


CONSERVATION COUNCIL

ACT REGION



	
A.C.T. LEGISLATIVE ASSEMBLY COMMITTEE OFFICE	
SUBMISSION NUMBER	1
DATE AUTH'D FOR PUBLICATION	28/07/16 JULY 2016 LATE

Waste Management and Resource Recovery Bill 2016

If you have any queries regarding this submission please contact Larry O'Loughlin Executive Director on 02 6229 3202 or director@conservationcouncil.org.au.

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 government.

The Conservation Council is active in a number of campaign areas. Our current focus includes:

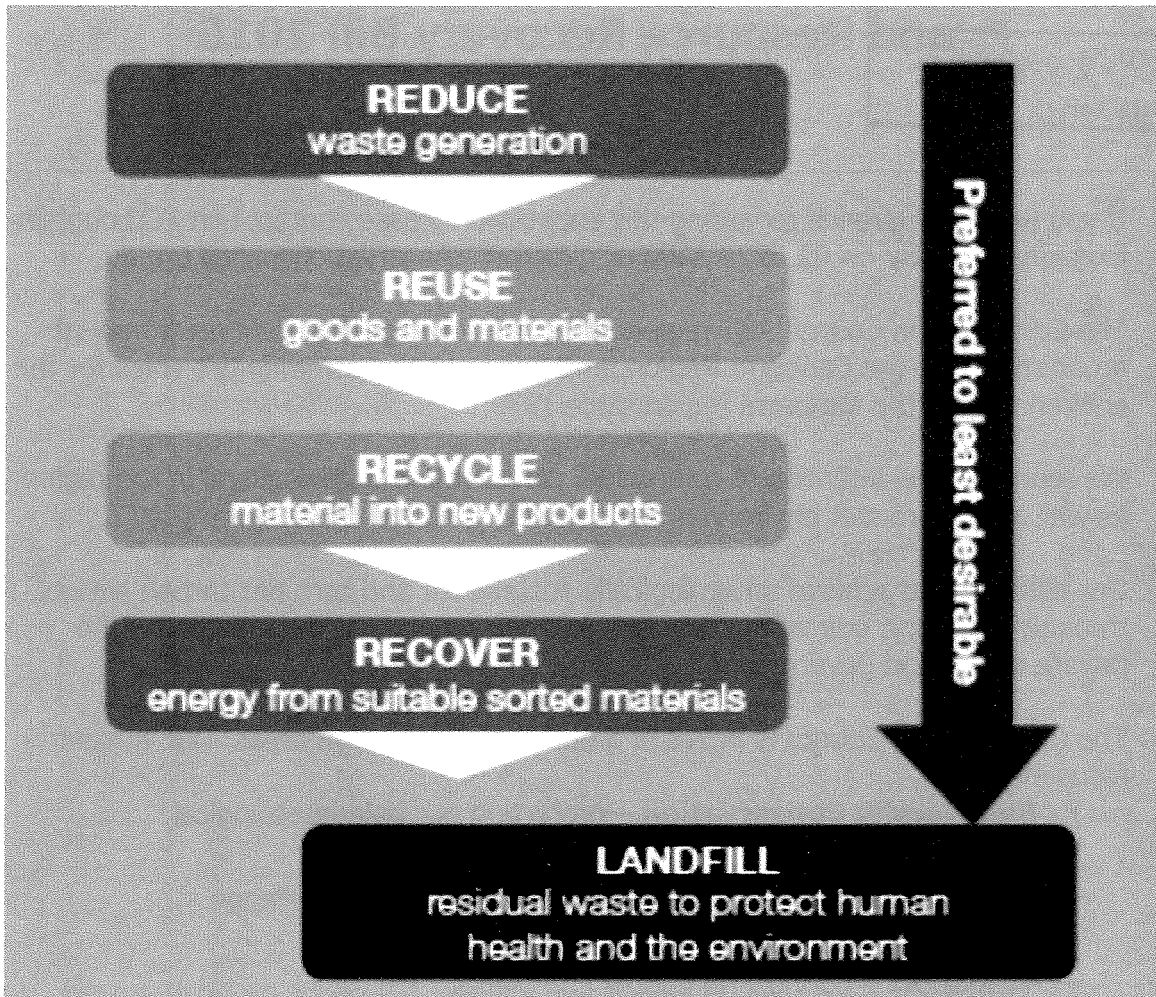
- **Biodiversity Conservation** – protecting our unique ecological communities and the Bush Capital
- **Climate Change** – a regional, national and global challenge
- **Planning** – the right things in the right places
- **Transport** – connecting people and places
- **Waste** – being efficient through closed-loop systems
- **Water** – smart use of a scarce resource
- **Governance** – for a Smarter, Sustainable Canberra

1. Overview

The Conservation Council ACT Region appreciates the opportunity to make comment on the *Waste Management and Resource Recovery Bill 2016* (the Bill). We note the Bill is intended to replace the existing *Waste Minimisation Act 2001*¹.

Our key concern is the Bill is essentially about waste management at the end of waste system – waste collection, recovery, recycling and reuse in the ACT – rather than on waste reduction in the first instance i.e. avoiding waste generation.

