

# Guideline

## Waste Reduction and Recycling Act 2011

### End of Waste (EOW)

*The purpose of this guideline is to provide guidance for persons<sup>1</sup> using or intending to reuse a waste as a resource under End of Waste framework, under chapter 8 of the Waste Reduction and Recycling Act 2011.*

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<sup>1</sup> The term 'person' throughout this document means an individual or a corporation.

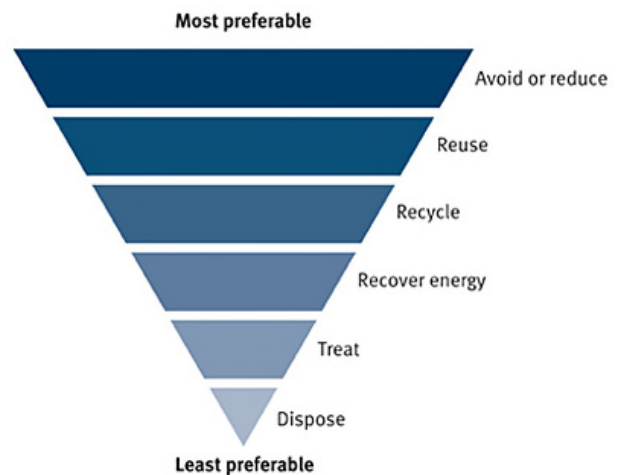
Version history

Version	Date	Description of changes
1.0	07 November 2016	Original document.
1.01	01 June 2018	Document rebranded to align with machinery of government changes.

## 1 Background

The industry-led Queensland Waste Avoidance and Resource Productivity Strategy (2014–2024) strives to improve resource recovery and recycling rates, promote adoption of innovative resource recovery approaches, and encourage the management of all products and materials as valuable and finite resources. The strategy aims to transform the perception of waste from being seen as ‘waste’ to being valued as a ‘resource’. To help achieve this, the *Waste Reduction and Recycling Act 2011* (the WRR Act) promotes the implementation of the waste and resource management hierarchy. The hierarchy is a nationally and internationally accepted guide for prioritising waste and resource management practices and is as follows:

- a) AVOID unnecessary resource consumption
- b) REDUCE waste generation and disposal
- c) RE-USE waste resources without further manufacturing
- d) RECYCLE waste resources to make the same or different products
- e) RECOVER waste resources, including the recovery of energy
- f) TREAT waste before disposal, including reducing the hazardous nature of waste; and
- g) DISPOSE of waste only if there is no viable alternative.



**Figure 1 - Waste and resource management hierarchy**

Waste is defined in the *Environmental Protection Act 1994* (the EP Act) as anything that is left over, or an unwanted by-product, from an industrial, commercial, domestic or other activity; or surplus to the industrial, commercial, domestic or other activity generating the waste. Furthermore, waste can be a gas, liquid, solid or energy, or a combination of any of them. A thing can be a waste whether or not it is of value.

A waste can be approved as a resource (called an **end of waste resource**) if the department considers that it meets specified quality criteria for specified use prior to it going to the end user. If a waste is approved as an end of waste resource under the WRR Act, it is no longer considered a waste for the purposes of the EP Act as described in s. 13 of that Act until it is disposed or otherwise illegally dumped or littered.

## 2 EOW framework

The end of waste (EOW) framework recognises the value of waste by providing a process for the development of new markets for recovered waste materials in Queensland. It provides certainty about when, and under what circumstances, a waste ceases to be waste and is considered a resource under Chapter 8 of the WRR Act.

The EOW framework replaced the beneficial use approval (BUA) framework on **8 November 2016** as a result of changes approved under the *Environmental Protection and Other Legislation Amendment Act 2014*. The amendments were designed to increase business opportunities for waste generators, waste processors and business receiving recovered material from within Queensland. To achieve this, impediments associated with the management of waste were removed, resulting in a greater emphasis for waste producer's to ensure that their waste is suitable for being used in the market.

