

# **Waste Management Association of Australia (WMAA) WA Branch**

## **Submission on**

### **Waste Avoidance and Resource Recovery Act 2007 – Review**

## **Introduction**

This Submission is being made on behalf of the Waste Management Association of Australia (WA Branch) – the Association is the peak body for waste management professionals in Australia and has nearly 300 members in WA. These members include Local Governments, consultants, waste and recycling processors, landfill operators and others with an interest in the Waste industry. Given the diverse range of interests of the members of WMAA, sometimes consensus cannot be reached on key issues. Where this is the case, these varying views are simply presented for consideration.

The Association acknowledges that the scope of the WARR Act Review is legislative changes related to the Act, but would like to highlight that there are a range of complementary measures essential to progress waste management in WA not directly related to the Act. This Submission identifies both changes in relation to the Act and other issues of importance to the sector.

This Submission is in four parts. Part 1 Provides background and identifies the elements of a mature industry. Part 2 focuses on the WARR Act and is structured to reflect the Act. Part 3 outlines the Association response to the DER Discussion Paper. The final part of the Submission identifies other issues which support the operation of the WARR Act and are necessary conditions.

## **PART ONE – Background**

In WA the Commercial & Industrial and Construction & Demolition waste sectors make up about 73% of waste generated<sup>1</sup>. The C&I and C&D sectors, in 2012/13, were recovering 45% and 40% of the respective streams<sup>2</sup>. The vast majority of waste generated and collected in this state is from the private sector.

The waste management industry in WA is diverse, including both Local Government and private sector operators. Currently, the State Government waste management activities and funding focus heavily on the Local Government sector. The WARR Act is, amongst other things an Act to regulate Local Government services, so such a focus is understandable for the Government Discussion Paper. However, industry argues that a greater focus is needed on the private sector to facilitate increased involvement and coordination.

The view often put forward is that market forces alone drive the commercial sector, therefore less intervention and incentives are needed. Therefore a straight economic instrument like the WARR levy is used as the main mechanism to achieve change in these sectors. While economic instruments, such as the Levy have their place, there is the potential for the industry to play a significantly larger role in relation to collective action. For behaviour to change, in the C&I sector, the Levy alone will not be sufficient, as there are a range of things which influence behaviour of waste generators. The industry is seeking an approach which provides a legislative and policy environment which facilitates market development for materials, appropriate siting of waste management facilities and certainty in the way legislation and policy are implemented.

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<sup>1</sup> Information from *Recycling Activity in Western Australia 2012/13*

<sup>2</sup> *Recycling Activity in Western Australia 2012/13*

## Vision for the Waste Industry in WA<sup>3</sup>

The WMAA Submission takes into account the following Vision when considering how the WARR Act can be modified to assist the industry delivering on the objectives outlined in the Act and Strategy.

- **Strategy:** The industry is seeking a clear strategy to achieve waste management outcomes, including the ultimate direction of the industry, the integration of regulation, policy and programs and how waste management facilities will be located in appropriate, set aside locations, with adequate buffers.
- **Structure:** A clear governance structure for State and Local Government and the private sector which facilitates industry development.
- **Systems:** Clear and constructive working relationship between Government and the private sector. Strong links between waste generators, waste collectors and waste processors.
- **Shared Values:** A range of shared values include the government support for and use of products from the recycling industry, that there is a fair spread of resources to allow the non-metropolitan areas to be provided with sufficient support to allow waste management enterprises to thrive.
- **Style:** Continue productive and positive relationships between the public sector and private companies. Good information and data sharing to facilitate private sector investment and allow the State Government to make informed decisions regarding funding.
- **Staff:** The waste management industry to have gender balance and culture diversity.
- **Skills:** The waste management industry to be recognised and promoted as a career path, with appropriate qualifications available, encompassing the large range of skills needed for the sector to progress.

## PART TWO – Review of the WARR Act

This part of the Submission focuses on various sections of the WARR Act, making comments and suggested changes. The Association is keen for the Act to provide a framework for waste management activities to occur within and to drive the behaviour necessary to achieve the vision for waste management in WA.

### Objects of the Act

The Association supports the current objects of the Act and considers its scope is sufficient to provide the right framework for waste management in WA.

### Definition of Waste

The current definition of waste in the WARR Act is very broad potentially encompassing a very large range of material. Consideration should be given to aligning the definition of waste within the Act with actual waste types which are dealt with by the industry and directly regulated by the Act.

### Waste Authority

The Act establishes the Waste Authority, including the method for appointment of Authority members, its functions and administration. It provides for the Authority to be supported by Staff from the Department of Environment Regulation and other government departments as required. Recent years have demonstrated a level of conflict and inefficiency in this arrangement delaying outcomes and preventing the Waste Authority from taking a leadership role. This review provides an opportunity to revisit the current arrangements for the Waste Authority. Changes to governance and structure are sought by WMAA which achieve the outcome of the Waste Authority, or equivalent entity, having sufficient autonomy to release documents and information in a timely manner, undertake projects and programs and be separated from the current DER regulatory

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<sup>3</sup> The McKinsey 7s Framework, available online [http://www.mindtools.com/pages/article/newSTR\\_91.htm](http://www.mindtools.com/pages/article/newSTR_91.htm)

function. This new approach would still have accountability through the Ministers' approval of an annual business plan.

