

**LANDFILL WASTE LEVY INCREASE**

*Urgency Motion*

**THE PRESIDENT:** Members, I have received the following letter —

Dear Mr President,

I hereby give notice that at the next sitting of the house I intend to move, pursuant to standing order 72:

That the Council consider, as a matter of urgency the Minister for Environment's failure to manage the proposed budget increase to the waste levy and her disregard for the confusion and uncertainty that her mismanagement of this issue is causing to local government, WA ratepayers and waste management stakeholders.

Yours sincerely

Hon Dr Sally Talbot MLC

The member will require the support of four members in order to move the motion.

[At least four members rose in their places.]

**HON SALLY TALBOT (South West)** [3.43 pm]: I move the motion.

On Wednesday 3 June I stood in this place and complained about the fact that there was a slow trickle of information coming to us about the way in which the proposed increase in the landfill levy was going to be applied. It was, at that stage, a little over two weeks since the budget had been brought down. My recollection is that during those two weeks, we managed to elicit the following information.

Firstly, on budget night we were told that there would be a 300 per cent increase in the landfill levy. I have been into the details of the opposition's reaction to that announcement at some length during previous debates in this place. Although I acknowledge that the Labor government, when it introduced the two waste avoidance and resource recovery bills, had factored into the regulations a set of increases over the next few years, I also have expressed the Labor Party's enormous concern about the impost upon ordinary householders that has been added to all the other imposts in the government's budget, and the fact that it has now risen to a couple of hundred dollars a year.

However, we then set about looking at what was being proposed. We saw that the line items for the out years came to \$39 million a year. That is a significant amount of money and it was anticipated that it would be raised from the 300 per cent landfill levy increase. We then found out, a few days later—partly because of an extraordinary letter from the minister to Barry Carbon, the head of the Waste Authority, and posted on the website of the Waste Authority—that this increase would require legislative change. We then began to delve into the details about what exactly was being proposed.

The reality is that, on top of the 300 per cent rise—which both the minister and the Waste Authority have acknowledged does not require any legislative change, because it can be done by regulation—there has also been an admission that the extra \$39 million a year is to be taken away from the purposes specified under the existing act. That act was taken through this chamber by me as the parliamentary secretary representing the former Minister for the Environment. The money is to be taken away from the Waste Authority. The Labor Party had specifically set aside that money to be used on waste management and recycling projects. The current government had not decided on a percentage at the time of making that announcement, but 75 per cent of that money is to be taken away from the Waste Authority and essentially put into consolidated revenue.

Was that some kind of plot dreamed up by the opposition? No, indeed it was not, because the minister was quite clear about it in her letter dated 15 May to Mr Barry Carbon, Chairman of the Waste Authority. In the second paragraph of the letter—which, as I say, was subsequently posted on the authority's website—the minister states —

In accordance with the Budget Statements, the intention is that additional revenue derived from the increase in the levy will be used to offset a reduction in the appropriation from the Consolidated Fund required by the Department of Environment and Conservation ...

The government admitted right from the beginning, the day after the budget, that it needed the money that was to be raised through the 300 per cent increase in the waste levy to fund the general purposes of the department. That is why it decided that it would require the legislative change.

A few days after that, the minister came into this house; I remember the occasion well, because we had just had the estimates hearings in the other place, during which the question of illegal dumping had been pursued with

President; Hon Dr Sally Talbot; Hon Donna Faragher; Hon Robin Chapple; Hon Ken Travers; Hon Sue Ellery;  
Hon Ed Dermer

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some vigour. The minister rushed into this house and announced that there would be changes to the penalties relating to illegal dumping. We get a picture of a government that is running to catch up with its own announcements.

However, right from the beginning, there was a big problem with the Department of Environment and Conservation's budget. Already by 14 May, there was a big black hole at the heart of the Department of Environment and Conservation's budget—something like a \$50 million decrease in funding from the consolidated fund.

It also became obvious that there was a big problem with the relationship between this government, as represented by the Minister for Environment, and the Waste Authority—the expert body that had been set up by the former Labor government to manage waste strategies in this state for the next couple of decades. The problems began to emerge after the letter that I have quoted from was posted to the Waste Authority's website.

If there is a dearth of information coming from the government, the same cannot be said for the information going out to the public. I am holding a folder containing some of the press coverage on this issue that has appeared since 14 May. That is two and a half months; almost three months. There is a pile of coverage from both the state daily newspaper and the regional newspapers. One of them in particular caught my eye simply to gauge the level of concern that is reflected in the terms of my urgency motion today about the confusion and uncertainty that the mismanagement of this issue is causing for local government. I see that the Town of Claremont, that well-known bastion of socialist activism, is actually proposing a campaign of civil disobedience against the government on this issue. The chief executive, Arthur Kyron, told the *Subiaco Post* that Claremont needed to have a general campaign of opposition to the 300 per cent increase. He stated —

“Perhaps we need to be like Mahatma Gandhi — a non-violent response of civil disobedience.

