

*Waste Avoidance and Resource Recovery  
Amendment Bill 2009*

**EXPLANATORY MEMORANDUM**

**Overview of the Bill**

The Waste Avoidance and Resource Recovery Amendment Bill 2009 provides for the broadening of the purposes for which the levy imposed under the *Waste Avoidance and Resource Recovery Levy Act 2007* (WARR Levy Act) can be applied.

The Bill provides for the levy to be paid into an operating account of the Department of Environment and Conservation. At least one quarter of the levy will then be transferred on the direction of the Minister to the Waste Avoidance and Resource Recovery (WARR) Account which will continue to be administered by the Waste Authority for a range of purposes relating to waste avoidance and resource recovery. The balance of the levy will be used across a broad range of environmental and conservation purposes of the Department.

Under the amendments, the power to recommend changes to the Governor concerning the levy amount will be transferred from the Waste Authority to the Minister.

**CLAUSE NOTES**

**Part 1 — Preliminary**

**Clause 1. Short title**

Clause 1 cites the short title of the Act.

**Clause 2. Commencement**

Clause 2 provides that this Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent; and
- (b) the rest of the Act — on the day after that day.

**Part 2 — *Waste Avoidance and Resource Recovery Act 2007* amended**

**Clause 3. Act amended**

This Part amends the *Waste Avoidance and Resource Recovery Act 2007*.

#### **Clause 4. Section 36 amended**

This clause inserts a new section 36(1)(da), which provides for the business plan of the Waste Authority to include the services and facilities required by the Waste Authority to carry out its functions in that financial year.

#### **Clause 5. Section 73 amended**

This clause provides for the levy funds to be paid direct into an operating account of the Department (at present the Department of Environment and Conservation (DEC)), rather than direct into the WARR Account as is the current arrangement.

#### **Clause 6. Section 76 amended**

This clause inserts a new section 76(3) which provides that any penalty for non-payment of the levy will be paid direct into an operating account of the Department (DEC), rather than direct into the WARR Account as is the current arrangement.

#### **Clause 7. Section 79 amended**

This clause includes a requirement that the Minister is to direct a specified amount of the levy funds to be credited each financial year to the WARR Account. This amount must not be less than 25% of the estimated levy funds for that financial year. This changes the current arrangement where all the levy funds, and any penalty for non-payment, are credited direct to the WARR Account.

#### **Clause 8. Section 80 amended**

This clause amends section 80 to provide that the application of moneys held in the WARR account are to also fund the services and facilities which are necessary for the Waste Authority to perform its functions in that financial year.

It also includes the application of moneys from the WARR Account for the administrative and enforcement costs of the Act, including remuneration for the Waste Authority members. Previously, no specific provision had been made for these costs.

#### **Clause 9. Section 81 amended**

This clause provides that, in addition to the "*Financial Management Act 2006*, the *Auditor General Act 2006* will apply to the WARR Account.

#### **Clause 10. Schedule 2 amended**

Clause 10 provides for an additional function for the Waste Authority to seek advice from other entities to enable it to provide advice to the Minister about setting and varying the amount of the levy. The clause also provides for the Waste Authority to publish a statement of objectives to be achieved by programmes relating to the management, reduction, reuse, recycling, monitoring or measurement of waste, which

are funded from the WARR Account. These functions are currently set out in section 80(2) but are more appropriately listed as functions under Schedule 2.

**Part 3 — *Waste Avoidance and Resource Recovery Levy Act 2007* amended**

**Clause 11. Act amended**

This Part amends the *Waste Avoidance and Resource Recovery Levy Act 2007*.

**Clause 12. Section 4 amended**

This clause transfers responsibility from the Waste Authority to the Minister for making recommendations to the Governor about the amount of the levy.

The insertion of sections (2A) and (2B) mean that the Waste Authority can provide advice to the Minister about the amount of the levy. While the Minister must consider the Waste Authority's advice, the Minister is not bound to accept this advice in making a recommendation to the Governor.