



Ms Debra Goostrey
Chief Executive Officer
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Dear Ms Goostrey *Debra*

ECLIPSE RESOURCES RULING – CLEAN FILL

The Department of Environment Regulation (DER) welcomes the decision of Justice Beech in *Eclipse Resources Pty Ltd v The State of Western Australia* [No. 4] (2016) WASC 62.

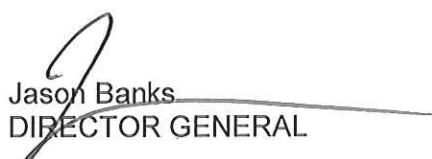
DER's position, which is consistent with the *Eclipse* decision, is that not all clean fill is necessarily waste. The determination as to whether material is waste or a site is a category 63 prescribed premises will depend on the facts and circumstances of a particular case.

DER is considering pursuing amendment to the *Environmental Protection Regulations 1987* to clarify the application of category 63 prescribed premises to development sites.

I would like to assure you that, subject to any future review, DER will continue to administer the *Environmental Protection Act 1986*, *Waste Avoidance and Resource Recovery Act 2007* and *Waste Avoidance and Resource Recovery Levy Act 2007* and relevant subsidiary legislation in a manner consistent with its current practice.

Additionally, the *Material Guideline on Clean Fill* will be reviewed to ensure it aligns with the *Eclipse* decision.

Yours sincerely


Jason Banks
DIRECTOR GENERAL

22 March 2016