



Minister for the Environment; Climate Change; Peel

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

Our Ref: 21-009250

19 JUN 2007

Mayor Paddi Creevey
Chair, Municipal Waste Advisory Council
Western Australian Local Government Association
PO Box 1544
WEST PERTH WA 6872

Dear ~~Mayor Creevey~~ Paddi

WARR AND WARR LEVY BILL CONSIDERATION

Thank you for your letter of 1 May 2007 regarding the *Waste Avoidance and Resource Recovery Bill* and the *Waste Avoidance and Resource Recovery Levy Bill*, in light of the submissions made by stakeholders.

I have recently given directions to the Department of Environment and Conservation (DEC) regarding the amendments required for the next drafts of the two Bills, based on consideration of submissions from a wide range of stakeholders. Once completed, I intend to submit the revised draft Bills to Cabinet for approval for introduction into Parliament.

Most of the issues raised in the Western Australian Local Government Association (WALGA) submissions of 27 November and 14 December 2006, and in your letter of 1 May 2007, have been addressed.

Therefore, in this reply, I will comment only on those points in your letter where I believe the proposed amendments may not align fully with the WALGA and Municipal Waste Advisory Council recommendations.

'Therefore, it is suggested that natural justice would be best served by allowing a Local Government to appeal to SAT [State Administrative Tribunal] or the Minister (but not both), dependent on their limitations.'

In the workshops and seminars held late last year, and in the formal written submissions, local government stakeholders were divided on this point.

Of those local governments expressing a view, most wanted appeals to go to the State Administrative Tribunal. The few that expressed the view that appeals should remain as is in the current draft of the WARR Bill, that is to be heard by the Minister, were smaller local governments concerned at the expense that some planning appeals are known to have incurred, mainly in fees for legal representation.

Appeals against an exercise of the power of the Chief Executive Officer under the WARR Bill are likely to be less frequent and less complicated than planning appeals.

As the State Administrative Tribunal was set up specifically to hear such administrative appeals, my preference is that all appeals are to be to the Tribunal.

'As such, it is requested than an explicit statement prohibiting Levy expenditure on DEC core functions be made in the Bills.'

The intention, as explicitly set out in the Bill in Section 64(1), is that the Levy will be applied by the Waste Authority in a manner which is consistent with its current business plan, which has to be approved by the Minister, or applied in some other manner approved by the Minister. Sections 64(1) (a) and (b) set out further provisions which apply to use of Levy funds.

Notwithstanding the above, I have asked DEC to seek confirmation from Parliamentary Counsel that levy funds may only be applied by the Waste Authority consistent with its approved business plan, or by the Minister.

Also, I have directed that there be an appropriate amendment made to the Bill to the effect that the power of the Minister to direct expenditure from levy revenue may not be delegated. The current draft Bill sets out that any directions of the Minister are to be in writing, and are to be included in the annual report of the Waste Authority, which is tabled in Parliament. Hence fund allocations, whether by the Authority or by the Minister, will be subject to Parliamentary and public scrutiny.

'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.'

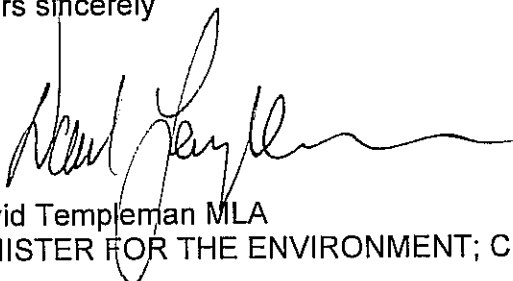
There is no intention to apply the levy to Alternative Waste Treatment or Materials Recovery Facilities.

I believe the best way to clarify this matter, and to reassure stakeholders, is for there to be a statement to that effect in the Second Reading Speech for the *Waste Avoidance and Resource Recovery Levy Bill*.

I take this opportunity to again thank the Western Australian Local Government Association and the members of the Municipal Waste Advisory Council for your ongoing support and assistance with the two Bills.

I have no objection to the WALGA letter of 1 May 2007, and this response, being published on the WALGA website, for the information of local governments and other interested parties.

Yours sincerely



David Templeman MLA
MINISTER FOR THE ENVIRONMENT; CLIMATE CHANGE; PEEL