



Shopping Trolley Illegal Dumping Background Paper

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Executive summary

The Shopping Trolley Illegal Dumping Background Paper has been developed to provide information on the impact of illegally dumped shopping trolleys on Local Government, the ways Local Governments are currently addressing this issue and options for managing illegally dumped shopping trolleys.

Local Governments have reported ongoing difficulty with retailers' rate of collection of abandoned shopping trolleys that have that have been removed from the retail premises and illegally dumped. It then falls on Local Governments to collect the shopping trolleys.

Local Governments have authority through various legislative avenues to address illegal dumping of shopping trolleys, this includes:

- *Activities in Thoroughfares and Public Places Local Law*: Local Governments gives retailers 24 hours to collect an abandoned shopping trolley and may issue infringements to those who fail to collect abandoned shopping trolleys. The Local Law also allows Local Governments to issue infringements to people who are identified abandoning shopping trolleys in public places.
- *Local Government Act 1995*: Amended in 2009 to strengthen the provisions for impounding and disposing of abandoned shopping trolleys. Allows Local Governments to impound abandoned shopping trolleys and require retailers to pay for the cost of removing, impounding and keeping them. The Act also gives Local Governments the authority to dispose of impounded trolleys that are not collected.
- *Litter Act 1979*: Empowers Local Government to issue on the spot fines to people who illegally dump shopping trolleys. Local Governments can also report the illegal dumping to Keep Australia Beautiful WA.

In August 2015 WALGA conducted a survey of Local Government to identify the impact of illegal dumping of shopping trolleys and how Local Governments manage this issue. Survey responses identified that Local Governments are currently unlikely to issue infringements to people that illegally dump shopping trolleys, or to retailers for failing to collect shopping trolleys. Many Local Governments are impounding shopping trolleys, which are unlikely to be retrieved by retailers due to the low cost of replacing the trolleys.

Based on this research, recommendations for Local Governments on ways to respond to illegal dumping of shopping trolleys have been developed:

- **Record costs**: many Local Governments are impounding dumped shopping trolleys. The costs associated with monitoring, collecting and storing dumped trolleys should be quantified and recorded. Similarly, any income generated from selling trolleys should be recorded. This will ensure the Local Government has an accurate picture of the costs associated with the management of illegally dumped shopping trolleys.

- **Adopt and modify the *Activities in Thoroughfares and Public Places Local Law*:**
This Local Law provides the Local Government with the authority to infringe retailers for failing to collect illegally dumped shopping trolleys within a defined notice period. Notice periods for retailers to collect illegally dumped trolleys should be rigorously applied and Local Governments can infringe retailers who do not comply.
 - Local Governments can modify the notice periods in adopted Local Laws.
Current notice periods may be too long to address trolleys stolen and illegally dumped in multiple locations before retailers respond.
- **Engagement with retailers:** Maintaining relationships with retail management can be difficult with retail staff turnover. Local Government can select one contact method to liaise with retailers on all issues, rather than attempting to renegotiate this process with every change of management. For example one email address to serve as notifying retailers of trolley dumping.
- **Cooperative monitoring:** Local Government can actively engage with retailers to target illegal dumping hot spots and have these areas monitored frequently as part of daily operations of both retailers and Local Government Rangers.
- **Consider options in planning for new shopping areas:** there is currently minimal consideration of secure storage of trolleys in car park bay planning. Town planners only consider the location of bays to ensure adequate maneuverability space for cars. Local Government could additionally consider the number and location of trolley bays in a car park to ensure the bays serve their function and customers can easily return their trolley.
- **Dedicated Local Law:** There is currently inadequate head of power under the Local Law making provisions of the Local Government Act 1995 for a dedicated shopping trolley containment system Local Law to be created.

Introduction

The Shopping Trolley Illegal Dumping Background Paper has been developed to provide information on the impact of illegal dumped shopping trolleys on Local Government, the ways Local Governments are currently addressing this issue and options for managing illegally dumped shopping trolleys.