### 2.1 Beneficial Use Approvals – Transitional provisions

Under the transitional provisions in the legislation, wastes already approved as a resource under a former general or specific approval can continue to be used as a resource for the uses specified under those approvals until the end of the approval period for the BUA (the period specified in the relevant Notice).

#### 2.1.1 General BUAs

A general BUA is an approval for a resource of which everyone has the benefit. Anyone can operate under a general BUA that has been issued by the department provided they are using the resource in accordance with the conditions of the approval. Persons who are producing, supplying or using a resource approved under a general BUA, can continue with its use until the end of the approval period.

Anyone wishing to operate under a general BUA, during its approval period, is to notify the department in writing using the form [Notification of use of a resource—ESR/2015/1638 \(formerly EM1315\)](#), available on the department's website.

Copies of general BUAs that are still in force can be obtained from the department's website [www.des.qld.gov.au/waste/beneficial-use-approvals.html](http://www.des.qld.gov.au/waste/beneficial-use-approvals.html)

General BUAs will end when an EOW code is granted (s.303(5) of the WRR Act) for the same resource. A producer who has notified the department under a general BUA is taken to be a registered resource producer under an EOW code.

#### 2.1.2 Specific BUAs

A specific BUA is an approval of a resource of which only a stated person has the benefit. Specific BUAs are issued by the department to a specific company or individual for a specific use of the resource. Persons who are using a resource approved under a specific BUA can continue with its use until the end of the approval period.

Under the transitional provisions, any current specific BUA is taken to be an EOW approval.

#### Key points – BUAs

- You can continue to operate under an existing BUA until it expires or is cancelled.
- The expiry date for an approval will be stated on the approval documents (called the approval period).
- General BUAs that are in force are available on the [department's website](#).
- If operating under a BUA, you must comply with conditions of the approval. It is an offence not to comply with an approval condition.
- A specific BUA is considered an EOW approval.

## 2.2 EOW codes and approvals

Under the EOW framework, a waste can be deemed a resource under an EOW code or an EOW approval. EOW codes relate to any registered resource producer for the respective codes and an EOW approval relates to only the holder of the approval. An EOW approval is issued to a single holder for the purpose of trialling the use of a waste as a resource to provide proof of concept.

In order for a waste to be considered a resource it must meet the requirements specified in an EOW code or approval. If it does not meet these requirements then it remains a waste. A resource will revert back to being a waste when it is disposed of at a waste disposal site or if it is deposited at a place or in a way that would constitute a convention of general littering or illegal waste dumping provisions (see s.13 of the EP Act).



**Figure 2 – Status of materials under the end of waste (EOW) framework**

## 2.3 Interaction with other legislation

### ***Environmental Protection Act 1994 and subordinate legislation***

An EOW code or approval specifies the requirements for a waste to become a resource. If a resource does not meet the requirements of an EOW code or approval it is deemed a waste and is subject to the requirements of the relevant provisions (e.g. regulated waste transport and waste tracking). Further to this, any recycling or reprocessing of the waste that is undertaken prior to arriving at this point will require any relevant waste related approvals to conduct that activity. This includes, but is not limited to, environmental authorities for conducting environmentally relevant activities under the EP Act.

In addition to the above, any person supplying a resource under an EOW code or approval is required to take all reasonable and practicable measures to prevent and/or minimise the likelihood of environmental harm being caused under the EP Act (see s. 319, the ‘general environmental duty’). Environmental harm is any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value, and includes environmental nuisance.

### **Other legislation**

Use of a resource under an EOW approval or code does not warrant or imply the lawfulness of the activity under all legislation. It is the responsibility of a person to identify and obtain all other approvals necessary for their proposed activity.

## **2.4 Suitably qualified persons**

Prior to lodging an application for a new EOW approval or an amendment to an EOW approval, an assessment in a written report by a suitably qualified person (SQP) is required. An SQP, in relation to a written report, means a person who has relevant professional qualifications and experience appropriate for preparing the report. They should be able to give an authoritative assessment, advice and analysis in relation to the subject matter using any relevant protocols, standards, methods or literature.

