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**WMAA Submission on the Consultation Paper – *New minimum standards for managing construction and demolition waste in NSW*, and other reforms for managing waste**

Thank you for the opportunity to provide comment on the Consultation Paper – *New minimum standards for managing construction and demolition waste in NSW*. The Waste Management Association of Australia (WMAA) is the peak body for all stakeholders in the waste and resource recovery industry, with over 2,000 members nationally based in a broad range of business organisations, government, universities and community groups.

WMAA's members are involved in a range of important waste management and resource recovery activities within the NSW economy, including infrastructure investment and operations, collection, manufacturing of valuable products from resource recovered materials, energy recovery and responsible management of residual materials, and community engagement and education.

WMAA has utilized its existing Working Group Structure to prepare comments in response to this Draft, in particular the WMAA NSW Construction and Demolition Working Group, the WMAA NSW Landfill Working Group, and the NSW Branch Committee.

WMAA looks forward to the positive consideration of the attached feedback (See Annexure A). WMAA and its representatives view this Paper as part of an ongoing discussion with the NSW EPA, and as such looks forward to the opportunity to meet with EPA Officers to discuss the attached. If there are any questions, please do not hesitate to contact the undersigned.

Yours sincerely

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Section (page)	Comment
<b>1. Introduction</b>	
	In principal, WMAA supports regulatory action that ensures a level playing field for members and assists in making the waste management industry sustainable throughout Australia. WMAA and its members are committed to maintaining and improving the reputation and professionalism of the industry, and note that the majority of operators in the industry are responsible companies with good work practices
<b>2. Construction and demolition waste industry reform</b>	
<b>Mandatory Procedures (p3)</b>	In principle there is support for this approach
<b>Dedicated on-site storage areas for inputs and sorted materials (p3)</b>	In principle this is supported, however it needs to be noted that licenses may require amendments to enable the lawful storage of contaminants such as asbestos
<b>Inspection requirements (p3)</b>	In principle supportive, however Tipping Floor may need to be better defined as to what is required – industry currently believes that a hardstand area is sufficient
	Whilst in principle the objective of inspections is supported, the practical ability to inspect loads whilst still in vehicles is questionable and highly unlikely to be achieved
	Use of the term ‘spreading’ – this term needs to be defined  The industry maintains that a truck ‘running out’ a load fulfils this requirement and, as per the asbestos protocol proposal, a video or photos would assist both EPA and operators to have a clear understanding of what is expected here. As such, some form of risk assessment should be able to be applied to particular loads/customers based on the waste source/who sends, etc
<b>Inspection Requirements (p3)</b>	There are a number of possible issues in relation to what is proposed here, including <ul style="list-style-type: none"> <li>a. As per above, it is not physically possible to inspect the contents of a vehicle before unloading;</li> <li>b. How will the training of the proposed inspectors be funded and delivered by March 2017; and</li> <li>c. The additional cost on business of inspecting and recording every vehicle</li> </ul>
<b>Sorting requirements (p4)</b>	The Consultation Paper states C+D waste <i>must</i> undergo a sorting process, clarification is sought, is this in fact proposed to be a mandatory requirement.  It should be noted that loads of materials such as segregated concrete will not require any sorting, and that this requirement should only relate to mixed waste streams.  Better definition is required to clarify contaminants to distinguish physical contaminants from possible chemical contaminants.

