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Department of **Environment Regulation**

PAPER

Review of Waste Avoidance and Resource Recovery Act 2007

Discussion paper

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Executive Summary

The *Waste Avoidance and Resource Recovery Act 2007* (WARR Act) is the principal legislation for waste management in Western Australia and is subject to a statutory review within five years of its commencement. This discussion paper forms the basis of the review, and is structured in three parts.

- Part 1 of the paper explains the context in which the review is taking place and the scope of matters that are the subject of the consultation.
- Part 2 of this paper deals with the WARR Act itself including its key mechanisms and their use, and the context in which the Act was developed.
- Part 3 of this paper sets out potential reform proposals that warrant amendments to the WARR Act.

The key potential issues and reforms outlined in Part 3 are in the areas of collection and processing of waste, governance of waste groups and infrastructure planning:

- **Collection and processing of waste**

Waste collection and processing arrangements vary considerably across the Perth metropolitan region. As a result there are inefficiencies caused by an inability to achieve economies of scale and to coordinate significant supplies of waste. Municipal waste collection is currently individually managed by each local government in the metropolitan area.

Regional Councils have a role in coordinating waste processing services on behalf of local government members. Those services are largely determined by individual members' priorities. Experience in other jurisdictions highlights the benefits of aligning local government or regional council waste planning with State plans and strategies, and providing for compulsory membership of groups that coordinate procurement of waste services on behalf of member local governments. This is the direction proposed in the review.

- **Waste groups**

Boundaries of existing Regional Councils are not necessarily ideal to encourage efficient waste collection, transport and processing. There are opportunities to revise boundaries to create statutory Waste Groups having regard to planning and service delivery to support more efficient services. This may result in a reduced number of waste groups (there are currently five Regional Councils) in the Metropolitan area.

Insecure membership directly affects the ability to make long term contract commitments. No new commitments (aside from those already commenced) to alternative waste treatment facilities have been initiated by Regional Councils in the last five years. Certainty of local government membership of waste groups is essential if long term waste planning and investment decisions are to be made.

- **Infrastructure Planning**

About 43% of Perth's waste is currently recovered through Material Recovery Facilities, Alternative Waste Treatment plants or by composters. The balance is sent to landfills which have capacity until around 2025 on current projections or until 2030 if the targets in Western Australia's Waste Strategy, *Creating the right environment*, are met.

One of the Waste Strategy's initiatives is long-term planning for waste and recycling processing. The focus of the planning is on waste processing and recycling facilities that divert waste from landfill to promote the most efficient use of resources.

Reform

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.

i. Overview

Section 99 of the *Waste Avoidance and Resource Recovery Act 2007* (WARR Act) requires that the Minister carry out a review of the WARR Act after the fifth anniversary of its commencement and table a report on the review in both houses of Parliament within 12 months of the fifth anniversary. The WARR Act came into operation on 1 July 2008.

The Department of Environment Regulation (DER) is carrying out the review on behalf of the Minister for Environment. This discussion paper is designed to provide a context for considering specific proposals to amend the WARR Act, and to generate stakeholder discussion and input into the review.

The terms of reference of this review are:

To carry out a review of the operation and effectiveness of the Waste Avoidance and Resource Recovery Act 2007 with particular regard to its:

- 1. effectiveness in meeting its objects; and*
- 2. alignment with Government waste management policy (i.e. the Waste Strategy).*

This is a statutory review of the WARR Act only, not of the *Waste Avoidance and Resource Recovery Levy Act 2007* (WARR Levy Act), *Waste Avoidance and Resource Recovery Regulations 2008* or *Waste Avoidance and Resource Recovery Levy Regulations 2008*. Consultation is being undertaken on those areas that warrant amendment of the WARR Act.

The WARR Act is the principal piece of legislation dealing with waste management in Western Australia. However, the waste and recycling sector is also impacted by other mechanisms including other legislation, government policy and market forces. In considering potential reforms to improve the efficiency and effectiveness of the sector, it is important to consider reform through a range of potential mechanisms which include, but are not limited to, the WARR Act.

Part 1 of this paper explains the context in which the review is taking place and the scope of matters that are the subject of the consultation.

Part 2 of this paper deals with the WARR Act itself, including its key mechanisms and their use, and the context in which the Act was developed.

Part 3 of this paper sets out potential reform proposals that warrant amendments to the WARR Act.

