Report 6

NO (MORE) TIME TO WASTE

The ongoing implementation of Western Australia's Waste Strategy

(Follow-up of agency responses to Auditor General's Report No. 23 of 2016)

Presented by
Dr A.D. Buti, MLA
October 2018
## Committee Members

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Legislative Assembly

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No (More) Time to Waste

The ongoing implementation of Western Australia’s Waste Strategy

(Follow-up of agency responses to Auditor General’s Report No. 23 of 2016)

Report No. 6

Presented by

Dr A.D. Buti, MLA

Laid on the Table of the Legislative Assembly on 11 October 2018
Chair’s Foreword

Put simply, the Public Accounts Committee (PAC) scrutinises value for money—the economy, efficiency and effectiveness—in public spending, and generally holds the government, public servants and statutory bodies to account for the delivery of public services.

The PAC has the power to examine the financial affairs and accounts of government agencies, statutory bodies and government trading enterprises. We also have the power to inquire into and report to the Legislative Assembly on any matter which: (a) we deem necessary to investigate; (b) is referred to us by a Minister; or (c) is referred to us by the Auditor General.

In relation to the Auditor General, the PAC and the Office of the Auditor General have demonstrated a shared commitment towards improving the quality of public administration in Western Australia (WA).

We have a good working relationship with the Office of the Auditor General. This is necessary and sensible, as the Office of the Auditor General plays a critical role in public administration by examining how effectively public sector agencies implement government policies and programs. As part of this role, the Auditor General’s team routinely conduct performance audits, which can highlight examples of good practice or identify deficiencies in an agency’s operations and procedures.

Performance audit reports generally include recommendations designed to help the audited agency address identified shortcomings, thereby facilitating a more efficient use of public money. Yet there is no formal requirement for agencies to provide a response to these recommendations and the Auditor General has no authority to demand one.

Consequently, in WA the PAC undertakes agency follow-ups—usually after a minimum of twelve months—to find out what actions agencies have taken in response to the audit recommendations. Depending on the adequacy of these responses, the committee can issue a report with its own recommendations requesting further action around issues raised in the audit or the follow-up.
In conducting follow-ups of performance audit reports, our approach is based on a triage methodology that assigns a follow-up rating based on five criteria: (a) program or policy cost; (b) public interest; (c) criticality of audit findings; (d) level of urgency; and (e) level of commitment and detail provided by the audited agency in its initial response (which is usually included in the performance audit report).

Appendix One to this report provides further detail on this approach and more particularly the number of performance audit reports from 2015 and 2016 that we categorised into the triage range of: low priority; medium priority; and high priority.

This report summarises our follow-up of the responses of the Waste Authority and the Department of Water and Environmental Regulation (DWER) to the recommendations in Auditor General’s Report No. 23 of 2016, *Western Australian Waste Strategy: Rethinking Waste*. This was one of six audit reports from across 2015 and 2016 where we felt the findings were sufficiently serious to warrant follow-up by way of a public hearing and a series of further questions.

Before continuing, I want to make it clear that this report does not evaluate the overall merit of the Waste Strategy, nor the merit and effectiveness of the numerous programs and initiatives that are now emanating from it. Instead, we focus on the extent to which the Waste Authority and DWER have addressed the audit report’s recommendations. These recommendations have sought to address a significant number of shortcomings involving the early implementation of the Waste Strategy.

We are dealing with a very important area of public policy. Waste management is important because improperly stored refuse can cause health, safety and economic problems. To prevent damaging the environment, and to maintain a high quality of life, we must manage and store waste efficiently and safely, and even more importantly, reduce the amount of waste we are producing.

The WA Waste Strategy was developed by the Waste Authority and launched on 6 March 2012 by then Minister for Environment, Hon Bill Marmion, MLA. The Strategy’s aim is to reduce the amount of waste generated while simultaneously increasing the proportion of unavoidable waste diverted from landfill through improved resource recovery and recycling processes.

The Waste Authority has primary responsibility for implementing the Waste Strategy and plays a critical financial oversight role by preparing an annual business plan for approval by the Minister for Environment. The business plan outlines the Waste Authority’s objectives and recommends priorities for the next five years, and
provides a breakdown of the proposed expenditure for all Waste Strategy programs and administrative services for the year ahead. If approved by the Minister, the Waste Authority then oversees the implementation of the programs and services in accordance with the business plan. The Waste Authority has numerous other functions enshrined in the Waste Avoidance and Resource Recovery Act 2007 (WA) (WARR Act). These include advising the Minister on matters relating to the WARR Act and advising the departmental CEO on matters relating to the regulation of waste services.

DWER, in addition to providing support to the Waste Authority, has numerous other roles and responsibilities under the State’s waste management and environmental protection legislation. These include regulatory activities such as issuing licenses to waste management sites and monitoring compliance with the licensing conditions.

Ongoing ambiguity regarding the respective roles and responsibilities of the department and the Waste Authority led both entities to renegotiate terms for a revised Service Level Agreement (SLA) throughout 2015 and 2016. These negotiations continued unresolved throughout the period of the audit, a point the Auditor General noted in what was ultimately a highly critical assessment of the Waste Strategy’s early implementation.

Unfortunately, we have found that the agencies have been slow to complete the 16 separate actions recommended by the Auditor General. In our view, the Waste Authority and DWER have completed just five of the 16 recommended actions to a satisfactory level.

The failure to address these recommendations in a timely manner arguably stems from a significant legacy issue: the inability of the Waste Authority and DWER’s predecessor, the former Department of Environmental Regulation, to confirm their roles and responsibilities through an agreed governance structure. We believe this has undermined the effective implementation of the Waste Strategy and has likely contributed to the failure of the Strategy to meet all of its 2015 landfill diversion targets.

The legacy issue cannot be underestimated. It has been a significant and enduring problem. When any entity, program or strategy commences on the wrong foot or without clarity of identity, purpose, role or responsibility, it can be difficult to turn the ship around to get back on even keel and perform to an acceptable standard.
However, history cannot remain an enduring inhibitor to improving performance. One’s history needs to be acknowledged and evaluated. But, then one must quickly move on to right the wrongs of the past and ensure the public of WA are being serviced to the standard we should all expect in a developed, sophisticated and civil society.

On 1 June 2017, the new Minister for Environment, Hon Stephen Dawson, MLC, issued a Ministerial Statement of Expectation to the Waste Authority. In this document, the Minister outlined his expectation that the Waste Authority and the department would ‘work collaboratively to ensure the Waste Authority’s business is managed in an efficient, effective, economical and ethical manner.’ Notable was his further comment: ‘I expect the Waste Authority will enter into a service level agreement with the department responsible for the administration of the WARR Act.’

On 1 July 2017, the former Department of Environmental Regulation was subsumed into the new DWER under the McGowan Government’s machinery of government changes. The Waste Authority advised us that the following month, the Director General of DWER ‘endorsed a (temporary) SLA’ with the agreement that it be reviewed ‘within 12 months of adopting a new Governance Charter to ensure no gaps or conflicts in both complementary documents.’ The Director General of DWER expects the revised governance framework will be finalised ‘by the end of 2018.’ Similarly, the Waste Authority is now ‘confident that an SLA and Governance Arrangement will be properly prepared and agreed to in a reasonably short time frame.’

It appears that working relations between the two key entities have improved following the appointment of a new Director General and the establishment of DWER mid-way through 2017. Since that time, both entities have demonstrated a renewed commitment to establishing an agreed governance structure, addressing the outstanding audit report recommendations, and working together to improve Waste Strategy outcomes.