<b>EPA will publish guidelines (p4)</b>	WMAA recommends that a small working group of industry representatives and EPA be established to develop the guidelines; the guidelines are viewed as critical to achieving a level playing field and consistency across the industry for both an operator and the EPA staff to work with
<b>Resource Recovery Targets (p5)</b>	<p>In principle WMAA is supportive of resource recovery targets for industry. At present it is understood that the rate of recovery in the C+D industry is approximately 70%, as such and given that this and the fact that this is the first year of operation, the target should possible start at 70% and evolve to 75% over time, which will enable improved data collection and record keeping. Industry experience is that incoming waste is becoming increasingly lighter as more 'on site' resource recovery is undertaken and, accordingly, any pre-set legislative targets must be capable of being reviewed in conjunction with industry on a regular basis</p> <p>Clarification is required in relation to how waste that is sent to C+D sites by another recycler will be treated for the purpose of achieving the KPI? In practice, there is a high likelihood that other recyclers will have removed the 'easy' heavy material and thus the remaining fraction that is receipted will contain substantially less recyclables than the 75% required. This may have an unintended consequence of the industry not accepting this material given that it will know that it cannot achieve the target, and potentially result in this material being landfilled as opposed to recycled</p> <p>Please note also that the 75% (or alternative) target should be set regardless of the size of the operation. It is recommended that this could be required <u>unless</u> the waste is sent to another levy liable recycling facility in NSW for further processing</p> <p>There is concern that the \$44,000 penalty for failure to achieve could be meaningless, relative to profits made by alternate disposal, further the proposed first twelve month period used to assess compliance with the 75% rule is considered to be too long, and may lead to non-compliance as the potential gains could far outweigh any penalty.' It is recommended that for the first twelve months, a rolling three (3) month period is used to assess compliance, and then this could convert to a twelve month rolling period after the first year</p> <p>Additional issues for consideration –</p> <ul style="list-style-type: none"> <li>• Legislation must make allowance for some form of defence or exclusion to be provided in these exceptional circumstances, for example where any periods of lost production caused by plant shutdown or upgrade wherein waste may still be entering a site and stored within 'authorised amounts' limits, but only minimal sorting may occur</li> <li>• where a company has numerous sites, it may be advantageous to consider the sites on an aggregated basis to determine the recycling rate achieved</li> </ul>
<b>Production and use of recovered fines (p6)</b>	<p>In principal the withdrawal of the general resource recovery order and exemptions is supported, as well as the proposal to provide operators with specific resource recovery orders, however there is a need for a general exemption for some specific uses of recovered fines</p> <p>Further, an operator should also be able to apply for a specific exemption for their recovered fines if an application is not covered by the general exemption</p>

	It is submitted that the exemption for -50mm recovered fines for landfill cover must limit the amount of waste, and be available only for supply by EPA licensed recycling facilities, that is it cannot be produced by for example, building sites and then sent to a landfill
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<b>3. Improving performance at landfills (p7)</b>	
In principle there is support for the proposals to improve performance at landfills	
<b>Offence to exhume waste</b>	<p>A complete prohibition, or requirement for specific detailed impact assessments, on the exhumation of waste is inappropriate. The management of an active landfill requires the need to exhume waste to profile a landfill batter, install landfill infrastructure such as gas capture wells and monitoring wells, and manage landfill emergencies (underground fire, criminal investigations, etc). An offence to exhume waste should only be applied where the waste exhumed is proposed to be disposed of offsite, where it is not needed for environmental requirements. A strict prohibition is disproportionately onerous and fails to meet the environmental and operational objectives of a well-run landfill</p> <p>Further, the exhumation of waste from closed landfills under remediation and decontamination is common place. A prohibition on the exhumation of waste would conflict with site clean-up operations for a multitude of contaminated lands sites under the <i>Contaminated Lands Management Act</i></p>
<b>Offence to send mixed loads of waste from the facility</b>	<p>This clause is interpreted as attempting to restrict the transport of waste made up of different waste types as per the Waste Levy Guidelines. One (1) 'specific mix type' is 'MIX' - as the document currently stands it would appear that "<i>MIX can be sent as it is not a mix of the different mix types</i>", as such it is recommended that clarification/definition be provided in relation to this category</p> <p>Landfills often receive waste streams which they may be licenced to accept, however this is not the most appropriate end location for this waste, for example, putrescible waste landfills receiving mixed construction and demolition waste. Often these sites will on transfer this waste, just like a transfer station, to a more appropriate site, often a dedicated non-putrescible waste landfill. Prohibiting this form of waste transfer does not increase environmental outcomes, as one receiving facility may not have the infrastructure to sort or process particular wastes it is licensed to accept. Such transfer of waste operates in the same form as a transfer station</p>
	The clause also refers to unprocessed building and demolition waste; it is recommended that there is a need for clarification in the context of what defines sorting and/or processing
	It is recommended that some definition is also required to allow a landfill to still be able to remove ferrous and non-ferrous, as well as large pieces of concrete, for example, that can be readily removed by equipment

<b>4. Improving handling of asbestos waste (p9)</b>	
	<p>In principle this is supported, however clarification is sought in relation to the following –</p> <ul style="list-style-type: none"> <li>if asbestos is found in a C+D waste load and the truck is to be rejected either before it is tipped or if it gets reloaded after it is tipped - does this section apply, that is, is the operator responsible to ensure that the load is securely packaged, transported, etc to a licensed landfill – it is submitted that this should be the responsibility of the transporter</li> </ul>

