



National Waste Management Strategy - Phase 3 Strategic Issues Paper

Summary of stakeholder comments on
Strategic Issues paper



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

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List of Acronyms

BUSA	Business Unity South Africa
COGTA	Department of Cooperative Governance and Traditional Affairs
DEA	Department of Environmental Affairs
DMR	Department of Mineral Resources
DTI	Department of Trade and Industry
DWA	Department of Water Affairs
EPR	Extended Producer Responsibility
IDP	Integrated Development Plan
IndWMP	Industry Waste Management Plan
IWMP	Integrated Waste Management Plan
MEAs	Multilateral Environmental Agreements
NEAS	National Environmental Authorisation System
NEMA	National Environmental Management Act
NT	National Treasury
NWMS	National Waste Management Strategy
PACSA	Packaging Council of South Africa
POPs	Persistent Organic Pollutants
SAICM	Strategic Approach to International Chemicals Management
SAWIS	South African Waste Information System
SMME	Small, Medium and Micro Enterprise
WCMS	Waste Classification and Management System
WMO	Waste Management Officer

Overview of the Stakeholder Response Document

The paper “Summary of key strategic issues to inform NWMS” has been revised to incorporate stakeholder feedback. This document indicates the revisions that have been made, and provides responses to stakeholder feedback.

The scope of updates to the strategic issues paper is limited to changes made to promote clarity, correct matters of fact or emphasis, correct the presentation of stakeholder positions, and incorporate additions and changes that are uncontroversial or around which there is an emerging consensus. It is not within the scope of this exercise to resolve issues that are subject to ongoing negotiations in the consultation process. Where such negotiations have reached a conclusion, this will be incorporated in the drafting process for the actual strategy.

Stakeholder comments and feedback relating to issues under negotiation, or matters that will form part of the first draft of the NWMS, are provided. The changes are recorded according to the relevant section, where appropriate, and clarifications or responses from the Department have been included.

1 Background

BUSA: Language edits and comments which were proposed have been accepted and incorporated.

BUSA: The reference to the NWMS has been amended to indicate its legally binding nature.

BUSA: Proposed language that indicates that the focus of the Waste Act is on management of waste. The Reference to the Waste Act has been amended accordingly.

2 Setting the context

groundWork: The carbon intensive nature of the SA economy has been recognised in the text.

2.1 Socio-economic and demographic context

groundWork: The discrepancy in the figures shown by the experts compiling NWMS and the experts compiling the Free Basic Refuse Removal document has been noted. This is largely due to different waste service definitions and research techniques used.

groundWork: Document has been amended to avoid overestimation of the potential of the contribution to the GDP.

BUSA: Amended document to accept elements of alternative proposed phrasing: *The NWMS will therefore aim to integrate South Africa’s social and economic development objectives with environmental sustainability through adopting a systematic, hierarchical approach to waste management.*

groundWork: *The Strategy must acknowledge and reflect both the formal and informal nature of waste collection and the recycling industry.*

Particular attention has been paid throughout the document to measures to protect the informal recycling industry.

groundWork: *It is important to revisit the NEMA principle: ‘Environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons.’*

Noted, the paper has been drafted in such a manner that all the principles set out in NEMA and the Waste Act have been considered.

Department of Economic Development and Tourism (NWMS website): *The Waste Hierarchy's third step, which includes Resource Recovery will be more efficient when separation of waste at source point is practised. The NEM: Waste Act stipulates that waste can be recognised as an economic opportunity, where paper, organic waste and plastic waste are mixed the value of other waste is reduced.*

The strategy deals with separation at source in the section on “recovery, reuse and recycling”

Department of Economic Development and Tourism (NWMS website): *The separation of waste at source point will enhance the socio-economic status and the WIS. Waste is collected mixed, that is garden waste and domestic.*

The strategy deals with separation at source in the section on “recovery, reuse and recycling”

BUSA: *Improving public health outcomes (through reduced opportunities for disease) and enhancing environmental quality are (mostly) strategic issues that are not necessarily within the jurisdiction of the Act.*

Comment noted, however they play a considerable role, thus their inclusion.

BUSA: *Other key criteria include growth aspirations – meeting ASGISA targets, etc.,*

Economic growth as a goal had been noted in line one.

BUSA: *Supports the idea to expand where this can be done (proper recycling and generating of income) but not certain that there is “considerable potential” – need to approach in context.*

The practice of proper recycling has an undoubtedly positive impact on the economy. The wording has been amended to clarify nature of potential.

2.2 Constitutional and Legal Framework

groundWork: The reference has been included for the Constitution to include 'well-being'.

groundWork: The reference has been included for NEMA in terms of environmental justice.

groundWork: Text in NWMS amended to: Norms and standards for the treatment and disposal of waste developed in terms of the Waste Act will take cognisance of the NEMA: Air Quality Act 39 of 2004 and the Health Act, 2004 (No. 61 of 2003).

groundWork: Text added to state: The Municipal Systems Act 2000 (No. 32 of 2000) section 94 (e) (ii) states that the Minister can make regulations or issue guidelines for incentives and penalties to encourage the recycling of waste. As per section 74 (1) (h) of the Municipal Systems Act a municipal council must adopt and implement policy on the levying of fees for municipal services provided by the municipality itself or by way of service delivery agreements, and this includes encouraging the economical, efficient and effective use of resources, the recycling of waste and other appropriate environmental objectives.

BUSA: Norms and standards has been addressed in Section 4.1 in the Strategic Issues Paper and will be further addressed in the National Waste Management Strategy..

BUSA: DEA has commissioned a study to clarify the definition of waste as given in the Waste Act. A summary of this clarification will be included in the final draft of the National Waste Management Strategy.

DMR: Text edited to state: The Minerals and Petroleum Resources Act, 2002 section 39 (3) (iii) states that Environmental Management Plans must comply with any prescribed waste standard or management standards or practices.

DMR: Inserted text under section 3.6 of the Strategic Issues Paper Remediation: DMR has contracted the Council for Geosciences to develop a national strategy for the management of derelict and ownerless mines these mines. The national strategy will look at the development and maintenance of a national data base of these mines, and will regularly update this database. The second aim of the strategy will be to rank the mines in order of their potential impact on the health and safety of the surrounding communities, as well as the environmental implications.