“Perhaps councils shouldn't pay the increase.”

The other interesting thing while I am talking about this article from the *Subiaco Post* is that it leads me into the next point I wanted to make about the way that the government has managed to antagonise every single stakeholder who has concerns with this issue—every single stakeholder! One of the first rules of politics in making an announcement like this is to work out who will come out in support of it. Nobody has been willing to support the government on this issue. Local councillors were furious with the government over this matter, and I have referred to that on several occasions in this house already.

I will quote what Barry Carbon told us in a committee hearing recently on the public record. This quote is from a transcript of a hearing held by the Standing Committee on Estimates and Financial Operations. Along with Hon Ljiljanna Ravlich, I asked Mr Carbon some questions about the response of local government. He stated —

... they would like some certainty about what they are doing in the relationship between the levy and the rates that they charge.

That is Mr Carbon's inimitably diplomatic way of saying that the whole thing is a dog's breakfast. It is confirmed by Bill Mitchell in the *Subiaco Post* article dated 20 June. Bill Mitchell, again, is not a person who has a reputation for attacking conservative governments in this state. However, the article states —

Association president Bill Mitchell encouraged all WA local governments to formally register their opposition to the exorbitant increase and the lack of consultation by the state government.

“This whole business has been handled very clumsily,” he said.

“First there was no consultation with the sector or industry. Then the increases were too excessive to be absorbed. And now we are not even certain it is within the powers of the state government to make the changes.”

I brought this urgency motion before the house today because we have a situation of wild confusion pertaining to this issue. Let me just go back to what we know is written down in black and white in the budget for us to start working with. The budget says that the government is proposing to raise \$39 million a year from income from the waste levy. Currently, the government is getting about \$13 million, so members can see the extent of the increase. That in my mind gave rise to two questions. The first is: why did the amount of money stay the same in the out years? If the whole purpose of increasing the levy was to effect some change in consumer behaviour, not just domestic consumers but consumers of waste services amongst which we have to include the building construction industry, that change in behaviour presumably would mean less waste going to landfill. That after all is the key proposition at the heart of the towards zero by 2020 strategy to which, as far as I am aware, the government has remained signed up, just as the Labor government was signed up to it. Therefore, we would expect to see less waste going to landfill. Less waste going to landfill means less money collected from the waste

President; Hon Dr Sally Talbot; Hon Donna Faragher; Hon Robin Chapple; Hon Ken Travers; Hon Sue Ellery;  
Hon Ed Dermer

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levy. Therefore, my first question was: if it is going to change behaviour, why does the amount stay the same? My second question, which I got the chance to ask Barry Carbon when he attended the hearing held by the Standing Committee on Estimates and Financial Operations, was: is it a realistic target? Maybe I was missing something; maybe there was going to be an increase in the waste levy that would lead to a proportionate reduction in the amount of waste going to landfill but would keep that income at the same level. This is when the bombshell was dropped and why I think it is reasonable for me to observe that things have just gone from bad to worse for this minister in her management of this issue. I now quote from the official transcript of the hearing that was held on Monday, 29 June. I hope that the minister is already familiar with this passage. I hope that she has already done some analysis of this passage and that there will be some addressing of this in her response to this urgency motion. However, I want to share these words with other members in this place this afternoon. Mr Barry Carbon stated —

In my view there are two things operating right now—an increased charge, which is going to hit the biggest fraction, —

That is, the biggest fraction of waste going to landfill —

which is C and D waste; —

That is, construction and demolition waste —

and we have a significant economic downturn anyway, so there is much less demolition for construction happening. One would have to be a wild optimist to think that the levy would deliver four times what it previously did—members know there is a fourfold rate increase—and very courageous to think if it is \$13 million this year, that next year it will be \$52 million and the year after \$52 million.

He then apologises for taking some time to give that explanation, and then states —

...I think it is a really ambitious call to say it will be \$52 million a year for the next several years. I had to explain why I said that.

...

**Hon KEN TRAVERS:** Are you saying that you expect the revenue to decrease over forward estimates?

**Mr Carbon:** Yes—for two reasons.

**Hon SALLY TALBOT:** You are actually saying that you do not expect the revenue to increase this year to the projected extra \$39 million.

**Mr Carbon:** No.

**Hon SALLY TALBOT:** Is that figure inflated?

**Mr Carbon:** There are two things: first of all, it will now not be there for six months of the year, and there has been a significant decrease in demolition associated with construction in the second six months of the year. It is a changed world.

