

Waste Contractors and Recyclers Association of Queensland response to the Queensland Environmental Protection Agency February 2008, Regulatory Impact Statement and draft Public Benefit Test for the Environmental Protection Regulation 1998 review process.

The Waste Contractors and Recyclers Association of Queensland Inc (WCRAQ) commends the Environmental Protection Agency (EPA) on conducting this review and the association is pleased to be acknowledged as a key stakeholder on it, where the interests of our industry members are impacted.

The association response has been prepared following extensive input by the members and reflects key matters for consideration and review by the agency.

Overarching Comment

It is imperative to our industry that all regulatory processes applied to the sector achieve and deliver “*a level playing field*” for all companies to operate. This ensures we are all able to sustainably deliver sound financial, real and valued environmental outcomes for the community – social and business.

A sound and balanced regulation for all ensures that the Associations members investments now in excess of \$950 million, and the more than 4,700 employees engaged in our businesses are secure in the knowledge that government regulation and policy is aligned with industry practices not separated from them. This maintains for us the sustainability of the industry and provides a healthy environment for it to continually improve on its more than 2 million tonnes of secondary products being recycled and processed in the state and that the collection, transport and disposing of more than 5.8 million tonnes controlled by our members remain pivotal to delivering sound environmental outcomes for Queenslanders.

Cognisant of this, WCRAQ offers to the Agency a significantly revised waste management ERA concept that for the future encapsulates all resource recovery, recycling and reprocessing landfill operations and other specialised waste activities under a combined new structure. The intent is to remove all opportunity of ambiguity and confusion in the existing regulations and to align regulation of the sector with the strategic objectives and goals outlined to us in the pending draft *State Waste Strategy*.

The members are seeking strong regulation of the sector which will assist in underpinning our investments and allow for: -

1. Sound financial business models and investments being aligned to deliver and maintaining the long term environmental sustainability of the sector;
2. All industry operators to be supported with an operating environment where government supports us in sound regulation for all to comply.
3. Penalties for non-compliance are sufficient to deter and eliminate operators that fail to follow regulation wherever and when environmental harm results.

Executive Summary

In preparing our response the Association established an internal working group of core line managers from across the waste management sector with collective industry experience exceeding 200 years.

We have also engaged and sought feedback from all of the other major stakeholders in the industry in this state in offering our proposal of a new all encompassing ERA for the sector. The stakeholders contacted are the Local Government Association of Queensland, Brisbane City Council staffers, the Waste Management Association of Australia - Queensland Executive Officer, Commerce Queensland and policy staffers, as well as the Australian Council of Recyclers, Australia's peak secondary resource industry organisation.

These stakeholders are all in agreement with our objectives and have confirmed that they are in principle agreement with, and support the concept proposed by WCRAQ, subject to review of the final revised Regulation and ERA format prior to its enactment. They wish to confirm that the new design not only delivers a balanced and more effective regulation, but that it also supports and reinforces real outcomes by promoting secondary resource recovery efforts in Queensland, with fairness and consistency and that it safe guards the environmental sustainability of the industry.

The WCRAQ offered ERA is significant in its universal approach and is refreshing in its all inclusive design (Appendix 1). Fundamental changes to the current ERA's that are used to regulate the industry are that the new approach reinforces the waste hierarchy, supports the ethos of reducing waste to landfill, and is flexible but strong enough in achieving both the current and future business models of the industry, aligning these strategically with future waste policy objectives and outcomes.

It achieves and delivers a win / win for industry and government for the future.

The association seeks in the revision of the Environmental Protection Regulation 1998 that:

1. All non-waste management ERA's be rewritten to expressly prohibit any activity associated with secondary waste processing or recycling as a part of the licensed operation, unless such an operation results from internal virgin manufacturing processes or is included as a part of its own waste generation. ie Plastic manufacturing - where internal scrap is reprocessed on site. or feedlots who are reprocessing their own wastes on site etc
2. A new Waste Management Facility ERA be established that encapsulates under a single regulation all and any activities associated with Resource Recovery, Recovery and Reprocessing, Land filling, and Specialised Waste Processing Operations.
3. All threshold limits be removed for regulating the Resource Recovery, Recovery or Reprocessing Activities in the State and that simplified thresholds be introduced that flattens the current ranges for landfill operations and other specialised waste operations.
4. Resource Recovery, and Recovery and Reprocessing operations be acknowledged as being integral to achieving sound environmental outcomes of the industry as it currently operates, and that in the future, these activities transition across and are recognised as being integral to and part of all landfill activities of best industry practice.

