

Response to submissions on the *Draft Environment Protection (Waste to Resources) Policy*



Environment Protection Authority

A decorative graphic consisting of a series of parallel lines that create a diagonal band across the page. The lines are light blue and green, and they are set against a background of a light green-to-teal gradient.

**Response to submissions on the *Draft
Environment Protection
(Waste to Resources) Policy***

Response to submissions on the Draft Environment Protection (Waste to Resources) Policy

For further information please contact:

Project Manager, Waste to Resources Policy
Environment Protection Authority
GPO Box 2607
Adelaide SA 5001

Telephone: (08) 8204 2096

Facsimile: (08) 8124 4675

Free call (country): 1800 623 445

Website: <www.epa.sa.gov.au>

Email: <epainfo@epa.sa.gov.au>

ISBN 978-1-921125-97-7

August 2009

Disclaimer

This publication is a guide only and does not necessarily provide adequate information in relation to every situation. This publication seeks to explain your possible obligations in a helpful and accessible way. In doing so, however, some detail may not be captured. It is important, therefore, that you seek information from the EPA itself regarding your possible obligations and, where appropriate, that you seek your own legal advice.

© Environment Protection Authority

This document may be reproduced in whole or part for the purpose of study or training, subject to the inclusion of an acknowledgment of the source and to it not being used for commercial purposes or sale. Reproduction for purposes other than those given above requires the prior written permission of the Environment Protection Authority.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
RECOMMENDED CHANGES	3
GLOSSARY	6
RESPONSE	7
1 Introduction.....	7
2 The development of the EPP	7
3 Consultation on the draft EPP	8
4 Submissions received	8
5 Summary of key issues raised by consultation	9
6 Strategic issues raised through submissions	10
6.1 National waste policy directions.....	10
6.1.1 National waste policy.....	10
6.1.2 Product stewardship generally	10
6.1.3 Fluorescent lighting	12
6.1.4 Electronic wastes.....	13
6.2 Interaction with Federal Carbon Pollution Reduction Scheme	13
6.3 Integration of the development of the EPP with other state government policy development.....	14
6.3.1 Zero Waste SA, including ZWSA Strategy mid-term review.....	14
6.3.2 The Planning Strategy	14
6.3.3 Climate Change and Greenhouse Gas Emission Reduction Act 2007	15
6.3.4 Other Waste Reform Project initiatives.....	15
6.4 The role of government in regulation.....	16
7 Issues—Clause by Clause	17
7.1 Clause 1—Title	17
7.2 Clause 3—Definitions	17
7.3 Clause 4—Certain material declared to be waste	17
7.3.1 The definition of waste.....	17
7.3.2 The elements of clause 4	18
7.3.3 Are certain materials ‘waste’?.....	19
7.4 Clause 5—Amendments able to be made without following the normal procedure	20
7.5 Clause 6—Application of the EPP	20
7.6 Clause 7—Waste management objective	20
7.6.1 Regional areas	20
7.6.2 Energy and the waste management hierarchy.....	20
7.7 Clause 10—Unlawful disposal of waste	22
7.7.1 Dumping of waste on private land	22
7.7.2 Stockpiling	23
7.7.3 Penalties.....	23
7.8 Clauses 11 and 12—Landfill disposal certificates	24

7.9	Clause 11—Requirement for resource recovery prior to disposal to landfill/Schedule 3.....	24
7.9.1	Recovery processes and standards of recovery	24
7.9.2	Application of clause 11 to particular wastes.....	26
7.9.3	Recognition of market variability.....	28
7.10	Clause 12—Prohibited landfill wastes/Schedule 4	28
7.10.1	Practicality—contamination risks and liability	28
7.10.2	Recognition of market variability.....	29
7.10.3	Alternative disposal options.....	29
7.11	Clause 14—General transport of waste.....	31
7.12	Clause 15—Management of unlicensed activities involving listed wastes	32
7.13	Clause 17—Medical containers	32
7.14	Clause 18—Disposal of medical sharps	33
7.14.1	Regulation	33
7.14.2	Current services	33
7.14.3	Observations on potential options	33
7.14.4	Liability.....	34
7.14.5	Compliance.....	34
7.14.6	Scope of the clause	34
7.15	Clause 20—Waste management codes of practice.....	35
7.16	Part 6 (Clauses 21–24)—Design, construction and operational standards for depots.....	35
8	Implementation issues raised through submissions.....	35
8.1	Education	35
8.2	Funding of EPP implementation	36
APPENDIX 1 SECTION 28 PRESCRIBED BODIES		38
APPENDIX 2 SUBMISSIONS RECEIVED ON THE DRAFT EPP		39
APPENDIX 3 OBJECTS OF THE ENVIRONMENT PROTECTION ACT 1993.....		41
APPENDIX 4 THE WASTE MANAGEMENT HIERARCHY		43

List of Figures

Figure 1	Submissions on the draft EPP by category	9
----------	------------------------------------------------	---

List of Tables

Table 1	Resource recovery options.....	25
Table 2	ZWSA Grants and Guidance Programs	36

RECOMMENDED CHANGES

Recommended changes to the draft EPP are as follows:

Clause	Recommendation
Clause 1—Short title	Change title to ‘Environment Protection (Waste Management and Recovery) Policy’.
Clause 2—Commencement	No changes recommended.
Clause 3—Interpretation	Seek drafting advice on amending the definition for ‘dispose’ to explicitly include stockpiling.
Clause 4—Certain material declared to be waste	<p>Amend the clause in a manner similar to the following (Author’s underlining):</p> <p><i>For the purposes of the definition of waste in section 3(1) of the Act, <u>waste or material resulting from the treatment of waste continues to be waste except insofar as it constitutes a product—</u></i></p> <p><i>(a) that meets specification or standards published or approved in writing by the Authority, or</i></p> <p><i>(b) <u>if no relevant specification or standard under (a) applies, that is ready and intended for imminent use without the need for further treatment to prevent any environmental harm that might result from such use.</u></i></p> <p>Seek drafting advice on whether clause 4 needs any amendment to put it beyond any doubt that the general environmental duty and offences of causing environmental harm under the Environment Protection Act continue to apply in circumstances where a ‘waste’ has become a ‘product’.</p>
Clause 5—Amendment of policy without following normal procedure	No changes recommended.
Clause 6—Application of policy	No changes recommended.
Clause 7—Waste management objective	No changes recommended.
Clause 8—Waste management objective and administration of policy	No changes recommended.
Clause 9—Waste management objective and determinations by Authority under Part 6 of Act	No changes recommended.
Clause 10—Unlawful disposal of waste	Amend the clause to change the lower tier from a Category C offence to a Category B offence to give parity with the <i>Local Government Act 1999</i> and seek drafting advice on whether it can be made more explicit that clause 10(1)(f) does not affect licensing or other requirements of the Environment Protection Act.

GLOSSARY

CPRS	Federal Carbon Pollution Reduction Scheme
Draft EPP	Draft <i>Environment Protection (Waste to Resources) Policy</i>
EPHC	Environment Protection and Heritage Council
EPA	Environment Protection Authority
EP Act	<i>Environment Protection Act 1993</i>
EPR	extended producer responsibility
ESD	ecologically sustainable development
LGA	Local Government Association
RDF	refuse derived fuel
WMAA SA	Waste Management Association of Australia (SA Branch)
ZWSA	Zero Waste SA

