

16 November 2017

Project Manager
Waste Reform Project
Department of Water and Environmental Regulation
Locked Bag 33
CLOISTERS SQUARE WA 6850

Via email

**Submission to 'Discussion paper – Waste levy and waste management:
Proposed approaches for legislative reform'**

Dear Sir/Madam,

Background to WRIWA

The Waste and Recycling Industry Association of Western Australia (WRIWA) is a recently formed association representing private sector companies that have direct investment in the waste, recycling and composting sectors in WA. WRIWA members collect, process, recycle and dispose of around two thirds of the total produced. WRIWA has been invited to participate in the Waste Reform Agenda roundtable being convened by the Minister for Environment. This is a positive reflection of the market importance of WRIWA members and their commitment to high professional and environmental standards.

WRIWA is the state based affiliate of the National Waste and Recycling Industry Council (NWRIC), the national industry body that represents the interests of industry members across Australia.

WRIWA has two broad objectives;

- to achieve best practice environmental outcomes from collection, processing, recycling and disposal of waste
- to ensure markets are fair and transparent, ensuring competition occurs on a "level playing field" that drives value for customers and a fair return on investment for members.

WRIWA members include the large nationally based waste collection and recycling companies, landfill owners and operators, and state/locally based C&I and C&D collection, processing and recycling companies.

WRIWA is Committed to Improving Landfill Levy Outcomes

WRIWA members have conducted a workshop to review the Department of Water and Environment Regulation (DWER) *Discussion paper – Waste levy and waste management: Proposed approaches for legislative reform* and to develop a submission that broadly represents the interests of members. The WRIWA submission is included as the **Attachment** to this letter.

In summary, WRIWA supports a Landfill Levy as an instrument of the “circular economy” to improve recycling rates. WRIWA does however believe that there is currently significant avoidance of levy portability in Western Australia i.e. Perth Metropolitan Area sourced waste being transported and disposed in non-metropolitan landfills without the payment of the applicable levy.

The absence of a levy for waste that is produced and landfilled outside of the Perth Metropolitan Area creates perverse incentives for waste, particularly C&D waste, originating in the Perth Metropolitan Area. Currently, waste produced in the Perth Metropolitan Area can potentially be passed off as non-metropolitan waste due to a lack of documentation and reporting of waste origin and movement.

WRIWA strongly believes that the regulations and reporting of the landfill levy must make it uneconomic to transport waste from the Perth Metropolitan Area to Regional landfills. WRIWA members believe this is not the case with the current structure and application of the landfill levy in Western Australia and seek the introduction of new compliance procedures to prevent levy avoidance.

Changes to the Regulations and Structure of Landfill Levy

In response to specific issues raised in the *Discussion Paper*, WRIWA has a preferred solution that will necessitate two fundamental changes from the existing levy structure. First, WRIWA proposes that the “catchment area” for waste produced that is subject to the current “full rate” levy is expanded beyond the current boundaries of the Perth Metropolitan Area. Second, WRIWA proposes a new landfill levy be imposed for the area outside of the expanded boundary of the Perth Metropolitan Area. This “regional” landfill levy should be set at a rate to make the transport of waste from Perth to regional landfills uneconomic. The specifics of this WRIWA preferred proposal are detailed in the **Attachment**.

An alternative option is to introduce requirements for "mass balance accounting" of waste collections, transport, transfer, processing, recycling recoveries and disposal to improve the quality of landfill levy reporting.

The details of the WRIWA proposals for improving the efficacy of the intended application of the landfill levy are presented in the **Attachment**.

Creating Markets and Demand for Recycled Materials

In order to achieve the optimum "circular economy" from the production of waste, WRIWA also emphasises the need for Government to undertake measures that will immediately improve demand for recycled materials, particularly those recovered from the C&D sector. Currently there is reluctance from Government agencies to utilise recycled materials, perhaps because of perceived risks associated with contamination. This leads to a continuing reliance on virgin material, defeating the intention of the landfill levy to achieve better environmental outcomes throughout the broader economy.

The WRIWA proposals to improve utilisation of C&D recycled materials are detailed in the **Attachment**. This includes some observations concerning the closely related matter of Stockpiles.

Next Steps

WRIWA is keen to participate in any working groups or decision making/recommendation forums that DWER may convene after receiving submissions to the Discussion Paper. WRIWA is happy to provide further details to DWER and the matters raised in this submission.

Please contact John Lillywhite (je.lillywhite@optusnet.com.au), Executive Officer – WRIWA if you have any queries or need for discussion.

Yours sincerely



Mike Harper
President – WRIWA.

