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Dear Ms O'Callaghan

Re: Review of statutory protections for wastewater treatment plants under the *Environmental Protection Act 1994*

Thank you for the opportunity to provide feedback to the Department of the Environment, Tourism Science and Innovation (DETSI) on review the statutory protections for wastewater treatment plants (WWTPs) under the *Environmental Protection Act 1994* ("the EP Act"). The Waste Management and Resource Recovery Association of Australia (WMRR) is the national peak body representing Australia's \$20 billion waste and resource recovery (WARR) industry. With more than 2,300 members from over 380 entities nationwide, we represent the breadth and depth of the sector, including representation from business organisations, the three (3) tiers of government, universities, and Non-Government Organisations (NGOs), including research bodies. In Queensland, WMRR represents over 380 individual members from than 50 entities from across the entire value chain.

The [discussion paper](#) considers whether the EP Act provides sufficient statutory protection for WWTPs managing persistent contaminants such as PFAS, microplastics and PCBs. In particular, it considers whether the polluter pays principle in section 6A could result in WWTP operators being regarded as polluters despite contaminants originating from households, businesses and industrial sources beyond their control. As the EP Act does not define polluter, and the 'ordinary' understanding under the *Acts Interpretations Act 1954* is that a polluter can be any person, organisation or source that introduces harmful substances into the environment. The wastewater industry has requested legal protections to ensure WWTP operators are not responsible under the polluter pays principle.

Like WWTPs, WARR facilities such as landfills, leachate treatment facilities, and organics processors often manage persistent contaminants at the end of the supply chain that they did not manufacture or introduce and, in many cases, cannot readily identify before materials are received. This can be challenging for operators who, under the EP Act, must comply with their general environmental duty and take all reasonable and practicable measures to prevent or minimise environmental harm. This model has resulted in WWTPs and WARR facilities bearing the full costs of managing the contaminants to prevent and mitigate environmental harm. However, currently, there are no legal extended producer responsibility (EPR) obligations placed on those who are responsible for supplying the contaminated material. As such, whilst operators undertake monitoring of recovered/ recycled materials such as effluent and biosolids before reuse, and seeking to place limits on inputs, the principle of prevention of the potential harm in the first instance is not currently addressed.

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WMRR notes that the EU's revised [*Urban Wastewater Treatment Directive \(Directive 2024/3019\)*](#) has attempted to address this imbalance. The Directive sets requirements to remove micropollutants, including pharmaceutical and cosmetic residues, from urban wastewater, requires the progressive introduction of quaternary treatment at WWTPs and applies the polluter pays principle through an Extended Producer Responsibility (EPR) scheme. By 31 December 2028, producers of human medicines and cosmetics covered by the Directive must fund at least 80% of the costs associated with meeting the new quaternary treatment requirements, although Member States may extend EPR to other sectors contributing to micropollutant loads. The Directive entered into force in 2025 and is due to be transposed into national law by 31 July 2027, although ongoing legal and political challenges have created uncertainty around implementation of its EPR provisions.

WMRR supports the polluter pays principle put into practice with EPR to legally and financially hold upstream suppliers and product makers responsible for introducing contaminants into products and material streams in the first place. Legislative clarification that authorised WWTPs are not unintentionally regarded as the polluter is strongly supported, and WMRR considers that the same principle should also extend to WARR facilities in comparable circumstances where they are authorised to receive and manage contaminated material yet are not responsible for generating the contamination. Authorised downstream operators should not become the default party financially or legally responsible simply as a result of the fact that contaminants are ultimately detected or managed at their facilities.

Persistent contaminants create significant financial and operational impacts for downstream operators, including increased sampling, laboratory analysis, monitoring, reporting, storage, transport, treatment and disposal costs. They can also undermine established resource recovery pathways – such as where otherwise useful materials such as biosolids or organics no longer meet contaminant thresholds and must instead be disposed of. These impacts are compounded by inconsistent regulatory thresholds and testing methodologies between jurisdictions, which then creates uncertainty for operators and inhibits investment in treatment and resource recovery infrastructure. Regulation of one (1) waste stream can also have cascading consequences elsewhere in supply chains —for example, restrictions on biosolids or wastewater inputs can affect landfill leachate management, organics markets and residual waste capacity.