BUSA: Section 16 General Duty in the Waste Act will be expanded upon in the NWMS

DOE: Section 3.5 of the Strategic Issues Paper added text: The White Paper on Renewable Energy is currently being reviewed by the Department of Energy and it is envisaged that medium and long term targets for waste to energy production will be set in the revised White Paper.

DWA: Inserted text: Chapter 5 of NEMA is to promote the application of appropriate environmental management tools in order to ensure the integrated environmental management of activities and provides instruments for co-ordination and co-operation for integrated waste management.

Department of Economic Development and Tourism: This is addressed under section 5.1.1 of the Key Strategic Issues Paper.

Packaging Council of South Africa: There are clearly different interpretations of the concept of ‘zero waste’, and since this is not a goal that will be achieved within the timeframe covered by the NWMS (i.e. within the next 5 years), the value to be gained from this debate is not clear. No amendments made in text.

2.3 International Obligations

BUSA: Description of the SAICM corrected.

BUSA: role of landfills reframed in terms Kyoto and flexible development mechanisms.

BUSA: A more precise statement of the Waste Act measures that will be used to fulfil international obligations is provided.

groundWork: Information on mercury treaty added.

groundWork: *“The DEA must make commitments to deliverables and time-frames (in the form of targets) associated with developing domestic responses to international instruments dealing with waste management. This is urgent in light of the recent scandal on the importation of e-waste from the United States”:*

Deliverables and timeframes form part of the first draft of the NWMS.

2.4 Waste flows and strategic challenges

BUSA: “severely limit” changed to “constrains” in opening statement.

BUSA: insertion of “adequately incentivised” and “are unlicensed and don’t meet minimum requirements”.

BUSA/PACSA: Statement on recycling revised.

BUSA: Description of review of the classification system modified to reflect it is underway.

BUSA: Statement on shortage of hazardous waste disposal facilities qualified.

BUSA: Statement on the need for regulation of temporary storage requirements for hazardous waste added.

BUSA: Statement on hazardous waste component of construction and demolition waste revised.

groundWork: Statement on regulation of PCBs and POPs as hazardous wastes.

BUSA: Beneficiation of construction and demolition waste added.

BUSA: Statement on alignment of Waste Act and Water Act for regulation of mining waste added.

BUSA: HCRW - Statement on standards qualified.

groundWork: Statement added on POPs being considered priority wastes.

BUSA: Power Station Waste reframed as “Coal combustion and gasification residues (ash)”.

groundWork: Power Station Waste Statement on norms and standards for acceptable use and grading added.

BUSA: Tyres – Strategic challenges reframed as “Processing and recycling needs to be promoted as preferred option; Policy on the thermal treatment of waste and regulations in terms of co-processing in cement kilns need to be implemented; Illegal dumping and incineration needs to be ended.

Pretoria Portland Cement Company Limited: Tyres – quantities updated.

BUSA: Statement on unregulated informal processing of eWaste revised, Qualifications incorporated.

groundWork: Statement on imports added.

BUSA: Batteries – Added statement on dumping.

BUSA: Fluorescent lamps containing mercury – Strategic challenge reframed.

BUSA: Lubricating Oil – Statement on benchmarking added.

BUSA – *“This table would benefit if it included definitions for the categories of waste specified and a separation of strategic challenges from key considerations. This is not a complete list. This list must reflect in the first instance the categories defined in the act and where there is still a challenge like with mining, provide a solution”:*

The purpose of the table is to describe the key strategic challenges identified in the waste balance paper and at the research workshop with respect to particular waste streams. The Categories/Types are not intended to correlate with (proposed) categories in the WCMS or definitions in the waste act, although they may do so in some cases, and will inform the development of the WCMS. The more general term “waste streams” has been substituted for categories in the table caption to clarify this. This section is also not intended to stipulate solutions, which are provided elsewhere.

BUSA – *query on status of guidelines.*

See above response.

BUSA – *Comment on agricultural waste.*

See above response.

Groundwork – “we thus urgently request that the Strategy process review the DWEA’s hastily-arrived at decision to allow for cement kilns to burn waste despite this serious gap in knowledge” and “There is currently uncertainty in the EU over the status of incinerator bottom ash and incinerator operators in the EU might now have to treat bottom ash as hazardous waste because of these doubts over its ecotoxicity. This could substantially increase the costs of incineration. The UK Environment Agency has admitted it does not “have 100% confidence” in its classification of incinerator bottom ash (IBA) as non-hazardous waste.”

National Policy on thermal treatment has been developed that stipulates air emissions standards for cement kilns – this policy will inform the strategy, as will norms and standards on acceptable use.

Groundwork – “PCB waste is a critical challenge for South Africa and yet it is not mentioned in relation to the energy industry. PCB (and other POP’s) waste is also imported into South Africa from most SADC countries that do not have the capacity to deal with this locally”.

See above response to BUSA regarding the scope of this section. PCB’s and POP’s are a cross-cutting issue for hazardous waste that will be regulated as priority wastes and in terms of International Obligations.

National Treasury: Domestic and Commercial Waste – “What is the role of DEAT in licensing or ensuring that the landfills are licensed?” “One thing that I never understood is why other sectors will rigorously participate in budget process and DEAT only engages for its own administration etc and never for municipal projects i.e. landfill sites. If DEAT does not do it, who does?”

DEA is responsible for licensing. Budgeting is dealt with elsewhere in the paper.

3 Overall strategy - implementing the waste hierarchy

BUSA: Polokwane declaration not government policy has been noted in the text

BUSA: The section on waste hierarchy has been amended to reflect that all stages in the waste hierarchy are important, and will be addressed in descending order of priority.

BUSA: Questioned whether waste hierarchy model can in isolation reflect on the strategic foundation of the NWMS. Earlier sections have already noted the broader policy imperatives that guide the NWMS

PACSA: Given the widely differing interpretations of “zero waste”, and the fact that it is not a target which is achievable within the five year period covered by NWMS, it is not deemed necessary to attempt a definition of zero waste.

3.1 Overall goals, approach and regulatory model

BUSA: Objects of Act quoted verbatim, not in summary.

PACSA: Sentence on prevention of free riders added to paragraph on industry waste management plans.

DMR and PPC: The reference to the Industry Waste Management Plans has been amended to indicate that the plans may be coordinated through relevant sector chambers or confederations.