As administrator of the WARR Act, DER considers that in general, the Act contains the necessary head powers to support its objects. However, this paper presents a case for improving the coordination and performance of waste collection and processing, and planning and infrastructure establishment through amendments to the WARR Act.

ii. How to make a submission

DER invites written submissions to inform this review. Submissions should respond to the reform proposals in Part 3 of this paper and include evidence and examples where appropriate.

Submissions should be received by 23 February 2015 and can be lodged by email (preferred) to warractreview@der.wa.gov.au or addressed to:

WARR Act Review
Department of Environment Regulation
Locked Bag 33
CLOISTERS SQUARE WA 6850

All submissions will be published on the DER website. If any part of your submission is considered confidential, please identify that part and include a claim of confidentiality in your submission. Careful consideration should be given to the need for claiming confidentiality as it may limit the ability for the review to include issues that are not subject to the transparency that applies to published submissions.

About public consultation

DER carries out public consultation to canvass the views of all stakeholders and interested parties to inform a transparent and accountable decision-making process.

By making a submission, you are consenting to the submission being treated as a public document and being published on the Department's website. Your name will be included but your contact address will be withheld for privacy.

If you do not consent to your submission being treated as a public document, you should mark it as confidential, specifically identify those parts which you consider should be kept confidential, and include an explanation. The Department may request that a non-confidential summary of the material is also given. It is important to note that even if your submission is treated as confidential by the Department, it may still be disclosed in accordance with the requirements of the *Freedom of Information Act 1992*.

The Department reserves the right before publishing a submission to delete any content that could be regarded as racially vilifying, derogatory or defamatory to an individual or an organisation.

Please take careful note of the deadline for comment, as no late submissions will be accepted.

Part 1: Context and scope

Part 1 of this discussion paper presents an overview of key issues and challenges in the waste and recycling sector in Western Australia, and the range of areas where government is interested in exploring options for better outcomes. This section provides important context for the specific reform opportunities which are the subject of the WARR Act review.

Reform of the WARR Act should be considered as part of this broader agenda which may include the use of non-legislative measures. The WARR Act review provides an opportunity to consider the role of legislation and possible reforms, alongside other potential measures, to achieve improved outcomes in the sector.

1.1 Background—valuing lost resources

Western Australia is experiencing a period of sustained growth. The current population of 1.93 million in the Perth and Peel regions is expected to grow to 2.2 million by 2020 and around 3.5 million by the middle of the century. Waste generation for 2012-13 in these regions was around five million tonnes. This is projected to increase to six million tonnes by 2019-20 and approximately 9.5 million tonnes when the population reaches 3.5 million.

In 2012-13, about 39 per cent of resources were extracted from the waste stream across the state. The rest of the material, over 3.5 million tonnes, was lost in landfill. It is estimated that in 2011-12 over two million tonnes of metals, plastics, paper and cardboard, glass, organics, and construction and demolition waste alone were landfilled.

The potential value of these resources each year—including avoided landfill costs and the final market value of materials—runs into the hundreds of millions of dollars. Increased diversion rates would deliver significant economic and environmental benefits.

The National Waste Policy identified that the estimated employment impacts per 10,000 tonnes of waste is 9.2 full-time equivalents (FTE) for recycling and only 2.8 FTE for landfill. Diverting just one million of the 3.5 million tonnes of waste per annum currently sent to landfill could generate more than 600 additional jobs and generate economic activity through investment in infrastructure and services. Work undertaken on behalf of the Waste Authority indicates that industry investment of over \$1 billion (by 2020) could be unlocked in gearing up to extract additional value from materials in the waste stream whilst supporting achievement of the targets in the Waste Strategy.

Recycling also delivers significant environmental benefits. Recycling reduces the volume of waste going to landfill which helps to protect the environment and reduces groundwater contamination. Recycling also reduces energy and water consumption, and conserves non-renewable resources.

Current diversion rates are below the targets set in the State Government's Waste Strategy, *Creating the right environment* (Waste Strategy), released in March 2012, and the sector is not reaching its full economic and environmental potential.

1.2 Context in which the review is being undertaken

The WARR Act and the Waste Strategy are the key legislative and policy documents that set out the Government's commitment to reducing waste and increasing resource recovery.

The Government's decision to increase landfill levy rates effective from 1 January 2015 until the rate at putrescible and inert landfill sites reaches the equivalent of \$70 per tonne by 2018–19 creates opportunities to complement and enhance the impact of an increased levy, and the funds that flow from its implementation.

