

1 May 2007

Our Ref: 05-062-01-0001PC:MG

Hon. David Templeman
Minister for Environment; Climate Change; Peel
29th Floor, Allendale Square
77 St George's Terrace
PERTH, WA 6000

Dear Minister,

WARR and WARRL Bill Considerations

The Municipal Waste Advisory Council (the Council) is aware that you are currently reviewing the Waste Avoidance and Resource Recovery (WARR) Bill and the supporting Waste Avoidance and Resource Recovery Levy (WARRL) Bill in light of the submissions made by stakeholders. At this time, the Council would like to reiterate the support and congratulations offered in its original submission to you and your Department for the efforts being made to introduce this legislation. The potential for the WARR and WARRL Bills to be a national waste management legislation benchmark is widely recognised by the major stakeholders in this issue, including Local Government.

In recognition of the impact this legislation could have on the future direction of waste management in this State, the Council also asks that the review give careful consideration to the following issues of concern raised by Local Government with regard to the draft Bills:

1. It is essential that key provisions from the Health Act are successfully carried-over, with particular emphasis on –
 - a. The entitlement of Local Government to provide a waste collection services to their community;
 - b. The ability of Local Government to prescribe the district it will provide a service to. This has immense importance in rural areas, where distance or other constraints may make the provision of services impractical; and
 - c. The ability of Local Government to make Local Laws with regard to the waste management services it provides.

2. Local Government believes that the Bills must be amended to better enable Local Government to continue to autonomously represent the needs and desires of their community whilst also acting consistently with the State's Waste Strategy. The key areas which require amendment to achieve this enabling goal are -
 - a. Requirements for Local Government waste management plans must be made less prescriptive, in-line with the requirements for Plans for the Future under the Local Government Act;
 - b. The power of the CEO of the Department of the Environment and Conservation (DEC) to direct a Local Government to perform a given waste management service must be limited to emergency situations where human health or the environment are at direct risk. Alternatively, the State must identify funding to meet the cost of any direction outside this criteria to avoid cost-shifting; and



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- c. Regulations directed at Local Government should only be made with regard to the immediate protection of human health and the environment or to enabling Local Government to make Local Laws appropriate to the needs of their community and in-line with the Waste Strategy.
 3. The responsibilities for collecting waste are not clear under the Bill. A number of areas are identified as requiring refinement to rectify this situation, including clarification of –
 - a. The definitions provided for municipal solid waste, commercial waste, construction and demolition waste, agricultural waste and institutional waste to enable a clear understanding of which particular waste type(s) a given section of the Bill is intended to apply to;
 - b. The approvals process by which an entity that is not a Local Government or a Local Government contractor is legally entitled to collect waste; and
 - c. The conditions under which a Local Government may be judged as not performing to 'modern practice' and therefore lose the entitlement to provide that waste service for their community.
 4. Local Government is concerned that the range of sections in the Bill for which no right of appeal is given contravenes the principle of natural justice. It is believed that the Bill must provide Local Government with the right to appeal any direction placed on it by the CEO of the DEC. Further, it has been identified that a number of small Local Governments have found the SAT process to be prohibitively expensive. Therefore, it is suggested that natural justice would be best served by allowing a Local Government to appeal to SAT or the Minister (but not both), dependant on their limitations.
 5. As a condition of its support for the Environmental Protection Amendment Bill, which first introduced the Landfill Levy, Local Government requested a State commitment that the Levy would not be used to fund DEC core functions (such as enforcement and legislation). In the second reading speech for the Bill, the intention not to use the Levy to fund "normal ongoing operations of the department" was articulated. Local Government's continued support for a Landfill Levy is tied to a continuation of this commitment. As such, it is requested that an explicit statement prohibiting Levy expenditure on DEC core functions be made in the Bills.
 6. The WARRL Bill needs to be clarified to provide re-assurance to all affected stakeholders that the Landfill Levy will only be applied to premises that are licensed for the purpose of disposing waste to landfill. Without this clarification, stakeholder confidence in investing in Alternative Waste Treatment and Materials Recovery facilities is likely to be significantly undermined.

If you have any queries or comments for the Council with regard to the issues raised in this letter or the original MWAC submission, please contact our Acting Executive Officer Rebecca Brown on 9213 2063 or by emailing rbrown@walga.asn.au.

Yours sincerely

Mayor Paddi Creevey
Chair, Municipal Waste Advisory Council