

DRAFT Submission on the Review of the Waste Levy

May 2020



Status of this Submission

This Submission has been prepared through the Municipal Waste Advisory Council (MWAC) for the Western Australian Local Government Association (WALGA). MWAC is a standing committee of WALGA, with delegated authority to represent the Association in all matters relating to solid waste management. MWAC's membership includes the major Regional Councils (waste management) as well as a number of Local Government representatives. This makes MWAC a unique forum through which all the major Local Government waste management organisations cooperate.

This Submission therefore represents the consolidated view of Western Australia Local Government. However, individual Local Governments and Regional Councils may have views that differ from the positions taken here.

This Draft Submission has been prepared for Local Government feedback. A consultation session was held on 20 March and feedback from that session has informed this document. Please provide feedback by COB Friday 29 May to Candy Wong, Waste Management Specialist, cwong@walga.asn.au

1. Introduction

The Association appreciates the opportunity to comment on the *Review of the Waste Levy* prepared by the Department of Water and Environmental Regulation (DWER). This Paper seeks to initiate feedback aimed at improving the effectiveness of the waste Levy. Local Government has maintained as strong interest in the Waste Levy, its application, effectiveness and regulation, since the Landfill Levy was in put in place in the late 90's.

WALGA reviewed its Waste Levy Policy Statement in 2018 and through this review reaffirmed the position of Local Government on a number of key issues relating to the Levy. This Submission draws on the *Waste Levy Policy Statement*, the review of the Statement and feedback provided by Local Government through consultation.

This Submission provides feedback on some of the questions asked in the Consultation Paper and comments on key areas of concern for the Sector.

2. Use of the Waste Levy as an Economic Instrument

In commenting on the Waste Levy it is important to identify that the Levy alone does not change how waste is managed. Local Government has previously expressed concern that there had been a reliance on the Levy over and above other waste policy instruments and approaches and the State Government's use of the Levy as a 'blunt' economic instrument, with no consideration of the context in which it operates, which has resulted in the diversion of waste to the cheapest available disposal option, legitimate or otherwise.

With the adoption of the Waste Avoidance and Resource Recovery Strategy and Acton Plan in 2019 and the ongoing work on Waste Reform there is a clear acknowledgement from Government that these a range of measure are necessary for change and that they are commitment to progressing change. However, in commenting on the Levy the Association would again like to identify that for Levy to function as intended, there needs to be:

- A viable market for the material diverted from landfill, otherwise stockpiling or potentially illegal disposal of the material occurs.

- Fit for purpose standards for products made from diverted material to facilitate market acceptance of the products. Without such standards, there is not a clear delineation of when a waste becomes a product.
- Assistance for operators to transition to a new testing regime for waste material to become a product. If significant financial outlay is involved in diverting material from landfill, financial assistance could support a business case investment.
- Effective regulation of the waste industry, to ensure the Levy is paid on all eligible material.

The Department should not consider the Levy in isolation as a tool to divert material from landfill – all of these issues must be addressed. In industries where there is a history of market failure, there is no certainty that new markets will automatically develop in response to a price signal. Rather, higher costs may be passed to those generating the material.

3. Consultation Questions

Chapter 2 Objective of the waste levy

1. Are there any beneficial outcomes that can be achieved by a levy beyond those identified in the objectives of Waste Strategy 2030?

Waste levies provide an incentive for waste collectors to find more economic methods to dispose of material which can be recovered, however for the Levy to be effective the material has to have a viable recovery option and in the wake of China's National Sword Policy and falling commodity prices, the resource recovery sector has less capacity and funds to invest in these options. Therefore it has never been more important for the Levy to be effectively invested in local resource recovery options.

Chapter 3 How the levy can help achieve the objectives of Waste Strategy 2030

1. Are there any other strengths or weaknesses of a waste levy as an instrument for achieving the objectives of Waste Strategy 2030?

The Association strongly supports the objectives of the Waste Strategy 2030 that seek to address waste avoidance, resource recovery and environmental protection. While it is stated that the expenditure of the Levy does not form part of the scope of this consultation, a discussion about the proportion of Levy funds allocated to the Waste Avoidance and Resource Recovery Account (WARR Account) should be warranted in a review of the Levy. As such, it is pertinent to highlight that the overriding weakness of using the Levy as an instrument for achieving the desired outcomes remains its existing application to strategic waste management activities.

The *Waste Authority Annual Report 2017/2018* indicated that approximately \$19 million – equivalent to 25 per cent of the total Levy collected – was allocated to the WARR Account. Of that amount, \$7.4 million was spent on services provided by DWER leaving \$11.6 million – equivalent to a 15% of the total Levy collected – allocated for programs. This is in stark contrast to figures presented in a 2018 report – *Managing the Municipal and Industrial Landfill Levy* – prepared by the Victorian Auditor-General's Office which yields a comparison whereby almost 60% of the total levy collected in Victoria from 2009/2010 to 2016/2017 was allocated to the State's Sustainability Fund.