5. Development Applications triggered by IPA, in the future will only be required for an activity that fundamentally transcends to a new level of operation and the potential for increasing environmental risk ie Category A activity upgrades into a B or B into C level operation, but not vice versa.
 - o The core driver will be where the potential for environmental risk is increased so will the mandatory upgrade to protect and measure such risk. As an example a site licensed for C & D and / or C & I reprocessing in Category A activity would only trigger a DA process if the license is to upgrade to a land filling operation or higher thus increasing the immediate environmental risk of the operation, whereas a land filling or regulated waste processing operation improving its environmental performance and removing waste from being land filled will not trigger the material change of use of the operation.
6. That the new Extractive Industry ERA relates only to extracting and processing Virgin materials on the licensed site and that no externally generated secondary waste reprocessing activities are allowed as a part of this licence.
7. All definitions used to describe the activities under regulation in Queensland are immediately reviewed and updated. That only two documents being the Australian Macquarie or Collins Dictionaries be acknowledged as the core sources for interpreting terminology used to describe the activity where expressed new definitions are not actually written in the regulations.
8. The requirement of licensing transporters for regulated waste transport in Queensland by the EPA be removed and responsibility for this, devolved to Queensland Transport 'under the powers and provisions of 'Chain of Responsibility' legislation which they are resourced to police.
9. The EPA continues to manage and overhauls the current waste tracking docket system to enable all State based dockets to be audited for compliance. The current tracking system is in need of immediate review to ensure activities are fully compliant.
10. Mobile Crushing and Screening operations be required to specify the actual start and finish dates, be confined to a maximum 28 day operation, and be limited to operating on a single title of land. Such approvals cannot be rolled over to another title thus by default making the mobile operation a semi permanent activity if a number of land titles are within the project area as is currently the case.
11. The EPA, as part of developing the new Waste Management ERA works with WCRAQ and agrees with industry operators the parameters for developing the Environmental Emission Profiles and thus setting an appropriate fee structure for these regulated activities of the sector ensuring these are based on levels of real environmental risk of the category defined.
12. The EPA immediately establish a small working group inclusive of WCRAQ and LGAQ representatives to agree new waste and recycling terms and definitions to be used in the regulatory process. Refer appendices for suggested definition change reference documents.
13. ERA 27 be amalgamated with ERA 28 and Scrap Metal operations be licensed as a part of Recovery and Reprocessing activities in the Waste Management ERA.
14. ERA 67/8 exclude Recycled Timber or secondary wooden products processing and associated activities. These activities to be carried across to the new Waste Management ERA as a part of recovery and reprocessing activities to which they belong.

General Response feedback

Whilst we understand and accept the Statutory Instruments Act 1992 requires sub ordinate legislation to expire automatically after ten years, thus the requirement to review these regulations this year, the Association is particularly concerned that this current review precedes and in fact has the potential to undermine the real outcome's industry is seeking. It is our request that the review of these inugural and now very outdated 1998 regulations be fundamental in nature, not a massaging around the edges, and such changes must be supportive to,any new State Waste Strategy.

It is imperative that the regulations be rewritten in full cognisance of the introduction of the new Queensland Waste Strategy. Our response and suggested macro changes to many obsolete ERA's reflects this ideal, hence our proposal to introduce a new all encompassing category ERA being 'Waste Management Facility' to replace these outdated and non aligned activities that do not mirror the current activity and direction of our industry.

Furthermore, we seek that as the future State Waste Strategy is implemented by the government, further and progressive amendments to state regulation are continued and that amendments are updated on an annual basis as a part of the evolutionary development process. Such an activity does not currently occur in Queensland with respect to waste management activities.

