

Submission – Draft Variation 305, Mugga Landfill Expansion – Stage 5 Draft Environmental Impact Statement

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The Conservation Council ACT region is the peak non-government environment organisation for the Canberra Region and has been the community's voice for the environment in the Canberra region since 1979.

We represent the interests of community conservation organisations in the region as well as the broader environmental interests of all the citizens of the ACT.

Our mission is to achieve an ecologically sustainable and zero net carbon society through advocacy, education, research and engagement with community, the private sector and with government.

The Conservation Council is active in a number of campaign areas. Our current foci include protecting and enhancing our biodiversity, urban planning – including Bush on the Boundary, action on climate change, water and waste policy.

Overview

The Conservation Council welcomes the opportunity to provide comments into *Draft Variation 305, Mugga Landfill Expansion – Stage 5 Draft Environmental Impact Statement*. We welcome a long-term strategy for waste to landfill management in the ACT.

Our key concerns relate to a waste reduction strategy that does not sufficiently rigorously attack the problem and the impacts of the proposed landfill site on critically endangered Yellow-Box-Red Gum Grassy woodlands.

A key focus has to be reducing our key per capita waste generation which has been increasing steadily over many years – for example between 2007-08 and 2010-11 overall waste generation increased from 2.06 tonnes per person to 2.64 tonnes per person. It was 1.65 tonnes per person in 2001-02.

We acknowledge that the ACT has achieved the best recycling rate of all Australian jurisdictions. This has to be applauded. However our progress in this regard has been stagnant for the last five or so years.

We also consider the targets under the ***ACT Sustainable Waste Strategy 2011-2025 Strategy*** for reducing waste to landfill through recycling are not ambitious enough. The sooner known existing measures are put in place to reduce waste to landfill the better.

Decisions and projections around waste generation and resource recovery significantly impact infrastructure decisions such as landfill capacity and resource recovery infrastructure.

Noting these points and issues, the Conservation Council nonetheless recognises the need for additional landfill capacity in the ACT and supports the Mugga Lane site as the most appropriate site for additional waste landfill.

Recommendation 1:
Within the caveats outlined below, with particular reference to the need to reduce per capita waste generation, the need to reduce waste to landfill via recycling/resource recovery and the need to limit impacts on critically endangered Yellow-Box-Red-Gum Woodland we support an expansion of the Mugga Lane Waste Disposal landfill.

Context

The ***ACT Sustainable Waste Strategy 2011-2025*** is the successor to the *ACT NoWaste Strategy by 2010* adopted by the ACT Government in 1996.

The *NoWaste Strategy by 2010* was extremely successful in increasing resource recovery from 22% in the early 1990s to above 70% since 2003-04, with the highest rate being 75% in 2005-06. In 2011-12 it was 73%. In addition overall waste to landfill continues to increase. We note some of the increase may be due to changes and fine-tuning of reporting, the other being increased population.

In addition our overall per capita waste generation continues to increase. In 2011-12 our per person waste generation was 2.64 tonnes per person compared to 1.65 tonnes per person in 2001-02. Our community has responded very positively to recycling and reuse of materials but we continue to “go through” huge amounts of resources as a consequence of our relative affluence.

A clear focus of the initial No Waste Strategy [to landfill] by 2010 was the need to establish recycling and resource recovery infrastructure in order to reduce waste to landfill. Obviously this has been extremely successful.

The Conservation Council supports ongoing efforts to reduce the amount of waste to landfill – with an overall objective to reduce waste to landfill by as close to 100% as

possible as soon as possible. We support achieving a high level of resource recovery however believe this could be done sooner than proposed target of 90% by 2025.