It is indeed a changed world and since 29 June we have seen no evidence whatsoever that the minister realises the extent to which the world has changed. We have not heard a single word from her about the blowing apart of the budget for her department. As I said, there was already a \$50 million black hole. It has just been blown out by another \$39 million a year. We have just found another big black hole in the budget.

Mr Carbon told the committee that he believed the revenue estimates would not be met as the significant increase in the levy will act as a deterrent and the amount of waste being sent to landfill would be reduced dramatically because of the effect of the economic downturn on the building industry. It then turns out that the minister did not even seek the advice of the Waste Authority before she proceeded with this measure. She has made this decision with no expert opinion whatsoever.

**HON DONNA FARAGHER (East Metropolitan — Minister for Environment)** [3.58 pm]: I say at the outset that obviously the government will be opposing the motion standing in the name of Hon Sally Talbot. The only person who seems to be confused is actually Hon Sally Talbot.

With respect to the government's decision, this was a decision that was identified, quite rightly, through the 2009-10 state budget and was specifically identified through the economic audit process. Indeed, as the Treasurer said during his budget speech, the government was willing to make very hard decisions to not only protect our finances but also ensure that those decisions had very good environmental outcomes when it came to the landfill levy. I recognise that the proposed increases to the landfill levy will create an additional impost; however, the government and I believe that this is a responsible decision taken in an effort to reduce our waste, particularly in the construction and demolition area.

President; Hon Dr Sally Talbot; Hon Donna Faragher; Hon Robin Chapple; Hon Ken Travers; Hon Sue Ellery;  
Hon Ed Dermer

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The reality is that the levies, as they currently stand, are far too low. The current levy is \$3 a cubic metre for inert waste and \$8 a tonne for putrescible waste. These levies are well below other jurisdictions. Even after the increases, the WA landfill levies will not be the highest in Australia. In New South Wales, the landfill levy is \$58.80 a tonne; in South Australia it is \$25.20 a tonne. Since becoming Minister for Environment I have had people demanding that the government increase the levies. Despite what the opposition might say, local government is actually supportive of the levy increases. The increases in levies will make alternatives to landfill—particularly recycling—more competitive; particularly our construction and demolition waste. It is appalling that here in Western Australia we have one of the lowest rates of recycling in Australia. Less than 20 per cent of our construction and demolition waste is recycled; yet in New South Wales—where the levies are very high—it is more than 75 per cent.

The opposition, particularly Hon Sally Talbot, can carry on about the government's budget decision, but I ask Hon Sally Talbot what her government did to improve this appalling recycling rate? What did her government do when she was the Parliamentary Secretary representing the Minister for the Environment? Absolutely nothing. She sat there and pontificated. The former government said it was going to do this, that and something else but it did nothing. There are many, many other examples in other ministers' portfolios, not only in the environment portfolio, where Labor left a litany of problems either through inability or an unwillingness to make decisions.

The government's policy decision to divert some of the additional revenue to broader environmental and conservation outcomes is not novel. Indeed, this approach is consistent with a number of other states. New South Wales, South Australia and Victoria each apply levy revenues to a broader range of purposes than waste alone. Yes, I do appreciate —

**Hon Ken Travers:** Do they send it to consolidated revenue?

**Hon DONNA FARAGHER:** Yes, they do. I can assure the member that some do not even apply it to waste alone.

I can appreciate that some in local government, and some in the waste management area, would prefer that all of the levy funds go into waste management alone. However, the government and I have consistently said that, in the legislation before the other place, at least 25 per cent of levy funds will continue to go to the Waste Authority for waste management purposes. The funding generated will be consistent with existing funds. I heard Hon Sally Talbot refer to around \$13 million; and that is around about the figure. The amount of \$13 million is not a small amount of funds to be quarantined for a particular area of waste.

Hon Sally Talbot has made quite bizarre comments with respect to the delay to 1 January 2010. She referred to a speech that she made before the winter recess suggesting that somehow I was not committed to the levy increase because we had delayed it to 1 January, and that my reasoning for the delay was just wrong. If the President will forgive me: the government actually takes the advice of the State Solicitor's Office rather than the opposition—particularly the advice of Hon Sally Talbot, who invariably makes wild claims that, undoubtedly, are often wrong. The government decided, having received that legal advice, that it was appropriate to hold off increasing the levies by 300 per cent until such time as the passage of the bill took place. In making that decision, we recognised that obviously the bill needs to go through its parliamentary processes. We hope that the bill will be passed before the end of the parliamentary year. We want to make sure that there is some certainty for local government. That is why we made a decision that the increase in levies would take effect on 1 January 2010.

