

Metropolitan Local Government Review Municipal Waste Advisory Council Response

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Introduction to the Metropolitan Local Government Review

In June 2011, the Minister for Local Government announced a review of Perth metropolitan Local Government and broader governance structures. An independent panel was established to undertake the review, with the following terms of reference (TOR):

- Identify current and anticipated specific regional, social, environmental and economic issues affecting, or likely to affect, the **growth of metropolitan** Perth in the next 50 years;
- Identify current and anticipated national and international factors likely to **impact** in the next 50 years;
- Research improved **local government structures**, and governance models and structures for the Perth metropolitan area, drawing on national and international experience and examining key issues relating to community representation, engagement, accountability and State imperatives among other things the Panel may identify during the course of the review;
- Identify new local government boundaries and a resultant reduction in the overall number of local governments to better the needs of the community;
- Prepare options to establish the most effective local government structures and governance models that take into account matters identified through the review including, but not limited to, community engagement, patterns of demographic change, regional and State growth and international factors which are likely to impact; and
- Present a limited list of achievable options together with a recommendation on the preferred option.

The Review Panel has released an Issues Paper to facilitate feedback from the community and stakeholders to inform the development of recommendations as required under the terms of reference.

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WALGA will be developing a submission on behalf of the sector. WALGA has been given an extension to 31 January 2012 to comment.

The following paper outlines the MWAC response to the terms of reference, in particular the key issues concerning Local Government and Regional Council waste management services and infrastructure. It is intended that these comments will be incorporated into the larger WALGA submission.

Background (waste)

The purpose of this section is to provide a brief background on the range of waste management activities that Local Governments and Regional Councils in the Perth metropolitan area currently undertake, as well as their legislative responsibilities in regard to the delivery of waste management services. This information will give context to feedback on the terms of reference.

Local Government responsibilities regarding waste management are outlined in the *Waste Avoidance and Resource Recovery Act (WARR Act) 2007*. The primary objects of the WARR Act are outlined in **Appendix 1**. The WARR Act gives Local Government legislative responsibility for waste produced by residential sources (WARR Act, s.3). In the past, the responsible collection and disposal of waste in Western Australia was outlined in the *Health Act 1911* due to the potential health risks of waste management. The *Environmental Protection Act 1986* also included provisions for the management of waste in order to 'minimise the generation of waste and its discharge into the environment' (EP Act, s.4A).

Key Point: Local Government, through the WARR Act, has legislative responsibility for waste from residential sources.

While the WARR Act provides clarity for Local Governments in regard to their responsibilities, the Legislation does not identify the responsible body for other waste streams. The result is that discretionary services, such as recycling of commercial waste, will only be provided if a business or commercial service requests them from a contractor. In practice, many Local Governments are taking responsibility for a greater range of materials than they are legally obliged to. Outside the Perth metropolitan area, in many cases, Local Governments are the only waste service provider (residential and commercial waste).

In developing or supporting policy, Local Government has a twin role; as a representative of the community and as a service provider. Local Government must represent community values since these are the fundamental basis for undertaking new challenges and continuing past work. Local Government must also apply its service provider expertise when considering means by which to achieve community benefits and the delivery of services, which increasingly involves the regulation and enforcement of laws.

Local Government waste management activities cover the collection, treatment and disposal of a large variety of materials within the Municipal Solid Waste (MSW) stream, including hazardous waste and electronic waste (e-Waste). In the Perth metropolitan area, Local Governments and Regional Councils are responsible for the management and operation of a large variety of waste management infrastructure, including landfills, transfer stations, material and resource recovery facilities, and alternative waste treatment (AWT) facilities. Local Governments and Regional Councils also operate household hazardous waste (HHW) facilities, develop and implement waste education strategies, undertake intensive community engagement on waste management in local areas (for example, the Earth Carers program), and regularly deal with illegal dumping, litter clean ups and waste collection from community events.

Key Point: Local Governments provide a large variety of waste management related services.

Local Government undertakes regular kerbside waste and recycling collection, and periodical bulk waste collection, which 2006 ABS data states covers 528,524 households in the Perth metropolitan

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area alone (ABS 2011). The waste management services Local Governments deliver are necessary to process the MSW fraction of the 4,621,740 tonnes of waste generated in the metropolitan area each year (Hyder 2011, p. iv).

Key Point: Local Governments deliver waste services to 528,524 households in the Perth metropolitan area.