While the increased levy can be expected to drive market-based responses towards a preference for recycling over waste disposal, there are circumstances where other mechanisms may be required to work with the levy to overcome hurdles to infrastructure development and improved performance.

This is particularly the case in the municipal sector where a range of factors apart from price (such as regulatory and community expectations or historical collaborations) have an impact on decision-making. This sector may benefit significantly from alternative mechanisms to drive change.

The Government recognises the importance of improving the performance of the waste sector and that there are a number of factors that may warrant an increased strategic role by the State. These factors include:

- ongoing failure of current market-based and institutional arrangements to realise the full value of 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;
- systemic 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 greater flexibility over which materials attract landfill levy; and
- ongoing variability in performance and efficiency of a number of local government waste collection and processing systems.

These factors highlight emerging reform opportunities that may be considered to allow Western Australia to maximise the economic and environmental benefit from the waste and recycling sector.

Potential reform opportunities include:

- increasing the relative value of materials extracted from the waste stream (through for example improved source separation);
- establishing landfill options to avoid *ad hoc* siting of landfills, as environmental issues have precluded new putrescible landfills on the Swan Coastal Plain;
- stimulating the development of major new infrastructure investments, such as waste to energy;
- future waste infrastructure needs identified in State-level waste infrastructure plans;
- establishing 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 communications activities aimed at householders and businesses.

Reforms within the scope of the WARR Act are discussed in detail in part 3 of this paper. Other reforms beyond the scope of the review are discussed in part 1.3 below.

1.3 Related areas of waste reform

The Western Australian Government is interested in exploring options to improve the performance of the sector. General reform areas that complement more specific reforms being considered for the WARR Act include:

Landfill policy—planning and siting—*establishing frameworks to assist decision-making for new landfill approval and siting, and existing landfill compliance.*

There is increasing pressure for metropolitan waste to be disposed to landfill outside of the metropolitan area. These pressures are in part the result of increased waste generation, and the limited supply of future putrescible landfill space in the metropolitan area arising from the preference for no new putrescible landfills on the Swan Coastal Plain to address groundwater issues.

There is a strong case to reform the landfill policy and regulatory framework to include planning, siting and compliance considerations so that landfills can be managed consistent with government policy. Policy considerations should balance the need to ensure availability of sufficient landfill space to manage residual waste and unplanned events (such as spikes in waste caused by natural disasters or failures in alternative waste-processing infrastructure) with the need to limit supply to encourage maximum diversion from landfill.

Landfill planning and siting considerations are unlikely to require amendments to the WARR Act and are therefore not being considered as part of the WARR Act review. Landfill policy is discussed further under options for statutory planning mechanisms.

Landfill levy—*ensuring the landfill levy remains an effective lever for waste diversion, generates sufficient income to fund agreed initiatives, and is streamlined to reduce administrative burden.*

The landfill levy is a key policy tool which has a dual role of providing a revenue stream to Government that can be reinvested into a range of waste, environmental and conservation initiatives, and can also be used to send a price signal to encourage alternative management options aside from landfill.

Following a recent announcement of changes to the rate of the landfill levy from January 2015, it is expected the levy will generate approximately \$100 million per annum of revenue. Not less than 25 per cent of this will be available to the Waste Avoidance and Resource Recovery Account for waste management activities. Over the next five financial years, including existing surpluses, this will mean that over \$130 million will be available for reinvestment in the waste area.

There is a range of issues that impact on the effectiveness of the levy regime from an administrative perspective. Government is interested in exploring options to streamline the levy system to reduce the compliance burden on all parties, while maintaining a level playing field that does not disadvantage operators that comply with the requirements of the levy legislation.

The effectiveness of increased landfill levies with respect to diversion from landfill relies to a large extent on the ability to find alternative uses for materials. Government is interested in exploring options that would establish a more formal framework where material that is processed to an appropriate standard and is applied to an agreed beneficial use would no longer be treated as waste, and therefore would not be subject to the landfill levy. Similar arrangements exist in other countries such as the United Kingdom, which are given effect as 'End of Waste' criteria (a set of quality protocols that describe how to recover waste and turn it into a quality product).

The levy provisions in the WARR Act and the WARR Levy Act are considered to provide the necessary head powers to enable the levy to be collected. Details relating to the administration and detailed application of the landfill levy are set out in regulations and are therefore not part of the WARR Act review.

