

Enquiries: Andrew Del Marco
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4 September 2019



Katherine Lee
Department of Water and Environmental Regulation
Locked Bag 10, Joondalup DC
JOONDALUP WA 6919
Via email: wastereform@dwer.wa.gov.au

Dear Ms Lee

Submission to Issues Paper: Legislative framework for waste-derived materials

Thank you for the opportunity to provide input into this important issue.

The PHCC strongly supports the development of a legislatively-based framework to regulate waste-derived materials (WDM).

By way of background, the PHCC has been involved in the use of WDM for many years, including the use of products derived from the bauxite refining process (e.g. products such as Alkaloam® and Red Sand™). In this regard, our previous submission to the End-of-Waste process in 2015 is attached and remains relevant to the current DWER consultation process.

Waste-derived materials, such as by-products of mineral-refining processes, have the potential to significantly improve environmental outcomes in the Peel-Harvey Catchment and beyond, especially the coastal plain catchment, through:

- Replacing the use of virgin fill material. Sand fill has traditionally come from coastal plain sands and has led to the clearing of Banksia Woodlands. [Banksia Woodlands are now a Threatened Ecological Community (TEC) listed under the Environment Protection and Biodiversity Conservation Act]. Products such as Red Sand™ have the potential to significantly reduce the use of virgin material and loss of Banksia Woodlands TEC.
- Making available to farmers, land developers and others nutrient-retentive soil amendment products derived from bauxite refining process. Modelling by the (then) Department of Water has shown that the use of soil amendments, such as Alkaloam®, on the Catchment's high nutrient-leaching soils would achieve 68% of the water quality improvement target for the Peel-Harvey Estuarine System. This equates to a phosphorus reduction of 48.5 tonnes of phosphorus, given a 71 tonnes reduction is required in total to meet the EPA's Environmental Protection Policy for the Peel-Harvey Coastal Plain Catchment) (Kelsey *et al*, 2011, Hydrological and nutrient modelling of the Peel-Harvey catchment, published by Department of Water, Perth Western Australia).

In terms of the current Issues Paper, our expectations are that:

- 1) Any future legislative framework should not unreasonably withhold or delay either pre-existing or new approvals from those wanting to manufacture (commercialize) or use waste-derived materials (WDM) (e.g. farmers, builders, civil works companies), including WDM that are derived from by-products from mining processes (e.g. Red Sand™, Alkaloam® etc).
- 2) Any legislative framework should clearly distinguish the parts of the framework and make clear the role of legislators, regulators, proponents and the public, for example:
 - A. The over-arching WDM legislative framework (developed by legislators, regulators, with public input)
 - B. Subsequent risk-based outcomes standards for particular types of products, if required (regulators, with public input including the EPA),
 - C. Statutory approvals process, where required (regulators, with public appeal rights).
- 3) To support the above, the technical components, must be risk-based and withstand a 'reasonableness-test', which includes consideration of all relevant environmental, social and economic considerations.
- 4) As in some other jurisdictions, the approval process should ensure that the WDM, if requiring an approval under the framework, is treated as a commercial product subject to all existing laws (consumer protection, environmental protection etc.).

Should you require further information, please do not hesitate to contact Andrew Del Marco on (08) 6369 8800 or email admin@peel-harvey.org.au.

Yours sincerely



Jane O'Malley
Chief Executive Officer

Encl. PHCC submission to DER, 27 May 2015 - Draft Guideline: Submitting an Application for the Use of Waste-Derived Materials (Case By Case Determination)

Enquiries: Jane O'Malley
Our Ref: 0036_2015_2705_JO



27 May 2015

End of Waste Review
Department of Environmental Regulation
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Also by email to: end_of_waste@der.wa.gov.au

Dear Sir/Madam

**Draft Guideline: Submitting an Application for the Use of Waste-Derived Materials
(Case By Case Determination)**

Thank you for the opportunity to provide a submission towards the Draft Guideline. The Peel-Harvey Catchment Council welcomes the preparation of these Guidelines and the responsible use of waste-derived materials

The Peel-Harvey Catchment Council is the peak community organisation working with government and non-government groups for a healthy environment in the Peel-Harvey Catchment.