BUSA: A schematic diagram is now included.

BUSA: *“This statement of intent is welcomed and from a business perspective could significantly reduce the regulatory burden on both generators and the state. However the promise of this approach is not adequately reflected.”*

Noted.

groundWork: *“groundWork requires that this entire section be rewritten after debate at the next PSC meeting, and that there should be a further engagement on this before it is finalised. This section for groundWork is the most critical section of this document. It departs from the general approach which the public has been calling for getting both the Air Quality and Waste Act developed. These acts were developed to respond to the growing need for regulation in a ‘lawless’ state. However, the NWMS seeks to undermine this by adopting an approach that is in opposition to this. It seeks, as in the past, to put the ‘fox in charge of the henhouse’ through self regulation and voluntary initiatives. If the Waste Act would necessitate the issuing of more than 5000 licences then government must develop the capacity to make this meaningfully happen, rather than abdicate its responsibility to exemptions...”*

... The interventionist approach should be high up on our agenda together with the development of national standards and norms, followed by listing and licensing to make it happen, and then the IWMPs to understand if the approach is delivering on its intent. One cannot develop IWMPs without understanding what your targets are, as defined by democratic governance processes; not by the polluting industries.”

The PSC debate on this matter has been taken into account in achieving the right balance between compliance measures, co-regulation and voluntary initiatives.

Pretoria Portland Cement Company Limited: *“Industry Waste Management Plans are a good idea, if industry is left to develop them within a set and well defined framework. If the DEA gets too involved in these plans their implementation will be delayed and eventually made impossible through the DEA's trend towards over-conservativeness. The Strategy must avoid over-involvement of DWEA in the setting of industry waste management plans.”*

See overview on scope of the revision of the Strategic Issues document. The reasons for the adoption of a consensual, co-regulatory approach where possible and appropriate are both principled and pragmatic. The state already faces a considerable burden in terms of compliance monitoring and enforcement, and the enhanced regulatory framework of the Waste Act will place further pressure on the state's limited resources. Without gainsaying the need to increase monitoring and enforcement capacity, the co-regulatory approach makes a more ambitious approach to the achievement of waste management objectives possible.

BUSA: “The NWMS must at least indicate the scope of such standards and the process to develop them”.

This is understood, and is addressed in the document. The development of norms and standards is dealt with in a separate chapter. The NWMS will attempt to give clear direction regarding the process and content of norms and standards.

BUSA: “It will only be a co-regulatory system if that is clearly the objective. Approach in Act reflects command and control” (with reference to Industry Waste Management Plans).

It is co-regulatory in the sense that the Act provides for Industry Waste Management Plans to be prepared by industry, rather than the Department.

PACSA: “The paragraph on industry waste management plans in this section refers. As you are aware the Department has initiated discussion on the content of industry waste management plans. We have responded to these proposals and wish to comment that the proposals are far too detailed for a very complex Industry such as packaging and paper. We trust that the strategy would allow the flexibility for the Plans to be appropriate for the diversity and structures of the industry. This comment is also relevant for section 4.4.”

This is noted – the specifications for IndWMP have not yet been finalized and are subject to negotiation.

3.2 Waste Avoidance and Reduction

BUSA: Introductory statement revised.

Groundwork/BUSA: Statement on economic incentives added.

Groundwork/BUSA: The development of norms and standards as part of the strategy made explicit.

BUSA: Statement on targets revised.

National Treasury: In relation to cleanest town campaign, “government” replaced by “DEA”.

BUSA: (design and packaging) Contentious statement on “the majority of current initiatives” removed.

Treasury/BUSA: Statement on prices reflecting the cost of services as a first step added.

groundWork: Statement on enforcement added.

PACSA: “Incorporating waste reduction principles into the design and packaging of products at the point of manufacture. We agree with this statement but submit that the search for lightweighting of packaging without compromising the performance of the packaging is already part of normal commercial life, because it makes both commercial and environmental sense.”

Noted.

BUSA: “As a principal performance targets need to be universally applied” (In relation to municipalities).

Noted – It is felt that targets that are not related to the existing capacity of municipalities, and differentiated in terms of scale, will be unrealistic and have the potential to discourage poorly performing municipalities. Further input from SALGA will be sought during the drafting of the strategy.

BUSA: “agreed, any learnings from blue drop/green drop initiatives that can be applied here?”

NT: “In the recommendations this will need to be specified in terms of who needs to do what? Otherwise, no one will take action.” (In relation to public awareness campaigns).

groundWork: “On education and awareness there should be beneficial initiatives among all three parties: government, industry and society at large.”

These issues have been addressed in the section on Education, Advocacy, and Awareness.

groundWork: (in relation to tariffs) “Also critically on this bullet point we need to consider the eThekweni’s: ‘Introduction of Domestic Refuse Removal Charges and Discontinuation of Refuse Removal Property Rates with Effect of 1 July 2009’. There is a sliding scale of what the consumers pay. For example, a house valued at R 1 000 000,00 pays R100,32 a month. In principle groundWork is in support of this process for it is built upon the assumption that the more expensive the house, the more affluent the family and therefore the more waste it produces. However, what needs to be asked of the eThekweni Municipality is how is this money being spent? Ideally the money should be ring-fenced and spent on developing an IWMP for the municipality with targets for households, employ waste officers to roll out the programme, and on enforcement capacity to monitor and then to re-assess cost based upon actual waste rather than value of property.”

Noted. This will be taken up in the section of the NWMS dealing with tariff structuring.

3.3 Recovery, Re-use and Recycling

NT / BUSA: Statement on norms and standards amended to indicate that these will be developed by DEA in conjunction with stakeholders as part of the implementation of the national strategy.

BUSA: statement on targets amended to read “realistic and defensible”.

BUSA: Role of the Industry Waste Management Plans clarified.

BUSA: Statement on scope for expansion contextualised.

BUSA: Statement on use of resources and harm to the environment rephrased.

BUSA: Reference to the recycling industry, albeit informal [contributing to job creation] excised.

Groundwork / PACSA / BUSA: Statement added indicating the need for stakeholder consultation on the exercise of Section 17 powers (recycling requirements).

BUSA: Statement on relocating jobs within the value chain added, with qualifications.

BUSA: Clarification on measures for including informal sector in the recycling industry added.

