

WASTE AVOIDANCE AND RESOURCE RECOVERY BILL 2007

Introduction and First Reading

Bill introduced, on motion by **Mr D.A. Templeman (Minister for the Environment)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MR D.A. TEMPLEMAN (Mandurah - Minister for the Environment) [1.02 pm]: I move -

That the bill be now read a second time.

The government is committed to a more sustainable future for Western Australia and for all Western Australians. In helping to achieve that objective, the government is committed to a new approach towards waste. Western Australia is at a turning point in how it deals with waste. We want to see a continuous decline in waste generation. We want the recovery of resources from waste to be optimised. We want to manage, in the most environmentally responsible manner, the waste left after recovering those resources. This approach is consistent with the government's vision of "Towards Zero Waste".

Since taking up the environment and climate change portfolios earlier this year, I have personally consulted with many groups with interests in waste management. I think it is fair to say that the community as a whole has a very real concern about waste in our society. Also, I have recently been privileged to experience, at first hand, actions that are being taken by governments and industry in Europe to address waste reduction. From these experiences, I have a good understanding of our needs, and the opportunities before us. I am confident that the Waste Avoidance and Resource Recovery Bill 2007 provides a clear and strong platform for both waste avoidance and resource recovery in Western Australia. This is landmark legislation that brings our management of waste into the twenty-first century.

Current legislation relating to waste in Western Australia is spread across several acts. Some of the provisions in those acts date from early last century. This bill brings together, and strengthens, those disparate elements in one act. More importantly, the bill introduces new directions and initiatives for tackling the ever-increasing volumes of waste we are generating. I will now take members through the bill.

The bill provides a suite of powers for promoting waste avoidance and resource recovery, and the provision of waste services. I emphasise at the outset that those who are given powers in the bill are required to be publicly accountable for the use of those powers. To date, the government has received advice on strategic waste matters primarily from the state's Waste Management Board. This bill continues and strengthens that approach by establishing a Waste Authority as a five-member, independent adviser to government on all matters relating to the act.

One major area of activity of the Waste Authority will be in preparing a comprehensive, statewide waste strategy and coordinating its implementation. The waste strategy is vital for our move towards zero waste in Western Australia, as it will set clear targets for waste reduction and resource recovery, and set out a clear plan of continuous improvement to achieve those targets, benchmarked against international best practice, while accounting for Western Australia's particular circumstances. Our approach to the development of the strategy will be careful and collaborative. A draft strategy will be prepared, with appropriate consultation; and, once it has been approved by the minister, it will be released for public comment for 12 weeks. Submissions will be received, and the draft may be modified. The Waste Authority will then submit the modified draft strategy, copies of the submissions, and a report on the submissions, to the minister. The minister may require amendments. Once the minister approves the waste strategy, it will come into effect and will be a public document. The waste strategy must be reviewed every five years, or more frequently if the minister so directs, although there are provisions for minor amendments to the strategy, with appropriate reporting, outside the formal review process. To be effective, the strategy must be implemented. Under the bill, the Department of Environment and Conservation chief executive officer has the power to require any entity to report on its compliance with the waste strategy. The term "entity" is deliberately broad to ensure that all those who have a role in reducing waste actively contribute to achieving that objective.

The Waste Authority will prepare a business plan outlining the authority's objectives and priorities for the next five years, and projections for expenditure for that period. Very importantly, the business plan must be consistent with the waste strategy. In this way, the authority will be able to take its own actions to assist in implementing the strategy. Once the business plan is approved by the minister, it will take effect. The approved waste strategy and business plan will be public documents and will be published on the Internet.

Waste plans: Under section 5.56 of the Local Government Act 1995, a local government “is to plan for the future”. Since one of the longstanding functions of local governments has been the provision of waste services, this “plan for the future” must also address waste services. Under clause 40 of the bill, a local government may include within its plan for the future a waste plan outlining how, in order to protect human health and the environment, waste services provided by the local government in the relevant district will be managed to achieve consistency with the waste strategy. The provision is voluntary. However, the DEC CEO has powers to require that the plan for the future include a waste plan, and, at the local government’s expense, the preparation or amendment of a waste plan. A local government can appeal the CEO’s exercise of these powers to the State Administrative Tribunal. In anticipation of this requirement, the government has introduced a waste planning development scheme for local government, working cooperatively with local governments across the state, and with financial assistance of over \$3 million, for local government to gather the relevant data and prepare strategic waste plans. To date, well over 80 per cent of local and regional councils have participated in the data collection phase of the scheme.

Product stewardship: The bill introduces arrangements that take up successful international experience with product stewardship and extended producer responsibility, including in the United States of America, Canada, Japan and Western Europe. The specific arrangements for industry waste reduction in the bill are to define a product stewardship plan and extended producer responsibility scheme; to set out certain requirements for a product stewardship plan, should a producer or group of producers choose to prepare and submit such a plan; and to set out the matters to which the minister must have regard in making regulations for the purpose of implementing and operating an extended producer responsibility scheme. The product stewardship plan is to set targets and timeframes for the avoidance, reduction, reuse and recycling of waste, and provide for the collection and publication of data to see whether the targets and timeframes have been achieved. If the DEC CEO is satisfied with the plan, it is registered.

The bill provides that where the Waste Authority believes the voluntary approach has not worked, it can include the product in its priority statement for development of a mandatory extended producer responsibility scheme. Under clause 47, submissions are invited on the priority statement, and the Waste Authority must have regard to submissions before recommending regulations for bringing about a mandatory process. The bill sets clear factors to which the minister must have regard. These include the nature of the product proposed to be dealt with under the proposed scheme; whether there is an effective approved plan in place that is able to achieve the desired outcomes and is being actively implemented, monitored and reported on; and whether there is an Australian national scheme that adequately deals with the product to be dealt with. Overall, the guiding principle of this part of the bill is that the government will not intervene where industries are doing the right thing to reduce wastes, but can act decisively where they are not.