With the members' significant amount of expertise we have observed that many core principles in relation to managing wastes and operating secondary resource recovery and recycling facilities remain at the heart of delivering and enforcing good regulation. These are:

- Strong regulation needs clear enforcement. As change occurs due to the increase in fees currently proposed, introduction of levies and /or similar market based instruments, the opportunity exists for some unscrupulous operators to seek competitive advantage by devising illegal means to avoid payment. The consequence is often that the more respectable operators of industry are left disadvantaged and unless strong regulations are enforced and are applicable to all, then, parts of the industry will become dominated by lesser conforming operators.
- Resource recovery is an integral part of sustainably operating and managing waste facilities by recovering used products for reuse rather than land filling them. Activities of this type are not a secondary application to an operation and these must be recognized as such, in all regulations as co-existing and being core to facilities such as landfills.
- Clarity in the definitions used to regulate activities is a critical adjunct to good regulation. We seek a fundamental reform of all definitions and that these are consistent with similar terminology used to regulate our industry in other jurisdictions of the country.
- Logistics are a significant financial, social and environmental cost. This is particularly relevant in Queensland, due to the tyranny of distance, our expanded demographics and growth that is continuing to occur particularly in the remote regions.
- Micro changes made to waste classifications of materials generated as a part of reprocessing must be cognisant of the macro outcomes not simply micro solutions to a problem. The recent example whereby it is proposed that scrap metal shredder residues will now become a regulated and trackable waste, without considering the impacts this has on the metals industry, could have an unexpected or unintended outcome that undermines State Waste Strategy initiatives of promoting diversion of secondary material from landfill. Such changes need to be carefully managed and industry must be engaged in the change process.

- There is no one size fits all solution. Individual circumstances need to be well understood, measured and the technologies or strategies selected must be cognisant of these individual circumstances, not just because they are in use elsewhere or that they might appear to be the most cost effective outcome to a community on first analysis.
- Waste levies in any form are proven not to achieve the desired results on their own. They are simply one driver that in isolation does not stimulate change in society's habits. Strong reform to waste regulation supported by its enforcement, the use of accurate more precise definitions and alignment to policy must also form part of the suite for achieving real environmental outcomes. Unless regulation applies to all, unscrupulous operators will be able to hide beneath the radar and flout the laws (eg operating below or claiming to be below arbitrary ERA thresholds) undermining real investment and destabilising the entire industry.
- Waste management is as critically important to modern society as, say, electricity supply. The industry exists to manage waste generated by others. It provides all of society an essential service, yet faces disproportionate delay, obstacles, objection and rejection in its attempt to locate and license operations, even in the industrial zones in which it is so fundamentally a part. Well run waste management facilities, where practical, must be able to co-exist with other industries and not be unfairly viewed as being somehow inferior in status. It is a fact that many waste management activities have no more impact than other broad based manufacturing operations.
- Strategic long term planning for locating and expanding waste management infrastructure, and for protecting investments from encroachment is imperative to the long term success of the industry. Such an environment and proactive approach does not exist in Queensland.
- As a means to encouraging and supporting industry with ongoing investments that achieve the principles of Best Practice Environmental Operations Management, a consideration should be to provide in the weightings of Environmental Emission Profiling of the activity the reward of such ongoing performance. This could be done by offering industry operators a reduction in the annual licence fees based on the amount of money spent on upgrades to a facility which enhances the efforts of minimizing and preventing environmental harm from the activities occurring on site. As example, a company operating a waste transfer station could receive a 20% reduction in fees for upgrades to the facility that minimises all dust liberation and the occurrence of potential environmental nuisance on the site. The benefit of such an approach is that the resources expended in regulating ERA's by the EPA will be lessened by encouraging continued investments and improvements on all sites ensuring companies are in fact financially rewarded for these efforts.

Supporting commentary to the executive summary points:

Summary Points 1 and 2

Our preferred ERA model is offered in recognition and knowledge by the industry operators that the regulatory framework under which we now operate is considered to be fundamentally at odds with, and extremely outdated for, the current and future operating environment of this sector in Queensland.

Over the past 10 years the current regulations have become increasingly outmoded and have seen little or no changes made to them, except for occasional ad hoc amendments being made in the guise of introducing unfriendly EPA Operational Policies. The outcome being that many changes made to redefine and rectify the problems observed in them have had the opposite effect, where in fact they have created an operating environment which encourages deliberate efforts to avoid real regulation.

Cognisant of the problems with the current environment we suggest that the reform process confirms the following:

Schedule 1 activities be amended to incorporate the following changes.