I have written to all metropolitan local governments and others to advise of the change. I, and my office, have also met with representatives from the Western Australian Local Government Association on a few occasions, and also others who have an interest in waste management. I am not quite sure what is confusing with the timetable for what is about to occur. We have written to local government. As I said, I recognise that they take a different view. They do not take a different view on increasing the levies, but —

**Hon Sally Talbot:** Is the minister saying she does not understand what their concerns are?

**Hon DONNA FARAGHER:** I have just said I recognise that they may take a different view. But the government has made a decision, that decision was outlined in the budget process, and it has been identified thereafter.

With respect to issues surrounding funding, obviously the amount of funding that we anticipated is not going to be realised because of the six-month delay. However, as I have stated, the Treasurer has stated and the Premier has stated, any funding matters will be dealt with quite properly, much like any other portfolio, through the midyear review process. The department is continuing to deliver on all of the projects and proposals that were referred to in the budget papers and the like. It is very important for us to remember that the government has been very clear that the environment will not be compromised by this change.

President; Hon Dr Sally Talbot; Hon Donna Faragher; Hon Robin Chapple; Hon Ken Travers; Hon Sue Ellery;  
Hon Ed Dermer

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In summary, I state once again that the government is absolutely committed to recycling and improving recycling in this state—it is appalling. More should have been done in the previous eight years, and it was not. The landfill levy is but one of a number of waste-related initiatives that the government—I am very pleased to tell Hon Sally Talbot—is working on with the Waste Authority. I look forward to seeing those rolled out in the near future. Instead of being constantly negative about this and many other issues, perhaps the opposition should start supporting the government on very important issues, not only in this area but many others.

**HON ROBIN CHAPPLE (Mining and Pastoral) [4.07 pm]:** The Greens (WA) have long been an advocate of waste management and indeed would support this proposal if the money was going into waste management. The problem that we have with this proposed legislation is that it is just a way of raising money for a cash-strapped Department of Environment and Conservation. We point out that in the Pilbara, many of the projects and line items that were established under DEC are now so seriously underfunded that officers cannot get out and do their work. The budget allocations in the Pilbara and the Kimberley did not take account of rises in the cost of living or indeed the extra cost of housing; therefore, funding that was in project areas has now been reallocated to housing.

Let me get back to the important part of this debate. It is important to make clear to Parliament and to the public that the Greens are not opposed to a landfill levy, or indeed the proposed landfill levy increase; in principle at least. The benefits of an equitable and well-policed levy, with a responsible flow of revenue to waste reduction initiatives, are manifold. This is not that instrument. The Greens' vision for a landfill levy is not a self-perpetuating revenue stream but a disincentive that will contribute to our goal of eliminating, within 10 years, the disposal of household, industrial, municipal and commercial landfill, and even hazardous waste. This levy will not do that. There are many mechanisms that we could articulate that might help that. The revenue stream we are talking about here is merely a cash grab for a defunct and underfunded DEC.

The minister was questioned in relation to this matter during an estimates hearing on Thursday, 18 June. A ministerial statement on Tuesday, 23 June announced that the legislation was to be pulled. It seems that the questions during estimates identified to the minister that she could not do what she was intending to do by regulation or by the introduction of the proposals as articulated at that time. I refer to what the minister said during estimates week about the legislation introduced into Parliament on 18 June, which would allow 25 per cent or more of the moneys received from the levy to be used for waste-related purposes. The minister said that that levy was being introduced in an incorrect manner because it was raising money via a tax, rather than by way of a landfill levy. As a result of the questions Hon Sally Talbot and I asked about that, five days later the Minister for Environment determined to remove the proposed introduction of that legislation.

Rubbish is a very pertinent to this debate, because that is what we are dealing with. We must do our utmost to ensure that the management of waste is lifted to the highest level, and not allow, as the proposed legislation may do, backyard dumping, dumping at ungated tips, and waste being dealt with in a totally irresponsible manner.

Turning to the subject of dealing with waste in a totally irresponsible manner: during estimates week the minister was asked how the landfill levy would be policed. That raised an interesting point, because it became apparent that it would not be able to be policed because there were not enough staff available 24/7, and it was stated that the police would pick up the problem and manage the issue. Subsequently, a police spokesperson stated that policing would not be provided for the management of illegal dumping as it was not their responsibility. I correct myself by saying that the minister did not make those comments during estimates week; it was one of her advisors. If the minister reads that day's *Hansard*, she will find out what was said.

The landfill levy is a very important initiative to the Greens (WA). The Greens advocate for government assistance in promoting home composting programs to prevent kitchen and green waste from entering domestic household waste streams, implementing container deposit schemes for Western Australia, as well as increased funding for full-time equivalent staff for the Department of Environment and Conservation to better regulate waste management facilities and landfill support, and to fund comprehensive recycling and recovery infrastructure to regional WA communities. Those are the sorts of initiatives the levy should be used for.