However, there remains much to be done to overcome what has been an unsatisfactory commencement to the rollout of the Waste Strategy. The Waste Authority and DWER have numerous actions underway that aim to address most of the concerns highlighted in the Auditor General’s report. To avoid further unacceptable delays, it is crucial that both entities finish these tasks promptly.
We are pleased that both the Waste Authority and DWER have demonstrated to the committee a commitment to addressing the issues that have plagued the early years of the Waste Strategy. In their interactions with us, each has conveyed a sense of optimism regarding the future administration of the Waste Strategy. They conveyed a level of confidence that most of the issues will be resolved—and the Auditor General’s recommendations fully actioned, including the imminent completion of the following major tasks: (a) finalising the governance framework; (b) attending to any subsequent revision of the current SLA that may come out of a review scheduled to take place within 12 months of the governance framework being finalised; (c) reviewing the WARR Act; (d) developing a waste data information strategy; and (e) making regulatory amendments to mandate waste and recycling data collection.

Our report makes seven recommendations for action by the Minister for the Environment, DWER, and the Waste Authority. We believe these recommendations, if enacted, will go a long way to ensuring the expectation of the Minister for Environment—as noted in his Ministerial Statement of 1 June 2017—is achieved and, more importantly, this State has a Waste Strategy that delivers high quality results for the public of WA.

In concluding, I would like to thank the Waste Authority and DWER for their cooperation throughout this follow-up process. I would also like to thank the Auditor General, Ms Caroline Spencer, and her team for their assistance throughout the follow-up process, which we very much valued. However, I must stress that we have acted independently in conducting our analysis and framing our conclusions.

I would also like to acknowledge the collaborative working relationship of our committee and thank my fellow committee members: Mr Dean Nalder, MLA, Deputy Chair; Mrs Lisa O’Malley, MLA; Mr Simon Millman, MLA; and Mr Vince Catania, MLA for their diligence and hard work. Further, on behalf of the committee, I would like to thank our secretariat: Principal Research Officer Mr Timothy Hughes and Research Officer Mr Michael Burton for their excellent assistance and dedication throughout this inquiry.

DR A.D. BUTI, MLA
CHAIR
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Executive Summary

PACs can close the accountability loop by holding follow-up hearings and by monitoring the implementation of [Auditor General’s report] recommendations.

Canadian Audit and Accountability Foundation¹

For more than two decades, the Public Accounts Committee and the Auditor General have demonstrated a shared commitment towards improving the quality of public administration in Western Australia (WA).

The Office of the Auditor General conducts performance audits, which provide key insights into how well public sector agencies implement and oversee various government programs and policies. Performance audit reports often include recommendations aimed at improving agency operations and remedying any deficient practices identified during the audit.

The Public Accounts Committee enhances the impact of this work by following up with audited agencies—usually after a minimum of twelve months—to find out what actions they have taken in response to the audit recommendations. Depending on the adequacy of these responses, the committee can issue a report with its own recommendations requesting further action around issues raised in the audit or the follow-up.

This is the first in a series of reports covering our first foray into the agency follow-up process for the 40th session of the WA Parliament. In it, we provide a summary of our follow-up of Auditor General’s Report No. 23 of 2016, Western Australian Waste Strategy: Rethinking Waste. This was one of six audit reports from across 2015 and 2016 where we felt the findings were sufficiently serious to warrant follow-up by way of a public hearing and a series of further questions. We conducted these hearings in June 2018 and we hope to report on our other follow-ups over the ensuing months.

In this report, we do not evaluate the overall merit of the Waste Strategy, nor the merit and effectiveness of the numerous programs and initiatives that are now emanating from it. Instead, we focus on the extent to which the audited agencies—in this case the Waste Authority and the Department of Water and Environmental Regulation (DWER)—have addressed the audit recommendations. These recommendations have sought to address a significant number of shortcomings involving the early implementation of the Waste Strategy.

Executive Summary

Unfortunately, we have found that the agencies have been slow to complete the 16 separate actions recommended by the Auditor General. In our view, the Waste Authority and DWER have completed just five of the 16 recommended actions to a satisfactory level. Adding to the gravity of this situation is the fact that the Auditor General suggested implementation deadlines of February 2017 for four of these actions, June 2017 for a further six, and June 2018 for the remaining six.

The failure to address these recommendations in a timely manner arguably stems from a significant legacy issue: the inability of the Waste Authority and DWER’s predecessor, the former Department of Environmental Regulation, to confirm their roles and responsibilities through an agreed governance structure. We believe this has undermined the effective implementation of the Waste Strategy and has likely contributed to the failure of the Strategy to meet all of its 2015 landfill diversion targets. It may also have contributed to the fact that the State’s overall diversion rate remains nine percentage points below the national average.

It appears that working relations between the two key entities have improved following the appointment of a new Director General and the establishment of DWER mid-way through 2017. Since that time, both entities have demonstrated a renewed commitment to establishing an agreed governance structure, addressing the outstanding audit report recommendations, and working together to improve Waste Strategy outcomes. This is critical, given landfill levy payments exceeding $140 million have already been directed towards the Waste Strategy since it was launched in 2012.

Notwithstanding some of the positive developments we allude to in this report, the reality is that there is still much to be done to overcome what has been an untidy start to the roll-out of the Waste Strategy. Notable concerns remain around the adequacy of the support provided to the Waste Authority to deliver its services, and the integrity of the data used to report on progress against Waste Strategy targets.

The Waste Authority and DWER have numerous actions underway that aim to address most of these concerns, but it could still be another twelve months before they are all complete. It is crucial that both entities finish these tasks promptly, as there is no more time to waste in addressing the issues that have plagued the Waste Strategy in its early years of operation.

We thank the Waste Authority and DWER for their cooperation throughout this follow-up process. In their interactions with us, each has conveyed a sense of optimism regarding the future administration of the Waste Strategy. We are likely to liaise with both entities again for an update before the end of this Parliament and we hope to find that this optimism was justified.
We would also like to thank the Auditor General, Ms Caroline Spencer, and her team for their assistance throughout the follow-up process. We value the support these officers provided in briefing us about this topic, but wish to stress that we have acted independently in conducting our analysis and framing our conclusions.
Ministerial Response

In accordance with Standing Order 277(1) of the Standing Orders of the Legislative Assembly, the Public Accounts Committee directs that the Minister representing the Minister for Environment report to the Assembly as to the action, if any, proposed to be taken by the Government with respect to the recommendations of the Committee.
Findings and Recommendations

Finding 1  Page 12
The Auditor General’s October 2016 performance audit report Western Australian Waste Strategy: Re-thinking Waste called on the Waste Authority and the Department of Environmental Regulation—now the Department of Water and Environmental Regulation (DWER)—to implement 16 separate actions across four overarching recommendations. The Auditor General placed a series of implementation timeframes against the 16 actions, ranging from February 2017 through June 2018. In our view, the Waste Authority and DWER have completed only five of the 16 actions to a satisfactory level.

Finding 2  Page 15
The inability of the Waste Authority and the former Department of Environmental Regulation to agree on clear roles and responsibilities has undermined the effective implementation of the Waste Strategy and has likely contributed to the failure of the Strategy to meet all of its 2015 landfill diversion targets.

Finding 3  Page 15
There now appears to be an improved working relationship between the current Waste Authority Board and the Director General of the new Department of Water and Environmental Regulation. Since April 2017, both entities have demonstrated a renewed commitment to establishing an agreed governance structure and removing any remaining ambiguities about their roles under the Waste Avoidance and Resource Recovery Act 2007. These are positive developments.

Finding 4  Page 15
Notwithstanding recent developments, the reality is that the Waste Authority and the Department of Water and Environmental Regulation are still working to finalise a service level agreement and governance framework for the oversight and implementation of the Waste Strategy. This is six years after the Strategy was launched, and 18 months after the Auditor general recommended this work be completed.