<b>5. Clarifying the application of transported waste deductions (p11)</b>	
	<p>It is understood that the intent of this is to address the ongoing concern of both Government and industry that waste is being transported interstate.</p> <p>The current Clause 16 of the <i>POEO Regulations</i> allows for deductions for levy liability for waste sent from a licensed facility being a resource recovery facility, and as such it is unclear how this proposal will prevent the transport of material from the premises to interstate facilities, it is therefore submitted that further consideration should be given to this and section 9 of this paper</p>
	<p>This section states that “Landfills (ie any facility licensed for waste disposal) may only claim a transported waste deduction on waste sent to a lawful facility for recovery or recycling”</p> <p>However this does not cater for the situation where a landfill finds that unlawful waste was received at the facility, and must be transferred to another landfill that is licensed to receive the waste</p> <p>For example, if putrescible waste or asbestos is discovered in the waste received, it must be collected and transferred to a landfill licensed to accept that type of material. In these circumstances the levy should be recovered by the transferring landfill, as the levy will be paid a second time by the receiving landfill</p>

<b>6. New eligible operational purpose deductions (p12)</b>	
	<p>The new eligible operational purpose deductions are supported in principle. However it is also recommended that the levy deduction is extended to include waste material used as a biocover layer at landfill sites on intermediate cover layers, to reduce odour and landfill gas emissions</p> <p>Biocovers are a proven and cost effective method for reducing odour and methane emissions at landfill sites, and are identified in the <i>Environmental Guidelines: Solid Waste Landfills</i>, 2016 (page 38) as a legitimate method for reducing landfill gas emissions from intermediate landfill cover layers</p>

## 7. Clarifying the application of the waste levy at resource recovery facilities (p13)

In principle support is given to these proposed minor amendments that clarify the waste levy at resource recovery facilities

## 8. Monitoring waste at licensed facilities (p15)

### What's the problem (p15)

WMAA in principle supports the EPA's efforts to introduce mechanisms that are flexible and robust; to this end the narrative in Section 8.1 appears to indicate that the EPA seeks '*more effective powers to monitor in real time suspected illegal activities at the waste facilities*'. This is being interpreted by industry to mean that the EPA could view cameras at the site from an EPA office, can this please be clarified? If in fact this is what is proposed, how will this be funded

### What's the proposal (p15)

#### Stocktake of waste

As it stands, what is proposed in section 8.2 is the removal of the current requirement to undertake annual volumetric surveys. At present some facilities in NSW actually have license conditions requiring six (6) monthly surveys, can advice please be provided as to whether these license conditions be amended to provide and ensure a 'level playing field' for all resource recovery facilities

#### Video monitoring powers

What appears to be proposed by this wording is that video monitoring records will be required to be maintained for six (6) years. If this is in fact what is intended, please note that this could be a potentially very costly exercise for an operator as there is no indication as to how many cameras would be required to be utilized. Advice received indicates that the storage capacity required to maintain 6 years' records would be very large (in the order of 1TB per camera per month) and, as stated, potentially very expensive

## 9. Improved waste transport (p17)

WMAA understands that the proposal to repeal the proximity principle in Clause 71 of the *Waste Regulation* is a direct result of the challenge to enforce such a Regulation and the fact that waste continues to be transported interstate, in particular to Queensland even with the proximity principal regime is in place

It is WMAA's understanding that there is a national approach to Waste Levies currently under discussion at EPA Senior Officer level which may include the issue of interstate transportation of waste. WMAA is extremely supportive of a National approach which will ideally result in a level playing field for all and may include aspects such as levies being equalised to address cross border transport issues, as well as providing landfill operators certainty of supply. Please note the repeal of this Regulation within less than three (3) years of commencement will have significant impact on a number of landfill operators who will have invested in their sites, based on the 2014 commencement of this Regulation

WMAA is acutely aware of the challenges that Waste Levies and Waste transportation pose to both Government and the Industry, WMAA would like to have the opportunity to work with Government further on this matter, and would even suggest that alternative methods of addressing the issue of interstate transportation of waste could be considered. For example it is WMAA's understanding that the ACT Government is

	<p>proposing to register waste transporters and charge the transporters a Levy. Whilst WMAA understands NSW elected to cease the registration of waste transporters a number of years ago, in light of current issues with interstate transportation of waste the need for a national approach, the move towards standardization of Road Rules and improved technology, it may be an opportune time to look at this approach.</p> <p>WMAA looks forward to ongoing discussion about this issue with the EPA, given its importance to the industry</p>
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<b>10. POEO Act: Changes to licensing requirements (p20)</b>	
	<p>Comment is unable to be provided on this section given that the detail of the actual amendments have not been provided. WMAA and its members look forward to receiving these details and discussing the draft Regulation with the EPA once available</p>