A legislative framework to allow waste derived materials to no longer be treated as waste for levy purposes may require consequential amendments to the WARR Act and other environmental and waste legislation, but is not central to the WARR Act. Consultation on an 'End of Waste' framework will be undertaken separately.

Strategic investment—using funds from the increased landfill levy to facilitate large-scale efficient infrastructure projects and long term strategic investments.

There are significant market failures within the waste sector that may warrant Government intervention. Existing priorities in the Waste Authority's business plan will be boosted by the ~\$25 million per annum the WARR Account will receive from levy revenues from 2015–16. Opportunities exist to invest significantly in the sector to help deliver change and fast-track progress towards government policy objectives.

There are opportunities to develop a strategic investment program to focus on priorities including collection and processing infrastructure, sites, waste management contracts, or compliance and enforcement activity.

Strategic investment of levy funds does not require amendments to the WARR Act and is therefore outside the scope of the WARR Act review.

Reforms to the WARR Act

Local government waste operations—*introducing measures to drive improved waste collection, processing performance and coordination.*

This reform area is one of the key areas being considered as part of the WARR Act review. More detail is provided in Section 2.4.

Infrastructure planning—*integrating waste into the State’s planning framework and identifying the infrastructure needed to meet the State’s Waste Strategy targets.*

This reform area is one of the key areas being considered as part of the WARR Act review. More detail is provided in Section 2.4.

Part 2: The WARR Act

Part 2 of this discussion paper explains the WARR Act. It introduces the WARR Act and its objects, explains key mechanisms and their implementation, and provides context for the development of the Act.

2.1 Introduction to the *Waste Avoidance and Resource Recovery Act 2007*

The WARR Act is the principal legislation dealing with waste management in Western Australia. The objects of the WARR Act are set out in section 5:

- (1) The primary objects of this Act are to contribute to sustainability, and the protection of human health and the environment, in Western Australia and the move towards a waste-free society 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.
- (2) The principles set out in the EP Act section 4A apply in relation to the objects of this Act.

The WARR Act consolidated waste management related provisions from the *Health Act 1911*, *Environmental Protection Act 1986* (EP Act) and the *Environmental Protection (Landfill) Levy Act 1998* (Landfill Levy Act).

2.2 Key mechanisms and their application

This section explains key mechanisms in the WARR Act and their application. Some mechanisms are new to the WARR Act and others were transferred from previous legislation.

Waste Authority

The WARR Act establishes a statutory Waste Authority as an agent of the State with various advisory functions including:

- strategic policy and planning to support the diversion of waste from landfill in Western Australia;
- responsibility for implementation of policies, plans and programs to achieve increased waste diversion;
- the administration of funds in the Waste Avoidance and Resource Recovery Account for programs and priorities outlined in the Waste Strategy and business plan; and
- provision of advice to the Minister.

Establishment—the Waste Authority was established under the WARR Act on 6 May 2008 with the appointment of its five members.

Waste Strategy—the Waste Authority prepared the first Waste Strategy, which was released by the Minister for Environment in March 2012. The Waste Strategy sets out the long-term strategic directions and priorities for the next decade for the waste management sector in Western Australia. It employs best practice and continuous improvement, along with target setting, as primary approaches to achieving this change. A five-year business plan prepared annually by the Waste Authority and approved by the Minister for Environment establishes priorities for each year to implement the Waste Strategy.

The Waste Strategy builds on existing programs and initiatives such as the Regional Funding Program, Household Hazardous Waste Program, Data Program, Waste Awards, and grants programs as well as strategic partnerships, to focus the efforts of those involved in managing Western Australia's waste.

Advice—the Waste Authority provides advice to the Minister for Environment on matters relating to waste management.

Local Government Services

The WARR Act has a particular focus on local government functions, and contains mechanisms relating to local government waste services, including waste local laws, waste plans and collection permits.

Waste local laws—the WARR Act provides local governments with the option of charging to collect municipal waste within their boundaries to protect the environment and public health. Waste local laws provisions in the WARR Act, together with existing provisions in the *Local Government Act 1995*, give a local government the power to fix its own rates, fees and charges for waste management services.

Waste local laws were previously made under the Health Act. Waste local laws are now made under the WARR Act and continue to provide local governments with the ability to regulate the provision of waste services.

Ten waste local laws have been made since the WARR Act was introduced. Recent concerns raised by the Joint Standing Committee on Delegated Legislation (JSCDL) over a number of provisions used in waste local laws have triggered a move to

prepare a model local law that the JSCDL can comment on prior to its provision to local governments for widespread adoption.