The *NoWaste Strategy by 2010* had two key features. Firstly, it was a strategy of several parts that relied on long-term government commitment in order to achieve the goal of no waste to landfill by 2010. In around 2005 funding resources and the recycling level plateaued. Any long-term waste strategy, no matter how good, needs to be able to cope with changes of government. The establishment of facilities that went with the first part of the strategy was successful in helping to reach the stage where nearly 75% of the ACT's waste was recycled. However, the next stages, the hard stages of public and business education, and dealing with commercial waste and putrescible waste, were not backed by adequate resourcing and a coherent approach. Probably most telling was that the review of the NoWaste Strategy that was due in 2007-08 was not completed until late in 2011.¹

The second feature of the ACT's NoWaste strategy has been the effective engagement of the private sector to deliver against the government's policy objectives. An example of the use of contracts to deliver against policy is that any material transferred from the recycling facility – the Material Recovery Facility or MRF – to landfill is charged at full rates and the funds are used to pay an education program to improve recycling rates. The better the contractor recycles, the less money they have to pay out (and the better the recycling the less public education is needed, or funded). In the past the ACT's waste policy worked because it integrated policy and operational implementation. At the moment this is less clear.

Rehabilitation of the landfill site and future land use

In planning for an expansion, it is necessary to consider the future use of the site. Too often, a landfill is capped and lightly vegetated, and then essentially abandoned.

In this case it is anticipated that the "finished and capped cells would be revegetated with grass as a minimum (as carried out for previous cell closure). The potential for shallow rooted shrub planting would be investigated to further vegetate the finished cells".

It is possible to provide for a range of future values and uses, including conservation values and, depending on location and context, recreational uses, that represent benefits that can be identified and valued in an environmental assessment.

The remediation of Homebush Bay is an example of how this can be done. Remediation involved the consolidation of municipal and industrial waste from a larger area into a few cells, using contemporary technology. However, these cells were constructed to create architectural forms for visual amenity, with paths and lookouts to provide recreational opportunities, and vegetated with species that complemented the biodiversity values of the region and that did not threaten the

¹ http://www.cmd.act.gov.au/open_government/inform/cabinet/summaries/2011/december_2011/5_december_2011

structural integrity of the cells.

So in assessing the proposal to expand the Mugga Landfill, consideration should be given now as to what values and uses our community would value from this area once it is filled (i.e. in 30 years), how this area will connect and integrate with the surrounding landscape and community, how it may serve the community, and to design and construct the cells to provide for this. The commendable desire by the ACT Government to encourage solar farms should also be factored in as a possible future use.

Recommendation 2:

Consideration should be given now as to what values and uses our community would value from this area once it is filled (i.e. in 30 years) and all design and contract work should accommodate and facilitate long term future uses.

Impacts on Woodlands

In GHD's Assessment of Mugga Lane Resource Management Centre's Capacity – Beyond 2013 for ACTNOWaste published in May 2010, its first recommendation was to "acquire the necessary land as soon as possible to extend the current MLRMC into Areas 5 and 6".

GHD found that option 2A (part Area 5 and Area 6) would be the second preference, taking into account the value of the Box Gum Woodlands in the north of Area 5. We can find no direct reference to why the shift was made to Areas 4 despite Area 6 having been noted as having high visual impacts from Monaro Highway (a National Capital Plan consideration).

The Conservation Council is opposed to any development that impacts upon endangered Box-Gum Woodland. Therefore, in all of its activities, the Conservation Council urges ACTNOWaste to make as a priority and for as long as it possibly can, the preservation of the Yellow Box-Red Gum Lowland Grassy Woodlands that exist on the proposal site in what appears to be the overlap area towards the southern end of Area 4 and the northern end of Area 5. This priority should include finding an alternative site for asbestos.

The longer any impact on Area 4 Box Gum Woodlands can be deferred, the greater the chance of reducing annual waste to landfill tonnages.

Recommendation 3:

Use of Area 4 should be deferred as long as possible and ideally not developed at all in order to protect the endangered Yellow-Box-Red Gum Grassy Woodlands in that area.

Offsets

It is appreciated that the proposed offset site adjacent to Isaacs Ridge Nature

Reserve is already being managed as an advanced offset site. Nonetheless it is imperative that sufficient resources be allocated for restorative work in the offset area on Isaacs Ridge.

The Conservation Council remains concerned that offset sites are being created and managed in the absence of an ACT Offsets Policy and the current lack of transparency around the number of offset sites and the possibility of double dipping, lack of baseline monitoring of offsets sites, potential lack of ongoing monitoring of achievements of offset sites as well as public reporting and adequate resourcing.