Our submission relates to the matters raised in the Draft Guideline, and specific implications for the Peel-Harvey Catchment

Background to our submission

The use of WDM is an important NRM issue in the Peel-Harvey Region, especially given the potential environmental and economic benefits of use of soil amendments/conditioners in our catchment. Large areas in the Catchment are also used to stockpile by-products from the processing of bauxite sterilising land and possibly creating long-term environmental issues.

Modelling by the Department of Water has shown that the use of soil amendments on the Catchment's high nutrient-leaching soils would achieve 68% of the water quality improvement target for the Peel-Harvey Estuarine System (phosphorus reduction of 48.5 tonnes of phosphorus, 71 tonnes reduction required in total) (Kelsey *et al*, 2011). Work by the Department of Agriculture and Food WA shows that application of soil amendments to the soils of the coastal plain catchment also brings a significant boost to pasture productivity. No other type of available action would have the same level of positive impact on water quality in the Peel-Harvey, and boost farm productivity at the same time.

Hence, the Peel-Harvey Catchment Council is keen to see the use of soil amendments expand in a manner which is:

- a.) Supported by the community,
 - b.) Safe for workers, users, and the public,
 - c.) Safe for domestic and native animals,
 - d.) Safe for the environment,
- and which will:
- e.) Build community confidence and support for the use of such products, and
 - f.) Maximise other environmental, social and economic benefits.

Our submission

The PHCC has had limited resources available with which to review the draft Guidelines, and offers the following comments as an initial review of the document. These comments should be considered in their context of the PHCC's previous submissions to the Department on draft Guidance Statements related to Waste Derive Materials.

1. It is of concern that the scope of the Guidelines are 'Submitting an application...', and do not include guidance on matters such as:
 - a. The assessment and approvals process
 - b. Public and third party involvement in the assessment process
 - c. Approval conditions
 - d. Reporting conditions
 - e. Rights to appeal decisions.

Will further guidelines be released to cover some or all of the above matters?

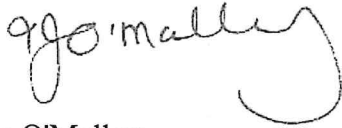
2. In light of this concern, the PHCC urges the Department to publicly release Guidance on how applications will be assessed once they are lodged, timeframes for decision-making, and how the public may be involved in the process (e.g. opportunities for comment).
3. It is important that any Department decisions on an application be made publicly available to enable public scrutiny and ensure transparency in the process. These considerations are not covered under the current draft guidance.
4. The option of using a 'comparator' approach is generally supported and may offer some streamlined approach where a material may be of low inherent risk
5. The use of a source-pathway-receptor approach to risk assessment is generally supported, but some further guidance may be required for proponents in regard to selecting the 'receptor' environment and therefore the environmental criteria against which the material is tested. This may be of particular importance in the Peel-Harvey Catchment where there are numerous scales at which the receptor environment may be defined.
6. The use of an independent reviewer is supported, however, it is suggested that the reviewer should be required to have expertise in the specific technical areas related to the waste materials and the recommended WDM use. Having a reviewer accredited by the Department or some other recognised authority is supported, but may not be sufficient.

7. Further in regard to the independent reviewer, Guidance is required on how the independent reviewer's professional advice will be used by the Department in making a determination on the application. Currently, it is not made clear in the Guidelines how the Department makes its determination on each application. Qualifying statements may be useful to address this concern.
8. Overall the Guidelines generally appear to have struck an appropriate balance between 'detailed guidance' and 'flexibility of approach'. Such an approach is required to protect the environment and encourage responsible proponents to seek approval through the process. However, as stated above, the scope of the Guidelines (focus on submitting an application) appears unnecessarily narrow.

In summary, the PHCC's main comments relate to the tight scope of the Guidelines, lack of information on the process by which applications will be assessed and the omission of any detail in relation to public involvement in the process.

Should you have any queries, please do not hesitate to contact the undersigned on (08) 6369 8800 or jane.omalley@peel-harvey.org.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'janeomalley', with a large, sweeping flourish at the end.

Jane O'Malley
Chief Executive Officer