ATTACHMENT - WRIWA Submission to DWER

Discussion paper – Waste levy and waste management: Proposed approaches for legislative reform

1. INTRODUCTION

Purpose of Discussion Paper

WRIWA supports the Purpose of the Discussion Paper and is highly interested in participating in the following specific item listed by DWER;

- *Identify approaches for improving the waste management and levy framework (p. 1)*

The WRIWA submission is directed at the above point. It should be noted that WRIWA believes that this purpose can only be achieved if the interdependencies of the entire supply chain – from waste creation to material recovery to final disposal (or preferably final re-use) are considered. If single points in the waste supply chain are changed in isolation there is a high probability that sub-optimal outcomes will result.

Proposals suggested by the Discussion Paper

WRIWA notes the proposals contained in the Executive Summary of the Discussion Paper (p. v) and agrees the priorities for change are in the following areas;

Discussion Paper Priority	Reason for Change
Amending key terms in the Waste Avoidance and Resource Recovery Regulations 2008 (WARR Regulations), WARR Levy Act and Waste Avoidance and Resource Recovery Levy Regulations 2008 (WARR Levy Regulations) to ensure the levy applies to all waste disposed to land	There is a need to improve the definition of waste and the source and point of origin of waste material.
Amending the WARR Levy Regulations and WARR Regulations to improve the measurement and recording of waste	Improve compliance with Levy Portability.
Improving reporting of movement of waste under the WARR Levy Regulations	ditto

Problems with Current Application of the Landfill Levy

WRIWA strongly believes there is a need to change the structure of Landfill Levy application so that current market distortions and perverse incentives to avoid the levy are eliminated. Avoidance of the landfill levy has created the following environmental and industry problems in Western Australia;

- The unnecessary movement of waste between significantly distant sources of waste creation and landfill locations to avoid payment of the levy. This behaviour will occur wherever there are significant levy price differences between different regions.
 - At present the difference is \$60 per tonne (\$60 per tonne for inert waste originating in the Perth Metropolitan Area v zero for non-metropolitan waste).
 - Current documentation and reporting requirements are not precise enough to enable auditing and enforcement of levy portability.
- The ability of private investors to create 'bankable' recycling infrastructure proposals has been undermined, due to an uncertain regulatory environment.
- Levy avoidance has distorted the level playing field and reduced genuine competition. This results in customers (the waste producers) not receiving long-term value or correct market signals that are in line with the Governments waste objectives.

2. WRIWA FRAMEWORK

Where landfill levies are applied they should be stable over the long term and sufficiently simple to reduce the potential for avoidance. Although levies should be as uniform as possible, a critical consideration is to ensure their application does not undermine the recovery of materials destined for international export. For example in the "metal recycling" sector the application of the levy on the disposal of recycling residuals (shredder floc) reduces the competitiveness of recovered steel sold into the international market.

For clarity, WRIWA support for landfill levies is based on the following parameters;

- 2.1. Landfill levies should be part of a clearly articulated recycling strategy and be subject to regular performance review.
- 2.2. Levies and their governing regulations should be put in place for at least five years, and if the regulations are to change, industry should be given a minimum of 12 months' notice.
- 2.3. Landfill levies should be simplified as much as possible, to minimise administration costs and reduce the risk of fraud. This includes the reporting, administration and the payment of levies.

- 2.4. Waste levies should not be differentiated by waste type (other than for hazardous waste where identification can be supported by accompanying documentation) or waste origin.
- 2.5. Waste levies should be consistent across the largest jurisdiction possible, and ideally be applied in a manner that minimises 'border' market distortions.
- 2.6. Waste levies should be reduced by weight for all waste that is later genuinely recycled.¹
- 2.7. Waste levies should not be applied in a manner that makes recycling uneconomical or less economical within internationally competitive markets.²
- 2.8. If a levy reduction on recycling residual is applied, transparent reporting should be put in place and overviewed by the State levy administrator.
- 2.9. Landfill levies should not be applied on waste volumes subject to bad debts.
- 2.10. If different landfill levies are created by geographic boundaries, levy portability must be designed so that enforcement is rigorous enough to deter arbitrage and levy avoidance.
- 2.11. Collected landfill levies should be held transparently within a specific purpose account and utilised to assist greater rates of waste avoidance, recycling and resource recovery. Levies should be used for;
 - Enforcement
 - Education
 - Research and Development Grants
 - Planning – for Waste Infrastructure needs on both 10 and 30 year time horizons
 - Low interest loans for proponents to invest in new waste reduction/recycling/recovery infrastructure.

3. WRIWA PREFERRED OPTION

Levy to apply to all Western Australian Landfills

WRIWA suggests the simplest and most practicable change to the current landfill levy is to apply a levy to all Western Australian landfills.

WRIWA supports the current schedule of landfill levy rates that increases until reaching \$70 per tonne for both putrescible and inert waste in 2019.

¹ For clarity this also means producing a product for sale or use at the landfill - such as daily cover - and includes creation of electricity or a heat supply from landfill gas.

