assessment

The RIS presented is flawed in its lack of an economic and risk assessment. To cover this gap ASBG considers the Government needs to:

- Assess the current flow rates of recyclate the WEB affects
- The value of these exports
- The cost of landfilling the shortfall caused due to a lack of domestic markets
- Cost increases on rates and products affected to enable an increase in Australian based recycling infrastructure
- Impacts on the loss of market momentum of current sorting, storing and recycling materials which will be no longer required in the short term.
- Impact of trade challenges on Australian exported recycled products due to their subsidisation as a result of the WEB.

The figures below represent current and future flows of waste materials before (figure 1) and after the WEB (Figure 2). The weight of the lines roughly reflects the flow rates. It has been prepared to assist the Government in developing economic analysis for the RIS to reflect the short and probable medium term impacts of the WEB.

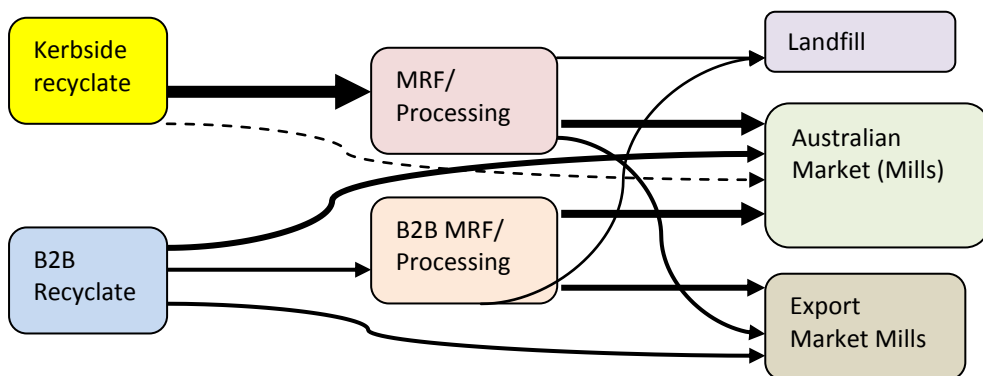


Figure 1 Recent Flow diagram for Recyclates in Australia

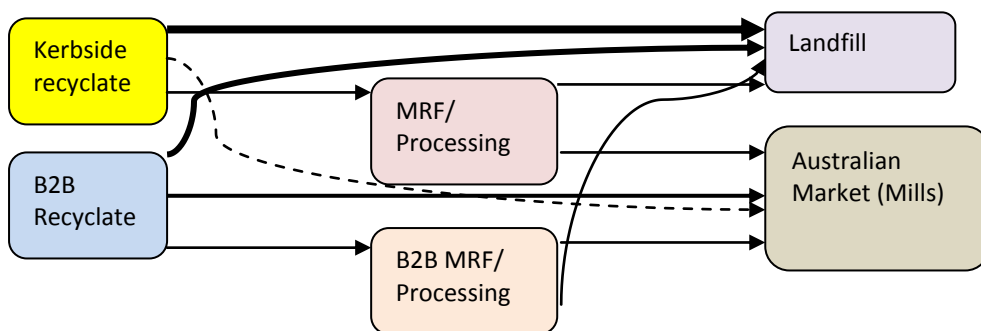


Figure 2 Flow diagram for Recyclates in Australia with Export Ban Short – Medium Term

3.3 Avoidance of Subsidies

Option 2 (b) proposes supporting the internal management of excessive collected recyclates by government intervention. Examples and ASBG comments on them include:

- Technical standards to encourage use of recycled materials, but such standards need clarification and need to overarch jurisdictional environmental policies. For example, the Victorian use of glass fines in roads runs into asbestos contamination concerns in NSW, which results in its recycling being blocked. Also as Australia lacks a manufacturing base to use most recyclates. How can Australian based standards override internationally set criteria and remain competitive?
- Product stewardship schemes can work for Australian made products, but need to also impact on imported products. How will the issue of non-tariff barriers be avoided with this approach?
- Improved data collection and reporting. First Australia must standardise waste definitions, then measurement methods before useful comparable data can be compiled. ASBG notes the United States managed this in the 1970s with the [RCRA Act](#), which is a potential model to move this forward.
- Regulatory standards: ASBG has long pointed out that conservative environmental standards have prevented many materials being economically recyclable, especially for application to land or thermal processes. Detailed approval gate keeper practices have impeded or prevented many recycling innovation and initiatives from being established at both the environmental protection and planning stages.

ASBG is concerned over the following interventions and uses:

- Landfill levies
- Transitional industry assistance

Where Australia will export far more raw material products from recycled materials it may face trade restrictions. In 1998 grant payments to Howe Leather where successfully blocked by the United States challenge in the World Trade Organisation (WTO) due to the company receiving a government grant. Consequently, any assistance to building up Australia's recycling capacity so it may export products from recycled materials must be carefully designed as not to constitute a grant or as such that can be considered a subsidy under WTO rules. WTO interpretation of subsidies can be broad, where even the

waste levies could be considered a subsidy of such. Consequently, industry assistance is acceptable if the product is destined for the local market, but this can significantly restrict assistance to new recycling infrastructure where the product is destined for export.

