

**Submission
No 395**

INQUIRY INTO 'ENERGY FROM WASTE' TECHNOLOGY

Organisation: Australian Organics Recycling Association

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Australian Organics Recycling Association NSW Division (AORA) Submission

Inquiry into Energy from Waste Technology

Legislative Council Inquiry – Portfolio Committee No 6 – Planning and Environment

Summary Position Paper – 13 October 2017

1. Summary

This Paper sets out a summary of:

- 1.1 what the Australian Organics Recycling Association NSW Division (AORA) is and who it represents;
- 1.2 the Terms of Reference to which this submission relates;
- 1.3 the key issues for AORA that arise from the Terms of Reference;
- 1.4 AORA's recommendations to address the key issues.

2. About this Submission

The issues and recommendations outlined in this submission represent the majority view of AORA processor members although there may not be unanimous support for every statement.

3. About AORA

AORA represents members of the organics recycling industry. The recycling of organic material, primarily by composting, is essential to reducing our carbon footprint and to reducing the amount of waste going to landfill.

AORA works on behalf of its members to raise awareness of the benefits of recycling organic resources. It aims to act as an advocate for the wider organics resource recovery and beneficial reuse industries and to represent their views in a constructive dialogue with policy makers. The Association envisages an industry in which best practice is shared, standards are maintained and surpassed, and it aims to make a positive contribution to safeguarding the environment.

The Association consists of a national body represented by a Board. State divisions operate in defined geographical areas (i.e. states or territories of the Commonwealth of Australia). This Paper is submitted on behalf of the NSW Division of AORA.

4. Relevant Terms of Reference

This Paper addresses the following Terms of Reference:

- a. the current provision of waste disposal and recycling, the impact of waste levies and the capacity (considering issues of location, scale, technology and environmental health) to address the ongoing disposal needs for commercial, industrial, household and hazardous waste;
- j. the sustainability and impacts of the current waste and landfill regime on human and environmental health, including drinking water, soil contamination, fire hazards and emissions; and
- k. any other related matter.

As stated above, organics recycling is fundamental to addressing the ongoing disposal needs for organic waste such as green and food waste, both household and commercial. Recycling is a sustainable way to divert waste from landfill and an important way of reducing potential environmental impacts and emissions from landfill. The way in which the organics recycling industry is supported and regulated is critical to achieving these outcomes.

5. Key issues for AORA

The key issues for AORA are:

- 5.1 **The need to streamline regulation of the organics recycling industry** – Organics recycling has a significantly lower impact than many other parts of the waste industry and other heavy industries regulated by the EPA. The current approach of the EPA, the culture of the EPA and the legislative regime that it has created, unfairly impacts the organic recycling industry. While AORA supports the need for strong action against the few rogue operators and illegal dumpers across the waste industry, its members are being unfairly targeted in compliance action and with regulatory barriers. For example, the financial assurances imposed on part of the waste industry and proposed in respect of the licensing of organics recycling operations will create a significant/unrealistic cost burden for what are low risk facilities when compared to other forms of recycling and heavy industry.
- 5.2 **The need for the EPA to work openly and collaboratively with the organics recycling industry** – In light of the growing nature of the industry and its benefits, it is important that the EPA provide support and guidance including regulatory advice rather than simply regulate the industry.
- 5.3 **The need to improve the relationship between the EPA and the organics recycling industry** – AORA members are concerned that the EPA is not open to working with AORA to understand the commercial and practical realities of the industry. The EPA does not currently work collaboratively with AORA and its members to ensure that general regulation of the "*waste and recycling industry*" does not create barriers to efficient operation of the low impact organics recycling industry.

- 5.4 **The need to improve the Waste Orders under the *Protection of the Environment Operations Act 1997* and the relevant Regulation** – Some of the requirements of the Orders are impractical and inefficient, with no significant environmental gain. For example, the prohibition of manufactured timbers at any level in compost or mulch.
- 5.5 **The need to remove the Waste Exemptions under the *Protection of the Environment Operations Act 1997* and the relevant Regulation** – Many of the requirements of the Exemptions are impractical, inefficient, impossible to police and provide no significant environmental gain. The prohibition of manufactured timbers at any level in compost or mulch is cited again as an example.
- 5.6 **The use of the precautionary principle to frustrate the approvals process** – There is concern that the precautionary principle is being used to illegitimately frustrate and delay the approvals process.

6. Evidence supporting AORA's submission

If invited, AORA members would be pleased to provide additional clarification and specific examples of concerns related to this submission through a confidential “in-camera” meeting with the Committee.