The minister has quite clearly indicated that she did consult widely on the levy, as evidenced by her answer to question on notice 581 in this chamber. She stated that she had met with the Western Australian Local Government Association and the Conservation Council of Western Australia on these matters. Statements made by the Conservation Council and local governments demonstrate that they considered the consultation process to be very, very minimal. I received a letter from the Shire of Capel about the waste avoidance and resource recovery levy. The letter states —

Council recently considered the decision by the State Government to substantially increase the Waste Levy as part of it's 2009/10 State Budget and resolved to strongly voice its opposition to this proposal.

President; Hon Dr Sally Talbot; Hon Donna Faragher; Hon Robin Chapple; Hon Ken Travers; Hon Sue Ellery;  
Hon Ed Dermer

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This is one of the many councils, represented by WALGA, that the minister stated that she had consulted with widely. My view of a consultation is that a dialogue is entered into with people and their concerns are listened to; a unilateral position is not taken. The letter continues —

The lack of consultation with local government and adequate notice on the proposed increases is extremely disappointing as it has allowed only minimal time for local governments to plan for the increase.

The waste levy as introduced in 1998 was on the basis of providing support to the introduction of waste resources recovery facilities to significantly reduce waste to landfill as a key platform under the then WA State Government Policy “Zero Waste to landfill by 2020”.

That was a policy that the Greens held very dear and were extremely supportive of. Unfortunately, as we know, this levy has been introduced to resolve a shortfall in the state budget. The letter continues —

... the parliament was told that:

*The primary purpose of the establishment of the landfill levy was to provide resources to fund projects for advancing waste reduction and recycling.*

The proposed changes to the levy for the 2009/2010 State Government budget sees a significant departure from the initial principle behind this levy.

They were the comments of the Shire of Capel. I have received similar comments from both WALGA and many other shires. It is of great concern to me and the Greens that we should be genuine about recycling and waste recovery, and we have no problem with the increase in the levy, but that increase must go wholly and solely to the manage of waste.

**HON KEN TRAVERS (North Metropolitan)** [4.16 pm]: I rise to support Hon Sally Talbot’s urgency motion. It is appropriate that we have this debate because it raises important issues in relation to its implementation and the long-term future of waste management in Western Australia. They are the issues we should be debating, but I think the minister gave the game away today when she began her comments by pointing out to the house that the 300 per cent increase in the waste levy came about because of a decision of the Economic Audit Committee. Despite the requirement to consult the Waste Authority before increasing the levy, that is not how this levy increase came about. It came about because of a decision made by the Economic Audit Committee to try to raise funds to fill the black holes in the state government’s budget. It was at that point that this matter was first mishandled; the process was followed correctly. When the budget went to cabinet, the minister should have said, “But hang on, I have obligations I have to follow under the act. Under the act, I have a requirement I have to follow and I don’t want to allow this important levy to be misused and become a simple revenue stream for the government.” The minister failed to do that; or if she did, she was too weak in that cabinet room to have control over her own portfolio and was rolled over by the other ministers. We will probably never know what the correct scenario was.

**Hon Norman Moore:** There is a third alternative.

**Hon KEN TRAVERS:** What is the third alternative?

**Hon Norman Moore:** She is a very powerful advocate for her portfolio.

**Hon KEN TRAVERS:** If she was a powerful advocate of her portfolio, she would have made sure that an increase such as this was correctly implemented.

I think I know what happened, because the same thing happened with the Perth Parking Management Authority, which was also completely mishandled by this government. The brains trust that form the Economic Audit Committee viewed both these issues as ways of raising revenue for the government, but did not realise that the money could not just be spent on whatever they wanted to spend it on, and that under legislation it is required to be used for specific purposes. That was the first case of mishandling. Before the government even realised its mistake, people such as Hon Sally Talbot were telling it that a mistake had been made. The government took weeks to come into this house and say, “Hang on a minute, we’ve actually made a mistake and we will have to defer the implementation of this until 1 January.”

The minister says that the only person confused about this is Hon Sally Talbot. That, to me, highlights how cocooned this minister is, how arrogant this minister is, and how unable she is to understand the impact of this decision on the industry. If members were to talk to the people who provide those big commercial Miniskip rubbish bins—I think that is a brand name but members know what I mean—that people put out the front of their houses, they would know that the people who operate those businesses do not know the fees they are supposed to set for their collection. When those operators heard that the fee was going to rise by 300 per cent, they probably

President; Hon Dr Sally Talbot; Hon Donna Faragher; Hon Robin Chapple; Hon Ken Travers; Hon Sue Ellery;  
Hon Ed Dermer