Finding 5  Page 15
The ongoing failure to establish an agreed framework for implementing the Waste Strategy has been particularly troubling when considering that over these six years, landfill levy payments exceeding $140 million have been credited to the Waste Avoidance and Resource Recovery Account to deliver Strategy-related initiatives aimed at minimising waste and reducing landfill.
Findings and Recommendations

**Recommendation 1**

The Waste Authority include in its Annual Report comprehensive information explaining any departure from the current schedule for finalising its service level agreement and governance framework with the Department of Water and Environmental Regulation.

**Recommendation 2**

The Department of Water and Environmental Regulation ensure that the impending review of the *Waste Avoidance and Resource Recovery Act 2007* (WA) removes all remaining ambiguity between the department and the Waste Authority regarding their respective roles and responsibilities around the implementation of the Waste Strategy and expenditure from the Waste Avoidance and Resource Recovery Account.

**Finding 6**

Section 16 of the *Waste and Avoidance Resource Recovery Act 2007* requires the Minister for Environment to ‘ensure the Waste Authority is provided with such service and facilities as are reasonably necessary to enable it to perform its functions.’ Notwithstanding this statutory requirement, the Waste Authority’s members have had long-standing concerns with the level of service the Authority has received.

**Finding 7**

While a recent restructure within the Department of Water and Environmental Regulation has resulted in some administrative changes around staffing and support to the Waste Authority, it does not appear to have addressed all of the Waste Authority’s long-standing concerns.

**Recommendation 3**

The Minister for Environment and the Waste Authority negotiate further to determine the appropriate number of staff that should work exclusively on helping the Waste Authority perform its functions and deliver its services.
Finding 8  
The Waste Authority’s 2016-17 Annual Report shows the Waste Avoidance and Resource Recovery Account (WARR Account) had a large operating surplus of $33.2 million, an increase of almost 10 per cent on the previous year. It is arguable that the failure of the responsible agencies to settle on roles, responsibilities, and staffing arrangements has served, in part, to hinder the efficient management of WARR Account expenditure on approved Waste Strategy programs and projects.

Finding 9  
The Waste Authority and the Department of Water and Environmental Regulation (DWER) have not fully addressed the Auditor General’s recommendation that they develop business cases and implementation plans for all projects funded by the Waste Avoidance and Resource Recovery Account (WARR Account). DWER is still not required to produce business cases when it uses money from the WARR Account to fund internal projects related to the Waste Strategy.

Recommendation 4  
The Minister for Environment confirm if and when the Department of Water and Environmental Regulation will be required to prepare business cases when proposing to use money from the Waste Avoidance and Resource Recovery Account to fund internal projects linked to the Waste Strategy.

Recommendation 5  
The Minister for Environment explain the rationale for any decision to exempt the Department of Water and Environmental Regulation from the requirement to prepare business cases for such spending.

Finding 10  
While the Waste Authority publishes reasonably detailed information regarding the Waste Strategy, the quality of reporting on progress against Waste Strategy targets is undermined by incomplete data on waste and recycling activity.

Finding 11  
The Waste Authority currently relies on the voluntary provision of at least two key data sets from local governments, regional councils, and industry recyclers to inform its reporting.
Findings and Recommendations

Finding 12 Page 24
The Waste Authority requested regulatory amendments to mandate data collection in 2013 and 2015, but these requests were not acted on by the then Department of Environmental Regulation. The new Department of Water and Environmental Regulation is now working to have the amendments in place within the next six to 12 months. Until these changes take effect, the veracity of the performance data published in Waste Authority reports will be open to question.

Finding 13 Page 25
In 2011, the Waste Authority requested the compulsory installation of weighbridges at all facilities subject to the landfill levy. This idea was not supported by the former Department of Environmental Regulation. The new Department of Water and Environmental Regulation has confirmed that while 30 facilities are currently subject to the levy, only 13 have a weighbridge installed.

Finding 14 Page 25
It is likely that more than half (17 of 30) of licensed metropolitan waste facilities are using manual methods (e.g. truck counts and visual estimates) to provide data against which landfill levies are charged and performance against Waste Strategy targets is measured. This further undermines confidence in the accuracy of the performance data published in Waste Authority reports.

Finding 15 Page 26
The Waste Authority and the department have changed the methodology around how two landfill diversion targets are calculated and reported without clearly explaining the rationale behind these changes, or resetting the respective targets. This serves to undermine confidence in the quality of reporting on progress against Waste Strategy targets.

Recommendation 6 Page 26
The Waste Authority, in its next Annual Report, clearly explain any changes it has made around how it defines its four landfill diversion categories and the impact these changes have had on the targets and rates for each category.
Finding 16  Page 27
The Waste Authority prepared a communication plan and a collection of key messages to promote the Waste Strategy in 2013, which were not supported by the former Department of Environmental Regulation. This is the third instance we have identified where the work of the Waste Authority appears to have been stymied by departmental intransigence up until 2017.

Finding 17  Page 27
It is troubling that the former Department of Environmental Regulation’s lack of support for key operational initiatives put forward by the Waste Authority remained largely hidden from public scrutiny until the audit office released its 2016 audit report on the Waste Strategy.

Recommendation 7  Page 28
The Department of Water and Environmental Regulation formally advise the Minister for Environment whenever it decides not to support recommendations for Waste Strategy-related initiatives put forward by the Waste Authority.

Finding 18  Page 29
While the Auditor General’s report confirmed that waste generation and recycling figures are ‘trending in the right direction,’ WA’s 2015-2016 overall waste diversion rate was still nine points below the 2014-15 national average. Moreover, the most recent reporting available shows that only two of the four waste categories listed in the Waste Strategy have now achieved their 2015 landfill diversion target rates. In addition to the data integrity issues we have already raised, there is a risk that these landfill diversion rates could be skewed by the amount of waste that some facilities may be stockpiling to minimise landfill levy liabilities.
Chapter 1

Background

It is difficult to overestimate the importance to accountability and thus good governance of the PAC and the Auditor General.

David McGee QC, former Clerk of the New Zealand Parliament

PAC’s ongoing support for the work of the Auditor General

1.1 In this report, we discuss the actions taken by the Department of Water and Environmental Regulation (DWER) and the Waste Authority in response to the Auditor General’s October 2016 performance audit report *Western Australian Waste Strategy: Re-thinking Waste*.

1.2 Our follow-up of these agencies continues an important tradition followed in many Westminster parliaments, and first adopted in Western Australia in 1996. Through this process, we seek to ensure that agencies give due regard to performance audit recommendations.

1.3 The follow-up method adopted by each of the Parliament’s public accounts committees since 1996 has varied according to the nuances of the committee members, the number of audit reports to be dealt with, and the competing demands of inquiry-related work. The method we have adopted for the 40th session of Parliament is described in Appendix One.

1.4 Like our predecessor committees, we hope our work will contribute to improved outcomes around policy implementation and the expenditure of public monies.

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Chapter 2

Audit identifies shortcomings in the State’s waste management framework

Scope of audit report: implementation of the Waste Strategy

2.1 In October 2016, the Auditor General reported on the results of a performance audit into the effectiveness of the State’s strategies for managing waste and diverting it from landfill. The focus of the audit was the implementation of the Western Australian Waste Strategy: Creating the Right Environment (the Waste Strategy), overseen by the Waste Authority with support from the Department of Environmental Regulation (now the Department of Water and Environmental Regulation).