- ERA 19 New Extractive Industry is specific only to virgin material operations and that any activity of crushing, screening, grinding , sizing or separating activities associated with secondary wastes on these sites be disallowed as a part of the extractive activities ERA. These are to be registered under the new Waste Management Facility ERA.
- ERA 27 is merged with ERA 28 and scrap metal yards are relocated into the new Waste Management ERA, to which the activities are more aligned.
- ERA 45, to exclude any secondary waste processing activities within this activity.
- ERA 53 to exclude secondary waste materials or processing operations. These are to be included in the Waste Management Facility ERA.
- Introduce a new all inclusive ERA titled Waste Management Facility that captures *all secondary* waste recovery and reprocessing activities, including landfills, and specialised waste handling technologies. This should include removing all threshold limits for Transfer Station licensing, inserting 3 specific landfill categories and condenses thresholds for land filling operations to 3 tonnage ranges for fee applications.
- ERA 81, remove exemption – recycling less than 1000 EPU’s tyres per year. Include exempting, small secondary processing operations of photographic and x ray liquid materials in regional areas of the state.
- Remove ERA 82 and include within the new Waste Management Facility ERA
- Remove ERA 83 and devolve this activity to Queensland Transport to regulate as a part of the ‘Chain of Responsibility’ legislation.

We recognise that there may be a need for some transitional provisions that allows time for existing waste facilities lawful under the current arrangements, to meet the requirements of this new ERA. The Association acknowledges that there is a need for the EPA to alter conditions as part of this overhaul process provided (a) there is consistency and a level playing field and (b) appropriate appeal mechanisms in the event of any unreasonableness on the part of an individual officer or the EPA regulator itself.

Summary Point 3

All thresholds for activities associated with the current ERAs 75 and 82 be removed or modified, in the application of the new ERA. As is already confirmed by the current 20,000 tonne limit placed on Transfer Station operations in Queensland, the existence of thresholds now supports a fertile environment for many unscrupulous operators encouraging them to falsely claim operating limits under these thresholds and hence avoid appropriate standards of licensing. This negates any observation or attention by the EPA to effectively regulate these activities. Continued in the future, threshold limits applied in this sector of operations will promote deliberate avoidance and false reporting of wastes and will impact directly the State’s ability to effectively regulate and manage any waste levy. Financially the State will lose real revenue from these operations and legitimate operators will be competitively disadvantaged.

The current 20,000 tonne threshold for transfer stations is known to being abused. The States rapid development and expansion of business growth combined with inefficient regulation now has seeded and legitimised known unlicensed facilities directly impacting on the commercial viability of fully compliant

operators, potentially exposing some of these investments to unnecessary financial risk. Should the State maintain a concept of base thresholds limits to license operations in secondary recovery, and then introduce waste levies or similar instruments, it is the Associations position that these unlicensed operations will continue to undermine the State's ability to capture all and real revenues proposed. Such a concept will also support a culture of illegal dumping and inappropriate land use thus resulting in a possible increase of new contaminated sites that will require ongoing management and cleanups by the State.

Our members cannot and will not invest, in best practice recycling facilities and secondary resource recovery operations if they know they can be unfairly out priced by operators, in the same sector who are avoiding EPA licensing, EPA standards and Government Waste Levies. We seek a level playing field for all to operate within.

The concept of 'transfer station' (ERA 82) fails to match where the industry has evolved to and now operates. These existing operations are to be acknowledged as core recycling facilities where residual waste's only are then being transferred for landfill disposal, and where the separated 'resource' is transported for further reprocessing.

It is acknowledged by the Association however, that a period of transition may have to be negotiated to bring many of these existing operations to much higher operating standards proposed by the state towards improving real recycling performance.

Recycling and transfer facilities in most cases are, and certainly should be, fundamentally part of the operation of every landfill in Queensland. The EPA has been regulating new landfills in this way for more than 5 years. It is important to the investment community that once landfills reach the end of their life, operators must be able to continue those recycling activities and transfer residual waste to other licensed landfills. The community, social and political impacts of simply just filling a landfill, and not supporting the secondary resource recovery opportunity and just walking away from such an asset cannot be underestimated.

Summary points additional

The current Schedule 1 ERA list for waste recognises old technologies such as incineration. The schedule does not recognise alternative waste technologies that currently exist, and that will emerge, as governments increase waste levies and landfill airspace costs increase. As these new technologies will be so varied, and small in number, individual risk scores might need to be applied for licensing of individual projects. Our model includes these options.