In the Perth metropolitan area residential waste is managed by Local Governments as well as Regional Councils who are made up of a number of member Local Governments in their region. The Regional Councils were formed to undertake a regional waste management service. An example of these services includes the development of AWT facilities, which all of the Regional Councils have, or are in the process of developing. These facilities treat the organic fraction of residential waste (including food/garden waste and paper), and turn it into compost. As a result, these facilities divert substantial tonnes of material from landfill to beneficial uses. Another positive outcome is that, by diverting organics from the waste stream, greenhouse gas emissions from landfill are reduced (of particular significance given the upcoming carbon pricing mechanism).

To deliver these services Local Governments will either provide the services directly through their own staff, or alternatively contract the service out to a commercial operator. For the commercial operators, the contracts for the service can be relatively long term (>5 years).

The costs incurred by Local Governments and Regional Councils in undertaking these activities are significant. For example, recent Local Government Grants Commission figures indicate that Local Government spend for the 2009/10 Financial Year was in excess of \$200 million across Western Australia. This is a significant amount, especially considering that this figure does not include data from nine Perth metropolitan Local Governments, including a number of large Local Governments who deliver significant waste management services.

In addition, the cost of building and operating waste management infrastructure is also considerable. For example, the implementation (including planning, licensing and construction) of AWT facilities and landfills can take between five and seven years, and for AWT facilities may involve contracts for at least 20 years which are required to secure the infrastructure. The costs associated are also significant with total investment for AWT facilities, for example, averaging \$100 million. These costs and time-frames also leave Local Governments and Regional Councils open to significant risk.

Key Point: Costs involved in delivering waste management services are significant.

MWAC Response (areas from TOR)

This section outlines waste management issues as they relate to the Review Panel's terms of reference (TOR).

TOR 1 – *Identify current and anticipated specific regional, social, environmental and economic issues affecting, or likely to affect, the growth of metropolitan Perth in the next 50 years.*

TOR 2 – *Identify current and anticipated national and international factors likely to impact in the next 50 years.*

The purpose of this section is to address TOR 1 and 2, outlining current and future trends that are likely to affect the Perth metropolitan area with reference to waste management activities. In particular, key trends include:

- Increasing waste generation;
- Increasing complexity of the waste stream;
- Need for further planning for future sites;
- Changes to zoning and associated consequences;

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- Increasing challenges in developing infrastructure;
- Impact on markets;
- Increasing requirements for approvals;
- Increasing role of the private sector in delivering waste services;
- Lack of state government direction on waste management; and
- Increasing community and government expectations.

Increasing waste generation

2006-07 figures indicate that Australians generate 43,777,000 tonnes of waste each year, up 31% from 2002-03 (EPHC 2010, p. 22). The Environment Protection and Heritage Council (EPHC) estimate that, based on these figures, by 2020-21 Australians will generate 81,072,593 tonnes of waste (these projections are based on growth in generation of 4.5 per cent per annum, including the contribution of 1.5 per cent a year population growth) (2010, p. 22). According to the 2006 census, the population of Australia is 19,855,288 (ABS 2010), which means that waste generation per person is 2.05 tonnes per annum.

Based on projections in the Western Australian Planning Commission's (WAPC) *Directions 2031 and beyond: Metropolitan planning beyond the horizon* (2.2 million people in Perth by 2031), Perth households alone will be generating a total of 4.85 million tonnes of waste each year (not including commercial or construction waste). In order to adequately collect and dispose of this waste, communities rely on appropriate infrastructure and waste management services, much of which is carried out by Local Government.

Key Point: If current waste generation trends continue, Perth will be generating 4.85 million tonnes of waste a year by 2031.

Increasing complexity of the waste stream

A trend that will have significant impacts is the increasing complexity of the waste stream, as new products prove difficult to dispose of responsibly. For example, televisions, computers, and other electrical goods (e-waste) are proving not only difficult and expensive for Local Governments to recycle, but inadequate disposal also increases risk to the environment and human health. As demand for these products grow, this risk will only increase in the future.

Key Point: If not addressed, the complexity of the waste stream will result in increased risk to the environment and human health.

