



# Too many holes in Qld EOW framework: ACOR

By Jacqueline Ong, Tuesday 04 October 2016

While the Australian Council of Recycling (ACOR) has welcomed the Queensland Department of Environment and Heritage Protection's new End of Waste (EOW) framework, CEO Grant Musgrove says the framework as it is, has too many holes and a much more robust consultation is necessary.



The Beneficial Use Approval (BUA) framework under Chapter 8 of the Waste Reduction and Recycling Act 2011 will be replaced by the EOW Framework on November 8.

Under the [new framework](#), a larger focus will be placed on ensuring waste generators produce higher quality waste for use where possible. A waste will also be considered a resource at a single point in time after which it can be used without further restrictions.

Other changes include:

- *End of waste codes:* An EOW code will act in a similar manner to the current general approval. An operator may supply a waste as a resource under a code provided they have registered with the department and complied with the conditions of the code. Codes will be developed where the department considers that a waste has properties that make it comparable to products that would otherwise be used, without requiring further regulation to prevent environmental harm resulting from the use. Conditions will not be imposed by the department on users of a waste that has been deemed a resource. It will be the producer's responsibility to ensure that the resource supplied to users is of a high quality and complies with the conditions of the code.
- *End of waste approvals:* An EOW approval will be issued to a single holder for the purpose of trialling the use of a waste as a resource. The approval will be issued only for the length of time required to undertake the trial, with only one extension being granted if required. Based on the findings of the trial in relation to set criteria, such as benefits, sustainability, and environmental best practice, the department will decide on whether the resource is appropriate to be approved under the EOW Code.
- *Obligation on the producer:* Under the new provisions, waste will be considered a resource after meeting a specified quality criteria prior to going to the end user. As such, it will be the producer's responsibility to ensure that the resource meets the required quality standards. In order for a producer to supply a resource under an EOW code, they must first be registered with the department. After becoming a registered producer, the resource may then be provided to users, where the conditions of the code have been met.

## Consultation "rushed"

Musgrove told *Inside Waste* ACOR had asked for the new EOW framework but said he was concerned about the limited timeframe - some two weeks - for consultations, noting that the framework would not work if it was "rushed".

"A more measured process with genuine industry consultation is advised to avoid unintended and perverse outcomes. ACOR stands ready to assist in this regard," Musgrove said in a letter to the department.

And what are some of these "unintended and perverse outcomes"?

Musgrove pointed to the lack of rules around regulated waste tracking, saying without these rules, the new EOW framework may potentially repeat the limitations of the current BUA system under which tracking is not a requirement for regulated waste that is transported to a BUA holder for beneficial reuse.

"ACOR believes this was not the intention of the BUA system, although it may create misinterpretation of the legislation," he said.

Under an EOW coder, there will be two main categories of registered resource producers - the original waste producer who processes their own waste into a waste-derived resource, and commercial waste reception facilities that receive waste generated by others and processes it into a resource.

"It is important that the regulated waste tracking requirements are properly articulated for the above two scenarios. It is unclear why regulated wastes being transported to commercial facilities holding a BUA or EOW Code/Approval should be exempt from tracking," Musgrove said.

"The exemption could only be for EOW compliant resources being transported from registered resource producers to legitimate end user markets. The lack of transparency regarding untracked regulated wastes may create opportunities for illegitimate operators to bypass the system."

### **Same same but different**

ACOR noted that Queensland's EOW framework resembled the end of waste provisions established by the European Union under Article 6 of the Waste Framework Directive 2008/98/EC.

This states that "certain specified waste shall cease to be waste within the meaning of point (1) of Article 3 when it has undergone a recovery, including recycling, operation and complies with specific criteria to be developed in accordance with the following conditions: (a) the substance or object is commonly used for specific purposes; (b) a market or demand exists for such a substance or object; (c) the substance or object fulfils the technical requirements for the specific purposes and meets the existing legislation and standards applicable to products; and (d) the use of the substance or object will not lead to overall adverse environmental or human health impacts."

However, this is where the similarity ends. Unlike the EU version, Queensland's framework has not emphasised the importance of demonstrating that "a market or demand exists for such a substance or object".

"There is a risk that focussing on a proposed use of a waste-derived resource without considering the market demand for such a material will lead to loopholes whereby unwanted materials, that would otherwise be considered regulated waste, can be disposed of inappropriately without tracking," Musgrove warned.

He pointed to the UK, which in applying the EU Waste Framework Directive, recognised this issue in its [end of waste test advice](#).

### **Key recommendations**

In his letter to the department, Musgrove also proposed a number of recommendations, including:

- All existing requirements for waste management licensing should be met by commercial operators holding a BUA under the current system or an EOW approval under the proposed new system, where raw waste is received for a gate fee off-site and then processed into a waste-derived resource.

- All operators who choose to operate under an EOW code should be registered with the department to allow appropriate and consistent regulation and compliance. ACOR suggested establishing a regime to ensure all EOW operators are subject to an auditing program to monitor compliance with the conditions of the applicable EOW code. This is similar to the auditing regime applied to operators holding an Environmental Authority. Verifying compliance is essential as once the relevant waste has been sold or given away by the resource producer, there is little to no visibility on the use of the material subject to the EOW code. This is even more critical for liquid wastes which are more difficult to track given their physical nature.
- Clause 3.2.5 of the consultation brief in relation to sections 173N states that conditions can only be applied to the holder of an EOW approval. Consideration should be given to how the department would verify that the waste-derived resource has been legitimately sold or given away as a product and not disposed of by other means.
- Regarding clause 3.2.10 of the consultation brief, more transparency needs to be given to the application fees. ACOR recommended that the department not require operators who undertake existing waste-related environmentally relevant activities to pay a fee to utilise an EOW code as such operators are already registered with the department and pay an annual licensing fee. Many of these ERA holders have already recycled waste into commodities such as commingled recyclables into saleable commodities like plastics, aluminium and steel, demolition concrete into aggregate, waste oil into fuel oil and lubes. It will be a doubling up of red tape on existing recyclers by applying an extra financial and administrative burden on ERAs that are inherently aimed at EOW status and waste recovery.
- When deciding an application for an EOW approval or amendment, ACOR proposed that the department consider how the EOW code interacts with the existing state and federal regulatory setting.

"End of waste should not be an easy way of producing poorer quality material with unacceptable damage to the environment," Musgrove added.

"The cost of the EOW process should remain low to prevent negative economic impacts to waste and recycling companies."

He also highlighted that there was no focus on the scope and timeframe of the process, and called for further information in order to understand when these changes will be made.

© Copyright Mayfam Media.