



**Submission  
Department of Environment Regulation  
Material Guidelines for Clean Fill and Construction Products**

**December 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 is yet to be endorsed and will be considered by MWAC on **Wednesday 10 December**.

**Introduction**

Local Government provided comment on the Department of Environment Regulation (DER) Guidance Statement: Regulating the use of waste-derived materials. This Submission makes comment on Guidelines which have been developed under the framework outlined in the Guidance Statement.

In commenting on the Guidelines, Local Governments primary concern as a community representative is to ensure the environment is protected, as an operator who may undertake development works and as a purchaser of products generated by manufacturers using the Guidelines.

**General Comments**

In both Guidelines, section 1.2 indicates the Guidelines will be reviewed on a 'regular basis'. It is suggested that further information be included on the frequency of review, and what would trigger a review. For example a review could be triggered by new information or technology or changes to other regulations. As was noted in the WALGA Submission on the Draft Guidance Statement, there should be a requirement for review within 2 years to establish the effectiveness of the approach.

Consistency and clarity of definitions in both documents would be useful. Currently the definition of 'producer' is different in both documents. For clarity it is suggested that rather than having the word producer, the definition should be of a 'generator' should be defined as the 'person who generates the waste' and a new definition of manufacturer be included for the 'person who processes, mixes, blends or otherwise incorporates the waste into a product'.

**Clean Fill**

The Guideline for Clean Fill appears to apply mostly to the producers of clean fill; defined as those who generate the clean fill. This may impact Local Government, if undertaking building works and road construction.

Clean fill, as defined in the document, only includes "material that will have no harmful effects on the environment and which consists of rocks or soils arising from the excavation of undisturbed material". This is at odds with how clean fill is described later in the document, where it is stated that "waste materials that may be used as clean fill are generated from a number of sources and activities" – these activities as identified in the document include "excavations in areas that have been used for purposes other than residential". Therefore the definition of Clean Fill needs to be amended to better reflect the rest of the document. MWAC suggests the removal of the 'undisturbed' from the definition would meet this outcome.

The process outlined to ensure clean fill used will not have a negative environment impact requires an understanding of the material being excavated (e.g. is the site suspected of being contaminated) and a visual inspection of the material to ensure it is not discoloured (which would indicate hydrocarbons or other contaminants), have odours or have non-permitted waste in it. If these criteria are met, no further testing is required. Testing requirements only apply to 'potentially contaminated waste'. The uses to which clean fill can be put are "all uses that a non-waste derived product is used for". The limits on the use, do include 'not to be used below the highest seasonal level of the groundwater table'. Further clarification is required on why this restriction is listed.

## **Construction Products**

The definition of 'recovered glass' has the potential to substantially impact on the current end use of glass from the majority of material recovery facilities in WA. The current definition states that recovered glass 'means glass from the clean glass stream or the glass separation line of a material recovery facility. It excludes glass from the material recovery facility fines screenings and leaded glass'. Excluding leaded glass is not problematic. However, the majority of MRFs do not separate glass specifically. Later in the document, recovered glass is listed as the material 'suitable to be used in the manufacture of recycled road base'. The current practice in WA is for the glass to be further processed and screened to ensure that it does not contain unsuitable materials, then used in construction. Glass is a very difficult material to recycle in WA and this definition is likely to undermine the only market that currently exists.

A far more stringent testing regime is included in the Guideline for Construction Products. The pre-acceptance procedures and acceptance procedures required, are the same as the Clean fill guidelines and appear reasonable. However, even if no contamination is found there still appears to be a requirement for a very stringent testing regime. Feedback from C&D recyclers has indicated that the cost of the testing regime could increase the cost of their product by 10%. It is not clear why the material from Construction and Demolition sites has these far higher requirements compared to sites where clean fill is sourced. To ensure sufficient testing is undertaken the Department could undertake test samples from various C&D recycling site to determine what would be a statistically significant testing regime.

The restrictions for use of the product are also considerably more stringent than for clean fill and it is not evident why this is the case. Recycled road base has its use restricted to "use as sub base in road and pavement construction and other hardstand areas such as footpaths and car parks", feedback from C&D recyclers indicates that there a range of other uses for the material such as in non-structural concrete as an aggregate. It is suggested that the uses for Recycled road base and recycled drainage rock not be restricted, as they have the capacity to be used in any situation where virgin product of the same specification can be used.