



# Stakeholder Consultation Report Summary

NWMS Framework Consultation 5<sup>th</sup> June 2009



**environment  
& tourism**

Department:  
Environment Affairs and Tourism  
REPUBLIC OF SOUTH AFRICA

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# 1 Introduction

The Waste Act, 2008 (“the Waste Act”) has provided for the development of a National Waste Management Strategy (NWMS) to achieve its objectives. The development of the NWMS is being structured around four phases and prepared in a consultative manner as envisaged in the Waste Act, part 1 section 6(6), whereby the Minister is obliged to follow a consultative process, which provides for public participation as well as consultation with relevant national Ministers and provinces.

The first phase has involved the development of a NWMS Framework discussion document, the purpose of which was to capture the context for the development of the NWMS, including a review of the 1999 NWMS. It also contains an annotated chapter outline for the NWMS.

## 1.1 Consultation

This discussion document was first put out for comment to the Project Steering Committee established to oversee the development of the NWMS and has representatives from government, the private sector and NGOs. A week later, the same discussion document was published for public comment via a dedicated website ([www.deat.gov.za/waste/](http://www.deat.gov.za/waste/)).

Notification of the opportunity to register as an interested and affected stakeholder and to comment on the draft framework was publicized in a number of ways, including national media, a DEAT database and to members of SANGONET and IWMSA’s mailing lists.

A key principle of the stakeholder engagement process is to reduce the consultation burden on stakeholders by making documents available electronically and enabling comments in the same manner.

The framework was also discussed by MINTEC Working Group 2, which represents a provincial perspective of the document under discussion. Furthermore, targeted interviews with selected stakeholder groupings were also scheduled to ensure as thorough an engagement process as possible.

This multi-pronged approach has elicited a broad range of responses to the draft framework, some of which have been very specific to particular sections and issues within the document and others are more general in nature and relate to the intent of the Act more broadly.

The purpose of this summary report is to provide a summary of the emerging themes and issues that will be considered when finalizing the framework and hence concluding the first phase of the process. The document also attempts to respond to the issues presented.

## 1.2 Emerging themes and issues

A plethora of issues have been raised in respect to the draft framework and the presentation of these issues has been aligned to the chapter outline contained in Annexure A of the NWMS framework. In addition to these points, a set of general issues have also been captured and these deal with how the Act is implemented and the synchronization of the different planning instruments, issues contained within the Act that require interpretation and clarification, and how the NWMS is being developed.

Key recommendations include interpretation guidelines for the Act, a detailed implementation plan for the Act (similar to the Air Quality Framework) and the immediate identification of key priority wastes. Areas of contention are the extent to which the experience from the 1999 NWMS is factored into the design of the new strategy, whether the NWMS is limited to the mandatory elements of the Act, and the process for developing the NWMS especially in relation to the six-month allowance for any potential delays.

With respect to chapter specific issues, the main points of contention included the value of the national waste balance, the contribution and sustainability of recycling to support waste minimization goals, the role of targets, the implications of international obligations, and the capacity of provincial and local government to implement the requirements of the NWMS.

## **2 Stakeholder Consultation Process & Statistics**

The Act requires that the NWMS be developed in a consultative manner, and the approach that has been adopted is accordingly based on a participatory methodology, utilizing a Project Steering Committee and targeted stakeholder meetings, including one-on-one meetings, presentations, focus groups and workshops. However, the Department is also mindful of the extent of stakeholder consultations with regard to the promulgation of the Bill and the numerous consultative exercises presently ongoing as part of its implementation of the Act, such as the two other projects being ran by DEAT simultaneously to the NWMS; the Waste Service Provision (WSP) and the Free Basic Refuse Removal projects (FBRR).

It was agreed that a key consideration in all stakeholder consultations should be the minimization of stakeholder fatigue, and therefore where possible duplication of processes should be avoided. These factors informed two important decisions. The first was to hold a joint Project Steering Committee for the NWMS and the FBRR, and the second was to embark on an online consultation process.