Need for further planning for future sites

As the section above highlights, the projected growth of the Perth metropolitan area will result in an increase in waste produced. In recent state government planning strategies the issue of increased tonnages of waste, and the planning and siting of the required infrastructure, has not been adequately addressed. Similarly, waste has not been identified as a State priority when it comes to the planning of new residential developments. The WAPC is obliged to consult with relevant bodies when approving planning schemes. Currently, the WAPC is not required to consult with Regional Councils or the Waste Authority who would be the appropriate bodies to consult with on waste issues. Without sufficient planning, there will be a shortage of available sites for waste in the future, resulting in increasing transport costs as waste is transported further away from the metropolitan area.

Key Point: Include waste management sites in planning strategies

Changes to zoning and associated consequences

Another issue is the re-zoning of areas around waste management facilities, and the increasing encroachment of residential developments on these facilities. For example, since the Mindarie Regional Council (MRC) landfill facility opened, a number of residential suburbs have developed around the site. Even though the facility was in operation before residential encroachment, and

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buffer zones are well controlled, there are still complaints from the community. To ensure ongoing operation of these sites it is important that residential developments do not impact on a Local Government's ability to deliver these significant services to the community.

Key Point: Residential encroachment to zoning around waste infrastructure is impacting on Local Government's ability to deliver these services.

Increasing challenges to development of Infrastructure

Landfill is no longer the only means of waste disposal in Western Australia. One driver for pursuing alternatives to landfill can be traced back to the Select Committee on Recycling and Waste Management Final Report (1995, p. 2) recommendation that

No new landfill sites should be established on the coastal sand plain because of their potential to pollute groundwater.

Due to this direction and increasing community pressure, Local Governments have been actively looking for, and developing, alternatives to landfill. As a result, the requirements involved in planning, developing and operating waste management infrastructure has changed significantly and become more complex. Waste management solutions must cater to the local area. The composition and quantity of MSW can vary from region to region, influenced by demographics, geographical constraints and socioeconomics. As such, not all waste infrastructure is appropriate for all regions. Consideration must be given to the parameters of each technology when making a decision on the most appropriate technology for a particular region. As the population grows, the need to develop appropriate local solutions will become more necessary.

A future trend for waste management infrastructure is likely to be the increasing investment in alternative waste treatment facilities, including potentially waste to energy plants. This infrastructure offers new opportunities that will also need to be planned for; for example, new markets for products from AWT facilities (for example, compost), or potential energy production via waste to energy plants.

Impact on markets

Currently, Local Governments and other recyclers sell the majority of recyclable materials (such as paper, metal and plastic) into overseas markets. In Western Australia, many of the markets for recycled products (aside from construction and demolition materials and greenwaste) are interstate or overseas. Given the largely export nature of the recycling industry in Western Australia, the cost of getting these materials to market, and the fluctuating price of materials, impacts on Local Government's financial bottom line, costs that will ultimately be passed on to ratepayers. The current situation and future trend could be addressed through greater involvement by the State Government in the development of sustainable local markets. State Government involvement will be imperative to ensure the success of local markets during the early stages.

Key Point: Local markets for recyclables will need to be invested in to ensure the sustainability of the sector.

Increasing requirements for approvals

The long lead time for the approval of new sites can impact on how quickly new waste management sites can be put in place. For some Local Governments in Western Australia, approvals for new sites (for example, transfer stations) have taken up to five years. The implementation of AWT facilities can take between five and seven years, and often with contracts for at least 20 years which are required to secure the infrastructure. If this trend continues, there is the potential that private-sector investment will be affected as the long approvals process increases potential risk.

Key Point: The State Government must be aware of the challenges involved in developing waste management infrastructure to ensure sufficient support for Local Governments.

Role of the private sector in delivering waste services

There has been a noticeable shift in the delivery of waste services, from a Local Government owned and operated approach to one of contracting the private sector to undertake services on behalf of Local Government. It should be noted that the private sector currently has a role in joint ventures, such as the Mindarie Regional Council AWT facility. One likely trend is for greater private sector involvement in service delivery. While there are advantages to such outsourcing, there are also potential disadvantages. For example, there will always be a possibility that projects may be terminated (or may never be put up) when they become unprofitable. This is a threat to the consistent delivery of these essential services. In addition, the State Government may also need to play a greater role as they may be required to provide assurance on these projects to secure private sector involvement.

Key Point: An increased role for the private sector has both advantages and disadvantages.

