

# Submission on the Department of Environment Regulation Consultation Paper: Proposed Amendments to the WARR Regulations 2008 to Require Record-keeping and Annual Reporting of Waste and Recycling Data



August 2016

## Status of this Submission

This Submission has been prepared through the Municipal Waste Advisory Council (MWAC) for the Western Australian Local Government Association (WALGA). MWAC is a standing committee of WALGA, with delegated authority to represent the Association in all matters relating to solid waste management. MWAC's membership includes the major Regional Councils (waste management) as well as a number of Local Government representatives. This makes MWAC a unique forum through which all the major Local Government waste management organisations cooperate. This Submission therefore represents the consolidated view of Western Australia Local Government. However, individual Local Governments and Regional Councils may have views that differ from the positions taken here.

This Submission was considered and endorsed by the Municipal Waste Advisory Council on Wednesday 17 August.

## Executive Summary

The Association welcomes the opportunity to comment on the Consultation Paper. Accurate data on waste management is central to informed decision making on policy and programs. Local Government anticipates that the data it provides to the Department is used for a clear purpose, such as the identification of areas that could be improved through targeted programs. Waste management data is already reported to the Department through the Local Government Census, which provides a general indication of performance. Previously, the Association has used the Local Government Census data to inform the development of Better Practice Guides and to assess the effectiveness of Programs. The Department has committed resources to successfully build capacity within Local Governments to improve the quality of information reported to the Census.

Whilst the broad proposal to require licensees or occupiers of recycling or reprocessing facilities and landfills to report data is supported, there are concerns that this could increase the reporting burden on the Local Governments that operate these facilities. Data from licenced premises is already provided annually to the Department as an operational condition. As Local Government is already subject to multiple requests for waste management data, it is suggested that the Department investigate whether additional legislative reporting requirements can be consolidated, or at the very least better coordinated under the *Local Government Act 1995*.

It is important that Local Government is given sufficient lead time to implement any changes in data collection practices. The Association supports the proposed engagement approach on the development of 'approved methods' and training prior to the implementation of the amendments.

## Introduction

Local Government is aware of the importance of accurate waste management data and contributes significant resources to its collection on an ongoing basis. There are many challenges associated with collecting accurate data in Western Australia, such as capacity and data availability, as well as accommodating and interpreting the multiple data requests from Government. In recent years numerous attempts have been made to address these challenges, with varying degree of success. The *WALGA Waste Management Data & Information Management Policy Statement* (2010) outlines

the sector's established position on this topic. The Policy identifies the importance of consistent waste management data, the constraints on Local Government in producing data, sector responsibility in regards to waste management data as well as key issues to be pursued in order to ensure reliable data.

The Association has worked with the Department over a number of years to provide feedback on the Local Government Census and actively encourages Local Governments to participate. The data collected through the Household Hazardous Waste Program is provided by the Association annually to the participating Local Governments and Regional Councils. This information can then be reported to the Local Government Census. WALGA has used the Census data to inform the development of the Bin Tagging Program and the Better Practice Vergeside Collection Guide. Both of these initiatives were funded by the Waste Authority through the Waste Avoidance and Resource Recovery Account. The data from the Census also provides a way to benchmark and assess different services provided by Local Government.

## Rationale for Amendments

Before answering the questions posed in the Consultation Paper, the Association would like to address some of the points raised in *Section 1.5 Rationale for Amendments*. The Paper identifies that in 2008-09 there was a low percentage of Local Governments reporting to the Census. What the Consultation Paper does not acknowledge, is that the Department identified that this was an issue of considerable concern and implemented a Program over three years to build capacity within Local Government and improve the quality of the Census data. This Program included an audit function, and ran from approximately 2010 to 2013. In the years since, staff from the Department have analysed the Census data and followed up on any discrepancies. Consequently, Local Government is reporting through the Census and a range of other mechanisms. The rate of Local Government reporting is much better than private industry. Perhaps industry sectors could benefit from the introduction of a similar capacity building Program, as it begins to report under the compulsory requirements.

There is a need for consistent reporting of data that is available online and auditable. The State Government has a role to play in compiling and publishing waste management data centrally, as well as providing support to the entities that are required to collect data. In progressing amendments to the *Waste Avoidance and Resource Recovery Regulations 2008*, it is worth noting that the agency responsible for its administration, will be expected to dedicate resources to the regulation, enforcement of any new reporting requirements and comprehensive data review and auditing to ensure accuracy of information. Compulsory reporting does not remove the need for data review and auditing for accuracy, rather it adds to it a requirement for regulation and enforcement.

The Consultation Paper has not established a clear link between what information needs to be reported by Local Government and the head of power in the WARR Act, which enables the request to be made. The WARR Act already includes the power for CEO to require Local Governments to report on a range of matters including:

- Compliance with the Waste Strategy
- Implementation of a Local Government Waste Plan
- Monitoring and evaluation of Local Government waste services.