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went away and worked out that they would have to increase the fee for every bin by a significant amount of money. I have met people like that. One of my constituents owns one of those businesses. He said it was terrible because he would have to increase his fees by a massive amount. Then all of a sudden the minister said that the government had failed to get the process right and that the increase would not begin until 1 January. That operator then probably thought that he would not have to add \$20 or \$30 to each bin—it is probably significantly higher than that depending on the size of the bin—because the increase would not begin until the end of the year and he could hold off passing the extra charge onto his clients. However, councils have already set their fees for taking rubbish. I would love for the minister to tell us that it is not the case—I know it to be the case—that councils have already factored that increase into the cost of taking rubbish to Tamala regional tip, or wherever else Perth people go with their rubbish. The 300 per cent increase has already been factored into the new prices. What is that business operator supposed to do? This government does not care about a small business operator like that and it does not care that its mismanagement and incompetence as a government have left these small business operators unable to understand what is going on, how much they should charge and when they should charge it. The government should not come into this place and say that the only person who is confused is Hon Sally Talbot when there are plenty of people in the community who are just as confused about this fee and when, because of the confusion, councils have already started to collect this massive increase.

The second issue that needs to be talked about is the government's attempts—the minister did it again today—to paint this increase as an initiative for improving waste management. The minister asked what Labor had done. We actually put in place the levy.

**Hon Donna Faragher:** No, you didn't; Cheryl Edwardes did. Let's get it right.

**Hon Norman Moore:** Obviously he's confused as well.

**Hon Donna Faragher:** That's right.

**Hon KEN TRAVERS:** The levy under this legislation was put in place by the Labor government. We supported a gradual increase in that levy. It was expected that there would be a two-fold approach. Under the principles of economics 101, the use of a levy to change behaviour is one aspect of the process; another is to raise money. The levy would be put into other mechanisms to increase the level of recycling and to reduce the amount of waste going to landfill. It is therefore a two-pronged attack. What has this government done? It has forgotten about the second prong for taking the money it gets, using it to change behaviour and putting in place other mechanisms to increase recycling. This government is saying that all that extra money will go to consolidated revenue to try to fill the black hole. What will happen if changed behaviour does come into play through the government using price only as the method of changing behaviour and the amount of waste starts to reduce? The government will get less revenue. Again, under the principles of economics 101 and putting supply and demand together and seeing where the cross is, we can work out what the revenue will be. If the government had worked it out properly and sought advice from the experts at the Waste Authority, it would know that if it makes an increase like this and expects it to have any effect on behaviour—which I expect it will—it will lead to a reduction in the revenue stream. What we will then start to see is less revenue going to fund the Department of Environment and Conservation and, arguably, less revenue for the recycling process. If 25 per cent of the revenue collected goes to the Waste Authority for recycling and the other 75 per cent goes to consolidated revenue, and there is a decrease in the amount of revenue collected, will that mean that even less money will go to recycling as a result of those changes?

Again, the government is clearly mismanaging this levy. This minister is unable to explain to people the strategy for reducing waste in this state. I have to say, although not everyone agrees with me, that it would be interesting to get a law professor, such as one in the eastern States, to examine this waste levy, because I suspect that we would find that it is actually an excise and not a tax. The levy is based on the production of waste and will, therefore, become an excise. However, that is an aspect we can get to when we debate the bill. It is another example of the government's complete mismanagement of this whole affair. If this government does not have legal advice on whether it is an excise rather than a tax, it had better go and get legal advice. I note that the minister has been very quiet on this point, which is another sign of this government's mismanagement. A good law professor in this state might take this matter to the High Court of Australia. There has been a litany of mistakes by this government. The government has not followed the legislation, it has not articulated or explained it to people, and it will not achieve the outcomes that it says it wants to achieve.

**HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [4.26 pm]:** I had not intended to speak on the urgency motion, but I was motivated by the final comment by the Minister for Environment in her contribution to the debate, when she challenged the opposition to come on board and support the legislation. By way of interjection—I do not know whether Hansard picked it up—I made the point, and I make it again now, that the onus is on the government to bring its stakeholders with them. It should not rely on the opposition to

President; Hon Dr Sally Talbot; Hon Donna Faragher; Hon Robin Chapple; Hon Ken Travers; Hon Sue Ellery;  
Hon Ed Dermer

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support it on a far-reaching policy position such as this, which is having a significant impact on local government stakeholders who are playing a key role in the implementation of the levy increase.

