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Reference No. 2018-CSG-001-M-Rev0

Project Manager, Proposed Regulatory Amendments to Categories 63-66, 89

Department of Water and Environmental Regulation
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SUBMISSION ON PROPOSED REGULATORY AMENDMENTS TO CATEGORIES 63-66, 89

Dear Sirs

Golder Associates Pty Ltd (Golder) would like to make the following comments on the “Consultation Paper: Amendments proposed following the decision on Eclipse Resource Pty Ltd v The State of Western Australia [No. 4] (2016) WASC 62” dated 2017.

General

In principle, it is a positive move to have an additional category of “uncontaminated fill”. However, consideration of background concentrations should be accounted for. As an example, some quarried limestone material can contain naturally elevated concentrations of arsenic, sometimes greater than 20 mg/kg. Based on Table 1 in Appendix B, the natural material can therefore not be considered uncontaminated fill. It is also unclear in the table whether the material is required to meet both “maximum concentration” and “leaching test ASLP” values or if it exceeds the maximum concentration but does not exceed the leaching test ALS concentration, whether the material can still be considered uncontaminated (in line with the current waste classification procedure outlined in the Department of Environment and Conservation’s “*Landfill Waste Classification and Waste Definitions 1996 (as amended December 2009)*”).

Amendment of Waste Definitions

Clean Fill

We note that the definition of clean fill includes “*has not since it was excavated or removed from the earth, been used or subject to processing of any kind*”. This definition is considered to be very broad and processing can mean many things. Perhaps some clarification around what constitutes processing can be provided to avoid ambiguity.

Uncontaminated Fill

We note that the criteria for uncontaminated fill must meet “*the specified maximum concentrations (thresholds) of chemical substances and limits of relevant physical attributes (set out in Table 6 of the Waste Definitions), as determined by specified sampling and testing requirements (set out in Table 7 of the Waste Definitions)*”. This is ambiguous and confusing as the paragraph prior to this refers to the proposed definitions which are contained in Appendix B of the consultation paper.

Should the reference to Tables 6 and 7 of the Waste Definitions be Tables 4 and 5 respectively (for chemical concentration thresholds)?

In relation to acid sulfate soils, will treated acid sulfate soils be considered uncontaminated fill?

Asbestos

It is noted that *asbestos content (in any form) must not exceed 0.001% asbestos weight for weight*. While in principle this is considered to be appropriate, in the context of fill, it suggests that material containing asbestos, provided it meets the concentration limit, is uncontaminated. This may also allow for a dilution factor of asbestos to meet the criteria and as asbestos is very emotive in the community, it is considered that the uncontaminated category should not specify a criteria for asbestos (particularly as the asbestos guidelines are currently under review).

Appendix B

As noted previously, clarity around whether the uncontaminated fill classification requires material to meet both the maximum concentration and the leaching test concentration would be useful. Further, is the expectation that all parameters listed in Table 1 must be analysed or is professional judgement based on site use and site history acceptable?

Table 2 in relation to testing refers to the NEPM "*Volume 3, Schedule 2, Section 7.5.2*". This reference should refer to NEPM, Schedule B2, Section 7.5.2.

Closing

We trust the comments provided above are of use to the Department of Water and Environmental Regulation. We look forward to the revised consultation paper and a positive step in material reuse in industry.

GOLDER ASSOCIATES PTY LTD



Ivan Kwan
Principal

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