GroundWork / PACSA / BUSA: Statement on effects of separation-at-source revised.

BUSA: *“don’t think this should be a priority – get the basics correct first”* (In relation to assessing use of natural resources and environmental impact of recycling).

The point is noted, however this is a requirement of the Act, and needs to be considered in terms of norms and standards for the recycling industry.

BUSA: *“Any procurement policy is not in the mandate of the waste act”* (in relation to “green” procurement).

PACSA: *“Section 3 –bullet point on percentage of recycling in products. We suggest a way forward would be to form working groups with Industry and Government to highlight those products where the impact would be the greatest. Public sector procurement for these identified products would be an excellent start.”*

groundWork: *‘The Waste Act allows the Minister, after consultation with the Minister of Trade and Industry, to require the recovery, reuse and recycling of products or components, and to determine a percentage of recycled material in products. These provisions will be used to reinforce industry waste management plans, and to address market failures. Guidelines for the application of these provisions need to be developed.’ It is understood that these guidelines will be discussed with all role-players before it goes to the respective ministries for it would be a waste of time if there is a political or legal challenge to this when it is at a ministerial level.*

Groundwork, BUSA and PACSA comments noted. The Waste Act does not limit the NWMS to provisions explicitly described in the Waste Act.

BUSA: *“The treatment of re-use, recycling and recovery on an equivalent licensing basis as waste treatment and disposal does not support the stated objective of the Act to move up the waste hierarchy. These activities will not be encouraged if the same obligations as for the other more environmentally threatening activities, are imposed.*

The other challenge here is how the provisions of section 17 of the Act will be implemented. This is a critical question for business to be able to answer before developing strategies to move up the waste management hierarchy. It may be more effective just to dispose of all waste in a licensed landfill. The recently initiated pilot project for the separation of recyclables at source is an example. The instructions for households include the

requirement that all material must be clean. What is the environmental impact of that compared to disposal in a licensed landfill?”

Noted. The strategy seeks to exempt well managed industry initiatives from excessive regulation.

Pretoria Portland Cement Company Limited: *“In South Africa, those initiatives that were led without government involvement were successful, and those with government involvement were not. This sends a strong message to the DWEA not to get too involved in the detail of the Industry Plans, as they are not experts in the different fields. Rather a set and well defined framework must be established.”*

The statement is not factually correct. Nevertheless the role of voluntary initiatives in the NWMS is strongly emphasised.

Department of Economic Development and Tourism (Mpumalanga): *“Some recyclable waste like bottles, plastic and plastic bottles, newspapers and papers end-up in dustbins where if they are not sorted at the landfill sites will be landfilled. There should be friendly points where individuals can drop these type of waste and in return get some petty cash. Recycling will be achieved.”*

Noted.

3.4 Storage, collection and transportation of waste

groundWork: Text has been added: Community based waste service models should be piloted with respect to both the private and government waste service provision in municipalities in order to maximize job creation and to explore various collection options.

BUSA: Strategy for dealing with the temporary storage of waste has been clarified in the text as per legislation. Text added as follows: Provisions for the storage of waste and hazardous waste, including temporary storage, are provided in the Waste Act, where standards have been set for when a basic assessment is required. Hence any storage of waste authorised by the competent authority will be subject to the terms and conditions of a Record of Decision issued for the storage activity. Furthermore offences for contravening the Record of Decision are stipulated by NEMA.

BUSA: Issue of municipalities using cost accounting, cost recovery and use of tariffs is addressed in the text.

3.5 Treatment, Processing and Disposal

BUSA: Statement on reduction of waste to landfill clarified.

Groundwork / BUSA: Legislative context for norms and standards expanded, “Guidelines” replaced with “Regulations” when referring to WCMS, incorporated into bullet regarding norms and standards.

Groundwork / BUSA: Need for audit of hazardous waste treatment and disposal facilities added.

Groundwork / BUSA: Examples of possible diversion from landfill measures to be included in IndWMPs added.

PACSA / BUSA: “hazardous” replaced with “particular” in statement on application of priority waste measure.

Pretoria Portland Cement Company Limited: Cement kiln co-processing added as a “proven technology”.

BUSA: “conducive regulatory environment” clarified.

Groundwork *“In the following concerns:*

- *Challenges associated with the effective management and regulation of landfills*
- *Challenges associated with the appropriate handling of hazardous waste*
- *Opening up new disposal technologies to facilitate waste to energy conversion.*

It is noted that it is limited. An additional challenge will be the ineffectiveness of government and industry to manage a future strategy for waste disposal, especially hazardous waste disposal. The result of this, as indicated before, hazardous waste management is achieved by crisis management and leading to increasing profits for waste companies.

For years groundWork has warned about the present health care waste crisis, but government has ignored our concerns. It is safe to say government has engineered this crisis.”

Noted. DEA does not agree with the interpretation given to the situation.

groundWork: *“does not believe that waste to energy conversion is a viable practice. The Waste Act makes it clear that it is a process of last resort after the waste hierarchy has been effectively considered. Already there are government entities such as the eThekweni Municipality who are courting this idea.*

Please explain further the following statement: ‘The NWMS should set out a conducive regulatory environment for waste to energy initiatives.’ groundWork will oppose any public funding being used for the promotion of incineration or for less stringent environmental standards being proposed to allow for incineration to become ‘economically’ viable in South Africa.”

groundWork does not believe in the principle of CDMs. If CDM had to be adopted that means a number of livelihoods will be lost because the landfill sites would need more waste to ensure longevity of the process. Waste reclaimers will lose their employment. Landfills in South Africa are normally located close to poor communities and these communities suffer the ills from these landfills, therefore it would make sense if CDM do happen, that this electricity is provided to the poor.”

Noted – Waste-to-energy will form part of the Strategy, is part of “Recovery, Reuse and Recycling” in the waste hierarchy, and Groundwork is invited to address its concerns to the implementation of these measures.

3.6 Remediation

BUSA: The requirement to establish a financial, legislative and institutional basis for land remediation has been added.

groundWork: Statement on the need to establish a register before investigations take place has been qualified to indicate that this is in terms of the Waste Act, and that existing NEMA measures will apply in the interim.

groundWork: Statement on the evaluation of available landfill airspace clarified.

groundWork: “and the health of the surrounding population” added to the criteria for determining remediation requirements.