An SQP should have at least 2-5 years of experience relevant to the subject matter. It is acknowledged there are a wide range of wastes that will be involved with applications and a wide range of expertise will be required, and as a result, suitability will be determined on a case-by-case basis (also refer to section 2.4.1 (g) of this guideline which refers to a written self-assessment for each SQP where more than one SQP is involved).

It is the responsibility of the person to demonstrate that they have the relevant qualifications and experience appropriate to the resource being considered.

### **2.4.1 Written report**

An SQP is required to prepare a written report that must be included with the application. This is intended to streamline the assessment process by ensuring that applications are complete and technically sound before they are received by the department.

The written report must be submitted in the approved form using the *Suitably qualified person written report form (ESR/2016/3290)*.

A written report prepared by an SQP should include the following information:

- a) *For a new EOW approval – a summary of the application*  
*For an amendment of an EOW approval – a summary of the amendment sought*
- b) *An assessment of the technical validity, relevance, and accuracy of the information provided in the application—*

The purpose of this assessment is to determine if the supporting information on which the application is based is complete and technically sound and from reliable and credible sources. An SQP should consider that the application is based on appropriate information prior to be lodged.

- c) *An assessment of the technical feasibility and market potential of the proposed use of the resource—*

In undertaking this assessment, the SQP should consider whether the underlying concept for the use of the resource is realistic, and if a new market for this use is likely to develop. The use of the resource should support the waste and resource management hierarchy and promote the most preferred management options where available. A resource should be comparable to any virgin material for which it would substitute. A resource should not be disposed through dilution methods (i.e. where the volume/rate of use of the resource is determined by a maximum contaminant concentration).

- d) *An assessment of the risks associated with the proposed resource and the adequacy of any mitigation and protection measures—*

In assessing an application, the department will consider whether the use of a particular resource is likely to cause any serious or material environmental harm. Where there is a high likelihood that harm will occur, or where there are significant environmental consequences should a resource be mismanaged, the application will likely be refused.

- e) *Conclusions and recommendations*

Conclusions and recommendations should be made considering the findings of the above assessments. The SQP may also address whether they consider that the resource can be used sustainably and whether it would be appropriate to develop an EOW code for the resource following the trial.

- f) *A statutory declaration as an attachment, providing:*
- (i) confirmation that the information presented in the end of waste approval application is, to the best knowledge of the person, accurate; and*
  - (ii) the contact details of the SQP.*
- g) *A signed copy of the SQP's written self-assessment which demonstrates that they have the necessary qualifications and experience relevant to the application—*

Where more than one SQP is involved, a signed copy of the written self-assessment should be provided for each person.

### 3 EOW codes

EOW codes are made for resource producers where the department considers that a waste has properties that make it suitable for a particular use. Under a code, the waste may be used as a resource like other products without requiring further regulation. Where the department considers that a waste has properties that make it comparable to a product, it will develop an EOW code. The process for creating a code allows for industry expertise input.

A resource producer may supply a waste as a resource under an EOW code provided they have registered with the department and comply with the conditions of the relevant code. Conditions are not imposed by the department on the users of a waste that has been deemed a resource. It is the producer's responsibility to ensure that the resource supplied to users is of a specified quality under an EOW code, and is used in accordance with the requirements of the code. Users are still obliged to observe their general environmental duty to take all reasonable and practicable measures to prevent and/or to minimise the likelihood of causing environmental harm (see s.319 of the EP Act).

#### **Key Points – EOW codes**

- It is in the department's discretion what EOW codes are to be developed. The department will invite the public to make submissions about whether there is any particular waste for which an end of waste code should be prepared.
- A person must notify the department that they intend to be a registered resource producer prior to selling or giving away a resource under a code.
- It is an offence for a registered resource producer not to comply with the requirements of a code.
- Any application to amend a code should be made in consultation with an industry representative organisation and be supported by affected parties.