Further it is our view that materials cease to be a waste as soon as they are separated for the purpose of further processing to become a raw material input to another process. The current definition (and schedule) of regulated wastes is too broad and does not provide any differentiation of the relative environmental risk of those wastes (and this leads to differing interpretations on which types of regulated wastes can go into different types of landfills). We offer two documents as appendices to assist the agency review of these, enacted by the South Australian and Western Australia EPA's for consideration.

Currently, mobile/itinerant operators can conduct work for 28-days on one block of land (title), then move to another block of land (title) in close proximity & operate for another 28 days conducting the same job/project. Environmental complaints occur as mobile/itinerant operators cause environmental nuisance during the operation of work for a prolonged period of time. This issue needs to be addressed immediately, so that only one opportunity exists for operators to conduct mobile/itinerant activities for one period of 28 days only. Further it is requested that all such mobile/itinerant operators must be required to advise the EPA where they intend to operate and when the work will be complete (a maximum of 28 days from the beginning of the activity), so that officers can conduct an inspection of the operation during this time to ensure no environmental harm occurs as part of the activity. This will also alleviate problems associated with fire ants,

as it is important for State Government to know where mobile/itinerant operators will be conducting the activity.

We support strong regulation of regulated waste transport and can provide many examples of inappropriate transport of items such as batteries in the state. This is supported by the position that with the very broad definition of regulated waste as it now exists, it is the Association's belief that less than 5% of all vehicles that transport regulated waste are currently actually licensed by EPA. Queensland Transport are well positioned, and have the legislative power to be the government's expert and regulator on transport of all hazardous substances. The EPA should focus and place its resources on compliance and policy to ensure the integrity of waste tracking (i.e. that the regulated waste produced actually goes to a properly licensed facility as is claimed and the system is auditable).

Although the RIS is not about amending the Environmental Protection Act, we wish to make brief mention of Section 369 (plus A & B). This section of the Act adds further layers of regulatory duplication for the transporting of wastes requiring multiple layered Council approvals in addition to EPA and Queensland Transport licensing of the industry. The approvals do not contain environmental conditions; but are simply used by local government to generate revenue for no effort that stifles open competition on waste management services. We would challenge the EPA to explain the environmental benefit of these Sections of the Act.

The Association opposes the current fee increases of our industry without it ensuring such fee payments are in fact hypothecated and are re-invested back into more solid and consistent EPA compliance and enforcement and compliance assistance to our industry.

Conclusion

The Association has attempted to provide real and structured comment on the revision of the regulations and reiterates that all of the members are vitally interested in ensuring the proposed revisions are fair to all and that such revisions enhance the industry activities not hinder them and supports future state waste policy under development.

To this we commit to the EPA of continuing to work with the team responsible of delivering the revamped regulations to develop and agree new definitions, to assist with environmental emission profiling of all the activities and the structure of the regulation fee for establishing appropriate charges to the industry and to assist the EPA meeting its deadlines.

Waste Contractors and Recyclers Association - Queensland

A handwritten signature in black ink, appearing to read 'Rick Ralph', with a horizontal line underneath.

Rick Ralph
Executive Director

Appendix A Schedule 1 **Intent of the ERA – To support the Waste Hierarchy, Integrates State Waste Policy with the Regulating principles**

The new ERA will transition all current Waste Management activities to a combined new all inclusive ERA, as well as capture all new applications.

The schedule has been developed to link the activity risk to the environmental profile ie lower categories first, moving to the higher risk businesses.

No secondary waste / recycling operation will be allowed to be licensed as a part of any other ERA’s where secondary wastes are concerned.