BUSA: “*it is unclear how the NWMS can do this*” (in relation to addressing the need for specialist capacities in government).

This will form part of the capacity requirements and institutional arrangements to be addressed in the first draft of the strategy.

BUSA: “*This is a very complex space that will require legal guidance, “involuntary”, “innocent” “assisting consultants”, “off-site contamination” all need to be specifically addressed.* The bottom line is that the Act must be complied with and I am not sure that this is provided for” (in relation to exemptions from liability).

groundWork: “*groundWork does not agree with the last bullet point dealing with exemptions from liability. If creditors are going to act to protect their financial interest they will have to be liable for the contaminated land. If they intervene to stop the contamination once they become aware of the land they are holding for security then exemption from liability can be considered. But if they are wanting to protect their financial interest surely they will have to ‘decontaminate’ the land to make it viable for sale again, so they will have to be liable. They cannot pass it off to a third party who would not have the financial means to decontaminate the land. Creditors need to be cautious what they loan money on and they must undertake due diligence, and in the case of company acquisitions.*”

Noted. The Act provides for the polluter of land to be held liable, not just the owner.

4 Instruments for implementing strategy

4.1 Norms and standards

BUSA: Current status of the WCMS rephrased.

BUSA: Target date for finalisation corrected.

PACSA / BUSA: Clarification on application of SATI provided.

BUSA: Statement on the need for a critical assessment on the implementation of air quality standards clarified – it provides a test case of the use of SATI in relation to environmental legislation (the Air Quality Act).

groundWork: Health risks added to criteria for norms and standards.

BUSA: Paragraph added on the use of norms and standards as an alternative to licensing.

BUSA: *“Not sure that all of these issues are within the mandate of the Waste Act. Mandate creep is a major concern to business”* (in relation to criteria for discretionary norms and standards).

Noted. These are proposed criteria for identifying potential applications of norms and standards, not the areas of application themselves.

PACSA: *“We are very happy with the involvement of DTI in the process but urge that the formation of bodies such as the proposed Recycling Industry Body follow the approval of the NWMS so that we are not all overwhelmed by different committees doing the same things.”*

Noted – addressed in clarification on application of SATI.

4.2 Categorisation and classification

BUSA: Statement on incorporating outcomes of WCMS simplified - the WCMS is part of the national strategy. The strategy will be implemented in a phased approach, and finalising the WCMS is a priority.

groundWork: Statement on implementing the waste hierarchy added.

BUSA: Section on sewage sludge reframed. Role of industrial effluent in determining end uses of sewage sludge clarified.

BUSA: Redundant paragraph about aligning categorisation with classification system removed.

BUSA: *“This document is currently being discussed and is far from final. Very controversial”* (with reference to the Draft Framework for Discussion: Revised Waste Classification and Management System).

Noted.

BUSA: *“On what basis? It is covered in every wastewater treatment licence. Why is it in here at all? Guidelines are already in place and mandatory in terms of the water use licence”* (in relation to sewage sludge).

There is a need to better regulate and enforce the management of sewage sludge, which is currently disposed of in inappropriate ways, and not adequately reported. This was identified in the Waste Quantification paper, and supported by comments from the floor at the research workshop.

PACSA: *“We believe there may be some concerns on the proposed classification from the paper industry and request that their views are represented.”*

Noted. These will be addressed in the consultative process for the WCMS.

groundWork: *“Mining data has to be extrapolated and incorporated into hazardous waste classification”.*

Noted. Issues in relation to the implications of the conditional exclusion of “residue stockpiles” from the Act and arising from amendments to NEMA and the Mineral Resources Protection and Development Act need to be resolved.

groundWork: *“Substantive issues that need to be addressed include:*

- *Addressing the quality of uneven data*
- *Industry has independent data that needs to be verified”.*

Noted. These are addressed in terms of the Waste Information System.

4.3 Waste Information System

PACSA: Sentence on using data from industry associations as an interim arrangement added.

groundWork: “criteria” substituted for “fields” in the description of the process for aligning provincial WIS with SAWIS.

BUSA: “on a voluntary basis” inserted to describe initial IndWMP.

groundWork: *“The issue of the Waste Information Systems is very serious because the strategy will not be developed in an informed manner if the waste information system is incomplete. One cannot plan for something that cannot be quantified or classified. We note the recording of concern as of the lack of reliable data on the waste sector.”*

Noted. The process of developing the WIS will unfortunately not be completed within the timeframes specified by the Waste Act for the NWMS.

Groundwater: *“On when data from generators will be considered: ‘Data on waste generators is only anticipated to be included in SAWIS in phase 4’. groundWork believes that this should be an urgent first step rather than left to phase 4.”*

Noted. The paper describes the existing implementation plan for SAWIS.

4.4 Industry Waste Management Plans

BUSA: The status of the guidelines for IndWMPs has been reframed.

BUSA: *Raised concerns over the view that the first four industry waste management plans were viewed as pilots which would set a precedent for future plans.*

This has now been amended to explain that it is the process of developing the plans that is the pilot, rather than the plans themselves.

BUSA: *The departure point for the process of developing industry waste management plans has been questioned and more detail on the implications of both voluntary and mandatory plans requested.*

The document has now been amended to reflect that the NWMS will set out a detailed process for the development of these plans, whilst providing clarity on both voluntary and mandatory plans.

BUSA: *“We cannot depart from a point that ultimately expects all industries to have plans especially if they are not going to be used to alleviate other burdens”.*

Noted. The paper does not imply that all industries will be compelled to develop IndWMPs.

BUSA: *“Bottom line is that they go beyond the requirements of the Act and are therefore ultra vires. How can the NWMS process address this?” (in relation to IndWMP).*

Noted. The guidelines for industry waste management plans are a key component of the implementation plan for the NWMS.

PACSA: *flexibility is needed when developing proposals for the content of industry waste management plans according to the diversity and structures of the industry.*

The need for flexibility is noted. A process is underway to develop guidelines for industry waste management plans. The NWMS will seek to contextualise this initiative.

groundWork: *concerns relating to the need for public engagement during the development of the guidelines, as well as the issue of governance being compromised by the emphasis on a co-regulatory approach were expressed.*

Noted. The process of developing the guidelines is separate from the drafting of the NWMS. Whilst a co-regulatory approach will be used, this is intended to ensure that the industry waste management plans are appropriate to industry needs, and ultimately implementable. Compliance monitoring and enforcement related to industry waste management plans will remain a DEA function.