#### **3.1 Development of codes**

The department will call for submissions annually for the development of EOW codes. This will be in the form of a notice that invites suggestions from the public about whether there is any particular waste for which an end of waste code should be prepared. The notice will be published on the department's website and will include details on how to make a submission. Submissions received will be considered prior to the department deciding whether or not to develop an EOW code for a particular waste type.

Wastes that have been demonstrated to be sustainably used (for example, through a proof of concept trial under an EOW approval) with negligible environmental risks will be considered for a code. A technical panel may be established by the department for the development of a code. Once a draft code has been developed, it will go through a public consultation process to allow all stakeholders the opportunity to provide comment on the proposed code.

A number of matters may be considered when preparing a code, such as:

- The objects of the WRR Act
- The proposed use of a resource under the code
- Whether the proposed use is likely to result in serious or material environmental harm
- The waste and resource management hierarchy
- The likelihood of any environmental nuisance happening from the use of the resource
- The potential market and sustainability of the proposed use of the resource



Information on whether an EOW code exists for a resource can be obtained from the department's website.

The department may amend, cancel or suspend a code at any time. Any registered resource producers for a code which is proposed to be amended, cancelled or suspended will be made aware of any proposed actions and will be given the opportunity to make written submission on the proposed action.

### **3.2 Registered resource producers**

Any person who generates a waste, or is in possession of a waste, can become a registered resource producer if they wish to sell or give away the waste as a resource under a code. The department maintains a register of resource producers for each end of waste code.

#### **How do I become a registered resource producer?**

To become a registered resource producer, a person must notify the department of their intention to sell or give the resource under a code by submitting a completed registration form. This form must be submitted prior to commencing the supply of the resource.

When notifying, the following information is to be provided to the department:

- a) Details of the end of waste code relating to the notification
- b) Details of the activity that will generate the resource
- c) A description of the proposed use of the resource
- d) A statutory declaration confirming that the information provided is accurate and true, and that the resource producer is able to comply with the relevant end of waste code.

Where a person wishes to sell or give away a resource under multiple codes, a separate notification is to be provided for each code under which they wish to supply.

#### **What if I comply with the code but am not a registered resource producer?**

The material is taken to be a waste and must be managed in accordance with all the relevant waste management provisions until the person becomes a registered resource producer. If you are supplying a waste without following the relevant waste management provisions under legislation, you may be committing an offence.

#### **Can my registration be cancelled or suspended?**

A registered resource producer must not sell or give away a resource unless they comply with the requirements of the code relating to that resource. It is an offence not to comply with a code. The department may cancel or suspend a person's registration if it believes they have failed to comply with a requirement of a code.

#### **Will I be notified of any changes to a code?**

Registered resource producers will be notified and provided an opportunity to comment on any proposed amendment, cancellation or suspension of a code under which they are operating.

### **3.3 Amending a code**

The department may at any time, on its own initiative, amend an EOW code. Where it is proposed to amend a code, the department will provide details of the proposed amendment to the registered resource producers for that particular code and will provide an opportunity for submissions to be made about the proposed amendment.

A person may also make an application for amendment of an EOW code. Application forms will be provided on the department's website following the making of a code(s). Any application to amend a code should be made in consultation with an industry representative organisation(s) and should be supported by all affected parties.

Although not required by legislation, an application to amend a code should be accompanied by a written report from an SQP (further details on what should be included in a written report are provided in section 2.4 of this guideline). This will assist in streamlining the assessment process.

The following information should be provided to the department when making an application to amend a code:

- a) Details of the amendment sought (including any proposed changes to the properties or characteristics of the resource and/or any changes to the use of the resource).
- b) Reasons for the amendment sought including evidence of support for the changes by any relevant industry representative organisation(s) and any other affected parties.
- c) Details of any potential impacts on registered resource producers currently operating under the code, including financial impacts.
- d) An assessment of the potential for material or serious environmental harm or environmental nuisance that may arise as a result of the proposed amendment.
- e) Supporting data for the proposed amendment.