R2 ASBG recommends that assistance to increase Australia's on shore recycling infrastructure to supply the export market be carefully considered to avoid being challenged as trade subsidies.

4 QUESTIONS IN THE RIS

Table 2 provides ASBG’s comments on the questions raised in the RIS. Many are covered in the text of the submission either directly where there is a reference back to the section or indirectly.

Table 2 ASBG Answers to Questions in the RIS		
No	Question	Comment
1	Do you agree with the problems that have been identified?	The problems identified are that export markets have become more controlled and higher quality criteria has been adopted. Like most export markets the importer can set their own acceptance standards which has been led by China. If a product can meet the higher standards then the prices are strong. Additionally, Australia imports large amounts of packaged products, which generate a waste here. We simply do not have a large enough manufacturing base anymore, to absorb the amount of recyclates generated. To make a true circular economy Australia must continue to export recyclates.
2	What effect do you think the problems could have on the waste and recycling sector, consumers and environmental regulators?	It will drive far more materials to landfill, filling up the limited capacity available. If Australia implements the WEB and then bans extra waste to landfill it must build vast recycling plants of which much of the product would need to be exported. However, this would be a highly subsidised commodity which needs to be driven by high gate fees. As a consequence of requiring recycling fees the products made are likely to be challenged under the WTO rules for subsidised products, limiting their export market and imposing considerable costs which will be worn largely by rate payers and consumers.
3	Do you have any information, analysis or data that supports characterising the impact of the problems identified?	See section 3 of this submission.
4	Are there any other problems that you think should be considered as part of the RIS? If so, please set out what they are, what effect you think these problems could have and how the problems should be addressed.	The RIS, like the discussion paper, fails to properly identify the problem and offers a solution in the form of a WEB, which is not supported by any economic data. ASBG suspects the reasons for this are that COAG adopted a WEB without first investigating it.
5	Do you agree with the policy objective as outlined?	The policy objective seems to be based on a confusing mix of protecting the marine environment and certain countries which have a poor waste management infrastructure and may suffer if Australia exports to it poor recyclates. Also where it is unable to recycle the materials properly, resulting poorly managed wastes entering the environment. How this objective is linked with a WEB is unclear and poorly argued.
6	Are there any other objectives that you think the Commonwealth, state and territory governments should be pursuing in addressing the problems? If so, please set out what they are.	If protection of a country importing Australia’s waste recyclates is the outcome, simply use the existing Basel Convention process as a gatekeeper. As discussed in ASBG’s December submission and in section in this one, this should be limited to certain countries, recyclate types and subject to clear standards or processes.
7	What is your role in the waste stream (producer of waste, collection, recycler, exporter)?	ASBG represents generators, packers, manufactures and the waste sector.
8	How have waste import restrictions imposed by other countries impacted your activities?	Our members do.
9	What would be the longer-term implications if similar import restrictions are imposed in other export markets	<ul style="list-style-type: none"> • Massive impact on recycling at the sorting and collection end. • Large price increases on affected products, passed on to consumers and rate payers. • Rapid filling of existing landfills.