While we generally welcome and support these measures to better manage the waste industry it would be a great failure if this new legislation does not also include an appropriate focus on waste reduction. It is important to note that waste reduction is the top priority in the waste management hierarchy and this is not reflected in this draft Bill.



ACT Government (2011), Environment and Sustainable Development, ACT Waste Management Strategy 2011 - 2025ⁱⁱ

More details on the waste hierarchy are at **Attachment One**.

Our second concern is a high level of reliance on codes of practice and regulations. These are not yet publicly available and may not deliver either waste management or waste reduction outcomes. It is not possible to comment on whether these will give the legislation added strength or otherwise. There is no requirement in the legislation that these be subject to any form of public or stakeholder consultation. Nor is there an actual requirement that codes of practice be developed rather the legislation simply requires that the "Minister may approve a code of practice in relation to a waste activity". [Part 9, 60(1)]. The use of the word 'may' indicates that there might be no codes if the Minister is so advised.

It is important to note that the legislation has been prepared under the auspices of the ACT Waste Feasibility Study which was established to develop and change the ACT's long-term approach to waste. However, the ACT Waste Feasibility Study has a limited lifespan and when it is finished its work the potential of the legislation to develop deliverables on waste reduction will be left to ongoing waste managers. The legislation has scope for preparation of codes of practice and regulations, however, if these are developed they will be done by people other than those who have been engaged in community consultation and research on the issues through the ACT Waste Feasibility Study.

A further concern is the potential lack of transparency and accountability regarding waste management. A significant issue over the last few years has been the lack of public reporting on our waste performance and the lack of data. This information is imperative to inform the ACT's waste strategies as well as to keep the community engaged and informed. **Attachment Two** provides some information on our waste performance and our local waste performance targets.

We appreciate some changes have been made between the consultation draft circulated in late 2015 and this revised Bill. We have discussed changes with the ACT Waste Feasibility Study team and do not feel that there are fundamental areas of difference. Our recommendations are to ensure a waste reduction focus is inserted as a key feature of the legislation and that important transparency and accountability requirements are included in the legislation rather than being left for a weaker legislative requirement via Codes of Practise. We make some suggestions / proposals on how we feel the legislation can be strengthened.

A key part of waste policy in the ACT over the last twenty years has been recognising the importance on waste reduction. The ACT was seen as leader for many years in waste policy. **Attachment Three** outlines the key points in ACT waste policy. Yet while the importance of waste reduction continues to be acknowledged, the reality is in more recent times waste reduction in the ACT has become the 'poor cousin'.

2. Proposals to address and prioritise waste reduction

Waste reduction in essence is about reducing waste generation rather than re-using or recycling.

To put waste reduction into context we refer to the comments made in the Legislative Assembly relating to both the Consultation Draft and in the latest Bill.

Minister Rattenbury in a media release inviting consultation on the Draft Bill in November 2015 stated: "The Bill aims to ensure waste industry operators who do the right thing are supported and encouraged to deal with waste in a way that protects the environment and maximises the recovery of resources".ⁱⁱⁱ The focus is management of the waste industry rather than an overall focus on waste reduction, to 'deal with waste' as it exists rather than reduce waste.

The Explanatory Statement and the Minister's introductory speech of the *Waste Management and Resource Recovery Bill 2016* also indicate that there is no direct engagement with waste reduction. The Explanatory Statement for the Bill states:

"Many of the provisions of this Bill relate directly to the recovery, recycling and re-use of resources through regulating the activities of waste management businesses (defined in clause 12).

The minimisation of waste, as the first stated purpose of the Bill, is also first in the hierarchy of waste management objectives in clause 8(a). While the generation of waste is generally not the subject of direct regulatory action under the Bill, it will be the strong focus of the educational role of the Waste Manager and, potentially, future codes of practice under Part 9.

In the longer term, it should be expected that the generation of waste will be discouraged through differential fees and charges, which will aim to encourage the recovery and re-use of resources rather than sending material to landfill."

Meagan Fitzharris MLA as Minister with responsibility for the legislation stated in her presentation speech 7 June 2016:

"It deliberately targets regulation of the collection and treatment of waste, rather than waste generation, because those are the activities that can be directly measured and regulated. The law will apply to waste activity within the ACT, including transportation, regardless of whether the waste was generated within or outside the ACT, that is, there will be no regulatory advantage or disadvantage from transporting waste into or out of the ACT."

We are disappointed the title of the new legislation does not refer to waste minimisation or waste reduction. The legislation it replaces was called the *Waste Minimisation Act*. This is important as it reflects the importance of the waste reduction. We have been advised that the title cannot be changed as this title was agreed at the beginning of this process some years ago. We suggest the title should include waste reduction in order to highlight its role in the waste management hierarchy.

Recommendation 1.
The Bill should include waste minimisation or waste reduction in the title.

The December 1996 No Waste by 2010 set a target of NoWaste to landfill by 2010. This was seen as an aspirational target and clearly we did not achieve it. There are many reasons for this. There was similar experience with our earlier strategies and targets on other matters such as greenhouse gas reduction targets.

We suggest one reason for the success of delivery of our current local greenhouse gas reduction targets is the legislative requirement for the Minister to set targets and to regularly report on their delivery. We propose similar mechanisms be included in this legislation – for both waste reduction, waste recovery and waste to landfill.

