



**Submission on the
Department of Environment Regulation
Draft Guidance Statement: Regulating the Use of Waste Derived Materials**

August 2014

Status of this Submission

This Submission has been prepared through the Municipal Waste Advisory Council (MWAC) for the Western Australian Local Government Association (WALGA). MWAC is a standing committee of WALGA, with delegated authority to represent the Association in all matters relating to solid waste management. MWAC's membership includes the major Regional Councils (waste management) as well as a number of Local Government representatives. This makes MWAC a unique forum through which all the major Local Government waste management organisations cooperate. This Submission therefore represents the consolidated view of Western Australia Local Government. However, individual Local Governments and Regional Councils may have views that differ from the positions taken here.

This Submission was endorsed by MWAC on Wednesday 27 August.

Introduction

Local Government supports the use of fit for purpose waste derived materials and as such welcomes the opportunity to comment on the draft guidance statement which aims to provide a framework for the development of Guidelines for waste derived material. Local Government favours an outcomes based approach, which clearly identifies the expected requirements that waste derived materials need to meet.

There is often a perception within the waste industry that end users of materials, view 'virgin' materials as superior products to waste derived materials. The approach suggested by the DER may go some way towards addressing this issue by providing a clear framework for waste to no longer be considered a 'waste'. However, feedback from Local Governments has highlighted that a regulatory framework is not be the only approach required. There is a need for ongoing assistance from Government in the area of market development.

This Submission provides some general comments on the application of the proposed approach and addresses each of the questions asked in the Draft guidance statement.

General Comments

Objectives

For Local Government the main objectives of the Guidelines would be to:

- Provide quality assurance for the material that is purchased by the sector; and
- Provide quality assurance for material which is produced / processed by Local Government.

Through the quality assurance process, one potential barrier to further use and marketing of waste derived products can be avoided.

Consultation

While Local Government welcomes the opportunity of a framework for waste derived products, a strong note of caution should be raised in the development of the Guidelines. The DER has flagged that they intend to work with industry to develop the Guidelines. This is vital, as the development of previous draft Guidelines for organics caused great concern for the sector (the proposed approach required testing regimes which were costly and not available in WA). Any Guidelines that are developed need to be practical and readily achievable by the industry and stimulate rather than inhibit markets. Otherwise, investment will be needed to assist with the achievement of these Guidelines – as was the case with the Guidelines for Managing Asbestos at Construction and Demolition Waste Recycling

Facilities. Local Government also requests that DER works with relevant state agencies, to ensure that the Guidelines do not conflict with existing requirements and Standards.

In relation to consultation on the development of the Guidelines, it is suggested that DER also specifically consults with current or potential end users of the target waste derived materials. This will allow DER to ascertain the needs of end users, and appropriate level of regulation (i.e. in situations where there is no risk of harm to the environment, human health or safety – lesser controls may suffice).

Recommendation: Undertake an initial market survey/assessment for waste derived products prior to the development of Guidelines to ensure that the Guidelines will address market barriers and end user needs.

Market Considerations

The market demand for waste derived materials is often limited; materials such as glass, tyres, and plastics do not have a high, or in some cases any, monetary value. However, there are a range of uses for these materials that costs less and is more beneficial than landfill and should be supported. One example includes the use of glass collected via comingled recycling in road base. Placing additional requirements on processors / users to meet particular guidelines will increase costs. There is a risk that this may discourage efforts that are currently occurring. The cost implications to the sector needs to be carefully considered and is addressed further under Question 3.

Review

This submission does not comment on the proposed approach of 'administrative' rather than 'legislative' but would recommend that the administrative approach is reviewed two years after implementation to determine the effectiveness of this approach.

Recommendation: A timeline and terms of reference be established to review the implementation of the proposed approach.

Question 1

a) Which waste streams should DER develop material guidelines for?

In the Draft Guidance Statement the DER identifies a range of factors which would affect whether a material has guidelines developed, these include:

- Assist with market development for waste materials;
- Protect human health and the environment;
- Meet the State Waste Strategy targets for waste diversion; and
- Address Objective 2 of the State Waste Strategy: *Develop product specifications to better define recycled products made from wastes to support their application in relevant circumstances.*

Discussion with DER indicated that, as an environmental regulator, the organisation was primarily interested in environmental protection. To ensure clarity for stakeholders, it is suggested that DER highlight that environmental protection is their primary driver in the final Guidance Statement and use that as one of the criteria for prioritising products.

Local Government suggests the following considerations are used to identify priority products:

- Tonnage of waste derived material: the larger the amount of material that Local Government is generating, the higher the likely cost for disposal – stimulating a need to find alternative uses for the product.
- Market conditions: if the market for a product is limited (with a key concern being the quality of the product and limited fit for purpose standards), development of a Guideline may be beneficial.

Recommendation: A clear set of criteria to prioritise products for material guidelines be developed including environmental protection, tonnage of material and market conditions.

b) What do you think the priority order for the development of the material guidelines should be and why?

Local Government suggests that materials be prioritised in accordance with the suggested criteria in the answer to the previous question. From discussion with DER, the priorities identified for immediate action were waste derived fill, soil amendments and construction and demolition materials. Following the development of these Guidelines WALGA will undertake further discussion and consultation with its members to determine the need for other Guidelines.

Question 2

a) Are you willing to participate in workshops to help inform the development of material guidelines?

Yes. WALGA is keen to facilitate Local Governments involvement in the development of material guidelines. In the non-metropolitan area, the costs of managing waste are often disproportionate to the amount of material generated. This results in a situation where diverting material from landfill costs more than sending it to landfill. In developing these workshops it is important that stakeholders in the non-metropolitan area are actively engaged. The Local Governments in the non-metropolitan area have fewer resources (both physical and financial), to undertake activities - therefore may be adversely affected by the material Guidelines.

b) If so, which waste streams would you like to be involved with?

WALGA would like to be initially involved in the development of guidelines for all waste streams Local Government generates, or where waste derived material is purchased by Local Government.

Recommendation: WALGA is keen to facilitate Local Governments involvement in the development of guidelines for a range of material types.

Question 3

How should DER's costs associated with regulating waste derived materials be recouped from industry?

- **Flat fee per application;**
- **Sliding fees based on the degree of work involved; or**
- **Some other mechanism (please specify).**

Market development

As mentioned, markets for waste derived materials are often marginal. Therefore, charging proponents could be an inhibitor to industry development at this stage and reduce the uptake of the Guidelines. One of the drivers for the Guidelines, although not the key driver, was to stimulate market demand for waste derived materials. It should be noted that development of markets does come at a substantial cost. In order to begin generating any level of demand, market development is often subsidised – or built into the price of managing a particular material in the event there are opportunities to recoup costs.

For example, the recent introduction of the Asbestos Guidelines for the C&D Industry meant a significant increase in cost due to the testing regime but provided the waste industry with a clear process and accreditation which provided legitimacy. This process has been subsidised by the Waste Authority to ensure that the industry had the ability to achieve the outcomes required by the Guidelines.

Cost Recovery for Regulation

As this is a new process, it would seem that there will be a limited ability for DER to predict the number and complexity of the applications likely to be submitted. Therefore cost recovery will be difficult to estimate in the first instance. The DER's role is that of a regulator, therefore these costs should be recovered from consolidated revenue.

Recommendation: That the Department of Environment Regulation costs associated with regulating waste derived materials be recovered from consolidated revenue.