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Dear Sir/Madam

**DISCUSSION PAPER - WASTE LEVY AND WASTE MANAGEMENT: PROPOSED APPROACHES  
FOR LEGISLATIVE REFORM**

Thank you for the opportunity to comment on this discussion paper.


Wesfarmers Chemicals, Energy & Fertilisers (WesCEF) is a Division of Wesfarmers consisting of several companies. In Western Australia this includes CSBP Limited, Australian Gold Reagents (a joint venture with Coogee Chemicals) and Kleenheat, each with production facilities in the Kwinana Industrial Area which produce agricultural fertilisers, ammonia and ammonium nitrate, sodium cyanide, other industrial chemicals, LPG and LNG. These companies also have a significant regional presence with depots state-wide.

WesCEF's facilities generate excess industrial process material and waste, as well as general domestic and commercial wastes. The waste management program implemented by WesCEF at all operational sites seeks to minimise waste generation and maximise beneficial use and recycling opportunities.

A number of synergies exist between the fertiliser and ammonia/ammonium nitrate businesses at CSBP Limited, allowing some industrial process excess material generated by one business to be used as a resource in the production process of another. When beneficial use onsite is not possible some waste is reused externally, for example nutrient-rich industrial process waste in composting. Domestic and commercial wastes are also managed by external waste companies and generally managed at local waste and recycling facilities.

In addition to this CSBP Kwinana is a licensed category 61 and 61A prescribed premises. This allows CSBP to accept high carbon content material from external sources for use in the site's constructed wastewater treatment wetlands.

In this submission WesCEF comments broadly on the longer-term recommendations raised in the discussion paper, but the primary focus is on the implication of the shorter-term reform recommendations for excess industrial process material and waste.



## **Waste Reform Project – Section 7.1: Longer-term Recommendations**

*“Strengthen the relationship between the EP Act and the WARR Act to improve the effectiveness of the Waste Strategy and waste levy by amending...”*

Improving the alignment of objectives detailed in the WARR Act and the Waste Strategy with the EP Act should strengthen the emphasis on waste hierarchy principles, improve reuse and recycling rates and achieve better environmental and health outcomes.


Amendments to the EP Act Sections 62A, to include waste-related conditions that could be attached to a licence to achieve implementation of the WARR Act and Waste Strategy, must be carefully considered and developed in consultation with stakeholders to ensure that specific reuse and recycling options for individual waste streams aren’t inadvertently excluded and that future innovative waste solutions aren’t disincentivised.

Key to the successful execution of including waste conditions in licensing will be the appropriate and consistent application of the DWER guidance statement, *Setting conditions*, by licensing officers.

Redefining the term “disposal premises” in the WARR Levy Act so that it no longer applies only to licensed landfill premises which are used for the dominant purpose of accepting waste from third parties, is likely to reduce the potential for unregulated stockpiling of waste due to the imposition of a financial liability. However, if the definition of “licensed landfill” were altered to include categories 61, 61A and 62 (which is not proposed in the discussion paper) then redefining the term “disposal premises” could impact negatively on reuse and recycling rates and opportunities.

For example, CSBP Kwinana accepts ethylene glycol and sugary wastewater as carbon sources to aid nitrogen removal in the site’s wastewater treatment wetlands. Under current arrangements CSBP incurs no cost for the transfer of this liquid waste because it is a waste product from another industry. If legislative reform led to a levy being applied to this transaction the cost could outweigh the treatment benefit and the waste reuse would be discontinued. The net effect may be an increase in site wastewater nutrients discharged to the environment, within licensed limits, or the use of a more resource-intensive treatment system; and alternative treatment and/or discharge to sewer of the liquid waste.

Similarly, addressing the third-party issue with relation to the interpretation of the term “receiving” in the various WARR legislation has potential for unintended consequences contrary to the intent of waste reform and State interests. For example, a company beneficiates a bulk ore and exports the high-value concentrate while disposing of the low value waste at the company’s landfill site. Currently this waste is not considered third-party waste and therefore not subject to the levy. The proposed changes would apply a levy to this low value waste, making the current business model uneconomic. The business would likely export the ore without value-adding locally, for beneficiation to occur offshore. This outcome is inconsistent with the objects of the WARR Act and the Waste Strategy, as well as State economic objectives.