In a recent review of the WALGA Policy Statement, Local Government reiterated that Levy funds must be hypothecated to strategic waste management activities as opposed to core State Government functions. There is overwhelming agreement that the State Government must demonstrate its commitment to addressing the issues that have arisen from China's National Sword Program, and assist Local Government with implementing effective, and sustainable, long-term solutions to waste management. Effective application of the Levy will be pivotal in achieving the objective to recover more value and resources from waste as State Government investment will boost confidence in the sector and drive the development of local markets for the resources collected.

The basis of Local Government support for the Levy continues to be subject to the provision (on an ongoing basis) of robust evidence, made available to the public, demonstrating the Levy is achieving

its broad objectives, and on a number of conditions regarding the Levy's operation and the application of Levy funds.

The Paper states that the application of the Waste Levy is not part of the scope of this paper because the "effectiveness of waste levy expenditure is dependent on the effectiveness of actions, each of which needs to be evaluated on its own performance" and the "Delivery of Waste Strategy 2030's annual action plan is to be supported by an evaluation framework, which will guide the evaluation of programs and actions funded by the levy". However, in the Action Plan the development of an evaluation framework to assess the effectiveness of waste levy expenditure does not appear to be mentioned. The Association was involved in some preliminary discussions regarding this evaluation framework and is keen to understand the timeframe for the development and application of the framework.

Chapter 4 Rate of the levy

1. How has the waste levy benefitted or affected your waste business or operations?
2. Can you advise of any recycling and waste diversion opportunities that would become viable if the waste levy was increased or applied in a different way? What rate of levy could be required to make these viable?
3. Please provide information on potential impacts which may result from increasing the waste levy.
4. If you knew when the waste levy was going to be varied, how would it affect your decisions about managing waste or related investments?

The increase in the Levy has a direct impact on the Local Governments sectors management of waste as it is a cost which is passed onto residents via the annual Rate process. If the Levy is not actively reinvested back into waste avoidance and resource recovery, Local Government is paying a cost but has limited ability to reduce that cost.

Consistent with its views regarding the appropriate rationale for the Waste Levy, Local Government considers that the rate of the Waste Levy should be set by reference to a well defined set of criteria. Including:

- *Capacity to achieve stated objectives:* The State Government may indicate that it will use the Levy to achieve objectives other than the generation of funds for strategic activities. If so, then the State Government must give valid reasons to show how a change in the Levy will support those objectives before Local Government would support the use of Levy funds. For instance, State Government may consider that at a higher rate, the Levy will discourage landfilling of some waste types, but this belief should be supported with something more than anecdotal evidence and also demonstrate that there would not be other financial imposts on Local Government such as an increase in illegal dumping that would need to be cleaned up
- *Capacity to pay the Levy:* The State Government must take into account the capacity of Local Governments and their communities to pay the Levy. This capacity to pay the levy is affected by social, economic and political constraints.
- *Capacity to Plan:* To ensure Local Government can plan and budget for changes to the Levy, and has a firm basis for business cases to change service provision, at least a 5 year rolling schedule for the Levy is required.

Chapter 5 Setting future levy rates

1. How might the Government best balance the need for responsiveness to emerging knowledge about best practice waste management with the benefits of providing the confidence about future waste levy rates?

The WALGA Policy Statement on the Waste Levy indicates support for, at least, five year rolling schedule for the Levy. This is to ensure Local Government can plan and budget for changes to the Levy, and has a firm basis from which to develop business cases on changes to services. This certainty was considered particularly important when investing in, and committing to, long term waste management solutions.

Chapter 6 Geographical area of the levy

1. Are there opportunities for the recovery of regional waste that would be made more viable by a regional waste levy?
2. Where are these opportunities most likely to be viable?
3. What rate of waste levy could be required to make them viable?
4. Under specific circumstances, it is possible that an expanded waste levy area could make evasion less financially attractive. How does the cost of transporting waste over long distances compare with the cost of the levy?
5. What other advantages or disadvantages could arise from a regional waste levy?

There is no support for the Levy to be applied to licensed landfills outside the metropolitan area. Application of the Levy to licensed landfills outside the metropolitan area would prove to be a significant logistical and financial impost on Local Government landfill operators and potentially have severe environmental impacts. Levy application in these areas could increase the frequency of illegal dumping and provide a disincentive to the regionalisation of landfills.

