

Eclipse

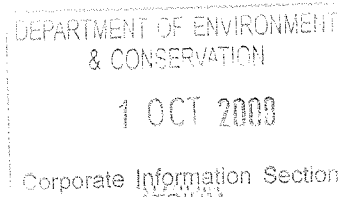
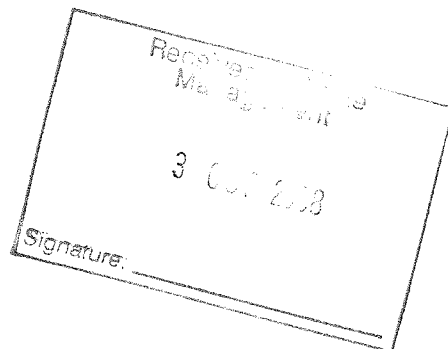
R E S O U R C E S

DEC 8210
DOC 63984

080819WASTRS
EC:2.1.1

30 September 2008

Mr B Carbon
Chairman
Waste Authority
Locked Bay 104
BENTLEY DC WA 6983



SCANNED

Dear Sir *B Carbon*

Re: Invitation for written submissions following the Landfill Levy Discussion Forum held on 9 September, 2008 in conjunction with the Waste and Recycle 2008 Conference.

Thank you for the invitation to provide a written submission following the above Landfill Levy Discussion Forum.

This Company has participated fully in the opportunities given during the review of the landfill levy. It has provided the following documents, and attended relevant discussions:

- Landfill Levy Review. Submission of Eclipse Resources Pty Ltd to the reviewer: Dr. M Blyth. 10 October, 2007;
- Landfill Levy Review. Hearing by Dr. M. Blyth. 13 October, 2007;
- Response of Eclipse Resources Pty Ltd to the Landfill Levy Review Report prepared by Dr. M. Blyth, Four Scenes Pty Ltd. for the Waste Management Board, 11 January, 2008.
- Presentation by Eclipse Resources Pty Ltd to members of the Waste Management Board, and Ministerial and Departmental Officers. 27 February, 2008;
- Reform of the Waste Levy. Summary Position from an Integrated Resource Recovery Viewpoint, R.A.D. Sippe, Eclipse Resources Pty Ltd. 21 August, 2008 (a one-page summary for the Landfill Levy Discussions Forum); and
- A New Look Waste Levy (10 points in 10 minutes). R. Sippe, Eclipse Resources Pty Ltd. Presentation and Powerpoint slides. 9 September, 2008.

From the Company's viewpoint, that body of material stands. The attached submission is aimed at clarifying, expanding upon and, where appropriate, refuting matters which came up at the forum.

If you require any additional information, please contact the undersigned in the first instance.

Yours faithfully

ROB SIPPE
Managing Director

Encl.: Submission to the Waste Authority

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Submission to the Waste Authority following the Landfill Levy Discussion Forum held on 9 September, 2008

**Eclipse Resources Pty Ltd
30 September, 2008
Summary**

1. Two models for the future of the (inert) levy were put forward at the forum. In summary there were:

Item	Eclipse Resources' Position ¹	C&D Working Group's Position ²
1. Currently pays levy	Yes	No
2. Supports paying a levy	Yes – provided fair	No
3. Has projects funded from the levy	No	Yes ³
4. Main business driver	Fully commercial objectives	Fully commercial objectives ⁴
5. Implied public good	Yes. - re-use of inert material for sequential land use on private and public land; - lowest cost utilisation of basic raw materials in metropolitan area with flow on benefits to affordable housing and lower cost public infrastructure.	Yes. - re-use of inert material for road base, drainage aggregate and clean fill thereby reducing demand for virgin materials and quarry impacts; - reduced demand for landfill space; - lower transport environmental footprint.
6. Proposed Levy Model	(a) all waste generators should pay something (b) set differential levy rates according to environmental risk, quality of management applied and public good. (c) use market forces to drive change, not regulation or heavy intervention.	(a) C&D recycling companies should remain exempt from levy (b) have only one rate and set it as high as possible to divert waste to recyclers (c) aim for a total ban by regulation of C&D waste going to landfill. ⁵