## Waste Reform Project – Section 7.2: Shorter-term Recommendations

*“Amend Schedule 1 of the EP Regulations to reform landfill and other waste categories by...”*

*“combining five landfill categories to one, and removing the reference to “accept for burial” and the Landfill Waste Classification and Waste Definitions 1996;”*


The intent behind this proposal is understood to be reduced regulatory complexity, reduced risk of stockpiling, improved consistency with other Australian jurisdictions and, through cross-references with the WARR legislation, make levy and reporting requirements applicable to a greater number of premises. Simplification of the waste disposal process and waste data improvements are of benefit to industry and the community. However, consideration must be given to facilities which currently undertake low profit margin reuse or recycling processes to ensure that the imposition of levy and reporting requirements won't disincentivise resource recovery. Cost-benefit evaluation of exemptions for certain premises under the WARR Levy Regulations should be considered and consulted on.

Minimal detail is provided on the decision-making process to be used for the revised licensing structure, and guidance on the landfill waste acceptance process for both waste generators and landfill operators in the absence of legislative reference to the *Landfill Waste Classification and Waste Definitions 1996*. It is critical that no waste streams are unintentionally excluded from disposal options. For example, there is currently only one metropolitan facility in the State with the capacity to accept Class 4 waste, as defined in Table 3 of the *Landfill Waste Classification and Waste Definitions 1996*, and this facility is routinely closed. If the reform methodology used when amalgamating the landfill categories is not thorough, there is a risk that some waste will have no available disposal destination. This could lead to stockpiling of waste or out-of-state transfer, which is contrary to the purpose of the reform process. Close consultation with industry and a high level of transparency will be required to avoid these unintended outcomes.

*“specifying within the new landfill category that waste disposal to land includes other activities (depositing, spreading, ploughing waste to land); and,”*

The current use of the sole term “accepted for burial” is acknowledged to be a limited definition for activities with potential to be considered disposal of waste to land. However, including activities such as spraying, spreading or placing waste on the land, ploughing, injecting or mixing into the land; and filling, raising, reclaiming or contouring of the land into the definition for the proposed Schedule 1 single landfill licensing category could result in outcomes contrary to the principles of the EP Act. WesCEF has significant concerns regarding these implications.

For example, CSBP recovers excess industrial process material from its fertilisers business such as road sweepings and build-up from drains, sumps, dams and ponds. This material is sampled, analysed and assessed against the requirements of the *National Code of Practice for Fertilizer Description & Labelling 2011*. If deemed suitable as off-specification fertiliser, a commercial arrangement is made with a farmer who then applies the material to their land. This management process allows material that may otherwise be sent to landfill to be used in a beneficial application. The outcome aligns with the EP Act principles regarding improved



valuation, pricing and incentive mechanisms; and waste minimization. Under a broadened disposal of waste to land definition it is possible that the off-specification fertiliser will be considered waste which is being disposed of to land and that any area to which this material is applied (e.g. spread, placed, ploughed) should be classified as a landfill, attracting the levy.

Another similar example, which is also linked to the definition of waste as well as the term “receiving” with relation to the first party issue, is the use of material excavated from a site which is sampled, analysed and assessed as clean-fill and deemed appropriate for re-use on site. Under the proposed changes a worst-case implication for this example could be that the clean-fill is considered waste, which if reused on site would require the site to be a classified landfill, with the levy applicable. This would result in this clean fill material going to landfill rather than providing agricultural and land management benefits; with the burden falling on local government-operated landfills to accept increased volumes. Stakeholders must be thoroughly consulted regarding any definition changes to avoid negative impacts contrary to the intent of waste reform.

*“revising licensing descriptions for categories 61A (solid waste facility) and 62 (solid waste depot) to clarify their purpose, and the specific activity to which they apply.”*

This recommendation is reasonable and should prevent confusion about how waste can be managed at each specific licensed facility.


#### **Waste Reform Project – Section 7.2: Shorter-term Recommendations**

*“Amend the WARR Levy Regulations to apply the levy to categories 61A and 62 if waste is not lawfully removed from the premises within 12 months.”*

This creates several potential issues. For example, WesCEF would only support such a levy being applied to waste accumulated from the amendment date onwards. CSBP Kwinana, although a licensed category 61A premises, has never accepted solid waste from a third-party but does hold some historic material excavated from the site itself. It is possible that through the proposed waste reform process this inert material could be considered stockpiled waste and be subject to a levy.

Regarding collection of levy payment, the NSW approach of payment after a period of time if the waste received has not been recycled, reprocessed or transferred to another licensed waste premises is preferred to upfront payment. There would be significant administrative resources required for both the DWER and industry regarding upfront payments that must be refunded for material that is managed within the required timeframe.