Although shopping trolleys are only a small proportion of illegally dumped items, they present a persistent problem for Local Government. Shopping trolleys are large and bulky, making them time consuming to collect, store and disposed of. Illegally dumped shopping trolleys create hazards for cars, bicycles and pedestrians and may end up in the natural environment.

Shopping trolleys are owned by and are the responsibility of retailers, who provide trolleys for their customers. Unfortunately, some members of the community take trolleys away from retail premises and do not return them, illegally dumping them instead. When retailers fail to collect these trolleys in a timely fashion, it falls on Local Government to respond to this issue.



Relevant legislation

Model Local Law

Many Local Governments in WA have a Local Law that contains provisions to respond to illegally dumped shopping trolleys. Shopping trolleys are most commonly addressed through the *Activities in Thoroughfares and Public Places Local Law*. This is a template Local Law available from the WALGA Governance website. An example of the relevant section in this Local Law is included in Appendix 1.

The Local Law requires retailers to clearly mark shopping trolleys with their name to ensure owners are identifiable and can be contacted to collect their property. Retailers may be advised verbally or in writing by the Local Government the location of the trolley. The Local Law also provides a timeframe for retailers to respond to notification of illegally dumped trolleys. Some Local Governments provide retailers up to 24 hours to collect illegally dumped trolleys, while others only allow 2-3 hours for retailers to respond. The time allowed to retailers to collect trolleys should be appropriate to prevent specific illegal dumping of shopping trolley concerns, such as already illegally dumped trolleys being taken and dumped further away from shopping precincts.

The Local Law also provides Local Government the authority to issue infringements to those who take trolleys from shopping precincts. Research on Local Government responses to

illegal dumping of shopping trolleys identified that Local Government officers are unlikely to witness people taking shopping trolleys from shopping precincts, unless they devote considerable time to monitoring shopping precincts.

The Local Law also provides Local Government the authority to issue infringements to retailers for failing to collect illegally dumped trolleys. Research on Local Government responses to illegal dumping of shopping trolleys identified that this method of enforcement is uncommon since Local Governments are currently more likely to rely on the provisions in the *Local Government Act 1995*.

Local Government Act

Illegal dumping of shopping trolleys is also addressed by the *Local Government Act 1995*. The relevant sections are included in Appendices 2, 3 and 4. These sections are:

- Section 3.42. Impounded non-perishable goods
- Section 3.46. Goods may be withheld until costs paid
- Section 3.47. Confiscated or uncollected goods, disposal of
- Regulation 29B Local Government (Functions and General) Regulations – Prescribed non-perishable goods

The *Local Government Act* allows Local Governments to impound trolleys and notify the retailer where and when they can be retrieved. The Local Government can then require the retailer to pay a fee to collect trolleys in order to reimburse the costs associated with removing, impounding and storing the trolleys. Many Local Governments report that attempts to enforce fees on retailers to retrieve impounded shopping trolleys have been unsuccessful due to the low cost to retailers to replace lost shopping trolleys.

Local Governments can dispose of uncollected trolleys after one month of storage. Disposal includes selling trolleys to recoup any collection and storage costs. Local Governments can auction trolleys, sell them as scrap or have them recycled. It is preferable that the metal in trolleys is recovered rather than disposed of to landfill.

Litter Act

Illegal dumping of shopping trolleys is also addressed by the *Litter Act 1979*. Under the Act, Local Government can issue 'on-the-spot fines', or report the instance of illegal dumping to Keep Australia Beautiful WA (KABWA). Reports made to the KABWA result in fines being issued to offenders.

Under the Act, revenues raised by a Local Government from the issue of fines can be received by the Local Government. Likewise any revenue generated from KABWA goes back to KABWA. Penalties under Part IV, s23 of the Act (Appendix 5) state the maximum penalties for littering offences is \$5,000 for individuals and \$10,000 for corporations. The Act is an effective instrument for Local Government looking to respond to illegal dumping of shopping trolleys as Local Governments are authorised to issue infringements and prosecute.



Local Government Practices

Online survey

In August 2015 WALGA sent an online survey to Local Governments asking them to identify what impact illegal dumping of shopping trolleys has on Local Government operations. The survey was distributed to Officers working in waste management and to Rangers via the WA Rangers Association.