Recommendation 4:
Management of the offset site needs to be publicly registered, baseline data of the condition of the site needs to be available as well as ongoing monitoring to assess enhancements at the site and there needs to be public accountable resourcing arrangements for the management of the offset site. The offset also needs to meet the 2012 Commonwealth offset policy requirements.

No Waste to landfill and definitions of waste

As noted above decisions and projections around waste generation and resource recovery significantly impact infrastructure decisions such as landfill capacity and resource recovery infrastructure.

The Conservation Council suggests the targets for recycling could be achieved sooner and also there is a need for targets in regard to waste reduction.

Hazardous waste needs to be better measured in different categories. Some hazardous materials, such as asbestos, persistent organochlorines and radioactive 'waste' are considered part of the municipal waste stream and some are not. Materials, such as asbestos, should be buried safely but they should be managed separately and not be measured as part of the amount of waste that goes to municipal landfill. Under this scenario if hazardous materials are defined as such, it may then be possible to achieve the original policy objective and to develop a projected target timeframe of achieving No Waste to landfill.

Recommendation 5:
Hazardous waste should be counted and considered separately to municipal waste.

The Conservation Council recommends a return to a target-based policy objective of no waste to landfill within a designated timeframe. There are challenges to this of course.

***Recommendation 6:
ACT Government re-adopt its policy of no [municipal] waste to landfill with a clear timetable.***

There are also issues with the way that the terms green waste (garden materials) and organic waste (kitchen materials) are interchanged as the two can have quite different management options.

Green waste – garden waste – is delivered by the public to two main companies who then process the material mainly for more garden products. Approximately 90 per cent of garden waste is recycled and a very high quality compost is obtained which is then sold. Green waste is estimated as it is difficult to measure accurately in the ACT given that most of it comes from the public and is not weighed and the density of the material varies so that even if the volume can be accurately measured the tonnage cannot. Green waste also helps the ACT's overall recycling rates to look better, especially when there are good years and more green garden material. In drought years the reduction of garden waste can actually make the ACT's recycling rates go down. The Conservation Council supports the current garden waste system while noting some measures could be introduced to facilitate the system such as rebates for pensioners for green waste collections.

***Recommendation 7:
Retention and enhancement of the current green waste system***

Organic kitchen waste is estimated through an audit sampling process then extrapolated to obtain an overall ACT figure. This waste has a range of management options. It currently goes to landfill but can also be composted domestically or in a municipal system. When placed in landfill it putresces, releasing greenhouse gases, particularly methane. This gas is collected on ACT's landfills at an estimate of 70 per cent of the total gas produced and used to generate electricity which is fed into Canberra's grid. The Conservation Council supports an active approach to removing organic waste from landfill. In the past we have advocated for a third domestic bin specifically for organic waste.

We believe this issue need to be re-examined as a priority particuly in the context that from July 2013 the cost to the ACT of paying for methane emissions from the landfill under the Federal carbon pricing system is expected to be quite substantial.

***Recommendation 8:
Immediate re-consideration of management options for organic waste, including a third bin for organic waste.***

Waste Reduction

The ACT's waste generation per capita is the second highest in Australia and ACT State of Environment reports consistently show our per capita level of waste generation continues to increase. This needs to be addressed as a matter of priority.

Decisions and projections around waste generation impact significantly around infrastructure decisions such as landfill capacity and resource recovery infrastructure.

While the ***ACT Sustainable Waste Strategy 2011-2025*** acknowledges waste reduction as its number one priority – Outcome One – it proposes very little by way of action to address this, with the substantial focus remaining on resource recovery. This stands at odds with the objects set out in the *Waste Minimisation Act 2001* (see Attachment One) which clearly indicates waste minimisation (waste reduction) as the top of the waste management hierarchy.

Likewise most text is focused on resource recovery. For example the goal of the Strategy “is to ensure that the ACT leads innovation to achieve full resource recovery and a carbon neutral waste sector”.²

Similarly it states: “The Government has identified ten strategies to achieve the targets for full resource recovery. These strategies maintain the established goal of no recoverable waste to landfill as a central indicator of success”.³

In short, despite legislative and policy recognition of the waste reduction (i.e. waste minimisation and avoidance) as a priority, the new waste strategy with a 14-15 year time frame only pays lip service to waste minimisation and set a rather unambitious target of ensuring “the growth in ACT waste generation is less than the rate of population growth”.⁴

The Conservation Council believes any waste strategy for the ACT should reflect and give due accordence to the well accepted waste management hierarchy.