Attachment Four provides details of the relevant provisions of the Climate Change and Greenhouse Gas Reduction Act 2010.

The current waste targets as set out in the *ACT Waste Strategy 2011-2015* are:

Waste reduction

- to ensure the growth in ACT waste generation is less than the rate of population growth.^{vi}

Waste (resource) recovery

- over 80% by 2015
- over 85% by 2020
- over 90% by 2025

Recommendation 2.

The Bill should set out specific short, medium and long term waste reduction targets – i.e. per capita waste generation and measures for reporting on delivery of these targets.

Recommendation 3.

The Bill should set out specific short, medium and long term waste recovery targets – i.e. and measures for reporting on delivery of these targets.

The functions of the Waste Manager are very narrowly defined, literally being to administer the legislation. [Part 4, 17(1)] Given the draft legislation in our view does not adequately address waste reduction it may be likely that Waste Manager would also not adequately address waste reduction. The Waste Manager needs to be given an explicit function regarding delivery on waste reduction.

Recommendation 4.

The Bill should include a function for the Waste Manager to implement and report on waste reduction strategies and/or plans outcomes annually.

If community consultation is to be the main mechanism for achieving waste reduction then again reference to this should be included in the Waste Manager functions – i.e. the Waste Manager will ensure design and deliver of waste reduction community engagement. Although financial resourcing is generally not specified in legislation a key factor here would be to ensure that adequate resourcing is available for such community engagement.

Recommendation 5.

The Bill should include a function for the Waste Manager to oversee the design and delivery of community engagement on waste reduction.

3. Codes of practice and regulations

In response to our initial submission on the Exposure Draft of the legislation we were advised by the ACT Waste Feasibility Study team that many of our concerns would be addressed via the proposed regulations and various Codes of Practice. Yet these regulations and various Codes are not publicly available and might not deliver either waste management or waste reduction outcomes. It is not possible to comment on whether these will give the legislation added strength or otherwise. Nor is there an actual requirement that Codes of Practice be developed rather the legislation simply requires that the "Minister may approve a code of practice in relation to a waste activity". [Part 9, 60(1)]

As the Codes of Practice would seem to be fundamental to delivery of the legislation it would seem they should be given more explicit recognition and include some form of requirement that they will be developed in a strategic manner.

Recommendation 6.

The Bill should include a function for the Waste Manager to be accountable for the development and implementation of Codes of Practice to give effect to targets and objectives of the Act and the Waste Strategy.

There is no requirement in the legislation that the regulations and /or Codes of Practice be subject to any form of public or stakeholder consultation.

Recommendation 7.

The Bill should include a requirement that Codes of Practice and regulations are subject to some form of statutory community consultation.

4. Measures to increase accountability and transparency

Statutory requirement for a waste strategy

There is a need for a statutory requirement for a waste strategy. The Conservation Council notes that the *ad hoc* development of the current waste strategy and review of the ACT NoWaste Strategy 2010 was unsatisfactory. Probably most telling was that at the beginning of 2010 there was no new waste strategy. It was not until February 2011 that a draft Waste Strategy 2011-2025 was released. This was finalised and released in December 2011.

The Bill should be amended to require it to be a statutory requirement that the Waste Manager be required to:

- prepare a long term waste strategy (i.e.15-20 year) which will include:
 - delivery of the legislated targets for waste reduction, resource recovery
 - targets for specific waste streams – i.e. e-waste, organic waste
- report every one or two years on progress on meeting the strategy, with the report being required to be tabled in the Assembly
- reviewed every five years with statutory provisions for public consultation

In NSW under the *Waste Avoidance Act*, the Director-General of DECCW (Director-General) must develop a waste strategy which includes targets for waste reduction, resource recovery and the diversion of waste from landfill disposal. The Director-General must report to the Environment Minister every two years on the volumes of waste avoided, produced, recycled or re-used, and how those volumes compare with the targets in the current waste strategy. The Director-General must develop a new waste strategy at least every 5 years.

Similar provisions should apply in the ACT and the Conservation Council calls for a more rigorous ACT waste reduction strategy including measures to reduce per capita waste generation that has been increasing steadily over many years.

The ACT has a good existing model for legislation for an environmental strategy in the Nature Conservation Strategy ([Attachment Five](#)) as set out in the Nature Conservation Act 2014^{vii}. This model could also apply for the proposed Bill.

Recommendation 8.

The Waste Manager must develop a waste strategy on how the legislated short and long-term targets for waste reduction, resource recovery and the diversion of waste from landfill disposal will be achieved. The Waste Manager must update the waste strategy at least every 5 years.

Recommendation 9.

The Strategy should be provided to the Legislative Assembly and be published.

Statutory requirement for waste data collection and reporting

A key principle informing the back end of waste infrastructure is the need to ensure we have adequate data on both waste generation and resource recovery and we have put in place the appropriate strategies to reduce our waste stream – before we invest in resource recovery or landfill infrastructure. We previously recommended the Bill should include mechanisms to ensure there is adequate data collection on waste recovery and waste generation and that this data is transparent, useable and publicly available. On this recommendation we were advised of agreement with this however that it would be addressed through regulation or Codes of Practice.