### **2.1 Methodology**

#### **2.1.1 Stakeholder Identification**

The starting point for identifying stakeholders for the NWMS was the stakeholder engagements held for the promulgation of the Bill. Therefore the existing database of stakeholders was used as the basis for general communications in regards to the NWMS. Additional stakeholders were identified as being relevant to the NWMS project, and were included in the database.

Furthermore it was suggested that beyond the consultants' stakeholder engagements DEAT also consider submission to the MINTEC working group 2. This mechanism has been integrated into the process and deadlines in the project implementation plan aligned in order to ensure that documents are available timeously in order to be considered at the meetings of MINTEC Working Group 2.

### 2.1.2 Establishment of a Project Steering Committee

It was agreed that the PSC process for both the NWMS and the FBRR projects would be integrated through a joint PSC, thus reducing the risk of stakeholder fatigue by minimizing the number of engagements.

The first PSC meeting was held on the 17<sup>th</sup> April 2009. Feedback from this is detailed in this document and a list of both organizations invited and those that attended are contained in annexure A. The general feedback was that the process of a joint PSC was welcomed by the members, especially given the policy linkages between the projects.

### 2.1.3 Targeted Stakeholder Consultation

In terms of the targeted engagements, the following organizational types and organisations were targeted consulted.

Organizational Type	Organization Name
Government	SALGA
Private Sector	BUSA
	IWMSA
	Dr Laurraine Lotter of BUSA
Labour	COSATU
Non-government Organizations	SANGOCO
	GroundWork

Engagements with the above organizations were held between April and May 2009, on an individual basis with the exception of the interaction with GroundWork, which was held as a teleconference. The consultation with COSATU is at the time of writing still being scheduled, although COSATU is represented on the Project Steering Committee.

### 2.1.4 Online Consultation

During initial discussions with the client it was decided that, in addition to the traditional face to face engagements with the key stakeholder groupings and regular engagements with the project steering committee, an online consultation process would be developed specifically for the purpose of this process.

The website was made available at [www.deat.gov.za/waste/](http://www.deat.gov.za/waste/) at 12h30 on the 24<sup>th</sup> April 2009. Since the launch, a certain amount of technical development and maintenance has been done, including the provision of a reporting framework.

### 2.1.5 Analysis of user database

The table below provides the breakdown of numbers of users per organisational type that have registered with the web-site.

Organisational Type	Number of Users
Private Sector	71
Business and/or Industry Association	24

Organisational Type	Number of Users
Individual/Personal Interest/Other	18
National Government Department	15
Municipality	14
Non-Governmental Organisation	11
Academic Institution	9
State-owned Enterprise	6
Provincial Government Department	4
Donors and International Org.	1
Media	1
<b>Total</b>	<b>174</b>

Several observations can be made from these statistics:

- More than 50% of the registered users are from business (private sector and Business or Industry Associations).
- Currently there are no users representing labour or unions registered.
- Only three of the Provincial Government Departments are represented: Limpopo, Gauteng, and the Western Cape.
- There is limited representation of potentially 284 local authorities.

### 2.1.6 Advertising & Awareness

Three main forms of communication have been used to raise awareness and achieve stakeholder engagement with this phase of the new NWMS formation. The first was a series of emails, alerting stakeholders to the start of the process, and the online consultation facility. These emails were sent to the stakeholder database, comprising approximately 290 individuals.

The second was an advert which was published in several newspapers, announcing the launch of the process, advertising the site address and encouraging participation.

The third form was a notification sent by the Institute of Waste Management South Africa and Sangonet to all their respective members.

Seven written submissions in addition to website submissions were received.

## 3 Key Themes and Issues

The following section consolidates the body of opinion on the draft framework and aligns the comments according to the NWMS chapter outline provided in Annexure A of the framework, which can be accessed at [www.deat.gov.za/waste/](http://www.deat.gov.za/waste/). The first part is an assortment of issues, some of which pertain to the strategy itself and others to the process, and these have been grouped together as general issues. The second part comprises comments specific to various parts of the framework and aligned to the proposed outline for the strategy. DEAT's responses to these issues have been included in italics and shaded.

