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27 May 2015

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

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?

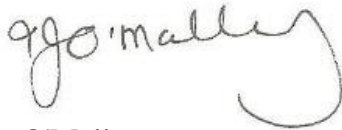
2. In light of this concern, the PHCC urges the Department to publicly release Guidance on how applications will be assessed once they are lodged, timeframes for decision-making, and how the public may be involved in the process (e.g. opportunities for comment).
3. It is important that any Department 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 cursive script that reads "jane omalley". The signature is written in dark ink and is positioned above the printed name and title.

Jane O'Malley
Chief Executive Officer