Waste plans—the WARR Act provides for the application of local government waste plans (for the purpose of protecting human health or the environment) as a means of demonstrating compliance with State Government policies and strategies. The mechanism allows for waste plans to contain specific details of a local government's waste services including population and waste generation data, waste strategies and targets, and an implementation plan outlining how targets will be achieved.

Waste plans were introduced to provide a statutory mechanism to ensure local government waste plans met minimum performance standards and were consistent with the Waste Strategy. The Waste Authority has decided to initially pursue voluntary waste planning mechanisms through Strategic Waste Management Plans funded by the WARR Account. The majority of local governments have developed a strategic waste management plan; therefore, a statutory approach has not been considered necessary to date.

Waste collection permits—the WARR Act establishes an accountability framework allowing the State Government to monitor and evaluate the waste services provided by local governments to ensure that their waste collection services protect human health and the environment, and are consistent with modern practice. The waste collection permit mechanism allows the State Government to award waste collection permits to third parties to collect local government waste under certain circumstances.

There has been no need to introduce waste collection permits to manage the collection of waste to date.

Levy

The landfill levy is an economic instrument to:

- reduce waste to landfill by increasing the cost to dispose of waste to landfill;
- modify behaviour in the waste management sector; and
- support programs which aim to reduce waste going to landfill.

The WARR Act provides the statutory framework for the collection and application of the levy through the WARR Account while the framework for the imposition of the levy is contained within the WARR Levy Act.

The levy provisions in the WARR Act and the WARR Levy Act enable the landfill levy to be collected. Details relating to the administration and calculation of the levy are set out in regulations. The Acts are considered to provide effective and flexible head powers sufficient to apply and manage the levy.

The State Budget 2014-15 details forecast landfill levy collections and associated applications of funds.

Product stewardship and extended producer responsibility

The WARR Act establishes product stewardship and extended producer responsibility (EPR). Product stewardship provisions set out requirements for producers to develop product stewardship plans relating to the waste and recycling of certain products. EPR

provisions provide for mandatory schemes relating to the waste and recycling of certain products.

Extended producer responsibility (EPR) activities such as electronic waste and used oil collection programs are occurring in WA, but were not established through provisions in the WARR Act.

There have been significant developments in recent years relating to product stewardship and EPR through the former Council of Australian Governments (COAG) Standing Council on Environment and Water. The *Product Stewardship Act 2011 (Commonwealth)* (PS Act) was introduced to provide a regulatory framework to support national product stewardship schemes.

The National Television and Computer Recycling Scheme was the first scheme introduced under the PS Act, and in January 2014, a national product stewardship scheme for tyres was launched. Work has also commenced on product stewardship options to manage paint and hand held batteries.

The product stewardship and EPR provisions in the Act have not been applied to date but are available should they be needed—for example, if a national scheme were unlikely to deliver the intended outcomes.

Compliance and enforcement

The Act contains the powers necessary to enable compliance and enforcement of the mechanisms in the Act. These head powers are generally considered sufficient to enable compliance and enforcement activities to be effective.

2.3 Development of the WARR Act

This section explains the context in which the WARR Act was developed.

The WARR Act was developed over a period of about 10 years prior to its enactment in 2007. In order to understand the WARR Act and the rationale for the mechanisms described in the previous section, it is important to understand the context in which it was developed and changes to the sector that have occurred since that time.

The role of the State Government—prior to the introduction of the WARR Act, the State Government had a limited role managing waste with its primary focus being the protection of human health and the environment. Legislation relating to the management of waste was contained in many Acts.

The WARR Act provided a greater focus on waste management and an increased role for the State Government. It sought to do this by bringing together existing and new waste legislation under a single Act. New provisions included the establishment of the Waste Authority and a requirement for the Authority to produce a State Waste Strategy which provided direction and guidance on the management of waste.

The first Waste Strategy was released in 2012. It includes objectives and priorities to reduce waste to landfill, including the following targets:

Waste Strategy Waste diversion targets from landfill		
	2014–15 target	2019–20 target
Municipal solid waste – metropolitan	50%	65%
Municipal solid waste – non-metropolitan regional centres	30%	50%
Construction and demolition waste	60%	75%
Commercial and industrial waste	55%	70%

The Waste Strategy and targets are established under powers of the WARR Act and were introduced several years after the WARR Act itself. This review provides an opportunity to reconsider the extent to which the powers in the Act are suitable for delivering both the objects of the Act and the objectives and targets in the State Waste Strategy.

