

Our Ref: GVR/20 : D/15/667

20 February 2015

WARR Review
Department Environment Regulations
Locked 33
Cloisters Square
PERTH WA 6850

Dear Sir

RESPONSE TO THE DISCUSSION PAPER ON THE REVIEW OF THE WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007 (WARR ACT)

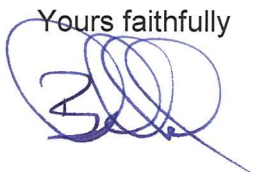
The Mindarie Regional Council (MRC) at its meeting on 19 February 2015 considered a report to determine a response to the discussion paper on the review of the WARR Act dated 1 December 2014 and resolved to provide a response (refer attached).

During debate on the item, the Council considered the impact of the State Government's decision not to proceed with the Local Government Reform on its response, given that its response was based around WALGA's regional council reform paper entitled "Vision for Waste Management in the Metropolitan Area". However it was considered that the implementation of the reform detailed in the MRC's response and WALGA's paper was still appropriate and could still be achieved.

Further, it was noted that a Bill entitled the Local Government Amendment Bill 2014 (the Bill) has had its second reading in the State Parliament's Legislative Assembly. The Bill seeks to introduce the ability for two or more local governments to form a regional subsidiary to provide a service or carry on an activity. The Council has shown an interest in this development and considers it could be an alternative solution to regional councils and/or waste groups and has resolved that it be provided with further reports on the progress of the Bill as it relates to regional subsidiaries and the progress on the review of the WARR Act.

Please find attached the MRC's response to the discussion paper on the review of the WARR Act. If you require any clarification on the above or the MRC's response please do not hesitate in contacting me on 9306 6302.

Yours faithfully



**BRIAN CALLANDER
CHIEF EXECUTIVE OFFICER**

Encl.
bc/ln



**A RESPONSE FROM
THE MINDARIE REGIONAL COUNCIL
ON THE REVIEW OF
THE WASTE AVOIDANCE AND
RESOURCE RECOVERY ACT 2007
DISCUSSION PAPER**

Discussion Paper Release Date: 1 December 2014
Public Submissions Due Date: 23 February 2015

The Government of Western Australia's Department of Environment Regulation released a Discussion Paper on the Review of the Waste Avoidance and Resource Recovery Act 2007 (the Act) with the intention of finalising, for the Minister for the Environment, a review of the Act to be tabled in both houses of Parliament within twelve months of the fifth anniversary of the Act.

The Terms of Reference of the review

To carry out a review of the operations and effectiveness of the Act with particular regard to its:

1. Effectiveness in meeting its objects; and
2. Alignment with Government waste management policy (ie the Waste Strategy)

The consultation being sought is only in those areas that warrant amendment of the Act identified in Part 3 of the Discussion Paper.

The following highlights the aspects of the Discussion Paper which are material to the response prepared by the Mandurah Regional Council (MRC).

Context to the Review

1. The reform of the Act should be considered as part of a broader agenda which may include the use of non-legislative measures.
2. The review of the Act provides an opportunity to consider the role of legislation and other reforms and measures to improve outcomes in the sector.

Background to the review

1. Western Australia will grow from a population of 1.93 million in the Perth and Peel regions to a population of 2.2 million by 2020 and 3.5 million by 2050.
2. Waste generation in the Perth and Peel regions is currently around 5 million tonnes and is estimated to grow to 6 million tonnes by 2020 and 9.5 million tonnes when the population reaches 3.5 million around 2050.
3. In 2012/13, approximately 39% of recoverable resources were extracted from the waste stream and 3.5 million tonnes was lost in landfill.
4. In 2011/12, approximately 2 million tonnes of recyclable materials were landfilled.
5. The value of these resources runs into hundreds of millions of dollars annually.
6. An increase in the rate of diversion of waste from landfill would deliver significant economic and environmental benefits.
7. Economically, diverting 1 million tonnes of waste per annum from landfill could create more than 600 jobs.