2.2 The Waste Strategy was developed by the Waste Authority and launched on 6 March 2012 by then Minister for Environment, Hon Bill Marmion, MLA. The Strategy’s vision is to facilitate a ‘shift to a low waste society by providing the required knowledge, infrastructure and incentives to change behaviour.’4 The overarching aim is to reduce the amount of waste generated while simultaneously increasing the proportion of unavoidable waste diverted from landfill through improved resource recovery and recycling processes. The Strategy is framed around five strategic objectives and it includes landfill diversion targets for 2015 and 2020 across four waste categories: metropolitan Municipal Solids Waste (MSW); regional MSW; Commercial and Industrial (C&I); and Construction and Demolition (C&D).

2.3 Waste Strategy projects and programs are funded out of the Waste Avoidance and Resource Recovery Account (WARR Account). This account was set up under the Waste Avoidance and Resource Recovery Act 2007 (WARR Act). The WARR Act requires that 25 per cent of the forecast annual landfill levy amount5 is allocated to the WARR Account for Waste Strategy-related initiatives and administration costs.6 Between 1 July 2008 and 30 June 2016, the WARR Account received $108 million in landfill levy.

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5 The Waste Avoidance and Resource Recovery Levy Act 2007 (WA) provides for the establishment of a ‘landfill levy’ to be charged on ‘waste received at licensed landfill sites within the Perth metropolitan area or metropolitan waste disposed at regional landfills.’ Office of the Auditor General, Western Australian Waste Strategy: Rethinking Waste, 19 October 2016, p. 6.
Chapter 2

payments and generated $9 million in interest. Latest estimates are that the account will receive a further $19 million per year in landfill levy payments through to 2022.7

2.4 The Waste Authority, which commenced operation on 1 July 2008, has primary responsibility for implementing the Waste Strategy and plays a critical financial oversight role by preparing an annual business plan for approval by the Minister for Environment. The business plan outlines the Waste Authority’s objectives and recommended priorities for the next five years, and provides a breakdown of the proposed expenditure for all Waste Strategy programs and administrative services for the year ahead. If approved by the Minister, the Waste Authority then oversees the implementation of the programs and services in accordance with the business plan. The Waste Authority has numerous other functions enshrined in the WARR Act.8 These include advising the Minister on matters relating to the WARR Act and advising the departmental CEO on matters relating to the regulation of waste services.9

2.5 The Waste Authority is a five-member board appointed on the recommendation of the Minister. At the time of the audit in October 2016, it operated with the support of 27 full-time equivalent (FTE) positions from the Waste Authority Services division of the Department of Environmental Regulation. This staffing arrangement emanates from section 16 of the WARR Act, which states that the Minister ‘must ensure that the Waste Authority is provided with such services and facilities as are reasonably necessary to enable it to perform its functions.’10 In order to establish clarity around the required levels of service and support, the Waste Authority and the department signed a Memorandum of Understanding and a Service Level Agreement (SLA) in September 2009.11

2.6 The department, in addition to providing support to the Waste Authority, has numerous other roles and responsibilities under the State’s waste management and environmental protection legislation.12 These include regulatory activities such as issuing licenses to waste management sites and monitoring compliance with the licensing conditions.

2.7 Ongoing ambiguity regarding the respective roles and responsibilities of the department and the Waste Authority led both entities to renegotiate terms for a revised SLA throughout 2015 and 2016. These negotiations continued unresolved

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9 ibid. See Schedule 1, Clauses 1 and 3.
12 The relevant legislation includes: Waste Avoidance and Resource Recovery Act 2007 (WA); Waste Avoidance and Resource Recovery Levy Act 2007 (WA); the Environmental Protection Act 1986 (WA); and associated Regulations.
Audit identifies shortcomings in the State’s waste management framework throughout the period of the audit, a point the Auditor General noted in what was ultimately a highly critical assessment of the Waste Strategy’s early implementation.

**Auditor General delivers a predominantly critical set of findings**

2.8 Upon tabling the report, the Auditor General acknowledged that ‘there has been improvement in the management of waste since 2012’ and that ‘waste generation and recycling figures are trending in the right direction.’ However, the report went on to list 17 key findings, almost all of which were critical of both the Waste Authority and the then Department of Environmental Regulation.

2.9 Foremost among these findings was confirmation that none of the four Waste Strategy 2015 landfill diversion targets had been met (see Table 1 on page 7). Moreover, the data used to inform progress on these targets was ‘incomplete and unreliable.’ The provision of data on recycling activities by licensed waste operators was voluntary, the data provided on waste volumes and tonnages was neither verified nor audited, and waste measurement methods varied across facilities (from the use of weighbridges to visual estimates).

2.10 The audit attributed the failure to achieve the Waste Strategy’s 2015 targets in part to the delays in the long-term planning of waste management infrastructure at the state and local levels. However, there was also an ‘absence of clear roles and responsibilities’ within the Waste Authority and the department, which had ‘affected the cooperation between the agencies.’ The audit report found this had:

> ...impacted on the planning of projects, the promotion of key messages, the prioritising of effort, and the monitoring of outcomes.

2.11 The lack of cooperation and uncertainty around roles meant that departmental staff assigned to the Waste Authority were ‘subject to the competing priorities’ of the respective agencies. In this environment, the Waste Authority was ‘unable to require the assigned staff [to] give priority to projects it regards of most importance.’ Moreover, these staff, and external waste management stakeholders, ‘expressed confusion’ as to whether the Waste Authority’s advice ‘must be accepted and its plans...

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15 ibid., p. 8.
16 ibid., p. 7.
17 ibid.
18 ibid., p. 9.
19 ibid.
As it was, the level of cooperation necessary to ensure the timely approval and implementation of business plan initiatives 'was not evident.' Delays in funding approved projects meant that numerous programs and activities designed to reduce waste and increase recycling were not introduced. Consequently, 58 per cent of the landfill levy income that went into the WARR Account in 2015-2016 was not distributed and the account held a balance of unspent funds in excess of $30 million.

While the audit acknowledged the efforts to draft a revised SLA to address these issues, it found the document lacked the necessary level of detail to ensure 'a constructive working relationship between the agencies.'

The audit also expressed concern regarding the level of accountability applied to WARR Account funds. The report referred to an absence of 'regular and comprehensive reporting' of projects that were outlined in approved annual business plans. Details of expenditure linked to the $7 million the department uses each year for compliance activities and administrative purposes were 'also notably absent.' This was despite the Waste Authority requesting such information. Because of these collective shortcomings, the State was not in a position to 'monitor progress and the effectiveness of specific waste strategies and funded projects.'

Another area of concern was the quality of messaging to improve the level of community awareness about the importance of waste avoidance and minimisation. The report noted that the Waste Authority had compiled a suite of communications in 2013 to 'foster awareness of Waste Strategy targets and objectives.' However, these messages were not approved until 2016 and were still awaiting implementation.

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21 ibid.
22 ibid., p. 7.
23 ibid., p. 9.
24 ibid.
25 ibid., p. 10.
26 ibid., p. 7.
27 ibid., p. 11.
Audit identifies shortcomings in the State’s waste management framework

### Table 1 Landfill diversion rates by waste category

<table>
<thead>
<tr>
<th>Diversion rate</th>
<th>Metro MSW</th>
<th>Regional MSW</th>
<th>C&amp;I</th>
<th>C&amp;D</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010-2011</td>
<td>39%</td>
<td>20%</td>
<td>28%</td>
<td>31%</td>
</tr>
<tr>
<td>2011-2012</td>
<td>39%</td>
<td></td>
<td>40%</td>
<td>38%</td>
</tr>
<tr>
<td>2012-2013</td>
<td>45%</td>
<td></td>
<td>45%</td>
<td>40%</td>
</tr>
<tr>
<td>2013-2014</td>
<td>41%</td>
<td></td>
<td>45%</td>
<td>38%</td>
</tr>
<tr>
<td>2014-2015</td>
<td>40%</td>
<td>24%</td>
<td>52%</td>
<td>42%</td>
</tr>
<tr>
<td>2015-2016</td>
<td>36%</td>
<td>31%</td>
<td>56%</td>
<td>57%</td>
</tr>
<tr>
<td>2015 target</td>
<td>50%</td>
<td>30%</td>
<td>55%</td>
<td>60%</td>
</tr>
<tr>
<td>2020 target</td>
<td>65%</td>
<td>50%</td>
<td>70%</td>
<td>75%</td>
</tr>
</tbody>
</table>

**KEY**

**Metro MSW:** municipal solid waste delivered to metropolitan waste management facilities. MSW includes waste from households, and waste collected from public places and public buildings by local governments or their contractors.