### **Waste Plans**

Under s. 40 waste plan requirements are outlined. When originally enacted Local Governments formed collectives and produced Strategic Waste Management Plans. Subsequently there have been opportunities for these plans to be updated. The requirement for individual waste plans, as detailed in the Act, has not been used.

WMAA considers that there should be a State Waste Infrastructure Plan, which should be released as a priority. This plan would then inform regional waste plans. Local Government specific plans, as currently in the Act, may not be required. Rather Local Government specific actions would be identified in the regional plan. The focus of the regional plans should include aligning collection systems and infrastructure development.

The State Waste Infrastructure Plan should be clearly incorporated into the overall planning direction of the State through a State Waste Planning Policy or similar mechanism.

### **Product Stewardship / Extended Producer Responsibility**

There are provisions in the Act for both voluntary Product Stewardship and compulsory Extended Producer Responsibility schemes. Neither of these provisions have been used. It can be surmised that the activity at a national level on product stewardship has meant the Government is reluctant to use these powers. However, existing federal activity should not be used as a reason for Government inaction. There is need for action in WA on several key materials, such as tyres, where it is clear the national voluntary Product Stewardship scheme is not achieving required outcomes.

### **Collection and Application of the Levy and WARR Account**

Funds accumulated in the WARR Account may be applied by the Waste Authority in a manner consistent with the business plan or as approved by the Minister for a range of functions. A substantial amount of the funds generated through the Levy every year are spent on funding staff for the Waste Authority/Department. The Strategic Waste Infrastructure Project identified the need for a significant amount of resources to be invested in long term infrastructure and market development initiatives. This requires far greater hypothecation of the Levy – WMAA suggests the current allocation be increased, so 75% of the Levy is hypothecated to strategic waste activities.

### **Operational issues**

The intent of the legislation may be sound, however the way that legislation is applied in practice can cause significant issues. With the current WARR Act, the main operational issue has been delay. The delay in the development of the Waste Strategy, the ongoing delays in approval for the Waste Authorities Businesses Plans and delays release of documents and data. The uncertainty cause by these delays has significant financial impacts on businesses and Local Government operating within the industry and reduces further investment in the industry. It is recommended that strict timeline be attached to the approval of the Waste Authorities business plan and publishing of data collected. The Waste Authorities Business Plan, should be publically available at the beginning of the financial year to which it relates. For example, the Authorities Business Plan for 2014/15 has not been released.

## **PART THREE – Response to Discussion Paper**

Members have commented that although waste collection and processing 'inefficiencies' are mentioned in the DER Discussion Paper, limited evidence of these inefficiencies are presented and

the measure of efficiency that the Department is using is also absent. The Association considers that any measure of efficiency should be clearly identified and a benchmark set.

The DER Discussion Paper proposes an approach to reform of the governance of waste management, focusing predominantly on the Local Government sector:

*It is proposed to provide for statutory Waste Groups with compulsory local government membership. Each group will be required to operate in a manner that is consistent with a statutory waste infrastructure plan (see below) and targets in the Waste Strategy under the WARR Act. The role of Waste Groups would be to coordinate the procurement of waste processing services to ensure that appropriate services are acquired at least cost and that competition is maximised.*

*This approach removes investment uncertainty and lack of commitment from local governments, and ensures Waste Groups deliver services consistent with the Waste Strategy and a waste infrastructure plan. It also recognises and broadly aligns with the current position of the local government sector and provides increased certainty for local government investment and a clear role for industry. It would require amendments to the WARR Act and the Local Government Act 1995.*

*The model outlined above will be considered for the Perth and Peel regions and may be expanded into non-metropolitan urbanised areas similar in population density and scale to the Perth metropolitan area to achieve similar waste performance in a staged and sustainable manner.*

*Additional mechanisms are proposed to ensure the effectiveness of the waste infrastructure plan, including providing that it is statutory; and ensuring that Waste Groups are required to align their plans, waste services and contracts with the waste infrastructure plan, Waste Strategy targets and codes of practice. Waste infrastructure plans are not intended to replace environmental and planning approval processes as these relate to waste infrastructure development.*

For the industry to achieve its vision for the future, aside from State Government support, there is a need for increased coordination. One way for this to occur is through changes to the WARR Act to establish new governance arrangements that actively facilitate these improvements.

The structure of waste groups, as identified in the DER's Discussion Paper, had limited detail. The Association considers that if these groups were introduced, then a clear purpose would be vital and procurement alone is not sufficient to give these groups purpose. The development and implementation of the regional Waste Plans, including emergency management considerations, would be a broad activity the Waste Groups could implement.

For municipal solid waste the outcome to changes in governance is more effective management of this waste stream at a regional level, this could potentially be achieved by waste groups, or other structures.