8. Work undertaken by the Waste Authority indicates that over \$1 billion of industry investment could be achieved by 2020 from materials extracted from the waste stream. This investment will assist in achieving the waste diversion targets set in the Waste Strategy, despite waste diversion yields currently being well below the targets.
9. The Government's decision to increase the landfill levy to \$70 per tonne by 2018/19 is expected to drive the market away from landfill to recycling. In addition, there may be a need to introduce other mechanisms which work in conjunction with the levy, particularly in the municipal sector, that consider a range of factors other than price, such as regulatory and community expectations and/or historical collaborations. The increase will also provide the Government with opportunities to reinvest in a range of waste related initiatives.
10. The Government recognises the importance of improving the performance of the waste sector and a number of factors warrant an increased strategic leadership role being undertaken by the State, being:
 - Ongoing failure of current market-based and institutional arrangements to realise the full value of the resources lost to landfill;
 - Concern over siting new landfills off the Swan Coastal Plain to service the landfill needs of the Perth and Peel regions;
 - Systematic waste supply barriers to major private waste infrastructure projects;
 - The challenge of ensuring that planning for waste is integrated as a standard consideration in the state planning framework;
 - The need to ensure that landfill costs reflect the full long-term costs associated with the activity, and the loss of potential resources that occurs as a result;
 - Calls for changes to the regulatory system to allow for greater flexibility over which materials should attract the landfill levy; and
 - Ongoing viability in performance and efficiency of a number of local government collection and processing systems.
11. As a result of the factors outlined above, potential reform issues include:
 - Increasing the relevant value of materials extracted from the waste stream (through, for example, improved source separation);
 - Establish landfill location options to avoid *ad hoc* siting of landfills, as environmental issues have precluded new putrescible landfills on the Swan Coastal Plain;
 - Stimulate the development of major new infrastructure investments, such as waste-to-energy facilities;
 - Identifying future waste infrastructure needs in State-level waste infrastructure plans;
 - Establish new regulatory frameworks for materials derived from waste that increase their ability to compete with and replace traditional products;

- Improving the yield and cost-effectiveness of waste collection and processing systems and services; and
- Reducing the fragmentation of waste services and increasing the coordination in communication activities aimed at householders and businesses.

The role of Government Bodies, Agencies and the Private Sector

1. State Government

- Primary focus is on the protection of human health.
- The introduction of the WARR Act 2007 increased the State Government's role in waste management by bringing together legislation in one act and through the establishment of the Waste Authority.

2. Waste Authority

- Created to develop strategic policy and planning to support the diversion of waste from landfill.
- Responsible for the implementation of policies, plans and programs to achieve an increase in waste diversion.
- To administer funds in the Waste Avoidance and Resource Recovery account for programs and priorities outlined in the waste strategy and business plan.
- Provide advice to the Minister.

3. Regional Councils

- To play a leading role in planning and coordinating waste disposal and processing at a local level, as they were well-placed to coordinate and procure waste services on behalf of local government (member councils) and achieve economies of scale through the process.
- Effectiveness has diminished over time as:
 - i. their membership is voluntary creating uncertainty in long term planning and investment;
 - ii. their boundaries do not reflect the most efficient areas for waste services, limiting the efficiencies of waste collection, processing and disposal services;
 - iii. they are accountable to their member councils and are not well placed to respond to metropolitan or statewide requirements.
- Have called on the State Government to provide more leadership by improving coordination of waste management services and providing greater investment certainty. It may be necessary to strengthen local waste planning requirements to give effect to State plans.

4. Local Government

- Required to improve their efficiency and effectiveness to meet the waste diversion rates in the Waste Strategy and have similar issues to those of regional councils.

5. Private Sector

- Exposed to market forces which will drive competitive and efficient service delivery, especially in response to the recent increase in landfill levies.