**Regional MSW:** municipal solid waste delivered to regional waste management facilities.

**C&I:** commercial and industrial waste. Includes waste originating from commercial and/or industrial activities (e.g. metals, paper, cardboard, plastic, food organics, glass, and timber).

**C&D:** construction and demolition waste generated from commercial, government or residential building and demolition sites.

**Total number of landfill facilities in WA:** the audit report estimated that there were 270 licensed waste management facilities in WA as at 2015, although it advised that an exact figure was difficult to determine. Figures provided to us by DWER indicate there are 175 ‘landfill premises’ currently active throughout WA, 30 of which are located within the Perth Metropolitan area.

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28 Figures taken from ibid., pp. 7-8, and Waste Authority, *Annual Report 2016-17*, 31 October 2017, p. 7. No data is available for Regional Centres MSW for the years between 2012 and 2014, while the Waste Authority subsequently published a Regional Centres MSW rate of 30 per cent for 2014-15—a figure that is six percentage points higher than what the Auditor General reported. However, the Waste Authority advised that its figure ‘exclude[d] one major regional centre due to data verification issues.’

29 The Waste Authority published its *Annual Report 2016-17* one year after the Auditor General’s report. The Annual Report included the diversion rate figures for the 2015-16 period and repeated its caveat (see footnote 28 above) regarding the Regional MSW figure, which had risen slightly to 31 per cent. See, p. 7.

30 Definitions taken from Office of the Auditor General, *Western Australian Waste Strategy: Rethinking Waste*, 19 October 2016, p. 6. Data on the number of waste management facilities taken from ibid., p. 32. Data on landfill premises taken from Mr Mike Rowe, Director General, Department of Water and Environmental Regulation, Letter to the Committee, 20 July 2018, p. 3.
Chapter 2

2.15 Finally, the audit expressed concern regarding some of the department’s regulatory activities. While the department’s risk-based inspection regime was described as ‘robust,’ the audit nonetheless found that fewer than half of the high and moderate risk waste management facilities were being inspected within the department’s own timeframes. In addition, the department was ‘unable to provide assurance’ that all waste operators are compliant with the WARR Act and the Environmental Protection Act 1986. Nor was the department checking whether unlicensed operators were conducting activities at a level that required licensing.

Audit report includes an unusually large number of recommended actions

2.16 The Auditor General directed four overarching recommendations to the Waste Authority and the department. These were broken down into 16 separate actions aimed at:

- clarifying agency roles and responsibilities for implementing the Waste Strategy;
- strengthening oversight and reporting of WARR Account expenditure;
- improving the quality and accuracy of data used to measure performance against Waste Strategy targets;
- completing future waste infrastructure planning requirements;
- providing better public guidance and communication on waste avoidance; and
- addressing deficiencies in the monitoring of unlicensed waste operators.

2.17 The Auditor General placed a series of implementation timeframes against the 16 actions. These ranged from February 2017 through June 2018. The full list of the recommended actions, along with their implementation deadlines, is included in Table 2 in the following chapter, where we examine the agency responses to the report.

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32 ibid., p. 11. The thresholds that determine whether a site needs to be licensed as a waste operator are included in Schedule 1 of the *Environmental Protection Regulations 1987*. 
Chapter 3

Committee follow-up of agency responses

Audited agencies slow to implement most of the recommendations

3.1 Given the seriousness of the findings and the number of recommendations in the report, we requested both agencies to appear at a public hearing to discuss the actions taken in response to the audit report. The hearing date of 20 June 2018 coincided with the last of the Auditor General’s implementation deadlines for the recommendations. A copy of the transcript is included in Appendix Two. After the hearing, we sent a list of further questions to each entity, and the responses are included in Appendices Three and Four.

3.2 Having considered the evidence gathered, we remain concerned by the seeming inability of the agencies to address all of the recommendations in a timely manner. Table 2 below lists the 16 recommended remedial actions and our assessment on the extent to which each has been addressed. In our view, the Waste Authority and the department have completed only five of the 16 actions to a satisfactory level.

Table 2 List of audit recommendations and status of agency responses

<table>
<thead>
<tr>
<th>Rec</th>
<th>Required Action</th>
<th>Timeframe</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1A</td>
<td>Clarify and communicate roles of each entity</td>
<td>Feb 2017</td>
<td>Partly completed</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Contingent upon the finalisation of an agreed SLA and governance framework.</td>
</tr>
<tr>
<td>1B</td>
<td>Finalise a service level agreement (SLA) and governance framework</td>
<td>Feb 2017</td>
<td>Partly completed</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>SLA has been signed, but is subject to further revision pending the completion of the governance framework later this year or early next year.</td>
</tr>
<tr>
<td>1C</td>
<td>Develop business cases and implementation plans for all projects funded by the WARR account</td>
<td>Feb 2017</td>
<td>Partly completed</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Business cases now required for external expenditure, but internal spending by DWER is still exempt from this process. See paragraphs 3.31-3.37 and Finding 9.</td>
</tr>
</tbody>
</table>
**Chapter 3**

<table>
<thead>
<tr>
<th>Rec</th>
<th>Required Action</th>
<th>Timeframe</th>
<th>Status</th>
</tr>
</thead>
</table>
| 1D  | Provide regular and comprehensive progress reporting for all annual business plans, associated projects, and financial expenditure to the Waste Authority Board | Feb 2017 | Completed  
Refer to the testimony of Mr Geisler on page 5 of the transcript in Appendix Two. |
| 2A  | Promote key messages to the community that focus on waste avoidance and minimisation | June 2017 | Partially completed  
Some relevant promotions have been undertaken, but both entities are looking to the upcoming revision of the Waste Strategy to overcome earlier difficulties around message planning. Refer to page 10 of the letter from Mr Geisler in Appendix Three. |
| 2B  | Identify and agree on solutions that will enhance the accuracy of waste and recycling data to report against Waste Strategy targets | June 2017 | Partially completed  
Refer to report paragraphs 3.38-3.53 and pages 7 and 13 of the transcript in Appendix Two. |
| 2C  | Ensure data used to report against the major regional centre MSW target is representative of all regional areas of Western Australia | June 2017 | Partially completed  
Legislative amendments to mandate the provision of data by large non-metropolitan councils are still being drafted. See page 7 of the transcript in Appendix Two. |
| 2D  | Publicly report annually on progress towards achieving all metropolitan and regional Waste Strategy targets | June 2017 | Completed  
Relevant data now provided in the Waste Authority’s Annual Report. |
| 2E  | Improve accountability and transparency of WARR Account expenditure | June 2017 | Completed  
The Annual Report and Annual Business Plan provide reasonable transparency and accountability, but there is scope for some improvement around internal business cases. See 1C above. |
| 2F  | Improve ways to bring relevant stakeholders together to assist knowledge exchange strategic waste planning | June 2017 | Partially completed  
A series of community and industry workshops commenced in 2018 after a 'very successful and widely supported' Strategic Waste Infrastructure Planning Working Group went into abeyance in 2014. Refer to page 3 of the letter from Mr Geisler in Appendix Three. |
### Committee follow-up of agency responses