The 2015 State of the Environment Report states: "The OCSE considers that complete and consistent data are an important prerequisite for the effective design of future policies, programs and infrastructure. Changes to regulatory arrangements to ensure tracking of waste through to its final destination and mandatory reporting need to be developed to achieve the required quality of data."^{viii}

Recommendation 10.

A function of the Waste Manager should be to collect adequate data on waste generation and waste recovery and for this data and its collection to be transparent, useable and publicly available.

The current 2011-25 Waste Strategy is very weak on its Monitoring and Review provisions. It states:

The ACT Government will ensure timely production each year of waste generation, resource recovery and landfill data.^{ix}

However this data is not publically available and apart from a resource recovery Strategic Indicator in the Budget papers there is no publically accessible information. There is no annual report on waste and this should be a requirement of the Bill. This should be a function for the Waste Manager.

Recommendation 11.

The Waste Manager must report to the Minister every two years on volumes of waste avoided, produced, recycled or re-used, and how those volumes compare with the targets in the current waste strategy. The Minister should table this report in the Legislative Assembly.

The ACT Budget Papers currently include a Strategic Indicator (page 14) of waste to landfill. This is a useful indicator. However given the importance of waste reduction it seems important to also include a waste reduction target in the budget papers.

Recommendation 12.

The current resource recovery indicator be retained as a Strategic Indicator in the ACT Budget papers and an additional Strategic Indicator of waste reduction also be included.

Attachment One: The waste hierarchy and importance of waste reduction

While the ACT Waste Strategy 2011-2025 acknowledges waste reduction as its number one priority – Outcome One “less waste generated”^x – it proposes very little by way of action to address this, with the substantial focus remaining on resource recovery through re-use and/or recycling.

The *Waste Minimisation Act* states the objects 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.

The proposed Bill has different objects and less reference to the community:

The objects of this Act are to—

- (a) manage waste according to the following hierarchy:
 - (i) minimise the generation of waste;
 - (ii) maximise the recovery and re-use of resources;
 - (iii) minimise the amount of waste that goes to landfill; and
- (b) support innovation and investment in waste management; and
- (c) promote responsibility for waste reduction; and
- (d) promote best-practice waste management.

The slimmed down Objects of the Bill have less mention of the environment and the community and these Objects could recover and reuse the Objects from the 2001 Act. This would also allow for the “establishment” of the waste hierarchy rather than managing according to a legislated list.

The ACT Sustainable Waste Strategy 2011–2025 indicated its aim “is to ensure that the ACT leads innovation to achieve full resource recovery and a carbon neutral waste sector”.^{xi}

Similarly it states its "primary goal of the Government in waste management is achieving full resource recovery so that the need for disposal to landfill becomes largely limited to hazardous materials. The strategy maintains the established goal of no recoverable waste to landfill as a central indicator of success".^{xii}

In short – despite legislative and policy recognition of the waste minimisation / avoidance as a priority the waste strategy with a 15 year time frame effectively only pays lip service to waste minimisation and sets a rather unambitious target of ensuring "the growth in ACT waste generation is less than the rate of population growth".^{xiii}

The strategy effectively washed its hands of responsibility for waste generation stating, "it is difficult for Governments to directly influence waste generation as this is the cumulative result of many individual decisions made within and outside of the ACT".^{xiv}

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

Attachment Two: Historical overview of waste data and targets in the ACT

Waste generation data, targets and trends

The ACT's current waste generation target in the *ACT Waste Strategy 2011-2015* is: *to ensure the growth in ACT waste generation is less than the rate of population growth.*^{xv}

A key focus of waste management in the ACT has to be reducing our per capita waste generation. However it 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. It was still at 2.6 tonnes in 2013.^{xvi} According to the Environment and Planning Directorate website our waste generation is currently 2.4 tonnes per person which they also acknowledge as being “one of the highest per capita waste generation rates of any state or territory in Australia”.^{xvii} The 2015 State of the Environment report indicates it is 2.2 tonnes noting this is comparable with other jurisdictions.^{xviii} However as the Report notes these most recent figures may not be accurate as they do not include waste which is being disposed of outside the ACT – notably at the Woodlawn, Lake George.

Figure 1 Waste generation per person in the ACT (2015 State of environment Report)^{xix}