This review provides an opportunity for Queensland to strengthen legislative protections for licensed/ authorised downstream facility operators managing contaminants they cannot reasonably control through provisions for effective source control by application of the polluter pays principle to those responsible for introducing contaminants through EPR and promoting nationally consistent risk-based regulation for WWTP and WARR operations.

Responses to the consultation questions

- 1. What are the key financial and operational challenges unique to the WWTP industry when managing persistent contaminants?*

Persistent contaminants create significant financial and operational challenges across both the wastewater and WARR sectors, including:

- Increased testing, sampling and compliance costs – Persistent contaminants such as PFAS require increasingly complex and costly analytical testing, particularly at very low detection limits. Access to suitably capable laboratories can also be constrained.
- Storage, treatment and disposal costs – Downstream operators have limited ability to control persistent contaminants embedded in products and materials before they reach their facilities yet may incur substantial costs once contamination is detected. Once contamination is identified, operators may need to store, transport, treat or dispose of affected water, soils, sediments, biosolids and other materials. Existing facilities also carry substantial costs associated with liners, leachate management, wastewater treatment, monitoring, and auditing.
- Loss of resource recovery markets – Conservative contaminant thresholds can make otherwise beneficial recovered materials difficult or impossible to market.
- Operational impacts across interconnected waste streams – Restrictions affecting one material can have consequences elsewhere. For example, tighter PFAS requirements for wastewater or biosolids may affect WWTP acceptance of landfill leachate.
- Regulatory uncertainty – Different contaminant thresholds, analytical methods and regulatory approaches between jurisdictions make it difficult to establish standardised treatment systems and justify long-term investment.

2. *Are there measures that may assist in better managing the inputs to WWTPs, including trade waste approvals?*

Yes - the most effective intervention is to prevent or minimise persistent contaminants entering wastewater and waste systems at source – however intervention must be risk based, cognisant of the risk profile of the discharging source in order that unnecessary restrictions are not imposed on low-risk discharges. Trade waste approvals can support this by:

- requiring higher-risk industrial and commercial dischargers to identify and disclose persistent contaminants used or discharged through their operations, which may include testing and record keeping;
- establishing clear and consistent contaminant criteria for the higher-risk trade waste streams and agreed testing and record keeping in accord with this;
- enabling WWTP operators to impose proportionate monitoring, pre-treatment or source-reduction requirements where contaminants of concern are known to be discharged;
- improving traceability in order that contamination can be attributed to its source; and
- applying controls according to demonstrated risk and likely exposure pathways rather than imposing uniform requirements on all dischargers.

These measures should complement broader product and chemical controls, including requirements for manufacturers and generators to identify hazardous chemicals and progressive restrictions on problematic substances where appropriate. Importantly, trade waste reform should not simply transfer contaminated material from one regulated operator to another. For example, tighter WWTP acceptance criteria could restrict landfill leachate disposal without reducing the underlying generation of PFAS. Reform should therefore be considered on a whole-of-system basis and prioritise reducing contaminant generation at source.

3. *Are there any regulatory measures that may assist WWTP operators in meeting their environmental obligations under the EP Act?*

Yes. Operators would benefit from clear, consistent and risk-based regulatory settings that establish reasonable environmental outcomes while recognising what operators can practically control. Measures that would assist include:

- contaminant thresholds linked to actual environmental and human-health exposure pathways and the intended end use of recovered materials – rather than universal application of contaminant thresholds across multiple beneficial reuses which are used very differently;
- nationally consistent testing and sampling, analytical and quality-control methodologies, as well as record keeping;
- appropriate transition periods when new contaminants or limits are introduced;
- practical guidance on what constitutes reasonable and proportionate compliance measures;
- regulatory impact assessment before new contaminant limits are imposed;
- clear treatment and disposal pathways for material exceeding applicable thresholds, and
- regulatory recognition of reasonable measures undertaken by operators to manage risks associated with contaminants received from upstream sources.