### **3.4 Fees**

There are no fees associated with the registration of a resource producer to operate under an EOW code, or to make an amendment application in relation to an EOW code unless otherwise stated in the WRR Regulation.

## **4 EOW approvals**

An EOW approval is an approval which is issued to a single resource producer for the purpose of trialling the use of a waste as a resource to provide proof of concept.

The approval will be issued for the length of time required to undertake the trial, with only one extension available if required. Based on the findings of the trial, the department will decide on whether the resource is appropriate to be approved under an EOW Code. Where the trial has been successful and the development of a code is deemed appropriate by the department, Provisions may be included in an EOW approval to allow for the continued supply of a resource until a code is developed.

In order to streamline an application to grant or amend an EOW approval, and also to ensure specialist expertise is sought to support the process, the application must be accompanied by a written report prepared by an SQP. Review by an SQP also ensures that applications are complete and technically sound before they are received by the department. See section 2.4 of this guideline for further details on SQPs and their role.

The conditions imposed on an EOW approval will only relate to producers (i.e. person who generates, or is in possession) of the resource.

If the holder of an EOW approval becomes a registered resource producer for an EOW code for the same waste, the EOW approval lapses.

### **Key Points – EOW approvals**

- A waste producer may apply for an EOW approval for trialling the use of a waste as a resource.
- An application may only be for one type of waste. Multiple waste types cannot be listed on a single approval.
- Any application for an EOW approval or amendment to an approval must be accompanied by a SQP's report.
- It is an offence for the holder of an approval not to comply with the requirements of the approval.
- The department may consider whether an EOW code should be developed for a particular waste following the conclusion of a trial under an approval.
- The department may at any time require the holder of an approval provide certain information regarding the approval.

### **4.1 Making an application**

As the conditions imposed on an EOW approval can only relate to a person who generates, or is in possession of, a waste (the producer) and not the person using the resource, any application submitted should be by the producer of the waste.

An application for an EOW approval may be made where:

- The use of the resource has been conceptually proven
- There is a potential market for the use of the resource
- The use of the resource supports the preferred waste management options in the waste and resource management hierarchy
- Use of the resource will not produce excessive waste

- Use of the resource will not likely result in serious or material environmental harm and/or environmental nuisance.

Applications must be submitted in writing, using the forms and report formats mentioned in Section 4.4 of this guideline.

#### **4.1.1 Information to be provided**

An application for an EOW approval must include relevant information that will enable the department to effectively assess the application. This information must be reviewed by an SQP who must prepare a written report to be provided with the application.

The information below only provides general guidance and further, more specific information may be required depending on the proposed resource and use. Applicants are encouraged to participate in a pre-lodgement meeting with the department to identify any specific information that may be required.

Information to be provided should conceptually show that the resource can be used and outline a plan for a trial to demonstrate proof of that concept. This information should address, as a minimum:

- a) The aim of the trial – what does the trial propose to achieve?
- b) Details the origin of the resource, including, for example, its place of production and the type of activity resulting in its production.
- c) The properties and characteristics of the proposed resource, including, for example, its physical, chemical and/or biological state and its components and their concentrations. An analysis of the resource and interpretation of any analysis should be provided with this information, identifying any characteristics which have the potential to cause environmental harm. Samples analysed should be representative of the resource to be used and be undertaken by a NATA (National Association of Testing Authorities) accredited facility. Details of any of its environmentally significant characteristics, such as, for example, whether it is explosive, flammable, oxidising, poisonous, infectious, corrosive or toxic (see Schedule A, List 2 of the National Environmental Protection (Movement of Controlled Waste Between States and Territories) Measure as varied December 2004) should also be included.
- d) The proposed use of the resource and potential market for its use.
- e) The proposed resource's alternative uses with respect to the waste and resource management hierarchy. The resource should be used in accordance with the waste and resource management hierarchy detailed in s. 9 of the WRR Act. For example, opportunities for reuse where waste resources are used without further manufacturing must be considered before opportunities where waste resources are recycled to make the same or different products. Further to this, opportunities for reuse and recycling must be considered before the recovery of waste resources, including the recovery of energy.
- f) An estimate of the total quantity of the resource to be used for the trial and the rate of use.
- g) How the proposed use supports any waste minimisation scheme or waste management plan.
- h) Any relevant standards, guidelines, certifications and/or industry codes.
- i) The potential for material or serious environmental harm or environmental nuisance arising from the proposed use under the trial. A suggested timeframe for the trial – including a step-by-step plan of what is to occur, where it is to occur, the time it will take to complete and identifying potential setbacks in the trial that may cause it to be delayed or cease prior to completion.