WARR Act Reform Proposals

Part 3 of the Discussion Paper sets out the reform proposals that may require amendments to the Act. **It is this section regarding which comments are being sought.**

The issues raised and solutions offered in the Discussion Paper are introduced by number and illustrated in dot point. The MRC's response to the issues raised and proposed solutions are contained in a box following each part.

3.1 Local Government Waste Operations

- a. Performance and coordination of waste flows:
 - i. Vary considerably across Perth, don't take advantage of economies of scale and cannot coordinate significant supplies of waste at one time.
 - ii. Regional councils coordinate waste processing on behalf of Local Government. There is no formal mechanism to encourage service delivery aligned with State strategy; are predominantly financial rather than statutory.
 - iii. Existing regional council boundaries are not necessarily ideal to encourage waste collection, transport and processing, which leads to inefficiencies and lack of coordinated effort.
 - iv. There are opportunities to revise regional council boundaries to improve planning and service delivery. Currently there are no statutory processes to provide coordination between the areas.

MRC's Comment

It is acknowledged that there are limits on the capabilities of local government and regional councils in their current form to provide consistent services across Perth, reducing both environmental and fiscal benefits.

However, the reform processes for both local government and regional councils will address these issues without the need for the creation of new bureaucracy (Statutory Waste Groups). A reduced number of larger local governments, together with reformed regional councils, would be able to address the majority of the issues above.

The reform paper developed by the Western Australia Local Government

Association entitled “Vision for Waste Management in the Metropolitan Area” (WALGA Vision) responds to the issues raised by:

Requiring the Waste Authority to:

- be independent and for its role be strengthened to provide coordination and leadership;
- develop Metropolitan wide Statutory Plans for waste management;
- require regional councils to develop Regional Delivery Plans (RDP) that are aligned to the Metropolitan wide Statutory Plans and which must be approved by the Waste Authority;
- be able to independently establish committees/groups of waste industry leaders to address supply issues on a Metropolitan wide scale. This is particularly important as the industry moves into major infrastructure projects (ie. Waste-to-Energy; and
- educate the broader community and standardise services, by legislation if required, to achieve sound environmental and cost effective infrastructure solutions.

Requiring regional councils to:

- Consolidate from 5 to 3 in number, with the boundaries of the new regional councils being determined once the new local government boundaries have been established.

In support of the WALGA Vision and the work already completed by the Waste Authority the MRC has developed an Infrastructure Options Assessment. This assessment is aimed at determining the region’s needs for the next 20 years, in line with the Waste and Recycling Plan developed by the Strategic Waste Infrastructure Planning Working Group. It is acknowledged that this plan does not address the infrastructure needs of the Metropolitan Area, however Stage 2 of the Plan is to work with the other regional councils to determine the Metropolitan wide infrastructure needs based on their combined waste streams. The MRC considers that this work should be managed through the establishment of a committee/group by the Waste Authority as suggested above.

3.1 Local Government Waste Operations

b. Waste Group Membership

- i. In recent years individual local governments have withdrawn from Regional Councils in response to commitments to alternative waste treatment facilities.
- ii. Unstable membership has an impact on the confidence of regional councils to make long term decisions.
- iii. Local governments are not participating in all the projects being undertaken in their regional council reducing the effectiveness of planning and purchasing functions of the regional council.
- iv. No new commitments to AWTs by regional councils in the last five years. It is likely that this is in response to the issues in i. to iii. above and the confirmation of the significant cost premium associated with mixed waste processing facilities.

- v. Local government membership of waste groups is essential for long-term planning and investment decisions.
- vi. Currently there is no mechanism to ensure that local government membership of waste management groups remain stable, which is a key issue for long term investment decisions.
- vii. It is proposed to establish statutory waste group(s) with compulsory local government membership.
- viii. Waste group(s) will be required to develop waste plans and operate in a manner that is consistent with the statutory State waste infrastructure plans and support achievements of Waste Strategy targets.
Waste groups would be limited to providing the coordination of procurement contracts for waste processing services and collections (if considered useful).
This approach addresses investment uncertainty and lack of capacity to commit from local governments and ensures that waste group(s) plans deliver services with the waste strategy and State waste infrastructure plans.
- ix. Implementation of waste group(s) would require amendments to the WARR Act and potentially the Local Government Act 1995.