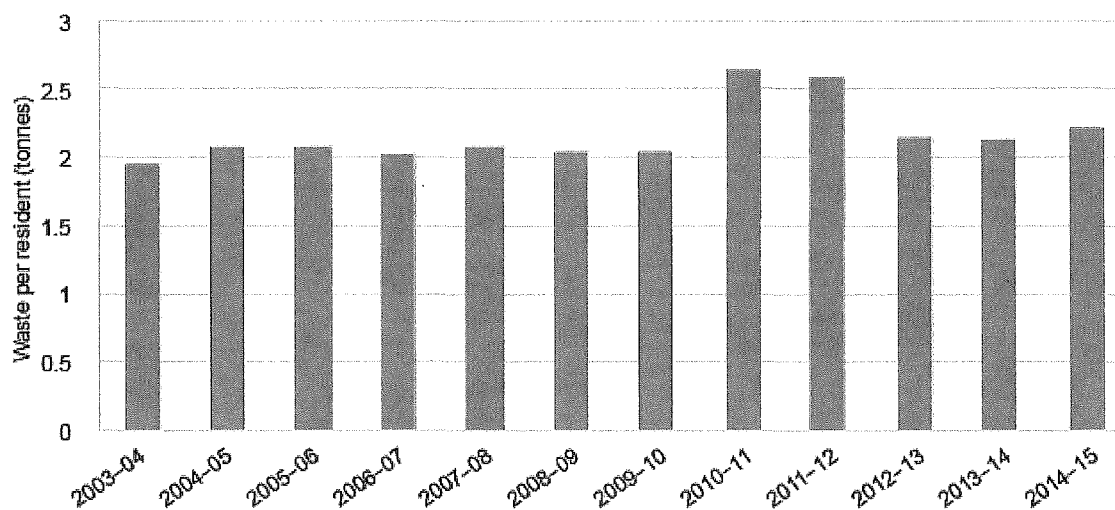
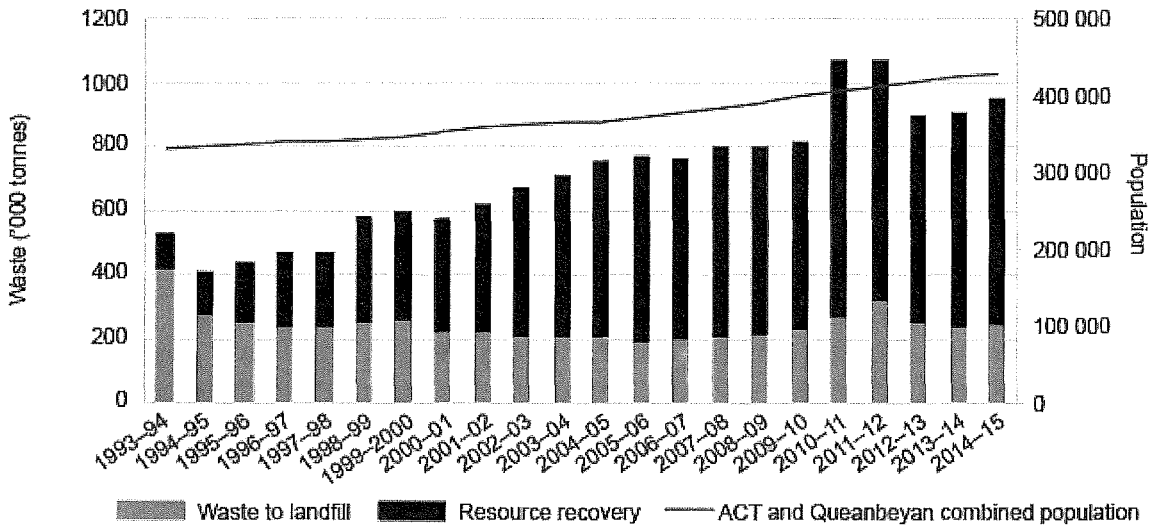


Figure 1 total waste generation and population in the ACT (2015 State of Environment Report)^{xx}



Waste generation growth in the ACT is greater than the rate of population increase. The ACT's waste generation per capita was the highest in Australia in figure collected by the ABS in 2007.^{xxi} The Federal Department for the Environment commissioned a report on waste generation and resource recovery in Australia^{xxii} that showed that the ACT's rate of per capita waste generation was increasing at a faster rate than any other state or territory.

Figure 2 Trends in per capita waste generation by jurisdiction over the reporting period^{xxiii}



Over the period examined the ACT's rate of per capita waste generation had increased by 18%. Per capita waste generation needs to be targeted and reduced.

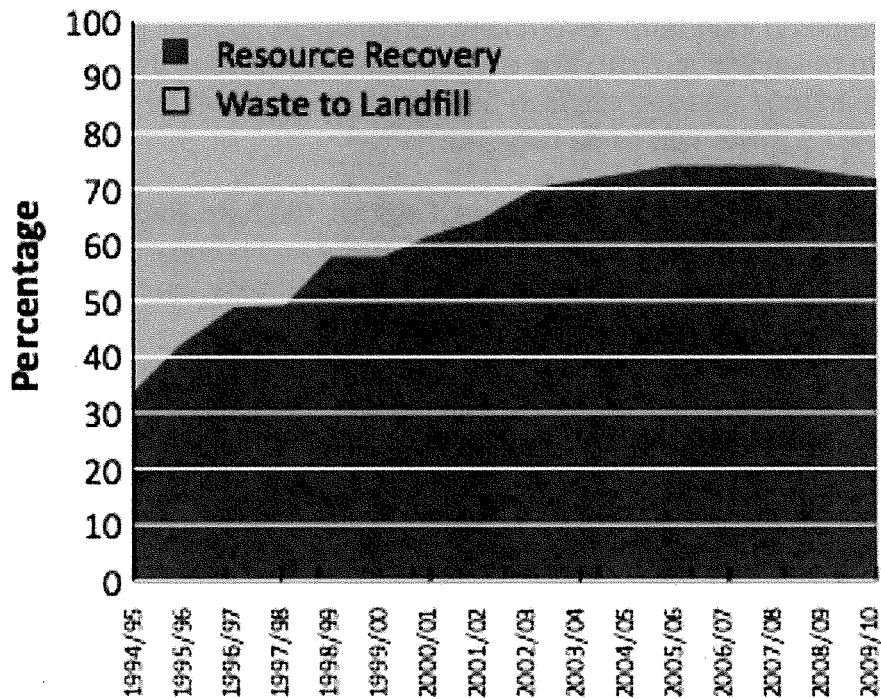
Resource recovery data, targets and trends