- j) Outline the parameters for success or failure of the trial: for example, have you set quality characteristic limits for the resource, and have these been achieved? Can the resource be practically applied for the trial use without the potential for causing serious or material environmental harm or environmental nuisance? Are there any unforeseen disadvantages discovered during the trial for use of the resource, e.g. costs, management requirements etc.?
- k) Contingency and emergency plans for the trial – at what point will the trial be halted if it is not achieving results? How will you prevent the release of contaminants to the environment should the resource not perform as expected?

Following conclusion of the trial, an assessment of the findings should be conducted. This information may be used by the department before deciding whether or not to make of an EOW code. A documented final assessment of the trial should include:

- a) a determination of whether the trial achieved its goals;
- b) details of any environmental harm caused by the trial;
- c) an assessment of the efficiency of the use of the resource (does the process trialled create waste? If it does, what type of waste is created? How much in comparison to the resource consumed?);
- d) an examination of the applicability of the trialled process to sites beyond the trial site (e.g. sites with different environmental considerations);
- e) a conclusion on whether an EOW code should be established based on the results of the trial; and
- f) suggested limitations for any proposed code based on the trial.

## **4.2 Deciding an application**

### **4.2.1 Timeframes**

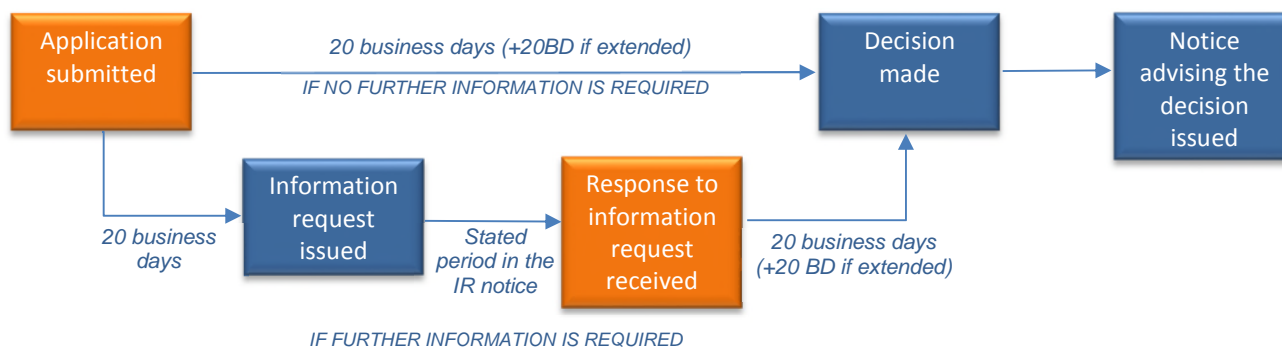
The timeframe for assessing an application for an EOW approval will begin once the completed forms and fees are received. Where necessary, the department may request additional information. Pre-lodgement meetings are encouraged to minimise the need for these requests.

The department has 20 business days after receiving the application or, if additional information is requested, after receiving the additional information, to consider and decide an application. Under circumstances where the assessment process is complex, the assessment period may be extended in one occasion by an additional 20 business days.