Waste services: When the Health Act was passed in 1911, the primary focus for waste management was the protection of public health, with little consideration given to the state of the environment, waste avoidance or recycling. In the past 100 years attitudes have changed greatly, and it is appropriate for the management of waste to move from the health portfolio to the environment portfolio, and for a shift in emphasis to avoiding waste and resource recovery.

Part 6 of the bill takes up most of the waste-related provisions in the Health Act, but it does so in the context of waste services, which is much more than just waste collection and disposal, and includes the provision of recycling services and systems. With the move to the environment portfolio, the Department of Environment and Conservation chief executive officer will be given powers to direct local governments to provide waste services for the purpose of protecting human health or the environment. Before doing so, the CEO must seek and have regard to the views of the Waste Authority. A local government can appeal the direction to the State Administrative Tribunal. This ensures that the CEO’s powers are properly accountable. Accountability is also important for local governments in the provision of waste services. In the past, there has been no effective monitoring of waste services. Under clause 53, the DEC CEO may monitor and evaluate the provision of waste management services. This is partly to ensure the protection of human health and the environment, but also to ensure a reasonable standard of service. If an evaluation shows that the local government has not provided the waste service, that the service provision is not consistent with the relevant code of practice, or that the CEO, having regard to the Waste Authority’s advice, considers the waste service is not consistent with modern practice, the CEO may issue a waste collection permit to some other capable party to provide the specified service. Before issuing a permit, the CEO must seek and have regard to advice from the Waste Authority, the Executive Director of Public Health and the relevant local government. The CEO’s decision is appealable to the State Administrative Tribunal. In a local government district, generally, the local government has the right to collect waste from residential sources. The bill preserves the local government’s effective monopoly on local government waste.

The levy: Since 1998 a levy has been imposed according to the amount of waste going to landfill. The primary purpose of the establishment of the landfill levy was to provide resources to fund projects for advancing waste

reduction and recycling. The heads of power for the imposition of the levy are contained in the Environmental Protection (Landfill) Levy Act 1998. This act is to be repealed and replaced by the Waste Avoidance and Resource Recovery Levy Bill 2007, which accompanies the Waste Avoidance and Resource Recovery Bill. The provisions for the administration of the levy and the fund are presently in part 7A of the Environmental Protection Act. They will be replaced by part 7 of the WARR bill. The name of the fund will be changed to the waste avoidance and resource recovery account, consistent with the name of the bill and the provisions of the Financial Management Act 2006. In many respects, the arrangements for the levy and account continue unchanged. However, they have also been updated. For example, with the advent of the Waste Authority, the authority will take responsibility for administering the account, which was formerly the role of the minister; and the Waste Authority can apply the moneys in the account in ways consistent with the approved business plan, or in other ways that are approved by the minister. Levy funds are to be used only for purposes provided for in the legislation. Specifically, the funds will be applied to programs relating to the management, reduction, reuse, recycling and monitoring of waste. The funds could be used by DEC only for administration of the account and developing or coordinating the implementation of programs consistent with the purposes of the legislation. The levy is not to be used to fund other normal ongoing operations of DEC.

Enforcement: Part 8 of the bill deals with enforcement, which is mainly achieved in parallel with the Environmental Protection Act. Inspectors or authorised persons appointed under that act can be appointed for the purpose of enforcing this bill, and the bill provides some additional powers to ensure that inspectors have access to all the information they need to ensure that the proposed act is complied with. Proceedings for offences under the bill can be instituted only by the DEC CEO or a person authorised by the CEO. The time limitation for bringing prosecutions, the arrangements for daily penalties, attempted offences and the like are the same as in the Environmental Protection Act.

General: Part 9 of the bill deals with general matters such as confidentiality, delegation, the making of regulations and the review of the act after five years.

Schedules: The bill has five schedules. Schedule 1 deals with the constitution and proceedings of the Waste Authority. Schedule 2 lists the functions of the Waste Authority. Schedule 3 lists the matters for which regulations may be made. Division 1 is general, division 2 relates to waste collection and facilities, and division 3 lists the sorts of regulations that might be needed to set up an extended producer responsibility scheme. Schedule 4 lists a number of associated amendments and repeals. Of particular importance is the insertion of new part 6A in the Public Works Act to empower the Minister for Housing and Works to take over operation of the state's intractable waste repository at Mt Walton East in the Shire of Coolgardie. This change will remove the problem of a perceived conflict of interest for the Department of Environment and Conservation, which has for some years been operating this waste facility and regulating all other waste facilities in the state. Schedule 5 of the bill makes a number of savings and transitional provisions; for example, local laws made and fees set under the Health Act in relation to waste services will continue in force, and there are provisions for the winding up of Waste Management (WA), the current operator of the Mt Walton East facility.

Consultation: As I have already noted, the bill has been developed through an extensive consultation process. A discussion paper was released and two draft bills have been published and submissions invited. Over 90 per cent of the submissions on the draft bill released in August 2006 supported or strongly supported the bill, with most groups with an interest in waste matters represented in the submissions. There have also been many seminars and workshops throughout the state.

I place on record the government's appreciation for the detailed submissions received on the draft bill, including many useful suggestions for improvements. The bill is better as a result, and I am confident that the bill is a reflection of the community's sentiments. I commend the bill to the House.

Debate adjourned, on motion by **Mr T.R. Sprigg**.