2. The basic business objectives of both positions are the same: to operate profitably with co-lateral public good benefits. So the point of difference turns on public good benefits of each model.
3. An analysis of public good benefits is given and the conclusion reached that Eclipse Resources maintains that the public good benefits from its model are on balance superior to the other in most cases. In particular the public good benefits of the C&D Working Group model did not justify:
- not paying the levy now and in the future and hence providing a free ride for waste generators supplying material to them;
 - increasing private gain through increasing market intervention by Government if levy rates are to continue to rise;
 - using levy funds for product market research but not contributing to these funds; and
 - a push for regulation to ban all C&D waste going to landfill.
4. The main public good benefit argued by the C&D Working Group is that of substitution for virgin materials. However if all C&D waste, was used as a substitute for virgin basic raw materials it would meet about 9% of estimated demand but not all the material is substitutable, so the real figure is probably no more than 5-6% of demand. But there is the very serious risk of basic raw materials operators not opening voids in the metropolitan area for fear of sterilising the land for higher and better ultimate land use if voids cannot be filled economically. This public good benefit has been considerably exaggerated.
5. Moreover, there is only one approach that can take into account *all* the public good benefits – Eclipse Resources' differential levy model.

6. A case is made for clarification in the definitions of commonly used terms eg "recycle", "re-use", "landfill" and "resource recovery".
7. Waste recovery targets should be "set in a sustainability context and based on rigorous analysis and sound science" and "...waste management policy must be grounded in rigorous cost- benefit analysis which encompasses environmental and social externalities".
8. Queensland which has no levy, has a higher % of material recycled than WA. This suggests that a simplistic argument to raising levies to divert waste to recycling neglects other factors which may well be important to States like Queensland and WA.
9. Intervention by a regulator should aim to create a fair and orderly market, and to underpin this with clarity and certainty. This is the challenge before the Waste Authority. No reasonable person can argue against a model which uses market forces to drive the best environmental and social outcomes.

Submission to the Waste Authority
following the Landfill Levy Discussion Forum
held on 9 September, 2008

Eclipse Resources Pty Ltd

30 September, 2008

1. INTRODUCTION

The Landfill Levy Discussion Forum highlighted a number of important issues associated with the application of a levy to Category 63 landfill sites, and associated matters.

This submission focuses on the following:

- a) two contrasting positions:
 - that put forward by a group of four commercial construction and demolition waste recyclers, the “C&D Working Group” of the Waste Management Association of Australia (WA Branch), and represented at the forum by Mr Adrian Lester; and
 - that put forward by Eclipse Resources Pty Ltd as typical of three sequential land use operators (with a predicted further three operators waiting for the outcome of the levy review before deciding whether or not to enter the market), and represented at the forum by Mr Rob Sippe;
- b) definitional issues with the terms “landfill”, “clean fill”, “inert”, “re-use” and “re-cycle”;
- c) the argument for waste management policy to be based on rigorous benefit – cost analysis encompassing full environmental, economic and social externalities; and
- d) other matters raised in the forum:
 - statistics purporting to link levy amounts with diversion of waste from landfill; and
 - specific allegations made about Eclipse Resources Pty Ltd by Mr Adrian Lester.

2. TWO CONTRASTING POSITIONS

2.1 The following is a summary of the two positions

Item	Eclipse Resources' Position ¹	C&D Working Group's Position ²
1. Currently pays levy	Yes	No
2. Supports paying a levy	Yes – provided fair	No
3. Has projects funded from the levy	No	Yes ³
4. Main business driver	Fully commercial objectives	Fully commercial objectives ⁴
5. Implied public good	Yes. <ul style="list-style-type: none"> - re-use of inert material for sequential land use on private and public land; - lowest cost utilisation of basic raw materials in metropolitan area with flow on benefits to affordable housing and lower cost public infrastructure. 	Yes. <ul style="list-style-type: none"> - re-use of inert material for road base, drainage aggregate and clean fill thereby reducing demand for virgin materials and quarry impacts; - reduced demand for landfill space; - lower transport environmental footprint.

6. Proposed Levy Model	<p>(a) all waste generators should pay something</p> <p>(b) set differential levy rates according to environmental risk, quality of management applied and public good.</p> <p>(c) use market forces to drive change, not regulation or heavy intervention.</p>	<p>(a) C&D recycling companies should remain exempt from levy</p> <p>(b) have only one rate and set it as high as possible to divert waste to recyclers</p> <p>(c) aim for a total ban by regulation of C&D waste going to landfill.⁵</p>
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The basic business objectives of both positions are the same: to operate profitably with co-lateral public good benefits.