The ACT's resource recovery targets outlined in *ACT Waste Strategy 2011-2015* are:

- over 80% by 2015
- over 85% by 2020
- over 90% by 2025

The *NoWaste to Landfill by 2010 Strategy*^{xxiv} was successful in increasing resource recovery from 22% in the early 1990s to above 70% since 2003-04. The highest rate being 75% first achieved ten years ago in 2005-06 and again in 2015. However we have plateaued at this level with some significant dips. We have not met the 80% resource recovery by 2015 target.

Figure 5 RATE OF RESOURCE RECOVERY IN THE ACT 1994-2010^{xxv}



Attachment Three: Context / background – waste policy in the ACT

The existing policy and legislative framework for waste in the ACT has been the:

- ACT NoWaste by 2010 Strategy adopted by the ACT Government in December 1996^{xxvi}
- Waste Minimisation Act 2001^{xxvii}
- ACT Sustainable Waste Strategy 2010-2025

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. This was extremely successful.

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. 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 to be recycled.

However, adequate resources did not back the next stages, the hard stages of public and business education, and dealing with commercial waste and putrescible waste, and the recycling level has plateaued. Any long-term waste strategy, no matter how good, needs to be able to cope with changes of government.

The second key 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). The ACT's waste policy has worked because it has integrated policy and operational implementation.

Attachment Four: Greenhouse gas reduction targets

Part 2 Targets

6 **ACT greenhouse gas emissions target**

- (1) The principal target (the *ACT target*) is to reduce greenhouse gas emissions in the ACT to achieve zero net emissions by 30 June 2050.

- (2) In this section:

zero net emissions means that any emissions of greenhouse gas in the ACT are balanced by—

- (a) avoidance and mitigation activities; and
- (b) emissions offsets outside the ACT.

7 **Interim greenhouse gas emissions targets**

- (1) The *interim target* is to reduce greenhouse gas emissions in the ACT to 40% less than 1990 emissions by 30 June 2020.
- (2) The Minister may determine additional interim targets.
- (3) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (4) In this section:

1990 emissions means the amount of greenhouse gas emissions in the ACT for the year ending on 30 June 1990.

8 **Per person greenhouse gas emissions target**

The *per person target* is for the average amount of greenhouse gas emissions produced per person in the ACT each year to peak by 30 June 2013.^{xxviii}

9 **Renewable energy targets**

- (1) The Minister must determine, within 6 months after the commencement of this Act, targets for the use or generation of renewable energy in the ACT.
- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

10 **Energy efficiency targets**

- (1) The Minister must determine targets for the per person use of electricity (other than electricity generated from renewable energy sources) in the ACT.
- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Attachment Five: Nature Conservation Strategy

Chapter 3 Nature conservation strategy for the ACT

47 What is the *nature conservation strategy* for the ACT?

In this Act:

nature conservation strategy, for the ACT, means a strategy for the ACT, notified under section 54 (Draft strategy—Minister’s approval and notification).

Note The power to prepare a draft nature conservation strategy includes the power to amend or repeal the draft strategy. The power to amend or repeal the draft strategy is exercisable in the same way, and subject to the same conditions, as the power to make the draft strategy (see Legislation Act, s 46).

48 What is a *draft nature conservation strategy*?—ch 3

In this chapter:

draft nature conservation strategy, for the ACT—

- (a) means a statement of—
 - (i) proposals about the protection, management and conservation of—
 - (A) native species indigenous to the ACT; and
 - (B) significant ecosystems of the ACT; and
 - (ii) strategies to address actual and potential impacts of climate change; and
- (b) includes anything required to be included by a conservator guideline.

Note *Conservator guidelines*—see s 23.

49 Draft nature conservation strategy—conservator to prepare

- (1) The conservator must prepare a draft nature conservation strategy for the ACT.

Note Power to make a statutory instrument includes power to make different provision in relation to different matters or different classes of matters, and to make an instrument that applies differently by reference to stated exceptions or factors (see Legislation Act, s 48).

- (2) In preparing the draft nature conservation strategy, the conservator must consider—
 - (a) landscape scale approaches across tenures; and
 - (b) restoration of habitats; and
 - (c) landscape connectivity; and
 - (d) threats to biodiversity; and
 - (e) the impacts of climate change; and
 - (f) biodiversity research and monitoring program reports.

50 Draft nature conservation strategy—consultation with entities

In preparing a draft nature conservation strategy for the ACT, the conservator must consult—

- (a) the scientific committee; and
- (b) the commissioner for sustainability and the environment.