Lack of state government direction on waste management

The WARR Act includes a requirement for a State Waste Strategy. As that Strategy has yet to be finalised, the State Government is providing only very limited direction with regard to waste management. This is an unstable situation for Local Government and the waste management industry to be in. Without a waste strategy, for example, the planning of waste service delivery across the state is made more difficult, and investment in new services and approaches are likely to be limited.

In regard to the Landfill Levy, Local Government has requested that any future increases are clearly identified in advance, or at least a 5 year period. A lack of a clear direction for increases to the Levy (and uncertainty around spending of the monies raised) will only have a negative impact on the sector as a variable or unstable levy affects investment.

Key Point: A State Waste Strategy and a clear schedule of increases for the Landfill Levy, is needed to ensure that the waste industry can plan and invest appropriately for future waste challenges.

Increasing community and government expectations

As the Review Panel's Issues Paper identifies, rising community expectations is a key issue for Local Governments. In regard to the delivery of waste management services, there is an increasing expectation of Local Governments – from both the State Government and their communities – to substantially increase the environmental performance of their waste management facilities (landfills) as well as undertake resource recovery and recycling activities. While the social and environmental benefits of these initiatives may be clear, there is an economic cost involved in the delivery of these services.

Local Government asserts that the community supports the Sustainability Principle which the State Government defines as 'meeting the needs of current and future generations through integration of environmental protection, social advancement and economic prosperity' (WALGA, 2008). Local Government considers that the Sustainability Principle must be applied to ensure the development of far-sighted waste policies. This Principle requires that the materials currently consumed and discarded as waste will be valued by current and future generations as a resource to be conserved, reused and recycled.

Key Point: Many of the issues affecting the successful delivery of waste management services in the Perth metropolitan area go beyond the Local Government sphere of influence.

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TOR 3 – *Research improved local government structures, and governance models and structures for the Perth metropolitan area, drawing on national and international experience and examining key issues relating to community representation, engagement, accountability and State imperatives among other things the Panel may identify during the course of the review.*

Any alternative governance model for Local Governments needs to provide Local Governments with the ability to address certain challenges. While there are a number of challenges for Local Governments that are currently outside of Local Government control (see the previous section), there are other issues that may be addressed through changes to the sectors governance arrangements. In regard to the delivery of waste management services, key structural changes that need to be addressed concern a Local Government or Regional Council's ability to fund a project or operation, as well as other operational issues. Therefore, there is an expectation that any future model will include:

- Provision to allow sufficient timeframes for large tenders.
- Providing Local Governments with the ability to access a broader range of grant funding for various works and services.
- Providing Local Governments with the ability to access a broader range of funding options (including making it easier to secure loans), which will reduce the risk involved for Local Governments, and increase private sector interest in Local Government enterprises.

Local Government supports the provision of financial guarantees and capital grants by the State Government. These guarantees are sought by private sector operators working with Local Government on commencing these large projects. Local Government also supports action taken by the State Government to simplify the development of waste management infrastructure that provides essential services to the community.

Borrowing capacity can also be an issue for Local Government. For example, loans taken out by Regional Councils are guaranteed by their member Local Governments. Previously this debt was not considered to be a direct liability and did not affect Local Government borrowing capacity. Unfortunately, following the global financial crisis this has changed, and now the liability does affect the borrowing capacity of Local Governments (however it may also be dependent on the Regional Council's establishment agreement). This makes investment in new large scale projects less likely, and has caused tensions between Regional Councils and their member Local Governments.

Key Point: Any future model must ensure that current structural challenges are addressed to provide more certainty for Local Governments.

TOR 4 – *Identify new Local Government boundaries and a resultant reduction in the overall number of Local Governments to better meet the needs of the community.*

There is an expectation that before pursuing amalgamation, the consequences of doing so will be identified and addressed. In regard to waste management, the following needs to be considered:

- What will the impact be on existing contracts? Many Local Governments have contracts with suppliers or investors, some between 5-20 years. Contractual obligations will also be greatly affected by amalgamation.
- Will amalgamation result in unfair competition in the delivery of waste services? The Australian Competition and Consumer Commission (ACCC) may be prompted to investigate large Local Governments if amalgamation results in significant market share or monopolies.
- What will the impacts be on those who deliver services for Local Governments, but are not directly employed by them? Currently Local Governments and Regional Councils have contracts with a number of private contractors, the impact on these businesses and jobs should be considered.