However, some C&D recycling companies do not appear to be able to operate profitably without significant government intervention in the market, while others are operating very profitably.

As Professor Mike Munger, Duke University, said at the 2008 Waste and Recycle Conference “You don’t have to mandate profitable recycling”. “The difference between a resource and a waste is whether someone will pay you for it”. “If prices reflect value then mandated recycling by definition, wastes resources”.⁶

No private gain argument has merit over the other.

So the key question for the Waste Authority – and then Government is this:

Does the public good benefit offered by C&D Working Group’s position over Eclipse Resources’ positions justify:

- not paying the levy now and in the future and hence providing a free ride for waste generators supplying material to them;
- increasing private gain through increasing market intervention by Government if levy rates are to continue to rise;
- using levy funds for product market research but not contributing to these funds; and
- a push for regulation to ban all C&D waste going to landfill?

2.2 Comparison of public good benefits

Government made the decision to intervene in the inert waste market in 1997 when the levy structure was first introduced. The public good benefits at that time were expressed as:

- “providing funding for projects to reduce the environmental and public health impacts of our wastes”;
- “conserve energy and resources – including scarce landfill air space”;
- “help to make waste avoidance, re-use and recycling a way of life”;
- and
- “inform the community on waste reduction and sustainable development generally”.⁷

The Court Government also said this about the reason for the levy at the time:

- ... “generators of waste should contribute to waste reduction programs”;
- “varying rates for the levy to recognise the potential environmental impact of different types of waste”; and

- “Differential levies may be prescribed for different cases or classes, and the basis of levy calculation and the factors involved may be prescribed”.⁸

The introduction of the Waste Avoidance and Resource Recovery Levy Bill 2007 added the following:

- “the effect of the Bill is essentially unchanged....” (from the Environmental Protection (Landfill) Levy Act 1998);
- there are two objectives of the landfill levy. “It functions as an economic instrument for influencing waste management practices, including reducing waste to landfill, by increasing the price of landfill disposal. The funds raised by the landfill levy are then used to support waste-related programs that have the effect of reducing waste to landfill”.⁹

Clearly differential levy rates were envisaged in 1997 and maintained in 2007 (s.4 (2) (b) of the *Waste Avoidance and Resource Recovery Levy Act 2007*).

Public good benefits purported by the C&D Working Group

The public good benefits purported by the C&D Working Group include²:

- recycling products can substitute for virgin materials hence reduce demand for them and consequently the rate of extraction. As well, the environmental impacts of quarries are reduced;
- recycled “products can be delivered to constructions sites with a significantly lower transport environmental footprint”;
- reduces demand for land for waste disposal;
- employment opportunities in recycling industries; and
- energy savings.

Virgin raw materials substitution in the metropolitan area

It has been estimated that if all C&D waste, was used as a substitute for virgin basic raw materials it would meet about 9% of estimated demand. However, taking into account that not all the material is substitutable, the real figure is probably no more than 5-6% of demand.¹⁰

Add to this the very serious risk of basic raw materials operators not opening voids in the metropolitan area for fear of sterilising the land for higher and better ultimate land use (see below) then the importance of this public good benefit has been considerably exaggerated.

The environmental impacts of quarries are negated if resultant voids are filled and turned to a higher and better land use.

Lower transport environmental footprint

This argument is an over-generalisation. For example, recycled product from Hazelmere cannot compete with virgin material extracted in the southern metropolitan area on transport costs for projects south of Perth as demonstrated by the funding by the Waste Avoidance and Resource Recovery Levy fund of the transport component of a trial for the Perth – Bunbury Highway. Longer transport routes means more greenhouse gas emissions hence a greater environmental footprint.

Reduced demand for land for waste disposal

There is an existing legacy of voids which should be filled both on the coastal plain and on the Darling Scarp. As well under the sequential land use model, new voids would also be filled.

A differential levy would ensure that these voids get filled preferentially to setting aside new areas for traditional landfill.

Employment opportunities

There is no evidence that the C&D Working Group levy model would provide more or better employment opportunities than the levy model proposed by Eclipse Resources.

