

Waste management—regulatory framework and objectives¹



1 Introduction

This document clarifies the framework for the Environment Protection Authority (EPA) decision making for the waste and resource recovery sector. It provides high-level guidance in order to provide consistent, targeted and appropriate responses to the licensing and regulation of the waste to resources industry including in the context of any new and emerging technologies. Clear principles and guidance are viewed as particularly important in relation to the application of tools available to the EPA in the regulation of the development and use of waste derived products.

This document outlines the regulatory mechanisms available and the relevant matters that the EPA take into account in determining the appropriate tools for regulating waste to resources activities and any emerging or new technologies within the South Australian waste and resource recovery industry.

2 Tools available for the regulation of the environmental performance of the waste and resource recovery industry

The environmental impacts of the waste and resource recovery industry are regulated primarily under the *Environment Protection Act 1993* (EP Act) and the *Development Act 1993*.

The EP Act provides the following statutory tools for the EPA to regulate activities that have, or may have, an adverse environmental impact:

- the General Environmental Duty, which states that 'a person must not undertake an activity that pollutes, or might pollute, the environment unless the person takes all reasonable and practicable measures to prevent or minimise any resulting environmental harm'
- regulations and Environment Protection Policies (EPPs), which may be accompanied by Codes of Practice or Standards
- environmental authorisations including licences for the activities described in Schedule 1 of the EP Act, works approvals and exemptions, and
- environmental offences (eg causing serious or material environmental harm, or causing an environmental nuisance).

Schedule 1 of the EP Act specifies the prescribed activities of environmental significance that may only be undertaken if the relevant person is issued with an environmental authorisation in the form of a licence. It also specifies exceptions to those categories of activity. However, both authorised and unauthorised premises are also subject to the other tools listed above.

There are also a number of non-statutory tools employed by the EPA, including the provision of information through education and communication. Guidelines are a tool developed in order to provide detailed information on the EPA's expectations regarding an activity's design and operational standards, and environmental performance.

¹ This document was developed as part of the EPA's waste reform program, and is described in implementation task 5 in *EPA Board Waste to Resources Subcommittee Report* (2007), South Australian Environmental Protection Authority, Adelaide.

The EPA's regulatory approach for the waste and resource recovery industry relies largely on licensing and the use of the general environmental duty. There is an existing EPP for waste² however it is of very limited scope. A new Waste to Resources EPP is under development to more fully address the requirements and expectations for the waste and resource recovery industry.

Proposals for activities of major environmental significance are referred to the EPA as defined in Schedule 22 of the Development Act. In this process, the EPA has the role of assessing whether all reasonable and practicable measures are taken to protect the quality of the environment, having regard to the principles of ecologically sustainable development. The EPA requires sufficient information to be submitted at the Development Application stage in order to assess the potential for environmental impacts and hence the suitability of the proposal, including its design and operational standards. Upon assessment the EPA has the power to direct either the refusal of the application or the attachment of conditions for the development to proceed.

3 Determining the appropriate regulatory tool

While there are a variety of regulatory tools available, the EPA will choose the appropriate tool(s) for waste to resources activities by considering:

- *South Australia's State Waste Strategy*³
- the Objects of the EP Act⁴ and the need to take all reasonable and practical steps to protect and enhance the quality of the environment while promoting the principles of ecologically sustainable development. The Objects also promote an integrated and cost effective regulation system for the generation, treatment, recovery and/or disposal of waste.
- the EPA's Objectives in managing waste and activities relating to waste and resource recovery in order to:
 - 1 minimise the risk of environmental harm occurring, and
 - 2 support the highest and best, safe available use of secondary materials in accordance with the waste management hierarchy.

Thus, when the EPA is determining the appropriate regulatory arrangements for a specific proposal, including new and emerging technologies, it will consider:

- the risks of environmental harm associated with the activity type
- the level of complexity or specificity of management requirements for the activity to avoid unacceptable harm and/or to support sustainable development
- the need to act in accordance with the polluter-pays principle
- the need to protect and ensure the continued functionality, consistency and equity of the licensing system and the effective administration of the EP Act.

The Guiding Principles for determining approval processes and product standards for waste derived material are presented in a separate document.

² EPA 1994, *Environment Protection (Waste Management) Policy*, South Australian Environmental Protection Authority, Adelaide. <www.epa.sa.gov.au/legislation.html>.

³ Available at <www.zerowaste.sa.gov.au/waste_strategy.php>.

⁴ EPA 1993, *Environment Protection Act 1993*, South Australian Environmental Protection Authority, Adelaide. <www.epa.sa.gov.au/legislation.html>.

FURTHER INFORMATION

Legislation

Legislation may be viewed on the internet at: <www.legislation.sa.gov.au>

Copies of legislation are available for purchase from:

Service SA Government Legislation Outlet 101 Grenfell Street Adelaide SA 5000	Telephone: Facsimile: Internet:	13 23 24 (08) 8204 1909 < shop.service.sa.gov.au >
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