



WASTE CONTRACTORS
AND
RECYCLERS ASSOCIATION
OF N.S.W.

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Regulatory Burdens Review

Productivity Commission

GPO Box 1428

Canberra City ACT 2601

23rd February, 2009

Dear Sir / Madam,

The Waste Contractors and Recyclers Association of NSW ("WCRA") is a significant employer association representing the interests of Members involved in the transport, management, processing and disposal of waste and recycling materials throughout NSW. Our Members operate across all facets of the industry.

Wherever a Council contracts out its domestic waste it generally does so to one of our Members & our Members account for approximately 90% of waste & recycling collection vehicles across NSW.

WCRA has recently celebrated our 60th Birthday – first registered with the NSW IRC on 7th May 1948.

We have many, many major concerns about Government regulations of small business (and for that matter medium and large business) in the waste industry. These regulations & our comments affect all business (large and SME)

Some of these concerns include the following-

1. 152 Councils across NSW (including 40 Councils in Sydney Metro area) – each has their own skip waste policy. These policies contain all manner of differing requirements. There is no need for this and NSW should have one central skip waste policy that is developed by the NSW DECC in conjunction with representatives from Councils, RTA, WorkCover and industry.
2. Tow Truck Authority ("TTA") (extract from recent letter) "Our Members are extremely concerned that there will be any form of licensing requirement for the activity of carting scrapped vehicles on crane trucks for the purpose of metal recycling. We are of the belief that the application of the legislation to include crane trucks (without tilt trays) as tow trucks is not appropriate or as the original Legislation intended. Our Members again reiterate that the collection of scrapped motor vehicles using a crane style lifting device (where no care is taken for these goods during the lifting process) for the purpose of metal recycling does not constitute an activity within the meaning of the Tow Truck Industry Act 1998". ***This insistence by the TTA amounts to no more***

than a regulatory burden that translates into a significant and unnecessary cost to business.

3. Annual increases in the waste levy by the NSW DECC – added cost & administrative burden on all business and added small cost increase to all households. NSW DECC have experienced problems in policing this levy which is a different rate across NSW (Sydney \$46.70 per tonne, Extended Regulated Area \$40 per tonne, parts of NSW \$10 per tonne, rest of NSW no levy) – and these issues have often lead to an uneven playing field for business. This levy is due to increase each year for the next 8 years, is applied at all landfills and fails to distinguish between a well run landfill and a poorly operated landfill. In the interest of providing a fair and sustainable range of disposal solutions, NSW Government needs to address these issues.
4. This recent increase in the levy by the NSW Government happened without any suitable consultation and amounts to no more than a tax that is substantially directed to consolidated revenue.
5. The application of this waste levy on the disposal of asbestos waste at landfill needs to be closely examined. If the intention of a waste levy is to encourage recycling and divert waste away from landfill – and there is a universal agreement that asbestos waste belongs at landfill, then Government policy should be structured to keep the disposal cost of asbestos to a minimum.
6. Similarly NSW Government should not be charging the waste levy on residues from recycling facilities (such as scrap metal, paper, cardboard etc). As waste levies increase in magnitude, the amount of the waste levy is generally greater than the cost of landfill. The application of a waste levy therefore penalises bona fide recycling facilities and is detrimental to the recycling of marginal products (for example modern fridges now contain more plastics, foams than metal).
7. The introduction in 2007 of a liquid waste levy – consultation with the waste industry was limited to “after the event consultation”. This levy is in many respects a duplication of what Sydney Water is already charging through Trade Waste licences. This levy is supposedly raising \$4 million per annum (major portion to be spent on administering & policing this levy) and places significant burden on Commercial Liquid Waste Plant Operators. Also worth noting that the NSW DECC has failed to apply this levy to waste generators who have their own in-house treatment plant and this rewards large business at the expense of small business that don't have the volumes to justify their own in-house treatment plants.
8. The change in philosophy by the NSW DECC to capture a much wider spread of materials not previously treated as waste but as a resource for reuse has caused significant upheaval in the industry. The definition of "waste" and the introduction of an exemption system under the POEO Act in NSW is causing significant burden unnecessarily on the industry. For instance the monitoring, testing and recording costs for recycling of C&D waste is a cost that eats into the small margin sufficiently to cause the loss of competitiveness of these otherwise valuable, renewable resources. The introduction of regulations (Part 6 Section 51A, POEO Waste Regulation 2008) in NSW is predicated on all waste being unsuitable for reuse when applied to land until proven otherwise through the exemption system with the associated on-going costs. This entraps all of the reusable materials into a costly monitoring system where only a very small percentage of these materials could present any threat to human health or the environment. This has resulted in additional costs to legitimate recycling which has a negative impact on the future viability of the resource recovery industry.
9. Time restrictions by Councils on the collection of trade & domestic waste and recycling – restrictions are generally through Local Approvals Policies and are

non-compliant with WorkCover Code of Practice for Domestic Waste. The powers of Local Councils to mandate (late start) collection times without proper risk assessments is a major problem for the transport of waste & recycling. The safest times to collect waste are early (no traffic, no school children, less pedestrians, fewer parked cars etc) – and State & Federal Governments need to legislate and remove the power of Local Government to mandate collection times (most often as a push by an Elected Councillor who has received minor noise complaints from Residents). The Waste & Recycling industry is of the very firm view – ***“that the safe interests of Waste Industry Workers and the Members of the Public should trump a minor noise complaint over early hour collection times”***. Any failure by Government to assist industry in addressing this concern is likely to lead to more injuries, more accidents and more fatalities.

10. Roads & Traffic Authority – Load Restraint Guide – very difficult for waste collection trucks to comply (Hook lift, DINO & Marrel trucks) – issued by RTA & Inspectors randomly attempt to enforce aspects of this Guide without any sort of logic. What industry really needs is for the RTA to fund the development of a Code of Practice for the waste industry to assist with compliance matters. Very limited assistance has been provided by the RTA – and every now and then another Member is issued with an infringement (limited details about the offence, often times we are unsure of what the offence even was). Our advice to Members is to go to Court and fight the matter (more than often the result is that the RTA with-draw their case due to a lack of any substantial evidence).
11. In October 2008 the then NSW Minister for Local Government made significant amendments to tender regulations that obligates an incoming contractor to takeover the employees of the outgoing contractor. These amendments (***regulatory burdens***) are likely to cause negative impacts (additional costs, less recycling, poor customer service). ***These amendments are of major concern to industry and local government and were made with no consultation with the waste and recycling industry or with local government.***
12. Failure of Government Departments (Councils being one of the main offenders) to regularly work with each other. Business would like to issue a formal request to Government – “in the first instance please just respect and comply with the rules & regulations of other Government Departments”.
13. Business is also often disappointed at the failure by Governments (be they Ministers or Government Departments to respond to our communications). Whilst we are all busy - a little bit of courtesy goes a long way.

I hope that this submission assists and we would be prepared to elaborate on these concerns at any hearing that the Commission may hold in to these matters.

Yours Faithfully,

Tony Khoury

Executive Director