29 Local Governments responded to the survey, 15 from the metropolitan and 14 from the non-metropolitan area. Local Governments were asked if they received complaints about illegally dumped trolleys and if they directed complaints back to owners. 27 Local Governments provided information on processes used and there was a similar method of response across respondents:

- Local Governments receive reports of illegal dumping trolleys from the community or a trolley will be found by Rangers
- Note will be made of the location of the illegally dumped trolley and the time it was reported
- Some Local Governments will immediately collect the trolley to prevent build-up of other litter
- Other Local Governments may just notify the retailer and allow them a number of hours to collect
- If the trolley is not collected in that time period, some Local Governments may again contact the retailer or collect it themselves
- Rangers may either return the trolley directly to the retailer or store it in the Local Government's depot
- Some Local Governments will issue infringements to retailers who fail to collect the illegally dumped trolley from the Local Government and some will add an impound fee

- No Local Government who responded to the survey issued infringements to retailers who fail to collect the illegally dumped trolley within the specified timeframe, despite many having the authority to do so under the *Activities in Thoroughfares and Public Places Local Law*.



55% of respondents will retrieve illegally dumped trolleys. Of those Local Governments, 69% charge retailers a fee to retrieve their trolleys from the Local Government. 45% of Local Governments include the income and expenditure from trolley collections and fines in their budget.

Survey responses identified different Local Governments approaches to infringing retailers. While Local Governments are currently supported by both Local Laws and the *Local Government Act 1995* they may not be using all the provisions available to them.

The survey identified there are limited Local Government resources available to respond to illegally dumped shopping trolleys. Due to the size of trolleys and the regular occurrence of illegal dumping in some areas, responding to dumped trolleys can be time consuming.

Local Governments with large shopping precincts are more likely to be dealing with regular illegal dumping of shopping trolleys. The survey identified the most effective method of dealing with trolleys in this context to be a methodical, rigorous process focusing on dedicated timelines to notify retailers, impound and issue infringements. Targeted Ranger patrols of recognised 'hot spots' where trolleys are known to be dumped was also identified as effective but survey participants also stressed that resources to dedicate to this can be limited.

Email questionnaire

WALGA also undertook short email questionnaire to identify how shopping trolleys are considered in the planning process. The email questionnaire was distributed to Officers working in the planning department of Local Government.

12 Local Governments responded to the email questionnaire. Local Governments were asked if shopping trolley management systems are considered in the assessment of development applications for shopping centres. Most Local Governments do not consider trolleys beyond the number of trolley bays and how their locations affect the functionality of the car parks.

Responses to the email questionnaire indicated that shopping trolley management is considered by planners to be an ongoing, operational consideration and not something considered at the development stage.

Some respondents were sceptical that enforcement of better trolley management would be effective through planning, since planning processes may vary between Local Governments.

National Research

WALGA undertook a desktop review of Local Government responses in Australia to the illegal dumping of shopping trolleys. One example found was the City of Ipswich in Queensland, which has adopted an innovative approach to illegal dumping of shopping trolleys at a local level. Under the *Nuisances and Community Health and Safety Local Law* Ipswich City Council requires the use of trolley containment systems by retailers.

Trolley containment systems are used to secure trolleys to prevent theft. The most common systems employed are wheel-locking technology or coin-operated locks. Wheel locking systems involve a cable installed underground at the perimeter of the shopping centre. When a trolley is pushed over the cable, a self-braking wheel installed on each trolley locks and prevents the trolley being moved. Coin-operated systems involve inserting a coin to unlock trolleys from bays, with coins refunded when trolleys are returned.



Under the Ipswich Local Law any retailer with more than 20 trolleys must put in place a trolley containment system. Retailers with fewer than 20 trolleys are exempt unless the City infringes the retailer twice in 12 months for failing to collect illegally dumped trolleys.

