



27 May 2015

End of Waste Review
Department of Environmental Regulation
Locked Bag 33
CLOISTERS SQUARE
PERTH WA 6850

By email only: end_of_waste@der.wa.gov.au

Dear Sir/Madam

**GUIDELINE: SUBMITTING AN APPLICATION FOR THE USE OF WASTE-DERIVED MATERIALS
(CASE BY CASE DETERMINATION)**

This draft document has been reviewed and a number of significant concerns are set out hereunder.

1. We are concerned that the guideline appears to be based on the inherent proposition that all and every type of waste is contaminated, and will pollute or cause environmental harm if it is deployed as a resource within the environment. This will cause the Guideline to capture and require DER approval for a wide range of benign materials use activities. (For example the re-use of a vegetable processing plant waste for pig food appears to be within the ambit of the Guideline, whereas vegetable offcuts are clearly not contaminated and when used for pig food could not conceivably create risk of pollution or environmental harm);
2. The Guideline appears to capture and require DER approval for a range of tried and proven methods of using/re-using materials which would otherwise be considered wastes/by products by the generator, of normal day to day commercial and industrial activities. For example:
 - composting of green waste to produce materials for use in landscaping, market gardening and home garden activities – these processes are well known, well understood, beneficial on a social economic and environmental basis and create negligible or zero risk or pollution or environmental harm but would need DER approval under the guideline;
 - use of fly ash as a soil amendment to improve the water retention capacity of sandy soils has been in practice world-wide for decades, but will now require DER approval, whereas the social, economic and environmental benefits are clear and the risk of pollution or environmental harm is negligible;
 - the use of clay recovered from excavation (Elizabeth Quay) for brickmaking is a beneficial use of the material but will require DER approval, whereas no such approval is required when clay is extracted from traditional clay pits; and
 - the use of clean fill recovered from development sites as structural fill on other land development sites which require such fill to (for example) meet groundwater separation requirements for urban development.


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3. There is no time frame proposed for the period in which DER will take to assess applications.
4. There is no review or appeal process set down to cater for instances in which the applicant is aggrieved by or does not accept on technical grounds the DER's decision or opinions in regard to an application.
5. The mandatory assessment of WDM applications by an independent reviewer who is also a contaminated sites auditor accredited by DER implies the presumption that all waste/by product materials will cause risk of contamination or environmental harm. This is an excessively conservative position to assume. See examples within paragraph 2.
6. The Guideline does not give any assurances that a supportive report by a DER accredited auditor would also ensure a supportive response from DER.
7. We are concerned that it is at the unilateral discretion of the DER to specify that leaching tests using the LEAF test method 1313 should be a part of risk assessment. LEAF test method 1313 requires leaching of materials at 9 step points between pH's between 2 and 13. There is no circumstance where, for example, mulches prepared from composted green waste and deployed in urban areas for the purpose of water conservation, could be subjected to leaching by waters at either end of this scale. The only sources of water to these mulches would be rainfall, scheme water or groundwater. None of these sources ever reaches the limits of this pH range. Department of Water data describing groundwater quality on the Swan Coastal Plain shows that the pH range is typically about 5.5 to 7.5, with very isolated circumstances where pH is as low as 3.6 and as high as 9.3.
8. There is no indication of the quantitative limits, particularly at the smaller scale, which determine whether an application to use a WDM is necessary.

In summary we contend that the Guideline is excessively prescriptive rather than being outcome based, requires too much information to deal with low relevance matters, and will have very high costs in terms of monetary costs to applicants.

These factors appear likely to see potential proponents of waste/materials re-use constrained in their capacity and enthusiasm to make applications for worthwhile projects. This would be counterproductive to the end-of-waste initiative.

Yours faithfully,



R A D Sippe
Executive Director