## 3.1 General issues

### 3.1.1 Implementation of the Act and alignment

Stakeholders have asked for an implementation plan for the Waste Act, similar to that prepared for the Air Quality Act. There is also concern that different implementation processes are not in sync and that this needs to be addressed so that the NWMS can fulfil its role as an overarching framework.

*An implementation plan for the Waste Act has been produced, which has now been made available on the NWMS website. It is anticipated that the availability of this document will alleviate stakeholder concerns.*

### 3.1.2 Definitions of waste

An area of concern for a number of stakeholders is the interpretation of the definition of waste in the Act, and the consequent uncertainty regarding particular waste types which may be included or excluded in terms of the definition. A few grey areas have been listed, e.g. mining waste (the distinction between tailings and discard), asbestos waste, the dividing line between solid waste and its conversion in some cases to effluent. A request for interpretation guidelines that provide clarity on these grey areas was made.

*DEAT is aware of the current confusion over the definition of waste and is currently working on gazetting the interpretation of the definition of waste to address this.*

### 3.1.3 Priority Waste

The NGO sector advocates for the immediate consideration of key priority wastes especially in relation to contaminated land and waste such as asbestos, mining waste, Sasol/petrochemical waste etc.

*It is anticipated that this will be considered in the strategy.*

### 3.1.4 Categories/classification of waste

BUSA noted that there is no provision for the gazetting of categories of waste as is the case for classes of waste and this should be addressed by the NWMS.

*This has been noted by the NWMS drafting team. Waste is categorized as either general or hazardous, it is then further categorised depending on its source as domestic, commercial or industrial. Within these categorisations of waste are classes of waste, such as paper, metals, glass etc. for general waste, and the nine classes of hazardous waste, as set out in the DWAF Minimum Requirements document of 1988 (Second Edition). Furthermore, in part 2 of the Act, section 7(1)(a) it states that 'the Minister must, by notice in the Gazette, set national norms and standards, and 7(4)(b), the norms and standards contemplated in subsection (1) may differentiate between different classes or categories of waste. The identification and categorisation of waste is also contemplated in the Waste Act Implementation Plan, for 2011, as per 69(1)(a) of the Act; the Minister may make regulations regarding the identification and categorisation of waste.*

### **3.1.5 Policy and strategy integration**

Various stakeholders mentioned a range of policies and strategies that ought to be acknowledged and factored into the framework. These included EPWP Phase 2, Provincial and Growth and Development Strategies, and the National Framework for Sustainable Development, to mention a few. It is also recommended that areas of potential conflict with other policies and legislation are identified and addressed, for example alignment between the Competition Act and the Consumer Protection Act.

*The drafting team have taken note of this, and are currently identifying such policies and potential conflicts.*

### **3.1.6 Mandatory versus discretionary elements**

There was a strong recommendation from the BUSA representatives that the NWMS focus on the mandatory elements of the Act only.

*The NWMS will need to provide a framework within which to consider all potential actions arising from the Act that are deemed necessary for the realisation of a waste management hierarchy, including so called discretionary elements.*

### **3.1.7 Life-span of the framework**

The framework is deemed to have a five year lifespan, yet the achievement of particular targets are likely exceed this time-frame. Thus there should be some provision for the extension of those targets as anticipated in the strategy. There was a concern about how a five year plan would relate to the three-year local government plans.

*According to the Act, the NWMS must be reviewed by the Minister at least every five years, and therefore the strategy should focus specifically on the next five year period. The NWMS will need to locate its proposals within longer term goals, and may need to set targets that extend beyond the initial five years. It is also intended that municipalities produce their own strategies, thus empowering them to align various strategies and plans.*

### **3.1.8 Review of the 1999 NWMS**

There were dissenting views on the extent to which the implementation of the 1999 NWMS be factored into the design of the new NWMS. On the one hand, there was a call for an in-depth review of the 1999 NWMS and its success and failures. A contrary point of view was that the promulgation of the Waste Act enabled a fresh start and should not be mired by the 1999 NWMS, which had no legal backing.