<table>
<thead>
<tr>
<th>Req</th>
<th>Required Action</th>
<th>Timeframe</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>3A</td>
<td>Complete a State Waste and Recycling Infrastructure Plan to ensure alignment with the State planning framework</td>
<td>June 2018</td>
<td><em>Partly completed</em>&lt;br&gt;As noted above (at 2F), Strategic Waste Infrastructure Planning Working Group went into abeyance in 2014. The Waste Authority has since ‘provided input’ into key planning documents including Design WA, and State Planning Policy 3.1 – Residential Design Codes. See the Waste Authority’s Annual Report 2016-17, p. 14.</td>
</tr>
<tr>
<td>3B</td>
<td>Provide good practice guidance on waste avoidance and minimisation, managing problem wastes and managing waste and recycling facilities</td>
<td>June 2018</td>
<td><em>Completed</em>&lt;br&gt;A range of reasonable materials addressing this recommendation is now available on the ‘Publications &amp; Information’ section of the Waste Authority’s website.</td>
</tr>
<tr>
<td>3C</td>
<td>Assess the need for the State Government to adopt a policy of using recycled products as a way of encouraging community use of recycled products</td>
<td>June 2018</td>
<td><em>Completed</em>&lt;br&gt;Both entities have completed this assessment and are in the process trying to develop a relevant procurement policy and obtain the support of the Directors General of several large procuring departments. Refer to pages 10-11 of the transcript in Appendix Two.</td>
</tr>
<tr>
<td>3D</td>
<td>Ensure Waste Strategy implementation includes planning and projects to improve resource recovery in regional Western Australia</td>
<td>June 2018</td>
<td><em>Partly completed</em>&lt;br&gt;Some encouraging initiatives have been introduced under the Waste Strategy (e.g. the Recycled Construction Products Program), but early take up is low among local governments and private developers. Refer to page 10 of the transcript in Appendix Two.</td>
</tr>
<tr>
<td>4A</td>
<td>Ensure licensed waste operators provide annual waste and recycling data.</td>
<td>June 2018</td>
<td><em>Partly completed</em>&lt;br&gt;Progress has been slow in this area. Relevant legislative amendments are in drafting stage. Refer to page 7 of the transcript in Appendix Two.</td>
</tr>
<tr>
<td>4B</td>
<td>Conduct risk assessments of unlicensed waste operators and determine what steps need to be taken to ensure they confirm with legislative requirements</td>
<td>June 2018</td>
<td><em>Partly completed</em>&lt;br&gt;DWER advised that it inspects unlicensed operators to see if they should be licensed, but the department could not quantify how many unlicensed facilities are in WA. Refer to pages 4-5 of the letter from Mr Rowe in Appendix Four.</td>
</tr>
</tbody>
</table>
Chapter 3

**Finding 1**

The Auditor General’s October 2016 performance audit report *Western Australian Waste Strategy: Re-thinking Waste* called on the Waste Authority and the Department of Environmental Regulation—now the Department of Water and Environmental Regulation (DWER)—to implement 16 separate actions across four overarching recommendations. The Auditor General placed a series of implementation timeframes against the 16 actions, ranging from February 2017 through June 2018. In our view, the Waste Authority and DWER have completed only five of the 16 actions to a satisfactory level.

3.3 In the following paragraphs, we highlight some of the more significant issues that are yet to be resolved and may continue to hinder the effective implementation of the Waste Strategy.

**Critical governance arrangements are still not finalised**

3.4 Implementation of the Waste Strategy has undoubtedly suffered from the inability of the Waste Authority and the department to agree on their respective roles and establish an effective working relationship. In the audit report, the Waste Authority went so far as to say it was ‘not a natural fit’ with the department ‘and this compromises the most efficient use of resources to deliver essential projects.’

3.5 Notwithstanding this point, the agencies are bound to work together under the WARR Act. To facilitate better collaboration between them, the Auditor General called on both agencies to clarify and communicate their roles and to finalise a service level agreement (SLA) and a governance framework by February 2017. While both agencies have made some significant progress (as we note below in paragraph 3.11), the reality is that neither action was completed by February 2017, and some key documents are yet to be finalised.

3.6 The problems relating to governance structures between these agencies are long-standing. The Waste Authority and the former DER signed off on a Memorandum of Understanding and a SLA in September 2009, but these documents were ultimately ineffective. This was partly attributable to inherent ambiguities in the WARR Act regarding the delineation of roles and responsibilities. These ambiguities were exacerbated by an apparent deterioration in the working relationship between the DER and the Waste Authority from 2014 through 2017.

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34 See audit report recommendations 1a and 1b.
35 Mr Marcus Geisler, Chairman, Waste Authority, Letter to the Committee, 20 July 2018, p. 2; Mr Mike Rowe, Director General, Department of Water and Environmental Regulation, *Transcript of Evidence*, 20 June 2018, p. 4.
The Waste Authority advised us that it originally received a ‘high level of support and advice’ from the department via a dedicated Office of the Waste Authority (OWA). But under a restructure ordered by the Director General of DER in May 2014, the OWA was abolished and its tasks reallocated across two separate agencies. According to the Waste Authority this led to a situation where:

...internally staff were being diverted to non-waste strategy program work and programs fell behind. Waste rapidly became a lower priority. Relations were strained between the Authority, DER and the Minister’s Office.

After watching the work of a ‘very successful and widely supported’ Strategic Waste Infrastructure Planning Working Group go into abeyance, the Waste Authority resolved to establish a revised SLA. The Waste Authority said it engaged the services of an independent legal entity to assist preparing the document, but the process became ‘protracted,’ with DER offering ‘many comments’ during negotiations. The Waste Authority eventually signed the revised SLA in November 2015 with the caveat that it be subject to a 12-month review. However, it claims the ‘SLA remained unsigned by DER for unknown reasons and this added to the strain of the relationship.’

Progress towards the revised SLA then appears to have stalled until the departure of the former Director General of DER in April 2017, two months after the Auditor General’s February 2017 deadline for this recommendation had passed.

On 1 June 2017, the new Minister for Environment, Hon Stephen Dawson, MLC issued a Ministerial Statement of Expectation to the Waste Authority. In this document, the Minister outlined his expectation that the Waste Authority and the department would ‘work collaboratively to ensure the Waste Authority’s business is managed in an efficient, effective, economical and ethical manner.’ Notable was his further comment: ‘I expect the Waste Authority will enter into a service level agreement with the department responsible for the administration of the WARR Act.’

On 1 July 2017, the former DER was subsumed into the new Department of Water and Environmental Regulation (DWER) under machinery of government changes. The following month, the Director General of DWER ‘endorsed a (temporary) SLA’ with the...
agreement that it be reviewed ‘within 12 months of adopting a new Governance Charter to ensure no gaps or conflicts in both complementary documents.’ The Director General of DWER expects the revised governance framework will be finalised ‘by the end of 2018.’ Similarly, the Waste Authority is now ‘confident that an SLA and Governance Arrangement will be properly prepared and agreed in a reasonably short time frame.’

3.12 Notwithstanding the stated expectations of each entity, both acknowledge some confusion still exists around the current wording of the WARR Act, and neither was prepared to state that the current SLA provides complete clarity. The Waste Authority went so far as to say ‘[t]he 2017 SLA remained silent in areas regarding responsibilities that arise from an interpretation of provisions in the WARR Act.’ An external consultant engaged to help prepare the upcoming governance framework will consider these legislative shortcomings as part of its work. Following this, the Waste Authority and DWER have both said that the statutory review of the WARR Act—which is due to commence this year—should be used to address all outstanding ambiguities in the legislation.