The role of regional councils—prior to the introduction of the WARR Act, regional councils played a leading role in planning and coordinating waste disposal and processing at a local level, and continue to do so today. Regional councils were considered well placed to coordinate and procure waste services on behalf of member councils and deliver efficiencies that could not be achieved by individual local governments.

Regional councils have played an important role for their members; however, over time a number of issues have limited their effectiveness:

- Regional council areas do not necessarily reflect the most efficient borders for waste services; this may limit the efficiency of waste collection, processing and disposal.
- Local council membership is voluntary. This creates uncertainty for regional councils and limits the security of long term planning and investment.
- Regional councils are primarily accountable to individual member councils and are not well placed to respond to metropolitan or statewide requirements.

These circumstances have contributed to a complicated set of waste management arrangements and services, particularly across the Perth metropolitan area. These arrangements should build a coordinated waste sector using the economies of scale required to deliver more efficient waste services.

Recently, there have been calls from regional councils for a greater role for the State Government to provide clear guidance to the sector, improved coordination of waste management services and greater investment certainty. It may be necessary to strengthen local waste planning requirements to give effect to State plans.

The role of local government—the Waste Strategy and its targets require local government to improve the efficiency and effectiveness of waste services and achieve higher waste diversion rates. Some of the issues discussed above in respect of regional councils are relevant for local government also, particularly voluntary local government membership, and the challenge of responding to metropolitan and statewide requirements.

The review of the WARR Act provides the opportunity to consider the effectiveness of existing arrangements and what changes may be warranted in the future.

The role of the private sector—unlike local governments, which have an effective monopoly over local government waste, the private sector is typically more exposed to market forces that influence performance and efficiency. Market forces are likely to drive competition and efficient service delivery in the commercial waste sector, especially in response to the recent announced increase in landfill levies.

The direct environmental impacts of the waste sector, from both local government and private operators, are managed predominantly through the *Environmental Protection Act 1986* and related subsidiary legislation.

Part 3: WARR Act reform proposals

Part 3 of this paper describes issues and sets out reform proposals that may require amendments to the WARR Act. Comment is sought on the issues and options in this section of the paper.

3.1 Local government waste operations

Performance and coordination of waste flows

Waste collection and processing arrangements vary considerably across the Perth metropolitan region leading to inefficiencies. The current arrangements do not take advantage of potential economies of scale, and cannot coordinate significant supplies of waste at one time.

Regional councils are generally involved in coordinating waste processing services on behalf of local government members. There is no formal requirement for regional councils to pursue State policy objectives; and mechanisms to encourage service delivery aligned with State strategy are predominantly financial (e.g. through funding programs) rather than statutory.

Existing regional council boundaries are not necessarily ideal to encourage efficient waste collection, transport and processing, and lead to inefficiencies and lack of coordinated effort.

There are opportunities to revise regional council boundaries, having regard to planning and service delivery, to support more efficient services. There are currently no statutory processes or mechanisms available to provide for better coordination within and between areas.

Waste Group membership

In recent years, and largely in response to commitments to alternative waste treatment facilities, several local councils have withdrawn from regional councils, or are not

actively participating in the projects being undertaken by other members. This has reduced the effectiveness of planning and purchasing functions within the regional councils.

Unstable membership has a direct impact on the confidence of a regional council when making long-term contract commitments. No new commitments to alternative waste treatment facilities (aside from those already commenced) have been initiated by regional councils in the past five years. It is likely that this is in response to the uncertainty of consistent membership, and the now confirmed significant cost premium associated with the mixed waste processing facilities that have been built.

Local government membership of waste groups is essential for long-term planning and investment decisions. At present there are no mechanisms available to ensure that local government membership of waste management groups remains stable. This is a key potential area for reform if long-term investments are to be made with greater confidence.

It is proposed to establish statutory waste group(s) (based on the structure in Figure 1) with compulsory local government membership. Each group will be required to develop waste plans and operate in a manner that is consistent with the statutory State waste infrastructure plans (see below) and support achievement of Waste Strategy targets.

The role of waste groups would be limited to coordinating the procurement of waste processing services (and collection if considered useful) from the private sector.

This approach addresses investment uncertainty and lack of capacity to commit from local governments, and ensures that waste group plans deliver services consistent with the Waste Strategy and State waste infrastructure plans.

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.