51 Draft nature conservation strategy—public consultation

- (1) If the conservator prepares a draft nature conservation strategy, the conservator must also prepare a notice about the draft nature conservation strategy (a *public consultation notice*).
- (2) A public consultation notice must—
 - (a) state that—
 - (i) anyone may give a written submission to the conservator about the draft nature conservation strategy; and
 - (ii) submissions may be given to the conservator only during the period starting on the day the public consultation notice is notified under the Legislation Act and ending on a stated day, being a day at least 6 weeks after the day it is notified (the *public consultation period*); and
 - (b) include the draft nature conservation strategy.
- (3) A public consultation notice is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

- (4) If the conservator notifies a public consultation notice for a draft nature conservation strategy—
 - (a) anyone may give a written submission to the conservator about the draft strategy; and
 - (b) the submission may be given to the conservator only during the public consultation period for the draft strategy; and
 - (c) the person making the submission may, in writing, withdraw the submission at any time.
- (5) The conservator may make arrangements for people with particular communication needs to ensure they have adequate opportunity to comment on the draft plan.

52 Draft strategy—revision and submission to Minister

- (1) If the public consultation period for a draft nature conservation strategy has ended, the conservator must—
 - (a) consider any submissions received during the public consultation period; and
 - (b) make any revisions to the draft strategy that the conservator considers appropriate.
- (2) The conservator must then submit the draft strategy to the Minister for approval.

- (3) The draft strategy must be accompanied by a report setting out the issues raised in any submissions given to the conservator during the public consultation period for the draft strategy.

53 Draft strategy—Minister to approve, return or reject

If the conservator submits a draft nature conservation strategy to the Minister for approval, the Minister must—

- (a) approve the draft strategy; or
- (b) return the draft strategy to the conservator and direct the conservator to take 1 or more of the following actions in relation to it:
 - (i) carry out stated further consultation;
 - (ii) consider a relevant report;

Example

a report of the commissioner for sustainability and the environment under the *Commissioner for Sustainability and the Environment Act 1993*

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (iii) revise the draft strategy in a stated way; or
- (c) reject the draft strategy.

54 Draft strategy—Minister’s approval and notification

- (1) A draft nature conservation strategy approved by the Minister under section 53 (a) or section 57 (3) is a nature conservation strategy.
- (2) A nature conservation strategy is a disallowable instrument.

Note 1 A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Note 2 The power to make a nature conservation strategy includes the power to amend or repeal the strategy. The power to amend or repeal the strategy is exercisable in the same way, and subject to the same conditions, as the power to make the strategy (see Legislation Act, s 46).

Note 3 Minor amendments may be made to the strategy under s 57.

55 Draft strategy—Minister’s direction to revise etc

- (1) This section applies if the Minister gives the conservator a direction under section 53 (b).
- (2) The conservator must—
 - (a) give effect to the direction; and
 - (b) resubmit the draft strategy to the Minister for approval.
- (3) The Minister must decide, under section 53, what to do with the resubmitted draft strategy.

56 Draft strategy—Minister’s rejection

- (1) If the Minister rejects a draft nature conservation strategy under section 53 (c), the Minister must prepare a notice stating that the draft strategy is rejected (a *rejection notice*).
- (2) A rejection notice is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

57 Nature conservation strategy—minor amendments

- (1) This section applies if—
 - (a) a nature conservation strategy for the ACT is in force (the *existing strategy*); and
 - (b) the conservator considers that minor amendments to the existing strategy are appropriate.
- (2) The conservator—
 - (a) may prepare a new draft nature conservation strategy, incorporating the minor amendments into the existing strategy; and
 - (b) need not comply with the requirements in this part; and
 - (c) may submit the new draft nature conservation strategy to the Minister for approval.
- (3) If the conservator submits a new draft nature conservation strategy to the Minister for approval, the Minister must—
 - (a) approve the strategy; or
 - (b) reject the strategy.

Note The new draft nature conservation strategy approved by the Minister is a nature conservation strategy and is a disallowable instrument (see s 54).

- (4) In this section:

minor amendment, of a nature conservation strategy for the ACT, means an amendment that will improve the effectiveness or technical efficiency of the strategy without changing the substance of the strategy.

Examples

- 1 minor correction to improve effectiveness
- 2 omission of something redundant
- 3 technical adjustment to improve efficiency

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

58 Nature conservation strategy—conservator to implement

If a nature conservation strategy is in force for the ACT, the conservator must take reasonable steps to implement the strategy.

59 Nature conservation strategy—monitoring

- (1) The conservator must monitor the effectiveness of the nature conservation strategy for the ACT.

- (2) The conservator must report to the Minister about the nature conservation strategy for the ACT at least once every 5 years.
- (3) The Minister must consider the report and may take any action the Minister considers appropriate.
- (4) The Minister must make the report publicly accessible not later than 30 days after the day the conservator gives the report to the Minister.