The key issue mentioned in passing by Hon Ken Travers was that councils through their charges are already collecting the increase. There is a serious question here about the government's shift in its method of implementing this policy and what that means for the capacity of local governments to meet their obligations for good governance. That is an issue that the state as the friendly big brother—perhaps it is described in other terms from time to time by local governments—has been at pains to ensure that local governments seriously address. However, we find that this proposal to postpone the increase until January will cut across the budget time lines of local government. That has meant that local governments have had to cast their eyes over and scrutinise the budgets that officers have prepared for them—an exercise that takes up considerable resources of local government officers and considerable time and energy of local government elected councillors. This has meant that they have had to make a decision about including the increase to the levy in their fees and commencing its collection ahead of the time that the government now says that it will introduce the increase. I did note the public comment, and I asked Hon Sally Talbot to find me the relevant media clipping. I recall at the time Bill Mitchell of the Western Australian Local Government Association talking about the confusion and about councils having to second-guess what the government might mean. Hon Sally Talbot has provided me with a copy of the article from *The West Australian* of 27 June in which Bill Mitchell is quoted as saying that the decision this week to postpone the levy increase was unlikely to change the rubbish charges councils had set in their annual budgets. He then went on to talk about how metropolitan councils in this instance had spent the previous month rejigging their budgets to accommodate the cost of the big rise after it had been announced in the state budget and that any reprieve now in terms of the timing of the implementation from the state government's point of view had to be factored into their 2010-11 budgets. The point he was making, which is a point well known to the state government and to the Department of Local Government, is that councils have only one opportunity a year to raise a levy. To maintain good governance, to maintain their finance and to conduct themselves in a way that is prudent in light of their best intentions of trying to anticipate what the government might do, councils had to make the judgement call that it was better for them to cover that total cost then, rather than in the words of Mr Mitchell, keep trying to "second-guess the Government". Given the role the state government plays in working with local governments to ensure good governance and that ratepayers can be satisfied that local governments act responsibly with the money they collect, it is astonishing to me that the government would put local government in that position. I guess I felt compelled to rise given that the minister thinks it was a reasonable proposition to do that, rather than engage properly with local government. It must be said that—this debate occurred on another matter that was before the house last week—while indeed members of Parliament from both sides have been involved in local government, one could mount the argument that more on the conservative than on the left side of politics have come from local government. I am surprised to see a government of this ilk put its local government councils in a position that threatens their capacity to carry out, if nothing else, that fundamental function of getting their budget right. They cannot do anything else if they do not get their budget right; it is a fairly core function in ticking off what they need to do properly under good governance. Rather, we find, as Bill Mitchell said, local governments in the metropolitan area have had to cast a budget that required, to a certain extent, second-guessing the outcome of the government's policy shift.

Of course, this levy comes also on top of the significant increases in household fees and charges that have already been imposed by this government. I note that the Western Australian Council of Social Service released its cost of living report today. I do not have it in front of me because I did not intend to speak but I was motivated by the minister.

**Hon Sally Talbot** interjected.

**Hon SUE ELLERY:** If we make eye contact, we can be put off our stride, so I understand why she does not want to do that.

I think the average increase in charges for the past year was around \$43 for an average family. That is a significant impost at a time when families are going through the uncertainty that comes with increasing unemployment. The additional impost on families of the increase that will come out of the landfill levy is not to be dismissed.

The other point I want to touch on—I think Hon Sally Talbot canvassed this in her comments—was that this is a government that has said it is seriously committed to addressing what it sees as the imbalance between the metropolitan and regional communities in Western Australia. Yet, by virtue of this policy decision, it has gone down a path that has struck a chord with many regional councils, and it is not a good chord. To use the colloquial, they are not happy Jan! I refer in particular to the City of Mandurah and the Shire of Murray, which criticised the state government's decision. That shire, I guess in one of its meetings, referred to the government decision as completely unexpected and made without any consultation with local government. According to a



President; Hon Dr Sally Talbot; Hon Donna Faragher; Hon Robin Chapple; Hon Ken Travers; Hon Sue Ellery;  
Hon Ed Dermer

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document tabled at a technical services meeting at the shire, the decision to increase the levy by 300 per cent will require councils to substantially amend budgets. The Shire of Gingin commented that it was now facing a new battle in preventing people from using their landfill stations. It talked about how the increase in the price of landfill levies would be a significant impost for people. According to the Eastern Metropolitan Regional Council member, David Fardig, the other regional shire that expressed some concern was the Shire of Chittering. It was concerned that the amounts to be raised would be used to finance other activities of the Department of Environment and Conservation beyond those relating to waste management.

I think it is a bit rich for the minister to challenge, if we like, the opposition to support this impost. The obligation on the minister is to bring senior and significant stakeholders with her and she has failed.