*A review of the implementation of the 1999 NWMS has been undertaken as part of the process of preparing for the new NWMS. Whilst it is not the intention of the new NWMS to dismiss the achievements of the 1999 NWMS, and these achievements should be built on in the new strategy, the 1999 NWMS will not be the departure point for the setting of the new strategies.*

### **3.1.9 Process**

There was a concern that the process for developing the NWMS was too short, and there was insufficient time for stakeholder engagement. It was explained that whilst the Act provides for a two year development process, the consulting team has made a six month allowance for any potential delays. In terms of provincial application of the legislation, there is lack of clarity as to how the NWMS will factor in provincial processes.

*The timeframes for the development of the NWMS will not change unless delays occur. It is foreseen that clarity in regard to the provincial processes will be provided in the actual strategy.*

## **3.2 Framework specific comments**

### **Part 2 – status quo and strategic challenges**

#### **2.1 Socio-economic context**

This section should include likely changes in the socio-economic context and the implications for waste management activities as a result.

*This has been noted by the drafting team and will be reflected in the actual strategy.*

#### **2.3 National Waste Balance**

BUSA is not in support of the National Waste Balance, in part because it is not required by the Act but also because it has been unsuccessfully attempted in the past. Furthermore, the gaps in data and lack of implementation to date of current waste information systems will put into question the statistical integrity of the waste balance, and therefore jeopardise the ability to set targets based on this reputedly flawed information.

*It is important to develop a national picture of waste flows from different sectors in order to inform policy development. The initial National Waste balance will be based on existing sources of information, and is intended to be used for indicative planning purposes only.*

### **Part 3 –Waste Strategies**

#### **3.1 Waste Information System (WIS)**

It was suggested that the WIS make provision to include the results of the recently completed air emissions inventory and that DEAT should be capacitated to complete and maintain the WIS internally.

*This has been noted and the researcher responsible for the WIS element will be asked to consider this issue.*

#### **3.2 Integrated Waste Management Planning**

The Packaging Council of South Africa expressed concern that certain Industry Waste Management Plans will be developed before the NWMS, which as an overarching strategy, should give guidance and direction on these, especially in relation to producer responsibility.

*There are a number of policy processes happening in parallel to the NWMS, and effort is being made to use the NWMS process to align and synchronise these. It is also suggested that the drafting and researching team coordinate with PACSA in order to minimise potential conflicts between these processes.*

### **3.4 Recycling**

There was a suggestion that recycling efforts be linked to Provincial Growth and Development Strategies (PGDS). Regulations dealing with recycling, which include trading scrap metals, were requested for the strategy.

*This has been noted.*

There is a concern that any interventions to the current structure of the recycling industry may have a negative impact on informal recyclers, resulting either in wage losses or unemployment through the introduction of intermediaries.

*The team is aware of this, and is considering any potential related issues carefully. It is not the intention of the strategy to eradicate informal recycling.*

There was a degree of scepticism about the extent to which recycling could address particular waste management challenges as international experience has shown that it is a particularly problematic sector and seldom profitable. The cost of transportation is a particular threat to the sustainability of recycling activities as this often exceeds the revenue generated from the recyclables.

*The issues around recycling sustainability are understood, and it is hoped that the NWMS can put forward a mix of measures which address this.*

Targets in relation to recycling are supported by the NGO sector but there are strong reservations about targets by private sector representatives.

*This is noted, and an aspect of the research will specifically look into the use and applicability of targets for the NWMS.*

### **3.5 Treatment, Processing and Disposal**

A concern has been raised by the NGO sector that the apartheid practice of locating landfill sites in impoverished areas will persist, perpetuating a form of environmental racism. Future development of landfill sites should not be at the expense of disadvantaged communities.