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- What will the impact be on existing bank guarantees? Local Governments and Regional Councils have taken out significant loans in order to finance major infrastructure. The impacts on these loans, and a Local Government's ability to continue to provide security for them, need to be seriously considered.

Key Point: The potential consequences that may arise from amalgamation need to be identified and addressed before amalgamation occurs.

TOR 5 – *Prepare options to establish the most effective Local Government structures and governance models that take into account matters identified through the review including, but not limited to, community engagement, patterns of demographic change, regional and State growth and international factors which are likely to impact.*

To adequately address the challenges involved in delivering Local Government waste services, any future model will need to take into account:

- The complexities involved in developing and managing contracts.
- Whether regional services can be expanded beyond waste (for example, the Eastern Metropolitan Regional Council model).
- Providing greater certainty around the planning of waste management infrastructure.
- Alternative investment options, which limit Local Governments risk exposure.
- Changes to Local Government tender regulations to allow more flexibility.
- The delivery of improved waste management grants and loans options.
- Limiting the impact of outside forces on Local Government waste operations – How to ensure stability around planning for future sites, addressing delays in the approvals process and increasing access to funding options.

Conclusions

TOR 6 – *Present a limited list of achievable options together with a recommendation on the preferred option.*

Local Governments and Regional Councils provide a broad range of waste management services to the population of the Perth region. As the population of the Perth metropolitan area grows, the inherent challenges of delivering these significant services will only increase. There are currently a number of constraints on Local Governments and Regional Councils, both externally and internally, that are expected to be addressed in any review of Local Government structures. While some challenges may be addressed by governance changes at a Local Government level, such as funding and tender processes, there are still a significant number of issues that cannot be addressed by amalgamation or a similar strategy. Of particular concern is the lack of strategic direction at a state government level which not only impacts on the industry's ability to effectively plan for the future, it also results in inadequate inclusion of waste issues across state government portfolios.

Summary of Key Points:

Key Point: Local Government, through the WARR Act, has legislative responsibility for waste from residential sources.

Key Point: Local Governments provide a large variety of waste management related services.

Key Point: Local Governments deliver waste services to 528,524 households in the Perth metropolitan area.

Key Point: Costs involved in delivering waste management services are significant.

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Key Point: If current waste generation trends continue, Perth will be generating 4.85 million tonnes of waste a year by 2031.

Key Point: If not addressed, the complexity of the waste stream will result in increased risk to the environment and human health.

Key Point: Include waste management sites in planning strategies

Key Point: Residential encroachment to zoning around waste infrastructure is impacting on Local Government's ability to deliver these services.

Key Point: Local markets for recyclables will need to be invested in to ensure the sustainability of the sector.

Key Point: The State Government must be aware of the challenges involved in developing waste management infrastructure to ensure sufficient support for Local Governments.

Key Point: An increased role for the private sector has both advantages and disadvantages.

Key Point: A State Waste Strategy and a clear schedule of increases for the Landfill Levy is needed to ensure that the waste industry can plan and invest appropriately for future waste challenges.

Key Point: Many of the issues affecting the successful delivery of waste management services in the Perth metropolitan area go beyond the Local Government sphere of influence.

Key Point: Any future model must ensure that current structural challenges are addressed to provide more certainty for Local Governments.

Key Point: The potential consequences that may arise from amalgamation need to be identified and addressed before amalgamation occurs.

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APPENDIX 1

Objects of the *Waste Avoidance and Resource Recovery (WARR) Act*.

The primary objects of the WARR Act [include Section of the WARR Act rather than page reference] (WARR Act, s.4) are 'to contribute to sustainability, and the protection of human health and the environment' and the move towards a waste free society in Western Australia by –

- (a) *promoting the most efficient use of resources, including resource recovery and waste avoidance; and*
- (b) *reducing environmental harm, including pollution through waste; and*
- (c) *the consideration of resource management options against the following hierarchy –*
 - (i) *avoidance of unnecessary resource consumption;*
 - (ii) *resource recovery (including reuse, reprocessing, recycling and energy recovery);*
 - (iii) *disposal.*

As outlined in the WARR Act, "waste service" means

- (a) *the collection, transport, storage, treatment, processing, sorting, recycling or disposal of waste; or*
- (b) *the provision of receptacles for the temporary deposit of waste; or*
- (c) *the provision and management of waste facilities, machinery for the disposal of waste and processes for dealing with waste.*