3.13 Establishing clear roles and responsibilities is critical to effective policy and program implementation, especially when working under collaborative arrangements. Unfortunately, the lead agencies have failed to establish clear and collaborative governance arrangements during the early years of the Waste Strategy’s operation. This has had a significantly detrimental effect in numerous areas.

3.14 We acknowledge that many of the difficulties appear to have occurred under the former Director General of DER. It also appears there is now an improved working relationship between the Waste Authority Board and the Director General of DWER, and a commitment to establishing an agreed governance structure and removing any remaining ambiguities in the WARR Act.

3.15 Yet, the current reality is that the Waste Strategy is still operating without a finalised SLA and governance framework 18 months after the Auditor General’s recommended

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44 Mr Marcus Geisler, Chairman, Waste Authority, Letter to the Committee, 20 July 2018, p. 3.
45 Mr Mike Rowe, Director General, Department of Water and Environmental Regulation, Letter to the Committee, 20 July 2018, p. 1.
46 Mr Marcus Geisler, Chairman, Waste Authority, Letter to the Committee, 20 July 2018, p. 4.
47 ibid; Mr Mike Rowe, Director General, Department of Water and Environmental Regulation, Letter to the Committee, 20 July 2018, p. 1.
48 Mr Marcus Geisler, Chairman, Waste Authority, Letter to the Committee, 20 July 2018, p. 4.
49 Mr Mike Rowe, Director General, Department of Water and Environmental Regulation, Letter to the Committee, 20 July 2018, p. 1.
50 ibid; Mr Marcus Geisler, Chairman, Waste Authority, Letter to the Committee, 20 July 2018, p. 4.
51 Mr Mike Rowe, Director General, Department of Water and Environmental Regulation, Transcript of Evidence, 20 June 2018, p. 3; Mr Marcus Geisler, Chairman, Waste Authority, Letter to the Committee, 20 July 2018, p. 3.
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deadline for completing this work, and six years after the Strategy was introduced. This is particularly troubling when considering that over these six years, landfill levy payments exceeding $140 million have been credited to the WARR Account to deliver initiatives aimed at minimising waste and reducing landfill. The fact that the Waste Strategy fell short of meeting each of its 2015 landfill targets is hardly surprising under these circumstances.

3.16 It is critical that the governance arrangements between the Waste Authority and DWER are settled following the impending review of the WARR Act and that the Parliament be kept fully informed of all key developments in this area.

Finding 2
The inability of the Waste Authority and the former Department of Environmental Regulation to agree on clear roles and responsibilities has undermined the effective implementation of the Waste Strategy and has likely contributed to the failure of the Strategy to meet all of its 2015 landfill diversion targets.

Finding 3
There now appears to be an improved working relationship between the current Waste Authority Board and the Director General of the new Department of Water and Environmental Regulation. Since April 2017, both entities have demonstrated a renewed commitment to establishing an agreed governance structure and removing any remaining ambiguities about their roles under the *Waste Avoidance and Resource Recovery Act 2007*. These are positive developments.

Finding 4
Notwithstanding recent developments, the reality is that the Waste Authority and the Department of Water and Environmental Regulation are still working to finalise a service level agreement and governance framework for the oversight and implementation of the Waste Strategy. This is six years after the Strategy was launched, and 18 months after the Auditor general recommended this work be completed.

Finding 5
The ongoing failure to establish an agreed framework for implementing the Waste Strategy has been particularly troubling when considering that over these six years, landfill levy payments exceeding $140 million have been credited to the Waste Avoidance and Resource Recovery Account to deliver Strategy-related initiatives aimed at minimising waste and reducing landfill.
Chapter 3

**Recommendation 1**
The Waste Authority include in its Annual Report comprehensive information explaining any departure from the current schedule for finalising its service level agreement and governance framework with the Department of Water and Environmental Regulation.

**Recommendation 2**
The Department of Water and Environmental Regulation ensure that the impending review of the *Waste Avoidance and Resource Recovery Act 2007* (WA) removes all remaining ambiguity between the department and the Waste Authority regarding their respective roles and responsibilities around the implementation of the Waste Strategy and expenditure from the Waste Avoidance and Resource Recovery Account.

**The Waste Authority retains concern about the level of resources allocated to deliver its services**

3.17 The Auditor General reported that the administrative arrangements between the Waste Authority and the department were an ongoing source of tension. Issues regarding resourcing in particular were ‘impact[ing] the Authority’s ability to carry out its functions effectively.’

3.18 We note that under section 16 of the WARR Act, the Minister, through the department, ‘must ensure the Waste Authority is provided with such services and facilities as are reasonably necessary to enable it to perform its functions.’

3.19 In light of this requirement, we asked the Waste Authority following the hearing whether it had any ongoing concern about the role of the staff allocated to it from the department. We found their response insightful, and somewhat disconcerting.

3.20 Before outlining its concerns, the Waste Authority stressed ‘there were currently no issues with the performance of individual officers’ assigned to it by DWER. In fact, many of these officers ‘go beyond the call of duty and out of their way’ in responding to queries from the community and stakeholders regarding waste management and recycling. The Waste Authority added that the current Director General of DWER ‘was very supportive.’

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54 Mr Marcus Geisler, Chairman, Waste Authority, Letter to the Committee, 20 July 2018, p. 5.
55 Ibid.
56 Ibid.
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3.21 Notwithstanding these positives, the enduring frustration of the Waste Authority was clear:

However, it is unfortunate that over the past 5 years, ongoing salary caps, staff freezes, other priorities, secondments, the policy of not using contractors or panels, and non-replacement of key personnel, has decreased the ability to deliver agreed services [our emphasis].57

3.22 To demonstrate its point, the Waste Authority advised that the position of Executive Manager of the former Waste Authority Services unit—a position that provided a critical departmental interface with the Authority—had no permanent appointee for two years. For seven months of this period, the position was vacant.58

3.23 The Waste Authority’s response conveyed a degree of exasperation that staff freezes can extend to departmental staff for whom WARR Levy revenues can be applied to help deliver approved Waste Strategy programs. According to the Authority, the department does not consider this ‘WARR Levy hypothecation… when staff freezes etc are enacted.’59

3.24 In terms of current support, the Director General DWER established a Waste Avoidance and Resource Recovery Division (WARR Division) as part of a departmental restructure that took effect on 1 July 2018. The WARR Division will deliver services and report to the Waste Authority, the Director General of DWER, and through the Director General to the Minister.60 The WARR Division includes a full-time equivalent allocation of 30.55 positions to support the Authority. As at 17 July 2018, 24.25 FTEs were in place.

3.25 In its submission to the departmental restructuring process that led to the establishment of the WARR Division, the Waste Authority reiterated the point that:

…the Authority members, for a long time, have had issue with the level of service and more importantly value for money for the Waste Authority.61

3.26 The Waste Authority offered a range of suggestions as to what it thought would be the most appropriate structure to work across the respective business units. These suggestions included establishing an Executive Director-level leadership position at the head of an ‘Office of the Waste Authority.’62 The Waste Authority confirmed that the department did not accept this suggestion, although it did create a Director-level

57 Mr Marcus Geisler, Chairman, Waste Authority, Letter to the Committee, 20 July 2018, p. 5.
58 ibid.
59 ibid.
60 ibid., p. 7.
61 ibid., p. 5.
62 ibid., p. 7.
position to lead the WARR Division. This should give the Authority’s new support unit
greater significance and influence within the department than it previously enjoyed
under the Executive Manager of the former Waste Authority Services team. However,
the Authority retains concerns that these administrative changes ‘will not fully address
all the issues’ it has raised in the lead up to the restructure. It also noted that only a
limited number of the 30.55 FTE positions in the WARR Division are dedicated
exclusively to performing support functions. The Waste Authority confirmed to us that it:

...remains strongly of the view that the [WARR] Division should be led by
an Executive Director position and that staff work… [should be] “ring-
fenced” to Authority work.64

3.27 We are not in a position to recommend an appropriate resourcing model for the Waste
Authority, but can understand the frustrations the Authority must endure operating
without an autonomous support staff.

