



Our ref: 2017/04558
Enquiries: Richard Elliot Ph 9222 8432

Project Manager
Amendments proposed following the Eclipse decision
Department of Water and Environmental Regulation
Locked Bag 33
CLOISTERS SQUARE WA 6850

Dear Sir

AMENDMENTS TO ENVIRONMENTAL REGULATIONS – WASTE LEVY

The Department of Communities is supportive of the intent of the proposed amendments to the Environmental Protection Regulations, which are aimed at alleviating the liability to pay a waste levy for fill material. However, Communities submits that further refinements are required to address anomalies relative to the proposed definitions under the Regulations.

Communities, through its role as a major land developer, is concerned that the decision in the Eclipse case has had unintended consequences for the cost of placing fill on land for residential subdivision. Fill is required for most new residential subdivisions in the Perth region, given that urban growth is increasingly occurring on land with a high groundwater table. Communities understands the rationale for amending the definitions for 'clean fill' and 'uncontaminated fill' to overcome the liability for payment of the waste levy. However, it is evident that the proposed definitions still require further review.

The revised definition of 'clean fill' excludes any acid sulfate soil and material that has been subject to processing of any kind. This indicates that even if acid sulfate soil is treated to acceptable standards, it can't form a component of clean fill. This presents a significant issue for land development, as it is inconsistent with current practice and poses additional cost implications, which may adversely impact on housing affordability. Much of the land remaining for development on the Swan Coastal Plain is affected by acid sulfate soil and there are established practices for treating such soil to make it suitable for development.

The exclusion of material that has been subject to processing of any kind from the definition of 'clean fill' is also of concern relative to current practices associated with blending uncontaminated soils to achieve an acceptable layering of fill. It is therefore unduly restrictive to exclude any processing of material in the definition of 'clean fill' as this will adversely impact on the cost of land development.

The proposed definition of 'uncontaminated fill' is based on meeting specific standards in respect to chemical concentrations. Compliance with these standards is currently problematic for the use of material extracted from the Perth Airport Railway tunnel. Communities is negotiating to use some of this material for fill at its proposed Brabham project. However, the Public Transport Authority has advised that the treated material from the tunnel does not comply with the proposed definition of 'uncontaminated fill', despite extensive treatment. This material is apparently fit-for-purpose as fill, but regrettably needs to be temporarily stockpiled because of the potential liability in respect to the payment of the waste levy.

I trust that these comments will be given due consideration in finalising the legislative mechanisms that are required to alleviate the undue imposition of the waste levy on land development projects that seek to use fit-for-purpose fill.

Yours sincerely



Tiffany Allen
DIRECTOR
BUSINESS DEVELOPMENT

2 February 2018