



Mr Dean Raihman
Director, Regional and Regulation Support
Department of Environment and Science
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Email: rrs.consultation@des.qld.gov.au

28 October 2021

Dear Mr Raihman

Re: Draft Regulatory Strategy 2021-2026

The Waste Management and Resource Recovery Association of Australia (WMRR) welcomes the opportunity to provide feedback on the Department of Environment and Science's (DES) draft Regulatory Strategy 2021-2026.

WMRR is the national peak body for the \$15.5 billion essential waste and resource recovery (WARR) industry. Nationally, we have more than 2,000 members representing over 500 entities that operate in a broad range of government organisations, the three (3) tiers of government, universities, and NGOs. In Queensland, the WARR sector currently employs more than 11,800 people and contributes \$1.5 billion to the state's economy.

Our members are involved in the breadth and depth of WARR, engaging in activities fundamental to the success of the Australian economy, including infrastructure investment, collections, manufacturing of valuable products from resource recovered materials, energy recovery, community engagement and education, and responsible management of residual waste.

WMRR supports the department's goal of developing a regulatory strategy that supports Queensland's economic recovery post-COVID-19 while maintaining strong environmental outcomes, and we commend the department for considering how it can deliver streamlined, efficient, and cost-effective regulations that are proportionate to risk.

Broadly, WMRR supports the draft strategy and agrees with its purpose, six (6) areas of focus, and 2026 targets. WMRR also acknowledges that the department has identified specific actions under each area of focus to be met within stipulated timeframes; doing so has turned what could have been a high-level document into a clear and practical strategy that stands a better chance at meeting the department's goals and objectives. WMRR does have the following recommendations that we believe the department should incorporate.

1. A robust system to level the playing field

The WARR sector is highly regulated, and the industry supports strong, risk-based regulation centred on the precautionary principle that is based on the latest available science and considers the protection of human and environmental health. WMRR acknowledges the

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department's intent to ensure that regulatory activity is proportionate to risk and minimises unnecessary burden; however, there is too little consideration by the department of future regulations that will eradicate poor practices while creating a level playing field. The department is urged to consider how it can develop a robust regulatory framework that first and foremost does not add significant pressure on the existing industry or penalise legitimate operators but also captures non-licensed and/or illegal operators and facilities to prevent them from falling through the gaps. A reliance on community reporting of illegal activities, as noted in the paper, is insufficient; greater emphasis must be placed on data and intelligence.

WMRR notes that the department intends to continue a dedicated litigation team to support enforcement actions and prosecutions to ensure strong action is taken against illegal operators. To support this and the department's plans to enhance reporting of illegal activities, WMRR suggests the department also establishes a dedicated team of officers (beyond the existing Local Government Illegal Dumping Partnerships Program) to investigate non-licensed sites and develop a reporting measure for these types of unlawful operators.

2. A genuine risk-based approach based

The department is to be commended for its desire for continuous improvement and for wanting to adopt modern approaches, including its acknowledgement that industry is best placed to identify the most appropriate way to manage their activities, and that in conditioning activities, the department will ensure that the risk of activities are defined on a site-by-site basis with conditions designed to be proportional to risks.

While the actions under focus area one (1) to facilitate this risk-based approach are supported, WMRR encourages the department to engage with the South Australian and Victorian EPAs, which have introduced a true, responsive, risk-based approach in many aspects of their regulation, including through a General Environment Duty (GED) framework for managing materials for genuine re-use. The GED model is expected to make it less onerous for industry to turn "waste" into "resources", while protecting the environment and human health, as well as assisting with economic recovery and business growth.

3. Enforcing the polluters-pay principle

The strategy states that the department is planning to undertake a review of its financial assurance guideline for prescribed ERAs in 2022. Ahead of this, WMRR is urging the department to consider how it can embed the polluters-pay principle in the department's regulatory framework. This will put the onus on the party responsible for producing the material (the generators) and associated pollution to bear the costs – at least in part – of managing it to prevent harm to human health and the environment, instead of continuing to view facilities that are recipients of end-of-life materials (waste facilities) responsible for the pollution, even if though they do not create the pollution.



The department is already tightly regulating the WARR sector and has the ability (and should execute this ability) to play a similar role in the materials that are being produced, including using its regulatory tools and powers to ensure that producers and manufacturers are made responsible for the costs of managing their materials and products at end-of-life. The recent changes to the Victorian *Environment Protection Act* include provisions that place responsibility on the generator in a number of ways (including classification and appropriate disposal), with commensurate penalties for failure to do so; similar provisions and approaches should be explored in Queensland given the recognition that we are material managers that are part of an overall value chain, with a clear goal of creating a circular economy in Queensland.

4. Monitoring, reporting, and accountability

WMRR notes that the department will report annually on progress against the actions and targets in the strategy and will also continue to report annually on its regulatory performance. These actions are supported; however, WMRR encourages the department to deliver these reports in a timely fashion, preferably within six (6) months into the new year.

WMRR is also seeking clarity around what would happen if the actions within the strategy are not achieved within the stated timeframes and if there will be a mechanism to review and track progress (not just at the end of each action's timeline) in order to develop alternative approaches and solutions if necessary.

5. Building a knowledge base

WMRR supports the department's actions related to developing consistent risk assessment approaches for officers to guide them in the use of prescriptive vs. outcome-focused conditions, as well as the department's plan to review and/or develop technical assessment support material to build the capacity and capability of assessment officers. These actions are imperative to the success of both the regulator and industry and the department should include in its guidance, clear and consistent definitions of issues, materials, license conditions, and other factors, e.g., stockpile management as highlighted under action 3.3.

While there is value in developing guidance and supporting documents, WMRR advocates for the draft regulatory strategy to also include a detailed plan on how these officers will be consistently trained as they undertake their compliance and enforcement actions.

Industry has noticed that over time, as officers have different expectations, the interpretation of license conditions and other rules differ from officer to officer, leading to significant operational uncertainty for the industry. What is also understated is the importance of an officer's understanding of how history and operational factors drive businesses and/or sites differently. While the strategy is not seeking to implement a one-size-fits-all approach to applying regulations, officers will need to be consistently trained to understand how to interpret and enforce regulations based on the strategy's stated risk-based objective.

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Thus, WMRR is calling on the department to include within its strategy, clarity on how its officers can improve their service offering through industry-specific training and the WARR sector can offer guidance on this and all other training materials, as well as practical opportunities to gain knowledge and understanding.

WMRR looks forward to continued engagement with DES as it implements the proposed actions in its draft regulatory strategy. Please do not hesitate to contact the undersigned if you would like to further discuss WMRR's feedback.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Gayle Sloan'.

Gayle Sloan

Chief Executive Officer

Waste Management and Resource Recovery Association of Australia

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