*This is noted and will be considered in the strategy.*

There are a number of ways of disposing of waste that does not entail landfilling, which need to be considered. These include incineration processes using technology that mitigates atmospheric emissions, gasification systems for plastics when the recyclate price is low, and anaerobic processing for organic and sewage waste. There is, nonetheless, an overwhelming perception in the private sector that landfilling is the cheapest disposal method at the moment.

*The true cost of landfilling, including the environmental cost, is seldom understood, which creates this misconception. The strategy aims to critique a range of methods for waste management, with a focus on alternatives to landfill.*

### **3.6 Remediation**

It was pointed out that banks, as mortgage lenders, should be considered a stakeholder with respect to contaminated land.

*This is noted.*

### **3.7 Waste Services Delivery**

Municipalities need to be empowered with comprehensive information on the pros and cons of the various options available for the extension of the delivery of waste services, including the option of privatisation. There was a strong view from the local government sector that municipalities should not be dictated to with respect to waste management services but rather provided with the fiscal framework and guidelines that can help them shape their respective waste management activities.

*It is the intention of the strategy to provide a policy framework for the extension of waste services to all South Africans, including recommendations regarding the fiscal and institutional mechanisms to achieve this. Whilst the NWMS will not dictate to local government, and will be mindful of local government legislation, the norms and standards to be recommended in the NWMS will be legislated for and are therefore legally valid.*

## **Part 4 – Implementation Themes**

### **4.1 Targets**

The issue of targets proved especially contentious with very strong contrary views. The private sector is not in support of mandatory targets, opting for sector level targets that are advisory or aspirational only. However, the private sector does believe that targets at company level could be made mandatory. The NGO sector is strongly in favour of targets as a means of achieving waste reduction goals.

*The appropriate use and scope of targets is part of the research process, and the NWMS will contain recommendations in this regard.*

### **4.3 Co-operative Governance**

The recent restructuring of government and pending formation of the Ministry of Water and Environmental Affairs will need to be factored in especially in relation to the regulation of landfill sites and waste water issues.

*This has been noted. The potential synergies arising from the restructuring are anticipated to have a positive impact on waste management in South Africa.*

### **4.7 International obligations**

The impact of international obligations on municipalities needs to be factored in. There is a requirement to clearly define the international obligations that apply to hazardous waste such as the Stockholm and Basel conventions. Whilst South Africa is currently not an Annexure 1

country, this may change in 2012 and the strategy needs to anticipate the implications if the country's status changes in this regard.

*The NWMS will address the implications of these international obligations and related developments, including for provincial and local government.*

## **Part 5 – Regulation, Compliance and Enforcement**

There is a high degree of self-regulation within the private sector - in the mining sector; for example, this begins with the appointment of safety, health and environmental quality officers. This practice needs to be applied to all industries generating significant quantities of waste.

*Self regulation and producer responsibility is included in the research process and will be part of the NWMS.*

There are challenges such as the misuse of IWMSA's membership status by rogue elements, which can tarnish the reputation of legitimate members. There is a proposal that landfill sites be audited on an annual basis in order to determine whether they should retain their permits.

*The monitoring and assessment of landfill sites will be considered in the NWMS.*

It has been also recommended that the principle of integrated licensing set out in the amendment to NEMA (62) informs the NWMS. In terms of the Act's permitting requirements, consideration should be given to a national electronic permitting system.

*The amendment is noted and the principle of integrated licensing is accepted wherever practical, and will be included in the NWMS. The feasibility of a national electronic permitting system will be considered in the research process.*

Whilst there is provision for the licensing of waste management activities, the Chamber of Mines requested clarity on the interim process for managing licensing.

The right of recourse in terms of the process for dealing with a polluter needs to be addressed by the strategy.