Example—publicly accessible

published on the directorate website

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

60 Nature conservation strategy—review

- (1) The conservator must review the nature conservation strategy every 10 years after the plan commences.
- (2) However, the Minister may extend the time for conducting the review.
- (3) In conducting the review, the conservator must—
 - (a) consider each matter mentioned in section 49 (2) (Draft nature conservation strategy—conservator to prepare) in relation to the nature conservation strategy under review; and
 - (b) consult the entities mentioned in section 50; and
 - (c) carry out public consultation in accordance with section 51 (Draft nature conservation strategy—public consultation) as if a reference to a draft nature conservation strategy were a reference to the nature conservation strategy under review.
- (4) If the public consultation period for the review has ended, the conservator must—
 - (a) consider each submission received during the public consultation period; and
 - (b) if the person who makes a submission during the public consultation period agrees to the conservator making the submission publicly accessible—make the submission publicly accessible; and

Example—publicly accessible

published on the directorate website

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (c) make any recommendation to the Minister about the strategy under review that the conservator considers appropriate.
- (5) The recommendation must be accompanied by a report setting out the issues raised in any submissions given to the conservator during the public consultation period for the strategy under review.
- (6) If the conservator makes a recommendation to the Minister, the Minister must respond to the conservator about the recommendation.

- (7) If the conservator receives a response from the Minister, the conservator must make the following publicly accessible:
- (a) the Minister's response;
 - (b) details of any proposed amendments to the strategy as a result of the review.

Note The power to prepare a nature conservation strategy includes the power to amend the strategy. The power to amend the strategy is exercisable in the same way, and subject to the same conditions, as the power to make the strategy (see Legislation Act, s 46).

References

- ⁱ *Waste Minimisation Act 2001*
- ⁱⁱ Environment and Sustainable Development, ACT Government, *ACT Waste Management Strategy – Towards a sustainable Canberra 2011–2025 – Reducing waste and recovering resources to achieve a sustainable, carbon-neutral Canberra*, (ACT Waste Management Strategy), p3
- ⁱⁱⁱ Shane Rattenbury MLA, 'Consultation underway on new waste management bill' http://www.cmd.act.gov.au/open_government/inform/act_government_media_releases/rattenbury/2015/consultation-underway-on-new-waste-management-bill 25 November 2015
- ^{iv} Waste Management and Resource Recovery Bill 2016 - Explanatory Statement http://www.legislation.act.gov.au/es/db_54016/current/pdf/db_54016.pdf, p8
- ^v ACT Legislative Assembly Hansard Reading Speech 7 June 2016, pp1717-18 <http://www.hansard.act.gov.au/hansard/2016/pdfs/20160607a.pdf>
- ^{vi} *ACT Waste Management Strategy*, p 12
- ^{vii} See Chapter 3, *Nature Conservation Act 2014*.
- ^{viii} <http://reports.envcomm.act.gov.au/actsoe2015/the-report/3-human-needs/3-3-measuring-human-needs/index.html>
- ^{ix} *ACT Waste Management Strategy*, p 42
- ^x "the waste hierarchy (Figure 5) remains an important principle for waste management in the ACT and is embedded in ACT waste legislation" *ACT Waste Management Strategy*, Page 11; Outcome One – Less Waste generated page 13.
- ^{xi} *ACT Waste Management Strategy*, page 11.
- ^{xii} *ACT Waste Management Strategy*, page 15
- ^{xiii} *ACT Waste Management Strategy*, Page 12
- ^{xiv} *ACT Waste Management Strategy*, Page 13
- ^{xv} *ACT Waste Management Strategy*, p 12
- ^{xvi} Conservation Council ACT Region, *Submission – Draft Variation 305, Mugga Landfill Expansion – Stage 5 Draft Environmental Impact Statement*, April 2013, page 1
- ^{xvii} <http://www.environment.act.gov.au/waste> (downloaded 1 July 2016)
- ^{xviii} <http://reports.envcomm.act.gov.au/actsoe2015/the-report/3-human-needs/3-3-measuring-human-needs/index.html>
- ^{xix} <http://reports.envcomm.act.gov.au/actsoe2015/the-report/3-human-needs/3-3-measuring-human-needs/index.html>
- ^{xx} <http://reports.envcomm.act.gov.au/actsoe2015/the-report/3-human-needs/3-3-measuring-human-needs/index.html>
- ^{xxi} ABS, Estimated Waste Generation 2006-07, *Waste Generation and Disposal*. The note states: "There are differences between jurisdictional definitions, classifications and methodologies for measuring waste data which may also cover different materials. Comparative use of these data may therefore be inappropriate and should only be done with caution."
- ^{xxii} Blue Environment Pty Ltd, Randell Environmental Consulting, *Waste generation and resource recovery in Australia – Reporting period 2010/11*, February 2014

^{xxiii} Blue Environment Pty Ltd, Waste generation and resource recovery in Australia, page 17

^{xxiv} Australian Capital Territory A Waste Management Strategy for Canberra – No Waste by 2010, 1996

^{xxv} Environment and Sustainable Development Directorate (ESDD), ACT Government, ACT Waste Management Strategy – Towards a sustainable Canberra 2011–2025 – Reducing waste and recovering resources to achieve a sustainable, carbon-neutral Canberra, page 6

^{xxvi} Margaret Nicholson, ACT Department of Urban Services, presenting at the NSW Waste Management Conference in 2001 said "In December 1996 the ACT Government released its "No Waste by 2010" strategy and became the first government in the world to set a no waste goal."

^{xxvii} Waste Minimisation Act 2001

^{xxviii} Climate Change and Greenhouse Gas Reduction Act 2010

<http://www.legislation.act.gov.au/a/2010-41/current/pdf/2010-41.pdf> pp3-4