**HON ED DERMER (North Metropolitan) [4.36 pm]:** I am very concerned about the matter that has been raised by Hon Sally Talbot, and I am very pleased she has taken the initiative to move this urgency motion. The most obvious and striking aspect of this proposal for a 300 per cent increase in the waste levy is the sheer scale of it. Its scale would not have been anticipated by any of the people concerned prior to its being first suggested by the government. I think there would be an increased inclination for people to accept an increase, although not of that scale, if they were confident that the revenue raised would be committed to the purpose of waste management. It is now clear that we are looking at the money being diverted to operational costs for the Department of Environment and Conservation that one would expect to be covered from the state's general revenue. We are looking at a very large increase; one that would not have been anticipated by those who are expected to pay. We are looking at the money being expended not for the purpose of waste management but to fund the operation of the department in a manner that we would normally expect to be funded from general revenue.

It is interesting to consider for a moment the definition of fees and taxes. Over my time in Parliament our very well-informed research staff attached to various standing committees have made it very clear to me that a tax is money the government takes for its own general purposes, whereas a fee is money to be spent on the particular purpose for which the fee is being charged. Given that a large amount of the proposed increase is to be directed to the general purposes of the department, there is no doubt that this is a tax and cannot be described in any other way.

I was interested to hear the comments of my very well-informed colleague Hon Ken Travers. I think for all concerned, one of the difficulties that arises from this levy is the lack of predictability. Before it was first suggested, no-one would have expected an increase in the levy of anything like the scale of 300 per cent. Once it was suggested, the people who are expected to meet this cost, both directly and indirectly, then had to factor it into their operations. This principle applies both to local councils and to the business operators Hon Ken Travers mentioned. To then have the government vacillating on its intent, does not allow those responsible people to make sensible budgetary decisions, because they cannot know what cost assumptions they have to begin with, due to the government's lack of clarity and vacillation. This poses a very serious problem for all concerned.

I would like to discuss this matter further with the house, but I am aware that Hon Sally Talbot would like to respond to the contributions that have been made to the debate. At this stage I will finish and either allow others to contribute, or Hon Sally Talbot to respond.

**HON SALLY TALBOT (South West) [4.40 pm] — in reply:** I thank members on this side for their contributions to this debate, and their support for this urgency motion. It has become abundantly clear today that this minister has given up trying to defend her disastrous decision to rely on the waste levy to fill the funding hole in the budget of the Department of Environment and Conservation. That much is absolutely clear to us. How could this minister not have known that raising the levy would reduce the amount of money collected? How could she have failed to take into account the slump in the building industry? In her response this afternoon we heard a long explanation about the need to increase recycling rates. I could have made that speech. Anybody in this chamber who is interested in these matters could have made that speech. That is not the point. The point is that a funding fiasco threatens the Department of Environment and Conservation, and the minister will not respond to our questions about how she is going to manage that fiasco. Today it has become abundantly clear that she has given up trying to defend what she did.

Perhaps the most distressing part of the hearing conducted by the Standing Committee on Estimates and Financial Operations, at which Barry Carbon gave evidence, was the news that this minister, who—I do not say this in a derogatory sense —

**Hon Donna Faragher:** I am sure you do.

President; Hon Dr Sally Talbot; Hon Donna Faragher; Hon Robin Chapple; Hon Ken Travers; Hon Sue Ellery;  
Hon Ed Dermer

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**Hon SALLY TALBOT:** I can assure the minister that I am not being derogatory at all. I have no doubt that she is a very intelligent person. However, politics involves something other than that. Politics involves trying to get one's head around problems being experienced by real people, and trying to get in there and resolve those problems. This minister, although she may be an intelligent person, shows absolutely no talent whatsoever for getting her hands dirty on the nitty-gritty of understanding what the relationships of politics are built on. We heard the extraordinary admission from her today that she thinks that the local government is happy with the decision. She might like to go to the website and have a look at some of the statements I have with me. She should have a look at the mayor's message from the City of Mandurah. She should have a look at what shires all over the regions of Western Australia and all the big local government authorities in the metropolitan area are saying about what she has done, and her failure to manage this issue.

I want to quickly make one other point. Both Hon Ken Travers and Hon Sue Ellery have referred to the fact that local councils are already collecting this levy. That means that ratepayers are already paying it. It is all very well for the minister to say, as she said in the estimates hearing in this chamber on 18 June, that any problem with the funding in the out years will be fixed by the midyear review. We saw the amazingly cavalier way in which this government treats the whole concept of funding in the out years. It is all very well for the minister to say that it will be fixed by the midyear review. The minister has done either one of two things. Either she has absolutely misled all her colleagues around the cabinet table about the reality—I asked earlier about how she could not have known the simple equation about the funding in the out years, and about the mark of success of raising the levy being a decrease in revenue, and how she could possibly not have taken into account the slump in the building industry—or maybe she is involved in some sort of deal with them: “Let's not worry about what goes into the budget; let's just get this done and come back and fix up all holes later.” Neither of those is satisfactory.

Motion lapsed, pursuant to standing orders.