² Including applying the levy to the disposal for shredder floc

WRIWA does not support any further increase in these rates in the foreseeable future due to the impact on the competitiveness of recovered materials in international markets, and the potential for higher landfill levy rates to encourage illegal dumping.

A discounted or proportional levy could be applied to regional areas outside of the (greater) Perth metropolitan area.

The size of the area where the “full” levy applies should be expanded because it is clear that some currently exempt areas e.g. Mandurah, Peel, Pinjarra, Gingin, Bullsbrook etc. are integral to the economic activity of the city of Perth and the greater metropolitan area. These locations should be included in a redefined Greater Perth Metropolitan Area for full levy payment. The “discount” for Regional areas must be structured so that it becomes uneconomic to transport waste from the Greater Perth Metropolitan levy area to a Regional “discount” levy area.

WRIWA notes that South Australia applies a landfill levy to the entire state where the non-metropolitan or rural levy is half the rate of the levy applied to waste sourced in the defined Adelaide metropolitan area. Levy portability is enforced by landfill operators being able to demand waste tracking documentation that specifies the point of waste creation.

Audit of Landfill Levy Compliance

All landfills should be required to conduct a quarterly volumetric survey to determine the quantity of disposed waste. In addition, a requirement for weighbridge recording of weight at all landfills should be phased in as the sole means of load measurement for determining levy payments in the near future. This would enable the imprecise and unreliable nature of volume based “equivalents” to be phased out. WRIWA suggests that collected landfill levy funds could be used, either via grant or low interest loan, to assist landfill operators acquire weighbridges.

Utilise Levy Funds within the Area of Collection

In order to promote a circular economy in Regional Areas, and in line with the WRIWA Framework item 2.11 above, levy funds collected from a Regional Area should be utilised to incentivise sustainable recycling initiatives in that same area. This will provide those households and businesses that bear the cost of the levy with equity in the application, distribution and benefits arising from the levy.

4. WRIWA ALTERNATE OPTION

An alternative option to applying the levy to all Western Australian landfills is to introduce a rigorous certification and reporting process through mass balance accounting and waste tracking. At present, the landfill operator undertakes all reporting for the purposes of the landfill levy calculation for C&I and C&D solid waste.

It is not possible at present to determine the total amount of waste moving within the supply chain, and hence the true origin of the waste landfilled.

The alternative option would require the installation of weighbridges at all landfills so that weight becomes the sole unit of measurement for transported waste.

Current certification and reporting has limitations.

It is noted that since December 2016, DWER has required additional records be kept in accordance with regulation 17(2)(g) of the *Waste Avoidance and Resource Recovery Levy Regulations 2008*.

The additional records required are:

- Name and contact details of the driver of the vehicle;
- Vehicle make, registration number/s and number of axles;
- Name and contact details of the company transporting the waste; and
- Details of the provider and source of the waste.

At present, due to the absence of certified documentation from the provider of the waste, the landfill operator must rely on the veracity of the waste transporter/provider in declaring the “source” of the waste. The potential for misrepresenting the location of the original waste creation is the significant financial incentive of avoiding \$60 per tonne of inert waste levy costs (less the cost of any additional transport). Instead of the waste owner specifying the original site of waste production, the waste may be misrepresented as “non-metropolitan” because it was transported for “processing” or transit at a regional transfer station/material recovery facility en route to the regional landfill.

WRIWA recommends that “source of the waste” needs specific definition to ensure it reflects the location where the waste was originally created.

Mass Balance Accounting and Waste Tracking

Western Australia has previously implemented Controlled Waste tracking under the authority of the *Environmental Protection (Controlled Waste) Regulations 2004*. WRIWA suggests similar regulations could be introduced to ensure the veracity of reporting for the entire waste supply chain – from origin/source of waste, transport, processing, material recovery and residual disposal.

For Mass Balance Accounting and Waste Tracking to be successfully implemented, weighbridge recording of the weight of waste being moved, processed or disposed must be undertaken. A common unit of measurement (weight) must be applied to the entire supply chain.

WRIWA supports funds from the collected landfill levy being made available to landfill operators via low interest loan to enable the immediate installation of weighbridges.

5. STOCKPILES

In the context of the Discussion Paper, Stockpiles can be either “waste” or material that has been or has the potential to be recycled.

A key reason for Stockpiles of “waste” being accumulated and held over long periods of time is the owner seeking to avoid the costs of disposal. WRIWA does not support Stockpiles of this type being exempt from a levy if the Stockpile is other than temporary in the operation of the site. The regulations, reporting requirements and inspection and compliance activities need to be structured to ensure that Stockpile owners are incentivised to dispose of waste stockpiles as quickly as possible.