Requests for information should be linked to a clear purpose. It is timely to review the type of information collected from Local Government. Some of the information currently collected from Local Government only appears to relate to NEPM Reporting, rather than any State Government based objective. Given the changing structure and focus of the Australia Packaging Covenant, the Association suggests DER considers the necessity of including NEPM Reporting requirements in the amendments. It is also worth considering that the State Waste Strategy target for municipal solid waste only applies to the Perth Metropolitan Region and major regional centres; Avon, Greater Bunbury, Albany, Geraldton, Kalgoorlie, Karratha, Peel and Busselton.

## Proposed Offences and Penalties

Given Local Governments role in providing services to, and acting in the public interest, the Association does not consider it appropriate for penalties to be included for Local Government. There are reporting processes embedded in the *Local Government Act 1995* that would raise the profile of waste management data and assist in providing accurate and publically accountable data. Under the *Local Government Act 1995*, Local Governments are required to prepare an Annual Report for each financial year. In this Annual Report, statements of compliance are made against the reporting requirements of various Acts. A consequential amendment to the Regulations under the *Local Government Act 1995* could require that Local Governments report on whether they have satisfied their reporting requirements for waste. This is particularly timely given the transfer of auditing functions to the Auditor General which would provide for an external audit function.

The Association questions the extent of the powers provided to an 'authorised person,' for an activity that is essentially data collection. The powers of an 'authorised person' such as the Minister for Local Government or Departmental CEO under the *Local Government Act 1995*, can require a Local Government or employee to provide information in the context of an Inquiry into the affairs of a Local Government. This type of power would be an over reach when considering the purpose and intent of the proposed amendments i.e. to move from a voluntary to a deliberative waste reporting procedure.

## Items for Further Consideration

The Association would like to request that further detail is provided on the auditing regime that is referred to in the Consultation Paper. Specifically, *Section 3 Record Keeping* and *Section 5 - Proposed Offences and Penalties*.

It is important that any new data reporting regime, takes into account the importance of building data collection systems that are easy to use and compatible with existing reporting systems. Local Government requests that it is consulted on any changes to data collection reporting systems.

## Consultation Paper Questions

**Question 1: Are the definitions for liable entities sufficiently clear and understandable for your organisation to determine if it is required to report? If not, what further clarification would be helpful?**

Local Government supports compulsory reporting for the proposed liable entities in private industry but is concerned that this may increase Local Government's reporting requirements, due to its activities across all categories of the proposed liable entities. Local Government does not consider that it should be subject to the proposed reporting requirements for licensed premises, as it would already have reported on the services it provides as outlined in the definition of a Local Government as a liable entity. Local Government is already submitting information to the Department on an opt-in basis to the Annual Census. Local Government is well aware that the Census must be completed in order to access grant funding from the WARR Account. Unfortunately, the ease and timeliness of access to the funds in the WARR Account has been somewhat limited. Local Government also submits waste management data to the Department as a licensed operator of prescribed premises under the *Environmental Protection Act 1986*, and for calculating waste levy liabilities.

Multiple reporting of information is a source of considerable frustration for Local Government (refer to the comments made in response to Question 3). Before progressing amendments that have the potential to add data reporting requirements, the Association requests that the Department considers

Local Government's unique position and investigates what information must be collected and ways it could be consolidated that reduces the reporting burden on Local Government.

In terms of the quality of data currently collected from waste processing facilities, some improvements clearly need to be made. Compulsory reporting for the private sector is one way to achieve this. It would be beneficial if the Department could clearly state which licence category / type of operator would be required to report, as opposed to the examples provided in Table 2 of the Consultation Paper. Local Government does not consider that it should be subject to the proposed reporting requirements for licensed premises, as it would already have reported on the services it provides as outlined in the definition of a Local Government as a liable entity.

Waste management data from prescribed premises is currently captured through the licencing system. The threshold of 1,000 tonnes for the proposed reporting entities in Table 2 of the Consultation Paper is the same or lower than the production and design capacity for the prescribed premises listed in Schedule 1 of the *Environmental Protection Regulations 1987*. If the Department progresses with these amendments, Local Governments as operators of these facilities may have to report the same information multiple times across different reporting periods. The wording provided in the current definition on the type of entities that must report is not clear. Care needs to be given in setting thresholds, so that data is only reported by entities that are the last to process waste prior to its final use or export.

**Question 2: Are the indicative reporting requirements sufficiently clear for your organisation to determine what type of information it is required to report? If not, what further clarification is required?**

The reporting requirements are reasonably clear for liable entities. The following suggestions have been provided, to further improve the quality of the information to be collected.

*Local Government*

For Local Governments, the proposed reporting requirements appear to be in line with those of the Local Government Census. In Section 4.1 of the Consultation Paper, the Department has signalled its intent to reduce the reporting requirements for Local Governments with a small population base. The Association supports this proposal as a means of reducing the reporting burden on Local Governments.