Another consideration is that current recycling and reuse opportunities for certain waste streams are limited. Applying a levy and/or stockpile volume limit may disincentivise the market to invest in new technologies for resource recovery which require time to develop and/or become economically viable. The use of economic levers to influence market mechanisms could reduce waste innovation. Additionally, waste material with potential future reuse or recycling markets would likely end up in landfill with no possibility of recovery. The DWER should consider extending the proposed permissible storage time and/or allowing exceptions to the storage timeframe on a case-by-case basis. For example, if



the waste is inert, has potential to be an important resource in the future, and poses no environmental harm through long-term storage.

It will be important to consider resource requirements when making reform decisions, particularly with relation to the above points. Based on the DWER's current resourcing levels it may take months rather than weeks for individual assessments to be completed, which has the potential to negatively impact on an organisation in a number of ways including forward planning, budgeting and cash flow.

#### **Waste Reform Project – Section 7.2: Shorter-term Recommendations**

*“Amend the WARR Levy Regulations and WARR Regulations to require licensed waste premises to follow consistent waste measurement procedures, (including the mandatory use of weighbridges) and introduce additional record and reporting requirements.”*

WesCEF acknowledges that this recommendation would help identify illegal dumping and improve accuracy and transparency around waste outcomes. However, the cost of installing and maintaining a weighbridge can be considerable, and to avoid this from being a deterrent to reuse and recycling opportunities the DWER should consider exceptions to its mandatory use, subsidies and/or approving alternative weight calculation methodology. For example, data from weightometers installed in trucks designed to collect and transport waste would be a suitable, cost-effective alternative that would provide data of a reasonable accuracy.

#### **Waste Reform Project – Section 7.2: Shorter-term Recommendations**


*“Remove and replace references to “receive” and “disposed of to landfill” from the WARR Regulations and WARR Levy Regulations.”*

WesCEF's response to this recommendation is addressed in the above section “Waste Reform Project – Section 7.1: Longer-term recommendations”.

#### **Related Issues for Consideration**

In approaching the response to the waste reform paper, a number of other related issues for consideration have become apparent and may be worthwhile addressing through the reform process.

- Clarifying the definition of waste to facilitate increased resource recovery and avoid unintended consequences.
- If defined as “waste”, is there potential to include a “beneficial use” clause allowing exemption from the disposal to land definition, landfill and levy requirements e.g. off-specification fertiliser, carbon-rich sources for wastewater denitrification?
- Remediation of a contaminated site may result in onsite containment of contaminated soil being the most feasible management option based on sustainability measures. Would this be exempt from first-party levy reform?
- Income received from levy payments will increase as a result of reform. What will this income be used for? Rather than using this to increase general revenue it is suggested that the monies be reinvested to improve waste outcomes e.g. fund collaborative research and development projects for reuse and recycling technologies and opportunities, waste reduction programs and education.

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- Category 61 (liquid waste facility) of the EP Regulations Schedule 1 is noted briefly in the discussion paper but not specifically included in the recommended changes. Will this category be captured in the recommended changes e.g. first party waste, waste levy and storage for greater than 12 months, record-keeping and reporting, weighbridge requirements?
  - Consideration of upcoming entrants into the waste management industry when undertaking reform e.g. Tellus Holdings and current lack of landfill availability e.g. for disposal of Class 4 waste.
  - Reflection on whether recent increases in stockpiling are due to legislative loop-holes and an attempt to avoid increasing levy rates; or is it due to the complicated waste-derived materials (WDMs) framework and/or a lack of existing reuse and recycling options due to technology, demand, restrictive waste definition, and perceived legal risk? Is this an opportunity to simplify and improve the WDMs framework to support the purpose of waste reform?
  - The discussion paper focusses on disincentives e.g. increased levy scope to reduce stockpiling, but does not propose any incentive measures e.g. removal of licence fee under Part V of the EP Act for waste reuse or recycling initiatives.

The above comments on the proposed waste reform recommendations and related issues for consideration listed, highlight the complexity of legislative changes in this area. WesCEF supports a simple, consistent and effective regulatory regime that is commensurate with the risk and desired outcome. Legislative reform through the adjustment of waste controls (assessment/definition, licensing and reporting) and charges (licence fees, levies) must consider that different wastes carry significantly different risks to the environment, and potential for reduction through reuse, recovery and recycling. Extensive stakeholder consultation, unambiguous definitions and consideration of all potential implications will be necessary to achieve an improvement in Western Australia's waste performance and facilitate a move to a low-waste society.

Please contact me on (08) 9411 8235 or [jprosser@wescef.com.au](mailto:jprosser@wescef.com.au) if you would like to discuss this submission in greater detail.

Yours sincerely

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