BUSA: *the advantages for business of a co-regulatory approach must be clearly set out in the strategy before it can be supported.*

Noted. The NWMS will seek to expand on the implications of a co-regulatory approach and the benefits to industry.

4.5 Listing and licensing of waste management activities

BUSA: *'It is not so much about activities that are below a threshold but the type of activity that is better served by compliance with a standard. See also latest amendment to NEMA in this regard'.*

Noted. As per Section 19 of the Waste Act, listing and licensing are considered based on thresholds of waste management activities per activity type. NEMA amendments in this regard will be considered during the drafting of the NWMS.

BUSA: *further unpacking of the concept of a reduced licensing burden for industries producing and complying with industry waste management plans is required.*

Noted. The NWMS will provide clarity on this.

BUSA: *The strategy should elaborate on ways to address the challenges around the temporary storage of waste.*

Noted: The NWMS will do so.

BUSA: *Regarding licensing of existing sites, as indicated in the research paper, this is likely to have a very significant cost. It is no use just stating that all historical sites must be licensed without any idea of the funding requirements. More innovative solutions need to be found.*

Noted. The NWMS will set out an action plan which will include licensing of existing sites.

BUSA: *The extent to which the strategy will cover hazardous waste needs to be clearly reflected in relation to the separate project on this issue. Reference to the project needs to be clear that there will be no amendment to the outcome of the separate process by the strategy process.*

Noted. Whilst the strategy may refer to this and a number of other processes which are underway, they will refer only to the principles and processes, rather than the content, and the NWMS will not provide for any impact on the separate process.

4.6 Special Measures

BUSA: *"This is not a correct reflection of what industry is saying. In the first place there needs to be proper process of deciding to implement the section. Affected industry can then volunteer".*

The need for a clear process has been added.

BUSA: The paragraph on priority wastes being used to positively reinforce industry waste management plans has been rewritten to more clearly align it with the Act.

Groundwork / BUSA: The reference to S.17 in the last paragraph has been changed to S.14. A sentence on the potential for positive economic impacts has been added.

groundWork: Paragraph added concerning initial priorities in terms of mercury and PCBs.

BUSA: *“There is very little indication in the strategic issues paper as to how section 16 of the Act will be implemented. The strategy should elaborate on this.”*

Noted. The general duty of care has been implicitly addressed in various places, but BUSA’s suggestion that the strategy deal with this more explicitly is noted.

4.7 Producer responsibility

BUSA / PACSA: description of current focus of EPR in opening paragraph qualified by the addition of “that concern waste” and “industrial and commercial [waste streams]”.

BUSA: Removal of “agreed” to describe the approach, addition of “possible” as a qualifier for steps.

BUSA: Paragraph on pilot applications of EPR updated to reflect gazetting of levy on CFLs.

BUSA: “based on impact on the environment” added to description of possible application of special measures.

BUSA: “[failure to] reinvest [funds]” added to description of problems with plastic bag levy.

BUSA: “The economic consequences [need to be considered]” added in relation to the financial and regulatory impacts of EPR.

BUSA: *“Not necessarily all. Consider the impact of such a range of levies on consumers. There is no question of a levy not increasing the price of the article.”* (in relation to the mechanisms for EPR).

Noted. The implication is not that all the mechanisms will be applied in a particular case.

BUSA: *“Mandatory EPR already extremely onerous.”* (in relation to potential application of special measures through priority waste declarations).

Noted.

BUSA: *“It needs to be absolutely clear that application of these provisions must be made on the basis of other less onerous obligations not having the desired effect and not because it appears to be a useful way of addressing a perceived problem. Demonstration of threat to the environment by the Minister, as required in the Act, requires a number of criteria to be met and it may be useful for the strategy to elaborate on what they might be.”*

Noted. This is partly addressed in the following sentence: “As a general rule, regulation should be used to strengthen and support voluntary EPR initiatives by industry, and only as a last resort to intervene and address intractable problems.”

4.8 Consumer Protection

BUSA: *The interpretation of section 59 (2) of the Consumer Protection Act was incorrect, it is not an unqualified provision, also deposit return schemes for containers was not covered.*

This has now been amended.

BUSA: *Concerns were raised about the interpretation of the Consumer Protection Act, specifically in relation to the qualifications which should accompany the measures. Amendments in this regard have been made, and the application of qualified and unqualified measures will be more clearly set out in the NWMS.*

BUSA: *A terminology correction has been made to reflect that large recycling bodies are not necessarily considered to be monopolies.*

PACSA: *Consumer protection – this needs further debate. Current comment and theory suggests that product price needs to include the full life cycle costs.*

Noted. The NWMS will consider this in the relevant sections.

4.9 Economic instruments

BUSA :*While from a public policy point of view maximising job creation is important , industry’ s role is to generate wealth by operating at maximum economic efficiency to ensure the jobs are worthwhile and sustainable. Any job creation for its own sake is a public sector responsibility.*

The NWMS should steer away from artificially influencing pricing to support recycling and other objectives already included in the text.

groundWork: *comments on the flaw of self regulation and voluntarism in isolation of good and proven governance. The method proposed for phasing in and progression for economic instruments; as the institutional capacity grows over time is also proposed for developing other instruments, such as self regulation and voluntarism.*

The concern that proven good governance is a precondition for self regulation is covered in the section that states the application of these economic instruments are not seen as an alternative to regulatory measures.

groundWork: *cannot fully endorse the following statement: ‘The NWMS should steer away from artificially influencing pricing to support recycling and other objectives.’ gW believes state economic intervention is required to ensure that the recycling market is secure, considering that vulnerable populations are exposed to economic vagaries.*

Comment noted. No amendment made

groundWork: *It must be noted that there is a risk for industry to illegally dispose of their waste if disposal costs increase. It is not only illegal dumping by communities. The strategy however must investigate this possibility through a well defined research process.*

The possibility of dumping illegally by any individual industry community is covered by the current wording which does not identify specific potential perpetrators only highlight the risk. In addition the proposed increasing enforcement capacity allows for monitoring of dumping by any party

BUSA: *The pricing policy should be universally applicable.*

While the pricing policy is universally applicable, the differential contexts of municipalities have to be considered in phasing in implementation.

