



28th May 2015

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

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

ATTN: End of waste review team,

RE: Draft Guideline: Submitting an application for the use of waste-derived materials (case-by-case determination)

UDIA is pleased to provide this submission to the Department of Environmental Regulation's end of waste review in relation to the *Draft Guideline: submitting an application for the use of waste-derived materials (case-by-case determination)* (the guideline).

The Urban Development Institute of Australia (UDIA) WA is the peak body representing the urban development industry in Western Australia. UDIA is a membership organisation with members drawn from the development, planning, valuation, engineering, environmental, market research and urban design professions. Our membership also includes a number of key State Government agencies and Local Government Authorities from across the state. Nationally, UDIA represents the interests of thousands of members and includes all the major land development companies, both public and private, and specialist consultancy firms.

Scope of Comments

UDIA provides these comments with the understanding that further materials guidelines are currently being developed by the Department of Environment Regulation (DER), including those for manufactured fill. UDIA understands that this guideline has been prepared with the specific intent of addressing applications for case-by-case determinations. While the guidance within this document, including the risk assessment pathway set out in Figure 2 would appear to offer reasonably clear guidance as to the assessment pathway, procedural issues may arise in practice and as such it is difficult to comment on application issues which may arise in the future. Comments made within this submission are based on the feedback received by UDIA members during the consultation period.

General Comment

UDIA is supportive of DER's efforts in seeking to provide guidance in relation to the re-use of materials, and ongoing efforts in producing material specific guidelines. As previously stated in response to other waste-derived materials documents, there appears to be an underlying assumption within the guidelines that materials are contaminated and/or otherwise potentially inappropriate for use. The development of a case-by-case determination process goes some way in ensuring that materials are not excluded from use where they are otherwise fit for purpose, however due to the underlying assumptions, the approach set out in these guidelines may be overly-risk adverse in determining uses for low risk materials.

In regard to the implications for industry, government agencies and regulators, it is uncertain at this time whether a regulatory impact study has been completed in relation to this policy. UDIA members have expressed concern that some provisions within this guideline will add to the cost and administrative time frames, impacting proponents as well as the various departments to which the document refers.

The following sections will seek to address the consultation questions listed in the DER website.

Feedback Questions

Question 1

Are there any parts of the guideline where the requirements are not clear?

The feedback UDIA has received from members in relation to the draft guideline has primarily focussed on the need for further clarity with respect to various aspect of the document. UDIA members have advised that further information with respect to the following points would assist with the effective implementation and usability of the guidelines:

- The guidelines should indicate which section of the Department of Environmental Regulation are responsible for the various processes outlined in the document, including where applications are to be sent, as well as the sections responsible for assessment and approval. This will ensure administrative efficiency and allow proponents to direct queries to the relevant area.
- Inclusion of indicative timeframes for the various processes set out within the guidelines, should be included where possible. This will allow proponents to incorporate these processes within land development scheduling.
- The guidelines indicate a need to consult with agencies prior to lodging an application, however do not indicate which agencies or under what circumstances they are required to be consulted. In the interest of administrative efficiency for both proponents and the agencies, further clarification is required. A lack of clarity in this regard is likely to result in agencies being contacted unnecessary as a precaution.

Question 3

DER has introduced the concept of 'comparator' to streamline risk assessment for WDMs that are being used to replace a raw material in an equivalent use, where the WDM has comparable characteristics to the raw material. Comments are sought on the appropriateness of this approach.

The following technical feedback has been received by UDIA with respect to the risk assessment process set out with the guideline.

- It may be appropriate to consider less onerous assessment process for materials which are deemed to be low risk such as separately sourced concrete, brick and masonry from construction and demolition activities.
- The requirement for a screening risk assessment using a comparator is onerous for relatively inert materials like road base when locally sourced materials such as limestone and gravels are not subject to the same level of scrutiny.
- The requirement for a contaminated sites auditor to accredit an application to use WDM will add significant cost to an application.
- The costs of testing WDM to the standard required by the DER could be a disincentive to greater recycling in WA and be counterproductive in terms of achieving the State's Waste Strategy Recycling Targets.
- Comment has been received that the guidelines do not acknowledge best practice material hazards assessment processes and deconstruction techniques which would enable relatively clean recovery of materials.

Conclusion

UDIA is supportive of the intent of the guidelines and appreciates the opportunity to provide these comments to the Department of Environmental Regulation's end of waste review in relation to the *Draft Guideline: submitting an application for the use of waste-derived materials (case-by-case determination)*.

If you require any further clarification in regard to the comments contained here, please feel free to contact a member of our policy team at policy@udiawa.com.au.

Yours sincerely,



Debra Goostrey

Chief Executive Officer