In circumstances where an additional information is requested, the information must be provided within the period stated (the stated period) in the notice. The application is taken to be withdrawn if the information is not provided within the stated period. However the stated period may be extended, by agreement between the department and the applicant, before the end of the period.

If the application is not decided within this timeframe, it is taken that the application has been refused. If an application is refused, an information notice will be given to the applicant, and they will be provided with an opportunity to seek a review of the decision.

If the application is granted, the applicant will be given a notice of the grant of EOW approval information which will include details of the approval such as who is the holder, the period of the approval and any conditions that have been imposed.



**Figure 3 – Process for deciding an EOW approval**

#### 4.2.2 Matters considered when deciding an application

Considerations that will be made when the department is assessing the application are listed in s. 173L of the WRR Act. When deciding an application, a greater focus is placed on determining whether the waste is suitable to be moved onto the next phase of proof of concept under trial conditions.

In doing so, the following considerations will be made:

- a) The objects of the WRR Act;
- b) The waste and resource management hierarchy;
- c) Whether the proposed management of a particular waste or the use of a particular resource is likely to cause any serious or material environmental harm or environmental nuisance; and
- d) Whether it is reasonable and practicable for an EOW code to be made for the particular waste or resource that is the subject of the application.

#### 4.2.3 Conditions of approvals

An application will only be approved where it has been conceptually demonstrated that the resource may be used with a low risk of environmental harm occurring. The department may impose conditions on an approval holder in order to ensure that the trial will demonstrate a proof of concept.

These conditions may relate, but are not limited, to the following:

- a) The resource including:
  - (i) its properties and characteristics;
  - (ii) its compliance with relevant standards, guidelines, or regulations (including any Australian Standards, ISO Standards, or other industry accepted standards);
  - (iii) its permissible uses; and
  - (iv) quality monitoring, control and assurance measures.
- b) The supply of the resource including supply documentation, such as safety data sheets, and instructions for use.
- c) Record keeping and reporting.
- d) Provision of information on the results of the trial and any conclusions drawn about the waste's suitability to be approved as a resource under an EOW code (also refer to s.4.1.1 of this guideline)

- e) Transitional provisions where the trial has been successful and the development of a code is deemed appropriate.

Conditions that have been put on an approval will apply only to the holder of the approval. Non-compliance with approval conditions is an offence and may result in fines, prosecution, or the approval being suspended or cancelled.

### **4.3 Amending or transferring an approval**

The holder of an EOW approval may apply to amend or transfer the approval at any time.

An amendment application must state the amendment sought and the reasons for it and include an SQP written report containing information required in Section 3.3. An application may be made to change any aspect of an approval. Sufficient information should be provided to demonstrate that the use of the resource still supports the waste and resource management hierarchy and to enable the department to reassess any new or changed risks associated with the proposed amendment.

A transfer application must contain the signed consent of the proposed transferee, details of the transferee, the reasons for transfer and a written declaration by the transferee that they are able to comply with conditions of the approval.

See Section 4.4 of this guideline for the relevant forms to be submitted. The department may request further information, if necessary, and must decide the application within 10 business days of either receiving the application or receiving any additional information.

The department may also amend an EOW approval on its own initiative by issuing the approval holder a notice, and providing them with an opportunity to make a submission about why the proposed action should not be taken.

### **4.4 Forms**

All applications related to an EOW approval must include the Part A and Part B forms below. In addition, applications for a new EOW approval or an amendment to an existing EOW approval will require a report by a suitably qualified person to support the application:

- [Part A—General details for all applications—ESR/2015/1663 \(formerly EM1124\)](#)
- [Part B – End of waste approval – ESR/2016/3279](#)
- [Suitably qualified person written report – ESR/2016/3290](#)

All costs associated with gathering supporting information needed to make an application, including analytical costs (for example, those to determine the resource's physical and chemical properties, concentrations and its environmentally significant characteristics) are to be met by the applicant. Applicants are encouraged to participate in a pre-lodgement meeting with the department prior to making an application. This process assists in identifying whether an application for an EOW approval should be submitted, whether any issues relevant to a specific project exist, and to seek guidance on regulatory expectations. These meetings are free of charge and may assist in reducing assessment times.