PACSA: *The type of EI selected is critical and for the packaging and paper industries it is vital that such Instruments as product taxes and broad based deposit/refund schemes are not considered. We strongly believe that take back and buy back schemes are more appropriate in SA and these will be dealt with in our Industry Waste Management Plan. We fully agree that any ideas in this area must be fully investigated with affected parties to avoid unintended consequences.*

The text already indicates that any economic instruments need to be carefully evaluated before implementation. There is also no widespread application of economic instruments proposed at this stage.

4.10 Fiscal mechanisms for Waste Management

NT: in relation to “The efficacy and sustainability of delivery of solid waste services is constrained by severe fiscal challenges. Capital and operating expenditures are much lower than the required levels, and operating deficits continue to balloon.” *One has not seen any advocacy to profile the sector. I do believe that the department engages on the MTEC on an annual basis where emphasis is on the survival of the department rather than the programmes that can benefit municipalities or provinces.*

DEA has not been traditionally afforded the opportunity to engage MTEC on these issues. This point will be taken up in the strategy.

NT: Reference to the reliance on grant funding for waste services: *I have not seen a grant that covers this though? If there isn't how this could be grant reliant? I think big cities do budget for this as they see as an environment hazard not to cater for it, but for smaller municipalities I am not sure if there any incentives for them to do it unless there is an environmentalist*

The reference to the grant has been amended.

NT: Issues paper refers to user charges that may be too low. *Comment: It may be an issue of correcting the pricing structure*

The pricing structure is proposed to be reviewed in line with full cost accounting

NT: *Request for information on the costing that has been done on this that will indicate this looming challenge? Have this costing been discussed with the National Treasury?*

The NWMS will include an analysis of the cost implications.

NT: *Request financing strategy for waste services expansion to be developed and notes that it is critical that NT engages with this strategy*

It is the intention of the NWMS to propose a financing strategy and engage with the relevant role-players.

groundWork: *Does not consider the statement “fiscal crunch “ to be applicable to the waste industry.*

Document amended to specify the component within the waste sector which appears to be heading towards a fiscal crunch.

groundWork: *does not endorse the following statement: ‘Generating revenue sales and carbon credits from energy generation from waste incineration and incentivising waste to energy schemes by municipalities.’*

The comment is noted, however incineration is an important part of the strategy and already covered by DEA’s co-processing policy. The NWMS will ensure proper compliance with air emission standards

groundWork: *would like to warn government that when ‘private financing’ is sought it must not be accompanied by the exchange of dirty technology such as incineration.*

Noted, as above.

BUSA: Private equity has been amended to “private investment”

NT: request further information on the proposed subsidy management.

It is the intention of the NWMS to provide more detailed guidelines on the fiscal mechanisms to be investigated.

NT: *response to the proposal of ring fencing guidelines for budgeting and accounting practices. The Equitable share is an unconditional grant that municipalities apportion according to their needs. The challenge with most municipalities including cities is that they do not do proper targeting of these pro-poor grants hence the leakage. Lot more work is required on this.*

Comment noted

BUSA: *Waste services are not being priced properly and this needs to be addressed, however, it should not be done in the same way as Eskom has done it. The principles of the electricity pricing policy should be looked at and followed, but the implementation was not correct. The key issue is how you increase prices without making it a sudden price hike.*

Before another economic instrument is added you have to get the pricing right. Full cost accounting can be done within the five years, but it is unlikely that full cost recovery will be possible.

Currently document reflects the support required for implementation of full cost accounting.

BUSA: *There should be a lower cost for refuse removal for those that do separation at source; this should go hand-in-hand with volumetric charging. Whilst this cannot be spelt out exactly in the strategy, i.e. how and how much, the principles need to be set out in the strategy which will inform and guide this. This should include guidelines being issued to municipalities regarding cost accounting, cost recovery and the use of tariffs.*

The document already contains a statement that implications and impact of volumetric tariffs at Tshwane will be investigated. Document not amended as the proposal already included in current text. "Clear guidelines and support to assist municipalities in evaluating their current tariff structures are required."

BUSA: *Funds raised from waste management should be ring fenced for waste management purposes. This will require the implementation of section 17 of the Act, and the strategy should say that there will be a new regulation developed in this regard.*

Local government own revenue is not ring fenced for specific services.

NT: *There is a lot of requires for ring fencing of grants to achieve specific needs, for medium to smaller municipalities it makes sense to follow the rand, but for bigger institutions it just increases transaction costs and you may not achieve much. Tightening of monitoring of budgets and for the sector to strongly get involved in budget reviews and performance monitoring will yield greater results in big cities.*

NT: *There are bulk infrastructure requirements that are known across all sectors. In cities, whilst it is not enough but MIG Cities attends to this. It depends on the individual city's prioritisation. In any other municipality there could be a point in advancing a specific grant for bulk solid waste infrastructure. This is something that the department should pursue during MTEC. Trucks and ongoing service delivery are things that should under normal circumstances be financed through operating budgets. The issue of windows on MIG which is being reviewed may not achieve anything.*

NT: *comment related to boosting municipal revenues. I do not think municipalities have exploited the issue of development contributions from private sector that much. We are currently working on a project that looks into this further. The department may benefit from this work. Levying development charges on property developers during intensification of land use is supported*

PACSA: *We also believe that the type of EI selected is critical and for the packaging and paper industries it is vital that such Instruments as product taxes and broad based deposit/refund schemes are not considered.*

PACSA: *We would caution against a packaging tax as against a levy. This might pick up free riders but European experience and experience with the plastic bag tax in SA dictates that there is serious risk that the revenues might be hijacked to fill a hole in the National Budget rather than being used for the purpose originally intended. We prefer a combination of a levy supported by regulation to avoid free-riders.*

Comments noted.

NT: Capital expenditure comment - *Expenditure in municipalities should ensure it satisfies the needs of the entire built environment*

Comment noted.

5 Implementation mechanisms for Waste Strategy

5.1 Roles and responsibilities

BUSA: *the implementation of roles and responsibilities should be clearly set out in the NWMS, and the current import and export developments should be considered.*

Noted. These will be fully considered within the NWMS.

