

# Submission on the DWER Review of the Waste Levy Consultation Paper

June 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 Submission was considered and endorsed by the Municipal Waste Advisory Council on 24 June 2020.*

## 1. Introduction

The Association appreciates the opportunity to comment on the *Review of the Waste Levy Consultation Paper* (Paper) 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 (Levy). Local Government has maintained a strong interest in the Levy, its application, effectiveness, and regulation since the Levy was put in place in the late 90's.

WALGA reviewed its *Waste Levy Policy Statement* (WALGA 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 Policy Statement, the review of the Policy Statement and feedback provided by Local Government through this 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 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 has been a reliance on the Levy over and above other waste policy instruments and approaches. And that the State Government's use of the Levy as a 'blunt' economic instrument, with no consideration of the context in which it operates, 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 2030* (Waste Strategy) and *Waste Avoidance and Resource Recovery Strategy Action Plan 2030* (Action Plan) in 2019, and the ongoing work on Waste Reform, there is a clear acknowledgement from Government that a range of measures are necessary for change and a demonstration that there is Government commitment to

progressing change. However, in commenting on the Levy the Association would again like to identify that for the 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 – as all of the above issues must be addressed in tandem. 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.

For Local Government to support harmonisation of waste levies across jurisdictions a clear rationale would need to be presented. For New South Wales (NSW), Queensland (QLD) and Victoria (VIC) there is a clear rationale for a degree of consistency to the levy amount. This is particularly highlighted in QLD where a waste levy of \$75/tonne has been reintroduced since 1 July 2019 to address waste transported over the border from NSW. The Levy in WA is not comparable to that of eastern state jurisdictions as interstate transport of waste is not a significant issue for WA.

Victoria and South Australia (SA) are set on a trajectory that will see their waste levies increase significantly in the coming years. Victoria's waste levy will increase from \$66/tonne (metropolitan) and \$33/tonne (regional) in 2019/20 to \$126/tonne (metro) and \$63/tonne (regional) by 2022/23. SA has raised its metropolitan waste levy from \$100/tonne to \$110/tonne since 1 July 2019 with a subsequent increase planned from 1 July 2020 onwards to a rate of \$140/tonne. WA should not aim to keep pace with these jurisdictions, instead the focus should be looking at what a reasonable Levy rate would be for the state based on local circumstances. Raising the Levy in WA to similar levels of other jurisdictions will only serve to create more of a disincentive for waste to be appropriately disposed of to landfill.

### 3. Consultation Questions

#### Chapter 2 Objective of the waste levy

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 viable recovery options. 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

The Association strongly supports the objectives of the Waste Strategy 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 2019/20* indicated that \$20.75 million – equivalent to 25 per cent of the total Levy collected – was allocated to the WARR Account. Of that amount, \$12.99 million was spent on services provided by DWER (which includes \$1 million on consultancy services) leaving \$7.76 million – equivalent to approximately 9% 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. This proportion is representative of the revenue – generated from Victoria's landfill levies – made available for waste management programs following deductions that funded government environmental agencies.

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

The Paper states that the application of the 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, the development of an evaluation framework to assess the effectiveness of Levy expenditure does not appear to be mentioned in the Action Plan. 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

The increase in the Levy has a direct impact on Local Government sector waste management 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 Levy, Local Government considers that the rate of the Levy should be determined by reference to a well-defined set of criteria. This includes:

- *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 five year rolling schedule for the Levy is required, with preference for a 10 year schedule.

## Chapter 5 Setting future levy rates

The WALGA Policy Statement indicates support for, at least, a 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. Certainty in this regard is considered particularly important when investing in, and committing to, long term waste management solutions.

## Chapter 6 Geographical area of the 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.

Feedback from the review of the WALGA Policy Statement indicates that the majority of non-metropolitan Local Governments do 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 is 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 are 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 are cognizant that the introduction of a Levy would have significant logistical and financial implications.

Non-metropolitan Local Governments are extremely concerned that the introduction of a Levy, and consequently increased disposal costs, will increase the amount of waste that is 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, report that inappropriate disposal has 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 Waste Strategy is also considered problematic, with these issues likely to occur in surrounding areas. There is agreement that there are insufficient 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 in the non-metropolitan area, there is 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 of 100% of the Levy 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**

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 such as material recovery facilities, green waste processing facilities and alternative waste treatment facilities.

Prior to the release of the Waste Strategy in February 2019, a number of Local Governments had already entered into long-term arrangements that committed their entire household municipal solid waste tonnages to proposed energy recovery facilities. While the Association would give consideration to a review of the scope and application of the Levy – to other types of licensed premises on a case-by-case basis – some Local Governments have argued that a Levy on waste-to-energy (WtE) facilities will negatively impact the viability of these facilities. Concern has also been expressed by other Local Governments that existing WtE contractual obligations may mean non-residual waste will be used as a feedstock for WtE facilities. Local Government has diverse views concerning the extent to which WtE will contribute towards Waste Strategy targets. As a means of mitigating this issue, the State Government needs to ensure a clear framework is in place that will assist stakeholders to meet the targets of the Waste Strategy while supporting the principles of the Waste Hierarchy.

## **Chapter 8 Other improvements to the waste levy**

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 is 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.

Local Government would like long term certainty regarding what funding will be available for the sector, over the life of the Waste Strategy. One current example, is the Household Hazardous Waste Program, which is a long term (5 year) funding commitment, giving Local Government certainty that this material will be recovered or disposed of appropriately.

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

1. Provide adequate funding and support for Regional Councils, non-metropolitan and metropolitan Local Governments
2. Reflect the targets and priorities within the Waste Strategy
3. Fully fund and acknowledge 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.