Recommendation 9:
Greater emphasis needs to be given to waste reduction programs

Recommendation 10:
More ambitious waste reduction targets should be set for the ACT.

Waste Reduction Activities

Activities to reduce waste generation could include:

- **Community Education:** Conduct a community education program on waste avoidance along the lines of the successful “Life be in it” program of some years ago.
- **Packaging Requirements:** Move through regulation and contributing to national forums to reduce the amount of unnecessary packaging.

² *Act Waste Management Strategy 2011-2025* page 2

³ *Act Waste Management Strategy 2011-2025* page 22

⁴ *ACT Waste Management Strategy 2011-2025* page 4 and 16

- **No Non-recyclable Products:** Ban the use or sale of products that cannot be recycled such as cling wrap and polystyrene or develop systems so they can be recycled. Disallow packaging which cannot be reused or recycled through the ACT's waste management system.
- **Reduce FoodWaste Program:** provide funding to extend the FoodWaste program in the ACT delivered by community organisations.

Recommendation 11:

A more detailed action plan on waste reduction be developed as a matter of priority.

The *Waste Minimisation Act 2001* at section five (see Attachment Two) provides for the development, implementation and enforcement of Industry Waste Management Plans.

This section of the Act has been under utilised. The Conservation Council proposes it provides a useful mechanism to deal with priority waste areas such as demolition / construction waste as well as food waste.

Recommendation 12:

As a priority an Industry Waste Plan under the Waste Minimisation Act 2001 be created for the commercial building sector.

Recommendation 13:

Immediate consideration be given to developing other Industry Waste Plans based on the high waste areas such as food waste.

Waste to landfill reduction activities

The Conservation Council notes that ACTNOWaste expects that even after the achievement of a 90% recycling/reuse of discarded materials as adopted in the ***Sustainable Waste Management Strategy 2010-2025***, there will remain at least 100,000 tonnes each year of waste to landfill after 2025.

The Conservation Council believes that although ACTNOWaste and the ACT community have achieved a lot in terms of recycling there is still too little public awareness and too little facilitation of appropriate disposal of waste, at both the personal and business levels. Waste generated by the Commercial/Industrial sector continues to increase despite the Sustainable Waste Management Strategy.

Recommendation 14:

Review progress of actions in the Strategy every two years with a view to revising actions and improving outcomes.

Activities to reduce waste to landfill could include:

- **Household Organic Waste:** Establish composting system for domestic organic (putrescibles) waste including allowing some waste to be composted through existing garden waste treatment businesses.
- **Commercial and Industrial Waste:** Establish a commercial and industrial waste system to reduce waste from this sector. The government could establish a system similar to the domestic recycling scheme which would apply to the commercial and industrial sector.
- **Construction and Demolition Waste:** Establish systems to obtain higher-end use value from demolition material including through allowing sale from site of demolition materials.
- **Waste from Multi-Unit Dwellings:** Introduce a recycling program focused on residents of multi-unit dwellings. This should include changes to the planning regulations to ensure that all new multi-unit developments have built-in recycling arrangements. Other recommendations of the Hyder report into recycling in Multi-Unit Dwellings should be phased in over the next term of government.
- **Waste in Public Places:** Introduce easy to use recycling bins alongside rubbish bins in all public places, starting with town centres but also including all sporting and cultural spaces.

Waste Management Governance

The Government is not achieving waste reductions through TAMS which is a large directorate with many competing demands for corporate resources in staffing and funding. The current arrangements of the Environment and Sustainable Development Directorate determining policy and targets with delivery of these by the Territory and Municipal Services Directorate is problematic.

A separate authority with a clear direction will have more incentive to achieve ACT Government waste to landfill targets and waste reduction targets.

***Recommendation 15:
A separate No Waste Authority be established.***

There is a need for greater emphasis on public reporting on waste performance in the ACT. In particular we recommend reinstating regular timely public reporting on waste generation and recycling in the ACT. An additional feature should include reporting against best practice benchmarks in other jurisdictions, local, state and international.