When reviewing the WALGA Policy Statement, feedback indicated the majority of non-metropolitan Local Governments did not consider it feasible, or appropriate, to implement the Levy in areas with a limited rate base, economic growth and resources to manage such a change. There was also opposition to the application of the Levy in areas where there are limited viable alternatives to manage waste, other than landfill. The drivers that led to the implementation of the Levy in the metropolitan area were not considered to be present in non-metropolitan areas. These drivers included the generation of large amounts of waste in a concentrated area, limited suitable landfill space in close proximity to the source of waste and limited viable alternatives to manage recovered material. Non-metropolitan Local Governments were clear that the introduction of a Levy would have significant logistical and financial implications.

Non-metropolitan Local Governments were extremely concerned that the introduction of a Levy, and consequently increased disposal costs, would increase the amount of waste that was inappropriately disposed of by residents and commercial businesses (e.g. illegally dumped, illegally landfilled, or disposed of at an inappropriate waste management facility). Self-haulage of waste is common practice in areas not serviced by kerbside collection services. Non-metropolitan Local Governments that have implemented measures to control the use of their landfills, such as fees, restricting opening hours, and staffing the facility, reported that inappropriate disposal had occurred, along with the diversion of material to other facilities that charge little, or no fees. The application of the Levy to the regional centres listed in the current State Waste Strategy was also considered problematic, with these issues likely to occur in surrounding areas. There was agreement that there were not resources available in Local Government to address these issues. The way in which the Levy has been implemented and enforced in the metropolitan area, has not provided non-metropolitan Local Governments with confidence that the State Government has the capacity or resources to address these concerns.

If the State Government were to impose the Levy on the non-metropolitan area, there was agreement across the sector that there must be a prior commitment to support Local Government through the provision of:

- 100% hypothecation of the Levy to strategic waste management activities
- Significant committed funding to address regional priorities, including investment in infrastructure and programs that support the development of local markets, reprocessing and subsidised transport of recovered materials to market
- Thresholds in applying the Levy, based on population, and/or annual tonnage received, at a differential rate to that of the metropolitan area
- Sufficient notice of any change in the application of the Levy
- A mechanism for Local Government to recover all of the costs related to the collection of the Levy, including upgrades to infrastructure, administration and responding to inappropriately disposed material.

Chapter 7 Waste management options to be levied

1. Waste Strategy 2030 proposes that by 2020, only residual waste will be used for energy recovery. How will this requirement affect your waste management operations?
2. Would a waste levy on energy recovery have a different effect on your operations?
3. Are there any other waste management options where applying a levy could help achieve the objective of Waste Strategy 2030?

There is no support for the Levy to be applied to waste received at licensed premises whose primary purpose is resource recovery. Local Government strongly opposes the application of the Levy to waste delivered to licensed premises which have, as a primary purpose, resource recovery (such as materials recovery facilities (MRFs), green waste processing facilities and alternative waste treatment (AWTs) facilities). Local Government will consider the appropriateness of the Levy being applied to waste delivered to other types of licensed premises (for example mine dumps) on a case-by-case basis.

There will be an impact on those Local Governments which have signed up to waste to energy facilities before the Strategy was released in February 2019. A levy on waste to energy is likely to impact the viability of these facilities.

Chapter 8 Other improvements to the waste levy

1. What other changes to the design or implementation of the waste levy could help make it more effective or efficient in achieving the targets of Waste Strategy 2030?

A clear rationale for the Levy is essential for assessing the appropriateness of all policy decisions which relate to the Levy, such as how it is charged, the rate applied and where the money is spent. In addition, any funds raised for, and allocated to, strategic waste management activities must be expended in a timely manner.

Local Governments commented on the level of funding made available by the State Government, questioning the effectiveness of the current approach. There was agreement that funding programs designed to encourage the adoption of certain waste management systems, must provide Local Government and Regional Councils with sufficient incentive and funds to do so. While funding proposals must be carefully considered by the State Government, applications should be straight forward to complete, delivering viable waste management solutions that facilitate social, environmental and economic outcomes.

A fixed proportion of monies collected from Local Government should be made available to Local Government on a first call basis in the form of project money to support the objectives of the State Waste Strategy. Currently, under Section 4(2d) of the Waste Avoidance and Resource Recovery Levy Act 2007, Local Government can claim "reimbursement of administrative costs incurred by the person, organisation or licensee collecting the levy".

The scope of activities and projects able to be funded through the Waste Levy must recognize differences in priority. Local Government expects State Government funding programs that support waste management activities to:

1. Provide adequate funding and support for Regional Councils, non-metropolitan and metropolitan Local Governments
2. Reflects the targets and priorities within the State Waste Strategy
3. Fully funds and acknowledges the life cycle costs of infrastructure and services
4. Facilitate the development and implementation of Product Stewardship Schemes.

Without effective regulation, the Levy's ability to raise funds and act as an economic instrument to reduce waste to landfill is negated. The Levy must be supported by a comprehensive regulatory regime for both licenced premises and other sites.