To request a pre-lodgement meeting, applicants should complete and return the form [Application for a pre-design/pre-lodgement meeting—ESR/2015/1664 \(formerly EM1125\)](#).

#### **4.5 Cancellation or suspension of an approval**

Once an EOW approval is granted, the approval may be cancelled or suspended if:

- a) there is no longer a use, or likely to be a future use, for a particular resource under the approval; or
- b) the management of a particular waste or the use of the particular resource under the approval has caused, or is likely to cause, serious or material environmental harm (note that an approval or code is not an instrument that can lawfully permit environmental harm under s.493A of the *Environmental Protection Act 1994*); or
- c) the use of the particular waste or particular approval is unlawful; or
- d) the approval was granted because of materially false or misleading representation or declaration; or
- e) the approval was granted on the basis of certain matters or information that have changed and the change is likely to result in material environmental harm, serious environmental harm or environmental nuisance; or
- f) a condition imposed on the approval has not been complied with.

The department may also cancel an EOW approval if:

- a) an EOW code for the particular resource to which the approval relates comes into effect; and
- b) the department believes the holder of the approval may operate under an EOW code.

If the department proposes to cancel or suspend an EOW approval, the approval holder will be given notice and an opportunity provided to show cause regarding why the action should not be taken.

#### **4.6 Surrendering an EOW approval**

The holder of an EOW approval may surrender the approval by giving the department a written notice of surrender. A holder does not need to surrender where they become a registered resource producer for a code that has been developed for that same waste or resource. In this instance, the approval automatically lapses when the producer becomes a registered resource producer for a code.



## **5 Offences**

It is an offence under the WRR Act for a registered resource producer to fail to comply with the requirements of an EOW code (s.158); and for the holder of an EOW approval (or a person acting under an EOW approval) to fail to comply with the conditions of an EOW Approval (s.173P). A failure to comply with a condition of an approval, carries a maximum penalty of 1665 penalty units for an individual and 8325 penalty units for a corporation.

If the offence is committed by a corporation, an executive officer of the corporation may be taken to have also committed the offence under s 268 of the WRR Act.

A person must also not supply a resource under and EOW code unless they are a registered resource producer. Any material that is supplied by an unregistered person, regardless of whether the requirements of a code are being met, is considered a waste.

## **6 Review and appeal rights**

If you have been affected by a decision in relation to an EOW code or an EOW approval, you may have review rights. Sections 174-179 of the WRR Act detail the internal review process. An internal review must be requested prior to pursuing a review from other external parties. If you are eligible to request an internal review and you would like to have the decision reviewed, please complete and return the form [Application for an internal review—ESR/2015/1633 \(formerly EM1339\)](#) within 14 days after the information notice for the decision is given.

## **7 Further information**

Further information and advice on waste management and reuse can be obtained by:

- a) visiting the department's website at [www.des.qld.gov.au](http://www.des.qld.gov.au)
- b) contacting or emailing the department's Permit and Licence Management unit on 13 QGOV (13 74 68) or at [palm@des.qld.gov.au](mailto:palm@des.qld.gov.au)
- c) reading the legislation. Electronic copies of Queensland legislation may be accessed from the Office of the Queensland Parliamentary Counsel website link [www.legislation.qld.gov.au/OQPChome.htm](http://www.legislation.qld.gov.au/OQPChome.htm).

The latest version of this publication can be found at [www.des.qld.gov.au](http://www.des.qld.gov.au) using the publication number ESR/2016/3322 as a search term.

### **Disclaimer**

While this document has been prepared with care it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Department of Environment and Science should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

### **Approved**

07 November 2016

### **Enquiries:**

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