The discussion paper highlighted the increasing interaction between Queensland law and Commonwealth chemical regulation. Persistent contaminants listed under the Industrial Chemicals Environmental Management Register (IChEMS), including certain PFAS compounds, are subject to phase-out requirements, with the definition of “use” extending to the release of listed chemicals in a very broad sense that means that landfills and water facilities could be impacted. This iChEMS phase outs signal an increased emphasis on contaminant monitoring, which should complement the EP Act’s requirements for demonstrating that “reasonably practicable” measures have been taken, and providing evidence of compliance with the general environmental duty.

The NSW EPA has responded to this regulatory interface by introducing a [PFAS Monitoring Chemical Control Order for landfills and sewage treatment plants](#). The Order establishes consistent monitoring requirements, including approved sampling and analytical methods, locations and frequencies, to build an evidence base before further regulatory action is considered. Facilities reporting elevated PFAS concentrations may be subject to further investigation or additional licence conditions as the NSW EPA develops its regulatory approach. WMRR would support a similar approach being taken in Queensland that would enable policy and regulation to be developed based on meaningful data from its authorised facilities.

WMRR stresses that a risk-based and evidence-led approach is particularly important for resource recovery activities – including the reuse and recycling of wastewater. Applying uniformly conservative thresholds irrespective of risk including exposure pathway or end use can unnecessarily restrict safe recovery and create additional residual waste without delivering a commensurate environmental benefit.

4. *Are the current legislative settings adequate, and could there be areas where adjustments might be beneficial?*

As identified in the discussion paper, the current framework would benefit from greater emphasis on preventing persistent contaminants entering supply chains and clarifying responsibility once those contaminants reach authorised treatment facilities. Wastewater requirements are primarily established by individual states and

territories, supported by national guidance such as the *PFAS National Environmental Management Plan (NEMP)*. State based legislation such as Queensland's EP Act should make clear that responsibility does not automatically transfer to a WWTP or WARR facility simply because it becomes the point at which contamination is detected or managed. WMRR considers that legislative reform would be beneficial in the following areas:

- Stronger source controls – This should include appropriate restrictions or phase-outs of persistent contaminants, disclosure and labelling requirements, and clearer obligations on manufacturers, importers and industrial users.
- Extended Producer Responsibility (EPR) that places producer and generator responsibility for products placed on the Australian market. For example, under the *EU Waste Framework Directive*, the polluter pays principle requires waste management costs, including infrastructure and operations, to be borne by waste producers or holders. Member States may allocate these costs to end users or producers through EPR schemes or other measures such as fees and taxes. EPR shifts whole-of-life management costs to producers while incentivising more sustainable product design and has a greater chance of success given the economic imperative.
- Greater regulatory harmonisation across Australian jurisdictions – Consistent contaminant thresholds, analytical methodologies and regulatory approaches would provide operators with greater certainty and support increased investment in appropriate treatment and resource recovery technologies. This is something WMRR continues to encourage through the Heads of EPA meetings nationally.
- Risk-based and fit-for-purpose regulation – Legislative and subordinate instruments should account for actual exposure pathways, environmental risk and what operators can reasonably control rather than defaulting to the most conservative possible end-of-pipe requirements.

WMRR supports the review of the EP Act as an opportunity to strengthen upstream controls, clarify responsibility and liability, improve regulatory consistency and ensure downstream operators are regulated according to actual risk and their capacity to control contaminants. This approach maintains strong environmental protection while reducing the risk that the costs and liabilities associated with persistent contaminants are simply transferred to WWTP and WARR operators.

WMRR trusts these comments will be considered as part of the consultation process and welcomes further engagement with DETSI as the review progresses.

Yours sincerely



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