

Australian Capital Territory

Waste Management and Resource Recovery (Waste-to-Energy) Code of Practice 2023 (No 1)

Disallowable Instrument DI2023–252

made under the

Waste Management and Resource Recovery Act 2016, s 60 (Codes of practice—approval)

EXPLANATORY STATEMENT

Section 60 of the *Waste Management and Resource Recovery Act 2016* provides that the Minister may approve codes of practice in relation to a waste activity.

The ACT Government set a target to reach 90% resource recovery by 2025 in the *ACT Waste Management Strategy 2011-2025*. In 2016, the *Waste Feasibility Study* was undertaken to identify potential paths to reach the outcomes in the *Waste Management Strategy 2011-2025* including full resource recovery. The *Waste Feasibility Study Roadmap (Roadmap)* was released in 2018, recommending the development of a waste-to-energy policy in the ACT to provide greater clarity to the community and industry as well as a framework to the ACT Government for assessing Waste-to-Energy proposals.

In September 2018, Transport Canberra and City Services undertook a 10-week consultation on waste-to-energy. The findings of the consultation were used to develop the final *ACT Waste-to-Energy Policy 2020-25 (WtE Policy)*, which was released in March 2020. The WtE Policy generally prohibits thermal treatment of waste, promotes the waste hierarchy and supports investment in anaerobic digestion in the ACT. The policy establishes underlying principles and outcomes to guide the transition to a circular economy and provides clear direction about the types of activities that are permitted.

This instrument sets out a legislative framework to allow enforcement of certain aspects of the WtE Policy by prohibiting the thermal treatment of waste in new waste facilities; and prohibiting the thermal treatment of refuse derived fuel.

The ACT is a small jurisdiction, which generates relatively small quantities of waste. Improvements to waste management in the future will focus on further reducing the volume of waste going to landfill, starting with waste avoidance in line with the waste hierarchy. Therefore, waste management solutions which promote thermal treatment of waste are not considered to be appropriate in the ACT context at this time.

Section Notes

1 Name of instrument

This section names the instrument.

2 Commencement

This section provides that the instrument commences on the day after its notification.

3 Approval

This section provides that the Minister for Transport and City Services approves the Waste to Energy Code of Practice in Schedule 1.

Schedule 1

Introduction provides context for the Code of practice.

Definitions provides definitions for terms used within the Code of Practice.

Purpose outlines the reasons for creating the Code of Practice.

Scope advises that the Code of Practice is limited to new facilities proposing waste-to-energy technology with a focus on prohibiting thermal waste-to-energy technologies. It advises that the Code of Practice does not apply to waste-to-energy facilities or activities that were established before the commencement of the Code of Practice.

The Code of Practice does not apply to activities such as the treatment of hazardous waste, the destruction of clinical waste or diseased animals. These activities are already regulated by the *Dangerous Substances Act 2004*, the *Animal Diseases Act 2005*, and the *Clinical Waste Act 1990*.

Application of the Code of Practice details who the Code of Practice applies to.

Requirements of the Code of Practice

Requirement 1 – Thermal waste-to-energy permits non-thermal means of energy recovery such as anaerobic digestion and landfill gas capture, but prohibits thermal treatment of waste in new facilities. There is an exception for the treatment of hazardous or toxic waste, and the safe disposal of clinical waste or diseased animals.

Requirement 2 – Refuse derived fuels (RDF) prohibits the production of RDF from non-residual waste and prohibits the thermal treatment of all RDF.

Offences notes that under section 61 of the Act, failure to comply with the Code of Practice is a strict liability offence, and is subject to penalties.