10	Are there other existing or future government or industry-led initiatives that are relevant to addressing the problem?	<ul style="list-style-type: none"> • Many, such as CDS, development of an Energy from Waste (EfW) set of facilities across Australia. • Cheaper energy costs as this directly affects costs of recycling
11	Does the status quo achieve the policy objectives?	Yes largely, except for some developing countries, which may have poor waste infrastructure?
12	Are current laws and government policies sufficient to address the problem?	As above.
13	How effective are industry-led initiatives for addressing the problem?	Industry had led on many international actions to better manage waste in developing countries. E.g. endplasticwaste.org
14	Are there any other benefits or costs associated with the status quo?	If done correctly export of recyclate is an environmentally sound approach to an international circular economy, which goes hand in hand with international trade.
15	Do you have any suggestions that could help a future education campaign? What kind of information should be provided as part of an education campaign?	Education programs should follow a more standardised approach to recycling. See ASBG's Framework Approach to a Revamped/Reengineered Recycling System
16	Are there any other benefits or costs or unintended consequences associated with Options 2(a) or 2(b)?	Option 2 (a) and (b) are very expensive and will lead to poorer environmental outcomes in Australia due to increased landfilling of wastes and reduction in the momentum of collecting recyclates. The issues of marine pollution are unlikely to be affected by the WEB. Additionally, if it is an issue in certain countries it can be managed via the Basel Convention approach. See section 5.
17	Under a prohibition or restriction on waste exports, how should the ban be designed to achieve the policy objectives while minimising costs and adverse impacts?	It simply cannot, unless the exemption provisions are made so broad it will have little impact on current export volumes.
18	Under a prohibition or restriction on waste exports, do you consider there are waste materials that should continue to be eligible for export? Please provide details.	Yes, mostly. There is an exception for recyclates which have a negative value or are so contaminated they are unlikely to meet the acceptance criteria of the receiving country/recycling plant. Again, certain countries are more susceptible to poor enforcement of standards and these should be subject to the gate keeper process. ASBG sees little benefit in applying such a gate keeper role for OECD countries. See Section 5 for details.
19	What sort of penalties should apply to businesses that fail to comply with an export prohibition or restriction?	Simply denied an export permit. The high cost of landfill is a deterrent in itself.
20	What kind of costs (including compliance costs) or loss of income will businesses face to comply with export prohibitions or restrictions? Will these costs be passed on and if so to who? Please provide data where possible.	<ul style="list-style-type: none"> • They would lose the money exporters are willing to pay. • They would be exposed to a limited oligopoly of Australian recyclers accepting their price or payment requirements or going to landfill. • Local Government would be far more exposed to this than business to business.
21	How do recycling service providers manage changes of law in their contracts? What costs could introducing a prohibition or restriction on waste exports trigger under these contracts? How would service providers seek to manage these costs? Please provide details.	<ul style="list-style-type: none"> • This is a highly commercial and competitive process which is clogging the courts. • Put simply a WEB would reduce competition as the export market is removed from the process.
22	What impacts will Options 2(a) or 2(b) have for relevant markets, including impacts on prices and competition?	<ul style="list-style-type: none"> • 2 (a) is simply to introduce a WEB which has high costs and poor environmental outcomes. • 2(b) is similar to 2(a) with more government intervention and some financial support. Without a WEB this is a good approach, but with it the process can introduce further poor regulatory processes to prop up a bad policy position resulting in very inefficient and higher costs all around. • Removing the WEB and using this with Option 1 appears to be a

		far better approach to solving the broader problem of the waste recycling crisis across Australia.
23	Do you consider there is existing Australian markets and infrastructure have capacity to respond to a prohibition or restriction on waste exports? If not, please provide details such as: a. What is the infrastructure capacity gap that will need to be filled? b. How long will it take to commission the infrastructure? c. What is the cost of building the infrastructure and who will bear this cost?	No, see text.
24	Do you believe that the combination of costs and benefits under Option 2(a) are superior to other options?	No, but ASBG proposes a third option of use of the gate keep role (based on the Basel Convention process) where appropriate to manage environmental issues for certain export countries. See section 5.
25	Do you believe that the combination of costs and benefits under Option 2(b) are superior o other options?	As above

5 ADDRESSING EXPORT ENVIRONMENTAL ISSUES

The RIS cites the environmental impacts on developing countries as the main reasons for the WEB. Typically those which do not have the waste infrastructure or the recycling process may generate net environmentally harmful outcomes. This section is a further development of this position provided in our December submission.

ASBG considers there should be an additional RIS option:

Use a gate keeper (Basel Convention) approach to screen recyclates for export.

The key to redefining value-adding is to consider the outcomes of protecting developing countries from receiving substandard Australian recyclates. The gate keeper role should be limited and avoid the need to process *bona fide* recyclate materials such as where:

- Ensure *bona fide* recyclate materials are permitted for export including:
 - Where a fair price is paid by the importer, which is at a higher value rate to them than a disposal alternative.
 - The recyclate meets a recognised international or equivalent standard and criteria for acceptance into the importing country.
 - The recycling facility is *bona fide* and generates a value-added product, which can be demonstrated by its sales data.
- Review the environmental protection systems of certain suspect countries so Australian recyclate do not generate residues, which cannot be managed well enough to prevent environmental or health harm. This practice is already undertaken, at a more detailed level, by the Commonwealth in its management of the Basel Convention. However, OECD countries and other developed countries or those with well managed waste systems should be exempt from this process. An inclusive list of suspect countries or recycling facilities of concern could be compiled and perhaps require assessment and approval prior to export.

Measurement of contamination / quality should generally not be required as quality issues are corrected in the usual way in commercial transactions where failure to meet customers specifications results in returned faulty products. Only where there is suspected circumvention of the proper recycling process should contamination be a concern.

This third option can be considered a highly limited and specific waste export ban, but in essence it is a gate way process to achieve outcomes. Option 3 also meets the benefits that are specified for Options 2(a) and 2(b):

- Give industry and government certainty
- End the export of problematic waste materials that can cause adverse environmental or human health impacts in the importing country
- Encourage industry to consider innovating and investing to generate higher value recycled materials

R3 ASBG recommends a third option be added to the RIS options and its economic and risk assessment be included in a redo of the RIS on the Waste Export Ban.

This submission has been prepared with the input and assistance of members of ASBG's Policy Reference Group (PRG).

Should you require further details and clarification of the contents of this submission please contact me.

Yours Sincerely

Andrew Doig

Andrew Doig

CEO

Australian Sustainable Business Group (ASBG)

T. +612 9453 3348

A. (PO Box 326, Willoughby NSW 2068)

andrew@asbg.net.au