Ipswich was undertaking a review of their local laws in general when they decided to draft an amendment to their existing Nuisances and Community Health and Safety Local Law to address shopping trolleys. The process to draft, finalise, gazette and pass the law took about 18 months. At the time, local retailer Aldi already had a coin-operated system and the City rarely had to collect and impound Aldi trolleys. Woolworths had also previously adopted this system but due to consumer feedback it was withdrawn. Coles had also rolled out a trolley management system with wheel locks.

Initially, The City of Ipswich was going to allow retailers to choose to install any type of trolley management system. Following further research, the City instead stipulated that retailers must install the wheel lock system specifically. The City did not want large shopping centre, with multiple major retailers as well as small retailers, to each have a different system.

The Local Law came in to affect 1 August 2013 and Ipswich provided retailers 12 months to comply with the new wheel lock system requirements. The City audited every retailer captured under the law, wrote to them and instructed them how to comply with the law. Some retailers applied for exemptions from the Local Law, but the City Council did not grant any exemptions as they have resolved that the Local Law be applied consistently across retailers.

Coles had already installed the cable required for the wheel lock system at their retail locations, so many large shopping centres had the infrastructure available. The City was able to connect other retailers with Coles, so they could buy in to that existing infrastructure. Retailers then only had the expense of fitting locks to their trolley fleet. Coles and Woolworths had significant buying power, which smaller retailers could use to reduce costs.

A number of smaller retailers came under the provisions of the Local Law. Many chose to reduce already small fleets to 20 in order to be exempt from installing the wheel lock system.

The City faced some negative response from Aldi and Bunnings. Aldi already had the coin-operated system and did not want to change but eventually complied after meeting with the Council. Bunnings resisted installing a system and after meeting with the Council compromised by removing regular shopping trolleys from all warehouses in the City. Bunnings now only provides consumers with flat-bed trolleys and hand baskets.

The City received minimal negative feedback from the public. Although trolleys are occasionally stolen and dumped despite the wheel lock, the City has not had to infringe any retailers since the introduction of the Local Law.



Recommendations for Local Government

Based on research of current practices, some recommendations to respond to illegal dumping of shopping trolleys have been developed.

Trolley containment systems stop the problem of illegally dumped trolleys at its source, however not all shopping areas have put in this infrastructure. In the absence of trolley containment systems at shopping precinct, there are a number of options Local Governments can consider to minimise dumping.

- **Record costs:** many Local Governments are impounding dumped shopping trolleys. The costs associated with monitoring, collecting and storing dumped trolleys should be quantified and recorded. Similarly, any income generated from selling trolleys

should be recorded. This will ensure the Local Government has an accurate picture of the costs associated with the management of illegally dumped shopping trolleys.

- **Adopt and modify the *Activities in Thoroughfares and Public Places Local Law*:** This Local Law provides the Local Government with the authority to infringe retailers for failing to collect illegally dumped shopping trolleys within a defined notice period. Notice periods for retailers to collect illegally dumped trolleys should be rigorously applied and Local Governments can infringe retailers who do not comply.
 - Local Governments can modify the notice periods in adopted Local Laws. Current notice periods may be too long to address trolleys stolen and illegally dumped in multiple locations before retailers respond.
- **Engagement with retailers:** Maintaining relationships with retail management can be difficult with retail staff turnover. Local Government can select one contact method to liaise with retailers on all issues, rather than attempting to renegotiate this process with every change of management. For example one email address to serve as notifying retailers of trolley dumping.
- **Cooperative monitoring:** Local Government can actively engage with retailers to target illegal dumping hot spots and have these areas monitored frequently as part of daily operations of both retailers and Local Government Rangers.
- **Consider options in planning for new shopping areas:** Town planners have limited opportunity to respond to this issue, but could consider the number, location and signage of trolley bays in a car park to ensure the bays serve their function and customers can easily return their trolley.
- **Dedicated Local Law:** There is currently inadequate head of power under the Local Law making provisions of the Local Government Act 1995 for a dedicated shopping trolley containment system Local Law to be created.

Appendix 1: Activities in Thoroughfares and Public Places Local Law

Division 2 - Shopping trolleys

4.3 Interpretation

In this Division –

"**Retailer**" means a proprietor of a shop in respect of which shopping trolleys are provided for the use of customers of the shop; and

"**Shopping trolley**" means a wheeled container or receptacle supplied by a retailer to enable a person to transport goods.