Section 2.2.1 outlines the reporting requirements for each waste service provided by a Local Government. It appears that the requirements predominately focus on recycling services. As a number of Local Governments have or are introducing a green waste/organics service, it would be useful to expand the scope of the information collected to include 'recycling or recovery'.

*Licensees or Occupiers of Recycling or Reprocessing Premises*

The Recycling Activity Review contains information that tracks where various material types are disposed of. This information can be used to identify market failures and the level of dependence that various components of the industry have on overseas markets. To enable this analysis to continue, the Department should consider including a mechanism that facilitates the reporting of broad waste types, in addition to sector and geographic sources of waste. Local Government also suggests that DER investigates the possibility of introducing reporting on the end disposal point for materials, as a means of improving transparency across the entire sector.

A major source of uncertainty for Local Government data, relates to the information provided by Material Recovery Facilities. These facilities often provide Local Government with the standard recovery and contamination rate for the facility, rather than information on the composition of material provided by a Local Government as an input. This approach means that Local Governments are only able to provide data with limited accuracy and are not able to assess the effectiveness of community engagement activities. Some Local Governments have addressed this in contracts by including a charging mechanism to run a separate load through a Material Recovery Facility, at the request of the

Local Government. Contractors that wish to charge customers for high rates of contamination, must provide proof of the contamination rate at their own cost.

#### *Licensees or Occupiers of Landfill Premises Not Required to Pay Levy*

The Association suggests further clarifying the explanation of what is meant by the geographic source of material, in line with the legislated parameters for the WARR Levy. This will remove confusion for those areas that are known as 'Cities' outside of the Perth metropolitan area. Local Government does not consider that it should be subject to the proposed reporting requirements for licensed premises, as it would already have reported on the services it provides as outlined in the definition of a Local Government as a liable entity.

### **Question 3: Are there any barriers to the recording or reporting of these types of data for your organisation? If so, what are they?**

Local Government has to accommodate differences in the type of information requested, reporting periods and calculation methodologies from a range of Government agencies. This has led to an inefficient system of reporting that places additional costs on Local Government. If data reporting requirements could be consolidated (or at the very least reporting periods aligned), significant resources in both the State and Local Government could be allocated to other tasks. The Association suggests that DER investigates the scope of the waste management data that is currently reported by Local Government, with an emphasis on the following:

- Annual Local Government Waste and Recycling Census
- Recycling Activity Review
- Annual Audit Compliance Reports (as a license requirement)
- Waste Avoidance and Resource Recovery Levy
- National Pollution Inventory
- National Greenhouse and Energy Reporting

To ensure Local Government sees value in the process of reporting data and has confidence that it is being used effectively, the State Government needs to commit to reasonable timelines for reporting findings back to the sector in a timely fashion.

The proposal to develop methods for measurement and calculation of waste in consultation with stakeholders is supported. Likewise, the proposal to host workshops on record-keeping and reporting requirements prior to the introduction of new reporting requirements. In some businesses there is a high turnover of staff. In this instance, ongoing training will be required to ensure liable entities are able to report. These initiatives will go some way to removing barriers currently experienced with data recording and reporting.

### **Question 4: Based on the indicative reporting and data requirements set out in this paper, identify any guidance that is likely to be most useful to your organisation.**

An informed response cannot be provided to this question, as the timelines for developing and consulting on calculation methods are yet to be released. From the Consultation Paper, it appears that a range of calculation methods or 'approved methods' will be developed to measure and estimate waste and recycling data, with an emphasis on:

- Weight (weighbridge data)
- Volume-estimation (visual assessment of material type and volume)
- Additional studies on waste composition or source
- Alternative measurement and estimation methods:
  - o Number of bins collected multiplied by typical weight or typical volume (kerbside services)
  - o Population multiplied by an estimate of per capita waste generation (for other non-kerbside services such as verge-side waste).
  - o Local Governments with an estimated residential population of fewer than 1,500 may be able to apply for approval to report a description of the waste services they provide (and not the weight of waste associated with each service)

It is not clear how the reporting requirements will be permitted to differ across reporting entities. Section 4 of the Consultation Paper states:

*“Reporting requirements are likely to differ across entities (local governments, recyclers/reprocessors and landfill operators) and the waste services provided. For example, while local governments predominantly deal with the municipal solid waste stream, recyclers and landfill operators may deal with multiple waste streams.”*

The Association looks forward to working with the Department as it develops reporting frameworks for Local Government. The practical approach flagged in Section 4.1 of the Consultation Paper to reduce the reporting burden on Local Governments with limited resources and capacity is supported. Clear, workable methodologies are required that simplifies the collection of data.

## **Conclusion**

Local Government appreciates the opportunity to comment on the proposed amendment to the Regulations. It would be useful to understand the timeframes for progressing this proposal and the development of ‘approved methods’ so that allowances can be made in existing operational activities. Local Government understands the importance of data, and supports the initiative taken by the Department to gather a more cohesive dataset. However, Local Government does question if the current proposal will increase the reporting burden that it is subject to. An investigation into what data is already reported, and for what purpose, is warranted.