Material that has been recycled, or is intended to be recycled, is generally held in Stockpiles because there is no economic market for the material. At present Western Australia has limited facilities for processing a significant proportion of recovered material i.e. cardboard, paper, rubber, plastics, glass etc. There is some opportunity to export some of this material to international markets however prices are often marginal. For example, the recent adoption by China of its National Sword policy has put further pressure on the international market for both volume and price.

End use markets for recycled civil construction & demolition products (ie. recycled roadbase, drainage product and sand) are more local but can be characterised as generally “weak” due to the reluctance of many potential users, including State and Local Governments to move from use of virgin materials to the incorporation of recycled materials in products such as road base and drainage aggregates. Failure of Governments, State and Local, to enthusiastically undertake market leadership in the use of recycled construction material is contributing to the failure to achieve the broader Government objectives (*Waste Authority – Western Australian Waste Strategy 2012*) for increased rates of recycling.

6. IMPROVING MARKET DEMAND FOR RECYCLED MATERIALS

The Municipal Waste Advisory Council conducted a survey of Western Australian Local Governments in 2013 to determine the acceptance and use of recycled C&D materials in local projects.³

³ (http://www.wastenet.net.au/Assets/Documents/Content/Information/CD_Report_Feb_2013.pdf)

Utilisation rates were found to be very poor. Of the 41 local governments that participated in the survey, only 15 had used recycled materials, the balance of 26 Councils preferred to use virgin material.

Compounding the poor take up of recycled materials by Local Government is the recent chronic under-spend of the Waste Avoidance and Resource Recovery budget administered by the DER and Waste Authority. In 2015-16 only 58% of the total budget was spent. Line items that are specific to the promotion, acceptance and take up of recycled materials that were not fully utilised include;

- Recycled Product Specification – zero spend
- Recycled C&D Market Development Program – 0.1% of budget spend
- Resource Recovery Grant Scheme – zero spend

Clearly there are significant barriers to achieving the *Waste Authority – Western Australian Waste Strategy 2012* objectives of increasing recycling with consequential decreases in landfilling.

WRIWA notes the substantial difference in attitude and outcome between Victoria and Western Australia with respect to the use of recycled building materials. Victoria has a simple specification for incorporation of recycled materials in products such as road base. Victorian government agencies enthusiastically promote the use of recycled building materials which has created confidence and demand for the use of these materials. In some cases Victorian processing and recycling operators now pay collectors of C&D waste for deliveries of some materials.

Western Australia needs to consider the Victorian specifications and follow the associated Government leadership of recycled building materials usage so that a fully functioning recycled products market is established. This will provide a significant economic incentive to divert C&D waste from landfill and is key to achieving the WA Government waste objectives.

7. WRIWA RECOMMENDATIONS

The following recommendations are drawn from the discussion and analysis contained in the WRIWA submission;

- 7.1. The introduction of new approaches is urgently needed to improve the waste management and levy framework in Western Australia.
- 7.2. Clear definition to eliminate potential misrepresentation of key terms such as “waste”, “waste origin”, “waste source” etc. is required as part of eliminating levy avoidance.

- 7.3. Levy portability must be enforced with improved reporting, inspection and auditing measures.
- 7.4. The impact of levies on recycling residuals to meet the market requirements for international exports such as metal recycling needs to be minimised, possibly via discounts to ensure competitiveness with direct exporters of unprocessed materials and competing exporters from zero levy jurisdictions.
- 7.5. WRIWA supports the current schedule of landfill levy rates of \$70 per tonne for putrescible and inert waste to apply in 2019. WRIWA does not support any increase in these rates in the foreseeable future due to the impact on the competitiveness of recovered materials in international markets, and the potential for higher landfill levy rates to encourage illegal dumping.
- 7.6. The Perth centric area for application of the “full” levy should be enlarged to a Greater Perth Metropolitan Area with a radius of approximately 100km to include Peel, Mandurah, Pinjarra, Bullsbrook and Gingin.
- 7.7. Discounted levies outside of the (newly defined) Greater Perth Metropolitan Area must be structured to ensure it is uneconomic to transport waste from full levy areas to landfills with lower levy rates.
- 7.8. Weighbridges should be installed at all licenced landfills. Levy fund loans should be made available from the collected landfill levy fund.
- 7.9. Quarterly volumetric surveys should be undertaken of all licensed landfills to ensure correct remittance of the landfill levy.
- 7.10. Improved certification/receipting procedures and reporting are required at each point in the waste supply chain to both improve understanding of recycling and diversion rates, and correct application of landfill levies.
- 7.11. There must be improved spending of the Waste Avoidance and Resource Recovery budget to improve the market understanding and achievement of the *Waste Authority – Western Australian Waste Strategy 2012* recycling objectives, most importantly creating viable markets for recycled materials that compete with virgin resources. Governments, both State and Local must exercise greater leadership.