Data on waste should be updated more quickly and more frequently and reported directly to the community and to the Legislative Assembly. (The latest data on the (greatly improved) NoWaste website is for 2010-11.) Ideally existing corporate reporting structures such as Annual Reports and the ACT Budget papers, reporting on the Canberra Plan should be used.

Data should include the tonnage of waste to landfill as a total, a per capita or household average and by collection districts, again at both total and per capita.

***Recommendation 16:
Regular public reporting on waste generation and waste to
landfill be re-established and enhanced.***

Attachment One:

Waste Minimisation Act 2001 – Objectives

<http://www.legislation.act.gov.au/a/2001-31/default.asp>

The *Waste Minimisation Act 2001* states the object of the Act [s.5] are:

- (a) to establish a waste management hierarchy of the following order:
 - (i) avoidance;
 - (ii) reuse;
 - (iii) recycling and reprocessing;
 - (iv) disposal;
- (b) to ensure that government, industry and community representatives are involved in the development of ACT-wide waste policy;
- (c) to minimise the consumption of natural resources and the final disposal of waste by encouraging the avoidance of waste and the reuse and recycling of waste;
- (d) to ensure that industry shares with the community the responsibility for minimising and managing waste;
- (e) to promote and ensure the efficient resourcing of waste service planning and delivery;
- (f) to achieve integrated waste planning and services;
- (g) to promote and ensure environmentally responsible transporting, reprocessing and handling of waste.

Attachment Two:

Waste Minimisation Act 2001 – Industry Waste Reduction Plans

<http://www.legislation.act.gov.au/a/2001-31/default.asp>

Part 2 Industry waste reduction

Division 2.1 Industry waste reduction plans

7 Objects—pt 2

The objects of this part are as follows:

- (a) to provide a framework for the preparation, implementation, monitoring and enforcement of industry waste reduction plans that are designed to achieve 1 or more of the following:
 - (i) minimising the amount of waste being created in the ACT;
 - (ii) minimising the consumption of natural resources;
 - (iii) ensuring greater industry responsibility for waste reduction;
 - (iv) encouraging an efficient and cost-effective approach to industry waste reduction;
 - (v) implementing national environment protection measures;
- (b) to encourage industry members—
 - (i) to participate, and cooperate with the director-general, in the negotiation and preparation of an industry waste reduction plan for the industry; and
 - (ii) if such a plan is in force in relation to the industry—to comply with the plan;
- (c) to provide sanctions for unsatisfactory performance, or unwillingness to cooperate, in industry waste reduction plans;
- (d) to ensure that industry waste minimisation and management initiatives reflect best practice waste policy and waste minimisation and management objectives.

8 Scope of IWRP

- (1) An industry waste reduction plan (or IWRP) must specify the industry, or the industry members, or both, to which the plan applies.
- (2) An IWRP may do any of the following:
 - (a) set waste reduction targets for the industry, having regard to national waste reduction targets;
 - (b) identify the opportunities and action to be taken in the areas of product design, production and packaging for reducing waste;

- (c) identify the action to be taken to implement appropriate methods for reducing, reusing and recycling waste, for litter management and for the safe disposal of waste;
- (d) identify how consumers are to be told about the impact on the environment of waste-generating products and packaging;
- (e) specify the time frame for implementing proposed waste reduction targets and strategies;
- (f) establish a public monitoring and reporting program;
- (g) include details of the performance indicators to be used to monitor whether waste reduction targets set out in the IWRP are being reached;
- (h) include a requirement for industry members to provide the director-general with information, and to report to the director-general, on the implementation of the IWRP;
- (i) include any other matters prescribed by regulation.

9 Criteria for deciding initiation of IWRP

- (1) The Minister may decide that an IWRP is to be prepared in accordance with this Act for a particular industry.
- (2) An industry can be nominated for an IWRP by—
 - (a) a member of the industry or a person on behalf of industry members;
or
 - (b) the director-general.
- (3) The Minister is to decide whether or not an IWRP is to be prepared for the nominated industry, taking into account the following matters:
 - (a) the impact on the environment of the waste created by the activities of industry members;
 - (b) the environmentally sensitive nature, or the amount, of the natural resources consumed by industry members in the production or manufacturing processes of the industry;
 - (a) any other matter the Minister considers appropriate.