Energy Savings

Eclipse Resources has estimated that its sequential land use process uses only about 25% of the energy that the recyclers use for filling land.¹¹

Public good benefits put forward by Eclipse Resources

The public good benefits put forward by Eclipse Resources Pty Ltd for its, and similar, operations are:

- re-use of inert material for sequential land use following integrated resource recovery (this is a four step process: basic raw material extraction, re-use of inert materials to fill void to geo-technical standards, recovering any suitable materials for re-cycling, develop filled land for higher & better land use or public good purposes (eg playing fields, open space);
- lowest cost utilisation of basic raw materials in the metropolitan area providing consumer benefits (eg. affordable housing, lower cost public infrastructure) as well as avoiding the sterilisation of basic raw materials due to high land prices;
- the same approach leads to the filling of historic voids on public land at no cost to the tax payer; and
- lower energy costs – hence greenhouse gas emissions - in filling & compacting *in situ* than putting material through energy intensive crushers, screeners and sorters before using the material as fill on development sites.

Eclipse Resources maintains that the public good benefits from its model are on balance superior to the other in most cases. The exception being lower transport costs under some circumstances for re-cycled products (but setting aside potential increased health risk from asbestos contamination: Eclipse Resources has been advised by a large demolition and crushing operator that re-cycled concrete cannot be guaranteed asbestos – free.) and substitution for 5-6% of the metropolitan demand for basic raw materials at maximum practical diversion.

There is only one approach that can take into account all the public good benefits – Eclipse Resources' differential levy model.

Recycling as “feel-good” public policy without underlying substance, commercial viability or transparent public subsidy leads to the *non sequitur*. “Recycling is always cheaper no matter how much it costs” (Professor Mike Munger quoting a recycling advocate in the USA⁶).

3. DEFINITIONAL ISSUES

In the course of the levy review process, it is clear that there are not agreed, common definitions for a number of key issues including “landfill”, “re-use” and “re-cycling”. As well, “fill”, “clean fill” and “inert” material may be used interchangeably at times.

A starting point for definitions is:

“recycling – the recovery of used products and their use as raw materials in the manufacture of new products, which may or may not be similar to the original”¹³

“resource recovery – the process of extracting a material or energy from a waste stream. It includes “re-use” (using the product for the same or different purpose without further manufacture), recycling and the recovery of energy from waste”¹³

“landfill – a designated area (usually a pit) into which solid waste is placed for permanent burial”¹³ but excluding areas designated for integrated resource recovery for sequential land use whether on public or private land where the best use of the land is not compromised.

4. BASE WASTE MANAGEMENT POLICY ON RIGOROUS ANALYSIS

4.1 Waste recovery targets

WA has a “towards zero waste” target. NSW has, for C&D waste, a 76% target; Victoria 80%. Both those States have significantly higher levies than WA but arguably more realistic targets.¹²

Waste recovery targets should be “set in a sustainability context and based on rigorous analysis and sound science.”¹²

4.2 Levies

It is pertinent to note that Queensland which has no levy, has a higher % of material recycled than WA.

This has received no analysis or explanation in the levy review. In fact it seems to be ignored in most reports about this subject.

It suggests that a simplistic argument to raising levies to divert waste to recycling neglects other factors which may well be important to States like Queensland and WA.

Levies “...should be calculated to include the full range of social and environmental externalities”¹² which in turn should include the energy costs of alternate uses of the materials.

4.3 Waste Policy

The Senate Standing Committee Report of September 2008¹² also recommended:

“...waste management policy must be grounded in rigorous cost-benefit analysis which encompasses environmental and social externalities”.

5. OTHER MATTERS RAISED IN THE LANDFILL LEVY DISCUSSION FORUM

5.1 Statistics purporting to show a direct cause and effort relationship between amounts of levies and quantities of waste going to landfill. In various jurisdictions.

At the forum and during the conference interstate comparisons were used to provide evidence that States with the highest levy rate have the highest rates of recycling.

There are many variables involved in the data – these are some:

- no common data collection systems
- no common definition of landfill
- physical and population size differences between capital cities
- availability of basic raw materials
- price of basic raw materials and in particular the transport component
- the availability of voids which can be filled beneficially
- whether the levy is another tax or is hypothecated to improving waste management
- the resource base for enforcement and compliance.

If statistics are to be used as a fundamental justification for changes in market intervention, then a more sophisticated and rigorous analysis is warranted.

5.2 Specific allegations made against Eclipse Resources at the forum

It was disappointing in the forum that the C&D Working Group's representative, Mr Adrian Lester, used the occasion of the forum to make allegations against Eclipse Resources by name.