For the C&I and C&D sectors the key outcome sought is an appropriate mechanism for increased focus on the issues limiting the ability of these sectors to achieve the targets in the State Waste Strategy. In taking a new approach to C&I and C&D waste, there needs to be a greater degree of coordination and more significant links with Planning. Some examples which need further investigation include Strategic Waste Management Plans for waste generators in specific geographic areas, site specific waste plans and precinct contracts. Not all options may work in all locations, but without investigation and trials of these approaches a better approach than currently is unlikely.

One example of an area where greater coordination from collection to disposal would be of benefit is waste contractors who have noted that their needs are currently not being serviced by waste disposal facilities. For example opening hours that are restricted – with greater urban and business density and increased traffic flow, contracts need to access waste at earlier times, this is not reflected in the opening hours of waste disposal/processing facilities leading to delay and inefficiency.

## **PART FOUR – Supporting conditions**

### **Operating Environment**

The waste management industry operates in an environment that is often uncertain – whether it is fluctuating commodity prices or changes in regulation. The industry understands that certainty of operating environment is not always a possibility and that robust business planning is needed. However there are certain aspects of the operating environment that can be made more certain.

These areas include:

- Waste supply: through long term contracts guaranteeing certain tonnages of material which allow for capital investment.
- Waste siting: through strategic planning of sites for facilities which provides certainty for buffers.
- Market development: through commitment from State and Local Government to use of fit for purpose recycled products ensuring a market for material
- Outcome based approaches: consistent outcome based approaches to regulation by Local Government and State Government.

### **Strategic Planning for waste management sites**

The Strategic Waste Infrastructure Planning Project provided a forum for the government and private sector to interact and develop approaches to plan for the achievement of the State Waste Strategy targets. A strong government plan, which identifies sites for waste management activities, is essential to provide long term certainty for the sector and minimise future regulatory challenges in relation to site operations.

### **Data Collection and Use**

WMAA, with funding from the Waste Authority, ran a number of events in 2014. The outcomes of these workshops provide valuable insight into issues currently facing the industry. The Data workshop highlighted the importance of data, particularly in the context of implementing the Strategic Waste Infrastructure Planning Project. This Project needs to have robust data to attract investment, reduce risk and ensure informed policy decisions. The value of data, and the effectiveness of this approach, has been demonstrated through the Pilbara Project, which included both data collection and the development of investment opportunities. Feedback from some organisations indicated that they receive multiple requests for slightly different datasets, which is likely to be time consuming to provide and it may not be clear what the data is being used for.

WMAA would therefore like to recommend that the Waste Authority:

- Provide data to encourage investment: by funding data collection, such as waste composition and system performance analysis, the Waste Authority can provide valid and transparent data to encourage investment decisions.
- Promptly publish collected data: having contemporary data is important for two reasons, firstly to encourage investment, secondly to give those who provided the data immediate feedback on their performance. This relates particularly to the Local Government Waste and Recycling Census, the Recycling Activity Report and data submitted by license holders.

- Provide central access to data: A centralised system of data storage and access would increase availability of data from both the public and the private sector. An example highlighted at the mini-symposium was the Waste Data Flow system in the UK.

It has also been suggested that amending the Environmental Protection Act, Schedule 1, to include all waste facilities and requiring consistent data provision as a license condition would assist in measuring the State's performance and facilitating investment.

### **Key products**

There are a range of products of concern for the waste management sector. A significant example is tyres. The Tyre workshop hosted by WMAA identified a strong need for local market development for tyres, increased community awareness of the opportunity to recycle tyres, better public profile for tyre recycling and potential for additional regulation through an End of Waste Guideline for tyres. In WMAA are going to establish a special interest group focusing on tyres. This group will bring together recyclers and producers to focus on achieving the outcomes identified at the workshop. However there is only so much a voluntary group, with very minimal resources can achieve.

### **WARR Levy**

The Waste Avoidance and Resource Recovery (WARR) Levy is outside of the scope of this review, however the eventual extension of the Levy outside the Metropolitan area should also be reviewed. The cost of collecting the Levy and the tonnages generated should be balanced against the practical consideration that the higher the metropolitan Levy the greater incentive there is for waste to be transported and illegally disposed of in non-metropolitan landfills. The NSW approach of having an extended Levy zone, with a differential ratio of cost, is an approach which could be reviewed. Other approaches used in NSW could also be reviewed, for example an exemption for carting waste further than 150km. Any change to the Levy would need to be undertaken in consultation with key stakeholders.

### **Leading by Example**

Government, both State and Local, are in a unique position to assist with market development for the C&D and C&I sectors by purchasing recycled products. For example the reluctance of Main Roads to use recycled C&D material is a significant barrier to market development in this sector.

### **Regulation and Enforcement**

A key role of State Government is regulation. For the waste sector this means ensuring efficient and effective policing of littering and illegal dumping, Levy application and payment and licencing. Without effective enforcement, policy, programs and market development is undermined.