*This will be noted in the new strategy.*

## **Part 6 – DEAT Action Plan, Cost Implications and Capacity Requirements**

Most stakeholders are very concerned about the lack of capacity to implement the strategy, particularly at local government level, and indicate that this should be addressed by DEAT. Proposed support includes long-term training programmes for local government. Capacity at local government level is exacerbated by lack of retention of skilled officials resulting in the weakening of budgeting and planning ability. The NGO sector would like to see capacity-building for communities with partnerships being built between government, the private sector and communities in order to achieve the objectives of the strategy.

Sufficient funding must be made available to support the implementation of the strategy.

*Capacity, specifically with respect to implementation of the NWMS and its requisite funding, will be a key element of the NWMS. The strategy will be designed according to current capacity, and with the aim of increasing future capacity.*

## 4 Way Forward

Phase two of the research project is now underway, with a focus on the production of research reports which set out the current status and challenges relating to waste management, and issues for consideration in the drafting of the NWMS. Further stakeholder engagement, specifically around these reports, will be held, including engagement via the project website

## 5 Annexure A

### Project Steering Committee

Invited Organisation	Organisation	Name
Department of Provincial and Local Government x2	DPLG	Vespa Mabitsi
	DPLG	R Luvhengo
	DPLG	Monthle Moatshe
	DPLG	Malaka RC
GroundWork	GroundWork	Musa Chamane
	GroundWork	Bobby Peek
Responsible Container Management Association of Southern Africa	RCMSA	Liz Anderson
Mbombela Local Municipality	Mbombela Local Municipality	Patrick Khoza
Ethekwini Metropolitan Municipality	Ethekwini Metropolitan Municipality	Raymond Rampersad
SANGOCO	SANGOCO	Jimmy Gotyana
Western Cape Province	WC-DEADP	Gottlieb Arendse
Gauteng Province	GDACE	Zingisa Smale
Mopani District Municipality	Mopani District Municipality	M.O Mathebula
Business Unity South Africa	BUSA	Laurraine Lotter
North West Province	NWDACE	Mafu Nkosi
South African Local Government Association	SALGA	Mthobeli Kolisa
Institute of Waste Management South Africa	IWMSA	Stan Jewaskiewitz
National Recycling Forum	NRF + PFSA	Delanie Bezuidenhout
Congress of South African Trade Unions	COSATU	Mpheane Lepaku
Department of Water and Environmental Affairs	DWA	Musekene N.L
Department of Health	Department of Health	Zakhele Chagi
DEAT	DEAT	Lucas Mahlangu
	DEAT	Nolwazi Cobbinah
	DEAT	Obed Baloyi
	DEAT	Rantsadi Moatshe
	DEAT	Khashiwe Masinga
	DEAT	Mashudu Nevuvha
	DEAT	Thandeka Tukula
CSIR	CSIR	Goodwill Nhamo
	CSIR	Suzan Oelofse
	CSIR	Linda Godfrey
	CSIR	Godfrey Mvuma
RMCS	RMCS	Crispian Olver
	RMCS	Sara-Jayne Willicott

Invited Organisation	Organisation	Name
	RMCS	Bunene Zola Kutsu
Buffalo City Municipality	Not represented	
Human Science Research Council		
National Treasury		

### Specific Consultations with Sectors

Organisation	Name	Date	Location
CAIA	Laurraine Lotter	6 <sup>th</sup> May 2009	Johannesburg
BUSA	Various representatives from industry sectors	15 <sup>th</sup> May 2009	Johannesburg
Recycling Action Group and National Recycling Forum	Various representatives	10 <sup>th</sup> June 2009	Midrand
IWMSA	Stan Jewaskiewitz	30 <sup>th</sup> April 2009	Benoni
Sangoco	Jimmy Gotyana	23 <sup>rd</sup> April 2009	Port Elizabeth
	Charlie Jantjies	23 <sup>rd</sup> April 2009	Port Elizabeth
SALGA	Mthobeli Kolisa	18 <sup>th</sup> May 2009	Pretoria
Groundworks	Bobby Peek	25 <sup>th</sup> May 2009	Telephonic
COSATU	Bheki Ntshalintshali	As yet unconfirmed	Johannesburg