Its implementation would require amendments to the WARR Act and potentially to the *Local Government Act 1995*.

This approach could also be extended outside the Perth metropolitan region. It builds on established work with State planning frameworks, and could apply to urbanised areas similar in population density and scale to the Perth metropolitan area to achieve similar waste performance in a staged and sustainable manner.

Alignment of waste planning across Government

Experience in other jurisdictions highlights the benefits of aligning local (i.e. local government or regional) waste planning with state plans.

In Victoria, the State Government takes on a central planning role for waste and develops a statewide plan for infrastructure. The Victorian Metropolitan Waste Management Group (www.mwmg.vic.gov.au) has been successful in facilitating cost effective contracting on behalf of members for a range of services. The group is restricted from directly operating facilities. Local government members of the group contract directly with service providers through procurement contracts established by the group.

Until recently, the New South Wales Government had a central role in waste management as the owner of waste infrastructure and therefore in managing waste flows. This model enabled government to control waste investments and flows to support State policy objectives.

It is proposed that waste groups be required to ensure that their waste management plans are aligned with the Waste Strategy and a statutory State waste infrastructure plan —this includes the requirement to plan for landfill capacity in their region.

Compulsory local government membership of waste groups provides the long-term planning and investment certainty that is needed for this approach to be effective.

This approach addresses investment uncertainty and lack of capacity to commit from local governments, and ensures that waste group plans deliver services consistent with the Waste Strategy and 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.

Its implementation would require amendments to the WARR Act and potentially to the *Local Government Act 1995*.

3.2 Infrastructure planning

Infrastructure capacity

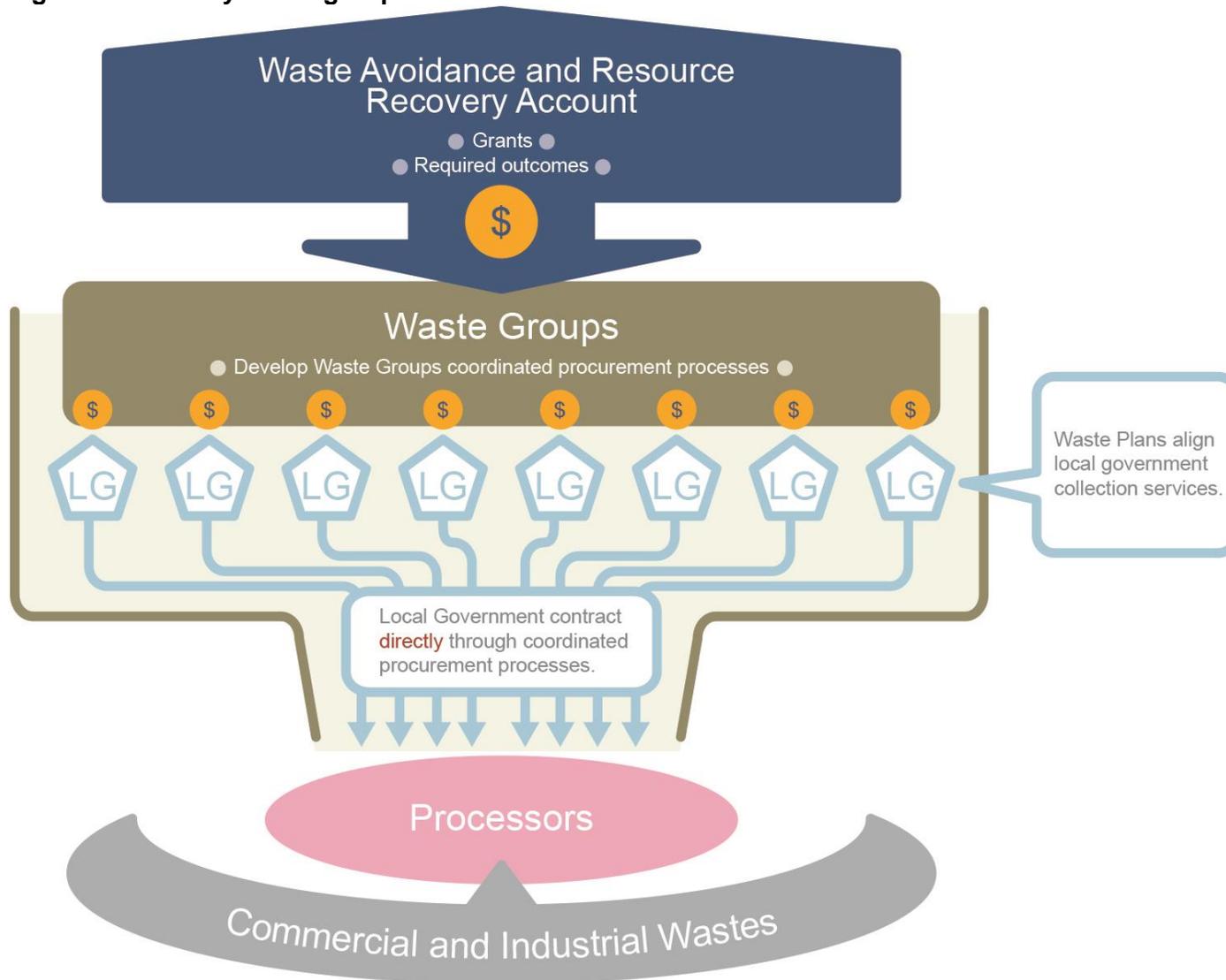
About 43 per cent of Perth's waste is currently recovered through material recovery facilities (MRFs), alternative waste treatment plants (AWTs) or composters. The balance is sent to landfills which have capacity until around 2025 on current projections, or until 2030 if the Waste Strategy targets are met.