7. Recommendations

AORA's recommendations are as follows.

- 7.1 **Cultural Change** – Government is urged to implement the type of reform and cultural change that was so effective in shifting the priorities of WorkCover NSW to SafeWork NSW to achieve regulation and compliance together with support and education as equal priorities.
- 7.1.1 This may require restructuring the EPA to achieve a better balance between regulating illegal activities and working with, and supporting, the organics recycling industry which is operating in good faith for sustainable environmental outcomes.
- 7.1.2 The eight recommendations of the October 2013 EPA Stakeholder Survey and those of the subsequent survey undertaken in December 2016 (Released in 2017) should be implemented in full. See: <http://www.epa.nsw.gov.au/search?q=stakeholder+survey+2013> where both may be found.
- 7.1.3 The EPA is widely seen as combative rather than co-operative.
- 7.1.4 Legitimate composters are the solution, not the problem.

7.2 **Immediate regulatory reform** - Reform regulation of the organic recycling industry in the following ways:

7.2.1 **Financial Assurances required for Environment Protection Licence holders** – Financial assurance is being imposed on operators without any apparent EPA policy to determine cost or proper consultation with industry. Many licenced compost facilities currently carry financial assurances in their contracts with councils. This EPA requirement is a duplication of costs and roles. AORA recommends the following:

7.2.1.1 use the EPA's existing framework for Risk Based Licensing to reform financial assurances supported by proper policy and industry consultation, bringing clarity and transparency to:

7.2.1.1.1 when a financial assurance should be required under a licence. Financial assurances should only apply to recycling operations classified as being in the highest risk category;

7.2.1.1.2 what amount should be required for the assurance, taking into account the cost to the business of all forms of financial assurances/guarantees that may be in place;

7.2.1.1.3 how a financial assurance obligation may be met (for example by an asset test, bond or other measure); and

7.2.1.2 ensure that the requirement for a financial assurance (or not) is fair across all types of industry – for example many other forms of recycling and heavy industry licences, with much higher risk than organics recycling facilities, have no financial assurance.

7.2.2 **Waste Exemptions and Orders under the *Protection of the Environment Operations Act 1997* and the relevant Regulation** – Review the current exemptions and orders governing organics recycling to immediately reduce the compliance burden for low risk operations and create a fairer more transparent system.

7.2.2.1 Many composted products are sold through supermarkets and hardware chains without the necessity to pass on a copy of the relevant exemption, to advise the retail customer they have purchased “waste” and are obliged to comply with certain land application controls.

7.2.2.2 The regulations should recognise an “end of waste” point that is achieved as a result of resource recovery and refining that produces a quality-assured product. Currently negligible risk products such as mulches and composts are regulated as “waste” until end of life, whenever that may be.

7.2.2.3 In the UK, PAS 100 organic products compliant with the Quality Protocol are no longer regarded as waste. See: <http://www.wrap.org.uk/sites/fo0compost%20DIGITAL%20final%20whole.pdf/files/wrap/WRAP%20GPG%2> Refer to pages 7 & 8. A similar approach needs to be adopted in NSW.

- 7.2.3 **Requirements in relation to approvals** – Streamline the *Protection of the Environment Operations Act 1997* to reduce the circumstances in which EPA approval is unnecessarily required in obtaining planning consent for low impact organics recycling facilities. The original POEO Act (1979) provided a framework for environmental management and controls but subsequent amendments by EPA to address a broad range of compliance issues across a wide range of industries involved in waste processing has resulted in the Act becoming dysfunctional. This is the result of trying to have a one size fits all approach to an industry that is diversified with many nuances applicable to different sectors of waste management and resource recovery.
- 7.2.4 **Require EPA officers to be trained and qualified to inspect the industries that they regulate** – This is important to enable EPA officers to make better and informed decisions about regulation and ensure they are well placed to inspect, analyse and assess industry and its impacts on the environment.
- 7.2.5 **Require EPA officers across all jurisdictions in NSW to perform their duties in the same way** – Officers exercise wide ranging discretionary powers across different jurisdictions sometimes expose processors to unfair or unintentional costs and actions
- 7.2.6 **Prevent the use of multiple penalty notices** – EPA Officers are often issuing multiple penalty notices for the same offence which often adds up to much more than any fine likely to be imposed by a court. This is "double dipping" and contrary to the principles in the EPA Compliance Policy.

8. Further information and evidence

AORA would be pleased to provide further information or evidence to support its submission.

The Australian Organics Recycling Association - NSW Division

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