5.2 System of Waste Management Officers

groundWork: *'WMOs should not be in the unenviable position of having to 'seek to enforce' the law on their own sphere of government. Does it not make sense for provincial WMO to have responsibility for municipal activities?'*

Noted. WMOs are not the environmental management inspectorate. They cannot enforce. They will be charged with implementation of standards rather than their enforcement.

5.3 Integrated Waste Management Planning

groundWork: The document has been amended to indicate that IWMPs will be developed following a top down and a bottom up approach.

PACSA: *How will the provinces IWMP deal with the National requirements and how will this be rolled out to industry?*

Provincial IWMPs must give effect to the objects of the Waste Act and any regulations issued in terms of the NEMA. Provinces are also bound by the provisions of the NWMS,

PACSA: *Integrated waste management plans by Govt sector is already an issue as Provinces and large Metros are busy, but showing either differing plans/ approaches, or doing nothing significant yet. This makes it more challenging for Industry sectors to get their plans together. A strong central coordination is therefore required.*

DEA will be the central coordination point. No amendment required to the document.

SALGA: *There is a lack of integration of IWMPs – for example, a provision will be made for a landfill site but then there is no provision for a road to access the landfill site.*

Point noted. Municipal IWMPs must be incorporated into IDPs in order to promote integration of the IWMPs and the IDP.

COGTA: *Reviews the integration of sector plans into the IDPs; the same will need to happen with the IWMPs – there are waste criteria but apparently this has not been fully utilized / these are not being applied. There are guidelines for the preparation of water sector plans and IDPs; however ... not aware of the existence of such guidelines for waste.*

See above comments.

SALGA: *Integrated waste management plans are required to be integrated into IDPs developed in terms of the Systems Act. Sectoral legislation is very fragmented, imposing dissimilar planning obligations on municipalities. It is therefore important to consider how we get IWMP integrated into IDP's. There is a tendency for sector departments to expect local government to develop integrated plans for each sector. The requirements of a sector plan are in contrast thereby results in a fragmented Integrated Development Plan (IDP). So thus the question remains how one actually integrates the IWMPs into the IDPs.*

The planning burden placed on municipalities is noted. Nevertheless it is of paramount importance that waste services to communities be properly planned and that the roll-out of services be properly coordinated with other municipal functions. The NWMS will address the practical issues relating to integrating IWMPs into IDPs.

SALGA: *Proposed not to set up another / different reporting regimen for waste management services. SALGA has undertaken research on the reporting requirements of municipalities, which have close to 290 reports to prepare annually. This leads to malicious compliance. The Waste Act has created yet another reporting requirement. The strategy should try to find a way of easing the reporting requirements for municipalities.*

The reporting burden placed on municipalities is noted. For this reason the Waste Act explicitly linked municipalities' reports on their IWMPs to their annual performance reports in terms of the Municipal Systems Act.

5.4 Mechanisms to give effect to international obligations

BUSA: "being" substituted for "now" to describe the integration of the import and export of chemicals and hazardous waste with the provisions of the International Trade Administration Act.

BUSA: *"This approach is not what was reflected in the research paper, which was supported. There is no indication in the outcome of the workshop that there was a new approach proposed. This approach is not supported. There must be a clear application of mind by the Minister before such onerous provisions can be implemented."* (In relation to the use of priority waste declarations).

Noted. The research paper on **Regulation, Compliance, and Enforcement** explicitly refers to the use of priority waste declarations in relation to the Montreal and Stockholm conventions. POPs and PCBs constitute exactly the sort of threat to health and the environment and represent the kinds of challenges to waste management that are envisaged in terms of the legislation for priority wastes. Priority waste declarations are not described as the only regulatory measure that can be used to fulfil international obligations.

5.5 Education, Advocacy and Awareness

BUSA: “voluntary instruments provided by the Act” replaced by “discretionary instruments provided by the Act, such as recognition programmes”.

5.6 Capacity-building

BUSA: “*While this issue does not necessarily form part of the NWMS it is imperative that the resource requirements are well understood.*” (in relation to DEA’s capacity requirements).

Noted. The NWMS will include an estimate of the resources and capacity required for its implementation.

5.7 Compliance monitoring and enforcement

BUSA: “*The section does not deal with compliance:*”

Noted. Compliance is dealt with in general terms with reference to the responsible institutions. The NWMS itself will provide greater detail.

5.8 DEA-DTI co-ordination

BUSA: “Priority [waste]” inserted to clarify the scope of the DTI-DEA committee’s evaluation of proposals for recycling.

BUSA: “*Formalisation of the relationship between the dti and DEA is supported*”

Noted.

groundWork: “*It is suggested here that civil society be linked up in the process, so that the plans are not developed in the arena and then placed forward as near final when presented to the public.*”

Noted: This will be considered during the drafting of the strategy, although the committee is primarily conceived of in terms of intra-governmental co-operation.

6 Conclusion

Lonmin Platinum via website comments: *The NWMS should not deviate from the intention of the Waste Act, and should not include additional requirements over and above what is provided for in the Act. The strategy should also not place unrealistic timeframes on government capacity and deliverables as well as industry expectations given the current financial climate.*

Comment noted. The strategy goal is stated in chapter 3.1 The primary goal of the NWMS is to bring into effect the objects of the Act.

7 Cross-cutting Issues

BUSA: *“Waste minimisation for pre and post consumer waste may need to be handled differently. Waste minimisation at the level of the generator is already good business practice and as waste management services costs are increased will become an integral part of business strategy in the same way as energy and water use efficiency. Ways must be found to incentivise this in addition to price. As for post consumer waste, one of the key interventions is minimisation of waste disposal to landfill, the role of waste services provision by the local authorities is then a key question.*

Performance targets can only be introduced once credible baselines have been developed. In this regard the strategy needs to include categories of waste for which baselines need to be developed and consider how the baselines will be finalised perhaps using international benchmarks. As has been demonstrated repeatedly in discussions around targets for energy and water use efficiency, it is impossible to establish meaningful sectoral targets because of the large variation within a sector. It is also necessary to agree a method of expressing the target normally related to production or other activity rather than in absolute terms. The proposed baseline determination methodology is to be applied to energy use, which is currently under discussion is submitted separately to illustrate the complexity of this step alone.”

Noted. This will be considered, particularly during the drafting of the implementation plan for the NWMS.