MRC's Comment

The MRC agrees that unstable membership is an issue that impacts on regional councils' ability to consider and fund long term projects. This issue is addressed in the WALGA Vision where it recommends:

- Compulsory Local Government membership of regional councils.
- Reducing regional councils from 5 to 3 together with larger Local Governments addresses, in part, investment uncertainty. WALGA and regional councils have advocated for changes to the financial concepts of regional councils to allow them to borrow in their own right, preventing Local Governments from having to recognise any debt they covers as a contingent liability. This will allow regional councils to operate on a more independent and commercial basis.
- The establishment of a new bureaucracy (Waste Group(s)) is just a duplication of service. The MRC contends that this duplication is unnecessary and as described in its response above, it is already heading in the direction of procurement for its member councils and is strategically considering the Metropolitan waste management issues when it comes to major infrastructure solutions.
- The discussion paper is silent on how many Waste Group(s) are required in the Metropolitan area. The Victorian model, which the discussion paper is based on, has a single Waste Group for Melbourne's metropolitan area. The MRC contends that retaining the procurement of waste management infrastructure and services with regional councils, reduced in number from

5 to 3, provides a viable alternative. The regional councils would operate collectively on major infrastructure and service projects in collaboration with the Waste Authority in a newly formed committee/group set up by the Waste Authority. This would provide the ability to achieve economies of scale benefits for member councils, whilst retaining healthy competition in the private sector, ensuring long term competitiveness in the commercial waste industry.

- As previously stated, the Waste Authority can and should legislate to require regional councils to develop Regional Delivery Plans (RDP) that are aligned to the Metropolitan wide Statutory and Infrastructure Plans.
- The Rivers Regional Council has recently advertised a provision of waste service based tender for its members. This produced a strong industry response and has facilitated industry investing in a 400,000 tonne capacity waste to energy plant in Kwinana. Again this demonstrates that regional councils are continuing to procure effective waste solutions for their members.

3.1 Local Government Waste Operations

c. Alignment of Waste Planning across Government

- i. Experience in other jurisdictions highlights the benefits of aligning local (local government or regional) waste planning with State plans.
- ii. Waste Group(s) have been introduced in Victoria and are currently being proposed in New South Wales.
- iii. Compulsory membership of local government to waste group(s) provides certainty for long term planning and investment.

MRC's Comment

- These questions have been responded to above

The MRC's Closing Comments

The MRC, the Forum of Regional Councils (FORC) and WALGA all agree that the interest the State Government is showing in Waste Management (considered by the bodies to be an essential service) is positive. Strengthening the Waste Authority's powers and providing it with more autonomy is also supported. The development of the State's Waste Strategy, the funding of the implementation of the strategies thereto and the increase in the landfill levy are all steps in the right direction.

The creation of Statutory Waste Group(s) for the sole purpose of procurement, where compulsory membership by Metropolitan Local Governments is required, is simply a duplication of services and questions the autonomy and decision making of Local Government and Regional Councils.

The reasons provided for the creation of the new group(s) in Metropolitan Perth are based on historical factors and do not consider the considerable body of work undertaken by WALGA, the FORC and the Waste Authority who were collectively involved in the creation of WALGA's Vision that addresses the historical issues.

WALGA's Vision has been publically and privately supported by both the Minister for the Environment and the Minister for Local Government.

The MRC would suggest that the Waste Authority and the Department of Environment Regulation work collaboratively with WALGA, the FORC and individual Regional Councils on promoting the WALGA Vision to the Ministers for the Environment and Local Government to determine the legislative changes required to implement the Vision. The changes in the Act should be aimed at strengthening the powers and increasing the autonomy of the Waste Authority to enable it to facilitate changes that support the WALGA Vision and the broader waste sector.