10 Director-general to give public notice of proposed IWRP

- (1) As soon as practicable after the Minister decides that an IWRP is to be prepared for an industry, the director-general is to advertise the decision by publishing a notice in a daily newspaper, and in any other publication the director-general considers appropriate.
- (2) The advertisement must invite written submissions to the director-general on any relevant matter about the proposed IWRP and state a closing date (at least 1 month after the date when the advertisement is last published) for the making of submissions.

11 Industry members may be required to give background information

- (1) The director-general may, by written notice given to a person whom the director-general believes on reasonable grounds is an industry member to whom a proposed IWRP would apply, require the person to give the director-general stated information or a document that the director-general reasonably needs to assist in the preparation of the IWRP.

Note For how documents may be given, see the [Legislation Act](#), pt 19.5.

- (2) Without limiting subsection (1), the notice may require that the following information be provided in the way stated in the notice:
- (a) the quantities and classes of items that are manufactured, imported or sold by the person in the ACT;
 - (b) the quantities and classes of wastes that are likely to be created because of the person's activities;
 - (c) information about what the person has done, or is doing, in relation to waste management and reduction of the consumption of natural resources.
- (3) A notice given to a person under this section must specify the date (at least 1 month after the date on which the notice was given to the person) by which the information or document must be given to the director-general.
- (4) A person must take all reasonable steps to comply with a requirement of a notice given to the person under this section.

Maximum penalty: 250 penalty units.

- (5) A person who contravenes subsection (4) commits a separate offence for each day (after the first day) during any part of which the contravention continues.

Maximum penalty (for each day): 50 penalty units.

12 Report on how IWRP is to be prepared

- (1) The director-general must prepare a report to the Minister on the scope of the proposed IWRP.
- (2) The report must include any relevant information obtained by the director-general (including that received by way of public submissions).
- (3) The report must also recommend to the Minister how the proposed IWRP should be prepared, including—
- (a) a recommendation about the people and organisations (if any) that the director-general considers should be involved in the negotiation of the proposed IWRP; or
 - (b) a recommendation that the proposed IWRP be prepared in accordance with section 14 (Preparation of IWRP by EPA without negotiation).

13 Preparation of IWRP—process of negotiation

- (1) The Minister may—
 - (a) nominate the people and organisations (if any) that are to be involved in the negotiation of the proposed IWRP with the director-general; and
 - (b) decide the time within which the proposed IWRP is to be finalised.
- (2) If the Minister decides that the proposed IWRP is to be negotiated between the director-general and any nominated people or organisations, a draft IWRP must be prepared in accordance with the negotiation process, and be submitted to the director-general within the time decided by the director-general after consultation with the nominees.
- (3) After the draft IWRP is referred to the Minister, the Minister may—
 - (a) approve the draft IWRP; or
 - (b) reject the draft IWRP; or
 - (c) require changes to be made to the draft IWRP.

14 Preparation of IWRP by director-general without negotiation

- (1) Despite section 13, the Minister may decide that the proposed IWRP is to be prepared by the director-general without negotiation with any nominated industry members.
- (2) The Minister's decision may be based on, but is not limited to, an assessment of the following matters:
 - (a) the past performance of the industry in collecting, recycling or reducing waste created by the activities of industry members;
 - (b) whether industry members have participated, sought to participate, or are likely to participate, with the director-general in the preparation of an IWRP for the industry;
 - (c) the diversity, complexity or competitive nature of the industry.
- (3) The Minister may also decide that the proposed IWRP is to be prepared by the director-general if—
 - (a) the industry has failed to participate, or participate fully, in preparing a draft IWRP in accordance with section 13; or
 - (b) the Minister is of the opinion that any draft IWRP prepared in accordance with section 13 is inadequate.
- (4) If the Minister decides that the proposed IWRP is to be prepared by the director-general without negotiation with industry members, the director-general is to decide the contents of the IWRP.
- (5) Without limiting section 8 (Scope of IWRP), the contents of the IWRP may include waste reduction targets decided by the director-general (and based on the factors that the director-general considers appropriate).
- (6) After the draft IWRP is referred to the Minister, the Minister may, in writing—

- (a) approve the draft IWRP; or
- (b) reject the draft IWRP; or
- (c) require changes to be made to the draft IWRP.