Governance

The ownership of, and governance arrangements for, solid waste in the Perth/Peel region are fragmented. Generally, whichever entity possesses the waste/recyclable material has ownership of it at that point in time. This means that the collectors of the waste/recyclable material can determine where it is treated or disposed. The exception is where the point of disposal is stipulated in the collection contract. This has resulted in inefficiencies in the manner that waste is treated and disposed.

While there are historical reasons for the current arrangements, they are now an impediment to achieving the economies of scale and scope that are necessary for modernising and improving waste management in Western Australia. The current system does not optimise the use of infrastructure, transport, land-use and markets in relation to waste management. In addition, it is unlikely that the waste recovery targets for municipal solid waste (MSW), commercial and industrial (C&I) and construction and demolition (C&D) waste as set out in the Waste Strategy will be achieved under the current arrangements. There is, therefore, a need to consider reform to deliver improved waste management outcomes.

Figure 1 Statutory waste groups model



Statutory infrastructure planning

The Waste Strategy recognises the importance of long-term planning for waste and recycling processing to set out the waste management infrastructure required to meet the needs of the Perth and Peel '3.5 million city' and to assist in achieving the 2020 targets in the Waste Strategy.

Experience in Victoria highlights the benefits of strengthening waste planning functions in legislation and requiring waste management groups to align their activities to state plans.

It is proposed to establish statutory waste group plans and local government waste plans under amendments to the WARR Act to require waste groups or local governments to align waste services and contracts with a State waste infrastructure plan, Waste Strategy targets or codes of practice.

The WARR Act would be amended to provide for the establishment of a statutory State waste infrastructure plan linked to waste group plans and local government waste plans, including determining the requirements for landfilling of wastes.

The specific reforms outlined are based on a State entity having the power to develop a statutory waste infrastructure plan, and approve waste plans produced by local governments and waste management groups.

In the event such reforms were to proceed, amendments would be required to various parts of the WARR Act. Consequential amendments may be required to other acts including the *Local Government Act 1995*, *Environmental Protection Act 1986* and *Planning and Development Act 2005*.

Glossary

Term or Abbreviation	Meaning
AWT	Alternative waste treatment, also known as advanced waste treatment. A facility for sorting and recovering materials from mixed residual waste, using manual and mechanical sorting processes, often combined with biological processing of organic materials (aerobic composting or anaerobic digestion).
C&D	Construction and demolition. C&D waste is the solid waste from residential, civil and commercial construction and demolition activities.
EP Act	<i>Environmental Protection Act 1986</i>
EPR	Extended producer responsibility. An EPR scheme is a scheme for giving effect to a policy in which the producer's responsibility for a product (including physical or financial responsibility) is extended to the post-consumer stage of the product's life-cycle.
HHW	Household Hazardous Waste Program
Landfill Levy Act	<i>Environmental Protection (Landfill) Levy Act 1998</i>
Levy Act	<i>Waste Avoidance and Resource Recovery Levy Act 2007</i>
MSW	Municipal solid waste. MSW is the solid waste generated from domestic (household) premises and local government activities.
NWP	National Waste Policy
SWIP	Strategic Waste Infrastructure Plan

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