4.4 Shopping trolley to be marked

A retailer shall clearly mark its name or its trading name on any shopping trolley made available for the use of customers.

4.5 Person not to leave trolley in public place

A person shall not leave a shopping trolley in a public place other than in an area set aside for the storage of shopping trolleys.

4.6 Retailer to remove abandoned trolley

- (1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.
- (2) A retailer shall remove a shopping trolley within 24 hours of being so advised under subclause (1), unless the retailer -
 - (a) requests the local government to collect and deliver the shopping trolley to the retailer; and
 - (b) pays any fee for that collection and delivery (imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act) within the period specified by the local government.

4.7 Retailer taken to own trolley

In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley.

Appendix 2: Local Government Act 1995

Section 3.42 - Impounded non-perishable goods

- (1) When any non-perishable goods have been removed and impounded under section 3.39 the local government is required to either —
 - (a) institute a prosecution against the alleged offender; or
 - (b) give the alleged offender notice that the goods may be collected from a place specified during such hours as are specified.
- (2) If after 7 days after the goods were removed, a local government has been unable to give the alleged offender a notice under subsection (1)(b) because it has been unable, after making reasonable efforts to do so, to find the alleged offender, the local government is to be taken to have given that notice.

Appendix 3: Local Government Act 1995

Section 3.46 - Goods may be withheld until costs paid

- (1) A local government may refuse to allow goods impounded under section 3.39 or 3.40A to be collected until the costs of removing, impounding and keeping them have been paid to the local government.
- (2) A local government may refuse to allow goods removed under section 3.40 or 3.40A to be collected until the costs of removing and keeping them have been paid to the local government.

Appendix 4: Local Government Act 1995

Section 3.47 - Confiscated or uncollected goods, disposal of

- (1) The local government may sell or otherwise dispose of any goods that have been ordered to be confiscated under section 3.43.
- (2) The local government may sell or otherwise dispose of any vehicle that has not been collected within —
 - (a) 2 months of a notice having been given under section 3.40(3); or
 - (b) 7 days of a declaration being made under section 3.40A(4) that the vehicle is an abandoned vehicle wreck.
- (2a) The local government may sell or otherwise dispose of impounded goods that have not been collected within the period specified in subsection (2b) of —
 - (a) a notice having been given under section 3.42(1)(b) or 3.44; or
 - (b) being impounded if the local government has been unable, after making reasonable efforts to do so, to give that notice to the alleged offender.
- (2b) The period after which goods may be sold or otherwise disposed of under subsection (2a) is —
 - (a) for perishable goods — 3 days;
 - (b) for animals — 7 days;
 - (ca) for prescribed non-perishable goods — one month;
 - (c) for other non-perishable goods — 2 months.
- (3) Section 3.58 applies to the sale of goods under this section as if they were property referred to in that section.
- (4) Money received by a local government from the sale of goods under subsection (2a) is to be credited to its trust fund except to the extent required to meet the costs and expenses incurred by the local government in removing, impounding and selling the goods.
- (5) Money received by a local government from the sale of a vehicle under subsection (2) is to be credited to its trust fund except to the extent required to meet the costs referred to in section 3.46 and the expenses incurred by the local government in selling the vehicle.
- (6) Unless this section requires it to be credited to its trust fund, money received by a local government from the sale under this section of any goods is to be credited to its municipal fund.

Appendix 5: Litter Act 1979

Part IV — Prevention of litter

23. Littering, offence

Any person who deposits litter, or causes litter to be deposited, on any land or on or into any waters commits an offence unless the litter is deposited —

- (a) on private land by consent; or
- (b) in an appointed area; or
- (c) in a place or receptacle set aside or provided for that purpose; or
- (d) on land adjacent to private land by arrangement with, or at the invitation of, a public authority with a view to the litter being collected and removed by the public authority.

Penalty:

- (a) for an individual, a fine of \$5 000;
- (b) for a body corporate, a fine of \$10 000.