In particular, Mr Lester alleged that Eclipse Resources was instrumental in lobbying the Waste Management Board and the Waste Authority into conducting the levy review, and by inference causing the inert levy amount to remain unchanged on 1 July 2008.

For the record, Eclipse Resources rejects completely the allegation and at the forum, challenged Mr Lester to produce evidence backing his allegations.

Eclipse Resources also rejects an completely unfounded, the implication that the Waste Management Board and/or the Waste Authority in some way acted inappropriately due to Eclipse Resources' "lobbying".

6. Conclusion

The review of the levy – at least for the inert sector – has distilled down to:

- the future form and size of government intervention in the market;
- the consequences for the public good benefits at which the intervention is aimed; and
- the consequences for private gain by commercial operators (there is no operator in the business operating as a 'not for profit' organisation).

The most powerful, cost effective and successful public policy is when public good benefits align with private gain benefits.

Only one proposal can accommodate this: the differential levy model put forward by Eclipse Resources.

Intervention by a regulator should aim to create a fair and orderly market, and to underpin this with clarity and certainty.

This is the challenge before the Waste Authority.

No reasonable person can argue against a model which uses market forces to drive the best environmental and social outcomes.

In the Western Australian context, a one-dimensional approach to raise the levy as high as possible to divert inert material to recyclers constitutes cross-subsidisation for private gain because it is clear that those recyclers unattached to a source of supply from civil contractors and demolition operators, are not commercially viable without such a subsidy.

The question remains – is the public good benefit so large that it is justified in comparison with the levy differentiation approach?

The evidence says no.

References

1. Eclipse Resources' position is clearly set out in the documentation described in the cover letter to this submission
2. C&D Working Groups' position summarised from, *inter alia*: Jim Malcolm Environmental Consultant's report dated 1 September, 2008 "Submission to Waste Authority on how the landfill levy should apply at Category 63 landfill sites" prepared for C&D Working Group, Waste Management Association of Australia (WA Branch); Mr Adrian Lester's paper presented at the Landfill Levy Discussion Forum 9 September, 2008 on behalf of C&D Working Group; Mr Adrian Lester's paper presented to the Waste Management Association of Australia (WA Branch) 20 May, 2008.
3. C&D Working Group is currently funded for 2 projects totalling \$227,000 from levy funds to research and to promote the use of their recycled products.
4. Note that Mr Adrian Lester's company "C&D Recycling" is part of the Lester Group of Companies whose "core operations focus on real estate development, including broadacre residential subdivisions, commercial developments and property investments". (See: www.lestergroup.com.au)

Another prominent member of the C&D Working Group is the All Earth Group: "We are market leaders in logistics, project management, resource recovery and the supply of recycled and new construction, civil and landscaping products". (See: www.allearth.com.au)
5. Some C&D Recycling Companies argue for this (see for example on the Lester Group website www.lestergroup.com.au -> construction recycling.) Others also argue for a levy on virgin basic raw materials to drive up demand for recycled substitutes.
6. Professor Mike Munger. Keynote address "Think Globally; Act Irrationally". Waste and Recycle Conference. 11 September, 2008. Fremantle.
7. Environmental Protection Amendment Bill 1992. Second Reading Speech. Hansard. Legislative Assembly. 22 October, 1997.
8. Environmental Protection (Landfill) Levy Bill 1997. Second Reading Speech. Hansard. Legislative Assembly. 22 October, 1997.
9. Waste Avoidance and Resource Recovery Levy Bill 2007. Second Reading Speech. Hansard. Legislative Assembly. 17 October 2007.
10. Peter Tapsell, Department of Environment and Conservation. "Construction and Demolition Waste in WA – where are we now?". Paper presented at the 2008 Waste and Recycle Conference. 11 September, 2008. Fremantle. See also data from Chamber of Commerce and Industry. "Basic Raw Materials Access and Availability. 1996 – 2008". December, 2007. Western Australia.
11. Eclipse Resources Pty Ltd. Submission to the Landfill Levy Review conducted by Dr M Blyth. 10 October, 2007.
12. Commonwealth of Australia. The Senate Standing Committee on Environment, Communications and the Arts. "Management of Australia's Waste Streams (including consideration of the Drink Container Recycling Bill 2008)". September 2008. Canberra.
13. Commonwealth of Australia. Productivity Commissions. "Waste Management Productivity Commission Inquiry Report No 38." October 2006, Canberra.