Category A Activities	Class	Operation	Examples	Comment Environmental Score	Critical Element
Resource Recovery Activities <i>The operation of segregating commingled waste material.</i>	1	Collection and Sorting of Recyclables	Small single operator recycling activities	EEP To be developed but directionally in agreement with current proposals	<u><i>New definitions to be developed and agreed with WCRAO and the LGAO by establishing a working party with the EPA</i></u> <u><i>Introduction of an Operations Design Guideline that sets out the minimum standards of operating conditions for the facility including reporting guidelines for tonnes managed, dust management, noise, odour basic design, stormwater and onsite water management, etc</i></u> <u><i>Need to acknowledge and allow in modelling for limited regulated wastes to be handled at these operations, ie all scrap yards have batteries, most transfer and bulk out have to handle battery’s or separate asbestos , these are incremental to but not core business activities of the secondary recycling industry</i></u>
	2	Baling Operations	Small operator Paper & Cardboard, Plastic Recyclers		
	3	Materials Recycling Facilities – MRF’s	Visy, Amcor, Rockhampton City Council, Remondis, Bundaberg Skills MRF, etc	No Threshold limits apply to Category A	
Recovery and Reprocessing Operation <i>Includes all elements of Resource Recovery above but also includes all value adding activities with the express intent to reprocess products recovered on the site registered, but excludes categories of operation in B and C levels</i>	1	Commercial and Industrial Waste Sorting operations	Sorting of general commercial type waste materials, plastics, timber, etc	Captures all recycled and secondary timber recyclers as distinct from virgin timber wood chippers and manufacturers etc	<u><i>Need to acknowledge and allow in modelling for limited regulated wastes to be handled at these operations, ie all scrap yards have batteries, most transfer and bulk out have to handle battery’s or separate asbestos , these are incremental to but not core business activities of the secondary recycling industry</i></u>
	2	Secondary Construction and Demolition Waste Processing Operations	Includes all screening and crushing operations of C&D type waste materials at any siteie Queensland Recycling Sims Metalcorp, Wanless, CMT, Southern Recycling etc	Any operation transferring any waste transfer or bulk out facility regardless of tonnes managed is registered here	
	3	Scrap Metal Yards	Queensland Recycling Sims Metalcorp, Wanless, CMT, Southern Recycling etc	All scrap metal facilities be moved to this ERA	
	4	Waste Transfer Station and any Bulk Out Operation	NQRA, Brisbane Scrap and Steel, All transfer Stations currently registered will transition here and anyone not registered is to be registered	All transfer stations or bulk out operations must be licensed and registered	
	5	Bio Mass, Green Organics, Secondary Soil Processing Operations	Captures all Demolition operations and secondary timber value adding businesses, ie Kennedy’s Timber operations	Green organics and dedicated operations that reprocess organic only waste materials	
	6	Recycled Timber , wooden products and associated activities	Soil and compost operations associated with using waste and secondary materials		

Category B Activities	Class		Landfill Wastes	Comment	Category's
Landfill Operations <i>Acknowledges the categories in A above can be included within the operations of these</i>	1	Inert Landfill	Inert, C&D, C&I wastes only with set agreed limits of contamination levels for the approved / received wastes	Need agreed new definitions for all waste types	All landfill classes to have the new thresholds applied to them ≤ 50,000 tonnes >50,000 and ≤ 250,000 tonnes > 250,000 tonnes
	2	Combined inert and putrescibles	Includes all the above with the inclusion of Putrescibles	Need agreed new definitions for all waste types	
	3	Combined inert and putrescibles with acceptance standards for regulated and other sensitive wastes	As in 1 and 2 above but expands the wastes acceptable to facilities capable of managing regulated and other highly sensitive solids and liquids	Need agreed new definitions for all waste types	
Category C Specialised Waste Treatment Activities	Class	Operation		Examples	Categories
Alternate Waste Technologies	1	Cairns Waste processing operation		SITA CEC waste facility in Cairns	All facility classes to have the following thresholds applied to them ≤ 50,000 tonnes > 50,000 and ≤ 250,000 tonnes > 250,000 tonnes
Refuse Derived Fuel Operations	2	Might include operations specifically designed to produce WTE fuels from waste			
Bio Mass WTE Facilities	3	Includes Rocky Point Mill etc			
Incinerating Waste	4	Current ERA	Define what wastes accepted		
Battery Recycling	5	Current ERA			
Chemical or Oil Recycling	6	Current ERA			
Drum Recycling	7	Current ERA			
Recycling or Reprocessing Regulated Wastes	8	Current ERA		Refer comment above re incremental management in operations of some waste types and allowances of same	
Regulated Waste Storage	9	Current ERA	Remove 1000 EPU limits		
Regulated Waste Treatment	10	Current ERA			
Tyre Recycling	11	Current ERA			

