



Your ref:

Our ref: DWERDT151117

Enquiries: Cecilia Jordan, [REDACTED]

[actreview@dlgsc.wa.gov.au](mailto:actreview@dlgsc.wa.gov.au)

## ***SUBMISSION ON THE REVIEW OF THE LOCAL GOVERNMENT ACT 1995***

Thank you for the opportunity to provide a submission for the review of the *Local Government Act 1995*. I apologise for the lateness of this response.

### **Integrated Planning and Reporting**

The Department of Water and Environmental Regulation (DWER) is developing waste plans under the *Waste Avoidance and Resource Recovery Act 2007* (WARR Act) to improve local government waste planning and align local government waste management activities with the objectives and targets of the *Waste Avoidance and Resource Recovery Strategy 2030*.

The Integrated Planning and Reporting (IPR) Discussion Paper notes that there is no requirement for the waste plans being developed by DWER which local governments are required to prepare to be integrated with the IPR documents.

DWER acknowledges that the alignment of waste plans with the IPR framework will be challenging and require coordination across our agencies. DWER supports alignment and consistency, and seeks to work with the Department of Local Government, Sport and Cultural Industries (DLGSC) to achieve this.

### **Beneficial enterprises discussion paper**

The beneficial enterprises model proposed by the Western Australian Local Government Association (WALGA) may encourage cooperation and make efficient use of waste management resources and economies of scale.

DWER supports beneficial enterprises in principle, and specifically where these give effect to the functions of local government. Waste plans are an appropriate mechanism for local governments to identify opportunities for regional collaboration in the provision of waste services and infrastructure.

### **Local laws discussion paper**

DWER administers the WARR Act under which a local government may make local laws in accordance with the *Local Government Act 1995* (LG Act) for waste management services.

The enactment of the WARR Act in 2008 resulted in the transfer of a number of provisions from the *Health Act 1911* for local laws with respect to waste services.

Under section 61 of the WARR Act, a local government may, if the CEO grants consent, or must, if the CEO directs, make local laws for waste management services. The Waste Authority supported WALGA to develop a template waste local law, which received general approval from the Joint Standing Committee on Delegated Legislation.

The comment provided below is a response to the questions in the Local Laws survey and is specific to waste local laws.

#### Model Local Laws

*12. Should any of the following topics covered by local laws be replaced by state-wide regulations? (Waste)*

There are no provisions in the WARR Act for waste local laws to be replaced by state-wide regulations and therefore such an approach would require amendments to the WARR Act.

*13. Should model local laws be prepared by State Government for local governments to use?*

*14. Should local governments be permitted to adapt the contents of model local laws?*

Section 62 of the WARR act allows the Governor to prepare a model local law which may be adopted by reference with or without modification.

DWER has not used the provisions in the WARR Act to make a model local law. The Waste Authority has supported WALGA to develop a template waste local law for use by local government. The template is available to all local governments free of charge.

In general, local governments use the template waste local law for their proposed waste local laws. Most proposed local laws have included amendments to the template, some of which have resulted in policy or legal issues. DWER encourages local governments to use the template when making their waste local law.

The issue of consistency of local laws with the template waste local law and the individual requirements of each unique local government has been a challenge for DWER. The current approach taken by DWER is to provide comments to local governments on waste local laws that encourage alignment with the template.

#### Drafting of local laws

DWER provides comment to local governments on their proposed waste local law prior to providing CEO consent. Local governments are encouraged to consider and adopt the comment. Modifications and amendments to the template have previously been given CEO consent if they are considered not inconsistent with the template and the WARR Act.

*17. To what extent do you support the following statements?*

- *“The Department [DLGSC] should continue to provide comment on proposed local laws prior to consideration by Parliament’s Joint Standing Committee on Delegated Legislation.”*

DWER supports this statement. DWER appreciates the comments that DLGSC provides to local government on their waste local laws. In general the comments from DLGSC have been supported by DWER and improve the quality of local laws.

- *“Local governments should be required to modify proposed local laws according to the instructions of the Department [DLGSC].”*  
DWER supports this statement. With respect to waste local laws, local governments are encouraged to use the template waste local law.
- *“Local governments should be required to have a legal practitioner certify that a local law is within power and legally enforceable.”*  
DWER has not considered this approach but it may be an appropriate requirement for waste local laws.

If you have any queries regarding this matter or require further information, please contact Cecilia Jordan on [REDACTED] or email [REDACTED]

Yours sincerely



Sarah McEvoy  
EXECUTIVE DIRECTOR  
STRATEGIC POLICY

9 April 2019