15 Preparation of IWRP to implement national measure

- (1) The Minister may, in writing, direct the director-general to prepare an IWRP for an industry to implement a national environment protection measure.
- (2) A draft IWRP prepared under this section may be prepared without complying with the following sections:
 - section 10 (Director-general to give public notice of proposed IWRP)
 - section 12 (Report on how IWRP is to be prepared)
 - section 13 (Preparation of IWRP—process of negotiation).
- (3) Once the draft IWRP is prepared, the director-general is to refer it to the Minister for approval.
- (4) After the draft IWRP is referred to the Minister, the Minister may, in writing—
 - (a) approve the draft IWRP; or
 - (b) require changes to be made to the draft IWRP.

16 IWRP may apply other instruments etc

An IWRP may apply, adopt or incorporate any instrument, or any provision of an instrument, as in force from time to time.

Note 1 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the [Legislation Act](#), s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the [Legislation Act](#).

17 Notice of approval of IWRP

- (1) The Minister may approve an IWRP a draft of which has been referred to the Minister under this division.
- (2) An approval under subsection (1) is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).
- (3) If the Minister approves an IWRP under subsection (1), the director-general must publish notice of the approval in a daily newspaper, and in any other publication the director-general considers appropriate.
- (4) The notice under subsection (3) must include a statement that copies of the IWRP are available from the director-general.
- (5) The director-general must also—
 - (a) give a copy of the IWRP to any industry member or other person who made a submission, or who provided information under section 11

(Industry members may be required to give background information), or who was otherwise involved in the negotiation of the plan, under this division; and

- (b) make copies of the IWRP available for inspection or purchase by anyone.

18 Contravention of IWRP

- (1) If the director-general believes on reasonable grounds that an industry member has contravened an IWRP that applies to the member, the director-general may give the industry member a copy of the IWRP and a written notice stating the contravention.

Note For how documents may be given, see the [Legislation Act](#), pt 19.5.

- (2) For this section, the contravention of the IWRP includes the failure to meet any of the requirements stated in the IWRP.
- (3) The notice under subsection (1) must require the member to remedy the contravention within a stated period of at least 1 month after the date the notice is given to the member.

Note A decision requiring a person to remedy a contravention of an IWRP is a reviewable decision (see s 44), and the director-general must give a reviewable decision notice to the person (see s 44A).

- (4) However, the director-general may withdraw the notice within the stated period.
- (5) A person must take all reasonable steps to comply with a requirement of a notice given to the person under this section.

Maximum penalty: 250 penalty units.

- (6) A person who contravenes subsection (5) commits a separate offence for each day (after the first day) during any part of which the contravention continues.

Maximum penalty (for each day): 50 penalty units.

19 Contravention of IWRP—annual report

A report prepared for a financial year under the [Annual Reports \(Government Agencies\) Act 2004](#) by the administrative unit responsible for the administration of this Act must include details of each contravention during the year of a requirement of a notice under section 18.

Note **Financial year** has an extended meaning in the [Annual Reports \(Government Agencies\) Act 2004](#).

Division 2.2 Regulations relating to industry waste reduction

20 Regulations—pt 2

- (1) For this part, a regulation may make provision in relation to the following matters:
 - (a) restricting the sale of prescribed products;
 - (b) requiring the implementation and operation of prescribed waste management schemes, including recycling, reuse, refundable deposit or take back and utilisation schemes in relation to products that result in the creation of waste.
- (2) A regulation may make provision in relation to the following matters about a prescribed waste management scheme:
 - (a) the percentage of products to be recovered under the scheme that must be used in reuse or reprocessing;
 - (b) requiring the provision of a performance bond to ensure compliance with the scheme;
 - (c) the forfeiture of a performance bond;
 - (d) the documentation or particulars to be given to the director-general in relation to compliance with the scheme.