3.28 What we do wish to highlight is that there is a statutory requirement for the Minister
for Environment to ensure the Waste Authority is appropriately resourced to ‘enable it
to perform its functions.’ Despite this, for at least the last five years, the Waste
Authority has—by its own admission—suffered from a decreased ability to deliver
agreed services. While the latest restructure within DWER has offered some positive
changes, these have not fully allayed the Waste Authority’s long-standing concerns
regarding the level of service it receives from the department. This issue is one of
several that need to be addressed if the State expects the Waste Strategy to realise its
objectives and meet its performance targets.

Finding 6
Section 16 of the Waste and Avoidance Resource Recovery Act 2007 requires the
Minister for Environment to ‘ensure the Waste Authority is provided with such service
and facilities as are reasonably necessary to enable it to perform its functions.’
Notwithstanding this statutory requirement, the Waste Authority’s members have had
long-standing concerns with the level of service the Authority has received.

64  ibid.
66  Mr Marcus Geisler, Chairman, Waste Authority, Letter to the Committee, 20 July 2018, p. 5.
Committee follow-up of agency responses

Finding 7
While a recent restructure within the Department of Water and Environmental Regulation has resulted in some administrative changes around staffing and support to the Waste Authority, it does not appear to have addressed all of the Waste Authority’s long-standing concerns.

Recommendation 3
The Minister for Environment and the Waste Authority negotiate further to determine the appropriate number of staff that should work exclusively on helping the Waste Authority perform its functions and deliver its services.

3.29 We are also concerned that the failure to settle roles, responsibilities, and staffing arrangements has had an adverse flow-on effect on the efficient management of WARR Account expenditure on approved programs. The Waste Authority’s 2016-17 Annual Report showed the WARR Account had a large operating surplus of $33.2 million, an increase of almost 10 per cent on the previous year.67

3.30 We asked the Waste Authority why it ran such a large operating surplus. In response, the Authority cited a range of factors ‘largely outside’ of its control.68 For example, the Government’s budget papers set expenditure levels that limit the Waste Authority’s ability to spend surplus WARR Account funds. However, some of the ‘main contributing factors’ relate to resourcing issues within the department and the Waste Authority.69 These include the ‘timely approval of business cases and the annual business plan’ and the capacity of the newly established WARR Division within DWER to deliver approved programs.70

Finding 8
The Waste Authority’s 2016-17 Annual Report shows the Waste Avoidance and Resource Recovery Account (WARR Account) had a large operating surplus of $33.2 million, an increase of almost 10 per cent on the previous year. It is arguable that the failure of the responsible agencies to settle on roles, responsibilities, and staffing arrangements has served, in part, to hinder the efficient management of WARR Account expenditure on approved Waste Strategy programs and projects.

Gaps still evident in the oversight of Waste Strategy expenditure

3.31 Recommendation 1c of the audit report called on both the Waste Authority and the department to ‘develop business cases and implementation plans for all projects

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69 Ibid.
70 Ibid.
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funded by the WARR Account. The Auditor General proposed a deadline of the end of February 2017 to complete this work. A related recommendation (2e) called for improved accountability and transparency of WARR Account expenditure by the end of June 2017. While both agencies have undertaken significant work to address these recommendations, notable oversight gaps remain around internal expenditure by the department using WARR Account funds.

3.32 The Waste Authority confirmed that business cases and project management plans are now prepared ‘for every external expenditure program’. These business cases are now incorporated into the annual business plans and budgets that go before the Minister for approval. The Waste Authority has also set up a reporting framework with DWER following advice from an external consultant. This framework includes monthly status reports on the delivery of approved Waste Strategy programs, and a quarterly review of the programs against their individual budgets. The Chairman of the Waste Authority told us this framework ‘is actually performing well’.

3.33 The situation is not so positive with the money allocated from the WARR Account to fund internal projects linked to Waste Strategy-related expenditure within DWER. The audit report noted that approximately $7 million is drawn annually from the WARR Account to fund the department’s responsibilities around ‘levy and compliance inspections, administrative support, and policy and legislative review’. The report added that the Waste Authority had sought, but not received from the former DER a ‘detailed breakdown’ showing how it had spent this money.

3.34 When appearing before us, the Chairman of the Waste Authority confirmed that business cases are still not required for internal expenditure by DWER. However, he went on to suggest this was ‘the next logical step,’ arguing that the same level of oversight and transparency that is now applied to external projects should apply to all WARR Account expenditure.

3.35 In response to a follow-up question of whether there was a reason why internal projects could not have business cases, the reply confirmed our view:

There are no reasons why internal projects (expenditure within the DWER) could not have Business Cases. Many of these are multi-year.

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72 Mr Marcus Geisler, Chairman, Waste Authority, Transcript of Evidence, 20 June 2018, p. 5.
73 Mr Marcus Geisler, Chairman, Waste Authority, Letter to the Committee, 20 July 2018, p. 9.
74 Mr Marcus Geisler, Chairman, Waste Authority, Transcript of Evidence, 20 June 2018, p. 5.
76 ibid.
77 Mr Marcus Geisler, Chairman, Waste Authority, Letter to the Committee, 20 July 2018, p. 8.
Committee follow-up of agency responses

projects like “end of waste” and as this is expenditure of the WARR Account as well, the same quality of consideration, milestones, KPI and outcome setting including project and expenditure tracking against budget should apply.78

3.36 The Chairman confirmed it was the Waste Authority’s ‘intent’ that business cases ‘will be developed for all projects’ included in the finalised SLA and governance framework.79

3.37 The WARR Act vests the Waste Authority with responsibility for administering the WARR Account.80 As such, it is reasonable to assume that the Waste Authority would have complete visibility over the breakdown of WARR Account expenditure. Yet transparency around the internal expenditure of WARR Account funds by the department appears to be an ongoing issue that should have been resolved within the timeframe put forward by the Auditor General.

Finding 9

The Waste Authority and the Department of Water and Environmental Regulation (DWER) have not fully addressed the Auditor General’s recommendation that they develop business cases and implementation plans for all projects funded by the Waste Avoidance and Resource Recovery Account (WARR Account). DWER is still not required to produce business cases when it uses money from the WARR Account to fund internal projects related to the Waste Strategy.

Recommendation 4

The Minister for Environment confirm if and when the Department of Water and Environmental Regulation will be required to prepare business cases when proposing to use money from the Waste Avoidance and Resource Recovery Account to fund internal projects linked to the Waste Strategy.

Recommendation 5

The Minister for Environment explain the rationale for any decision to exempt the Department of Water and Environmental Regulation from the requirement to prepare business cases for such spending.

79 ibid., p. 9.
Accurate performance against Waste Strategy targets difficult to ascertain due to data integrity issues

3.38 Recommendation 2c from the audit report called on the Waste Authority to publicly report each year on the progress towards reaching Waste Strategy targets. Having examined the documents available on the Waste Authority’s website, we feel the Authority’s Annual Reports and Business Plans sufficiently address this recommendation. Collectively, these documents outline current performance against Waste Strategy targets and objectives, as well as status reports on approved Waste Strategy projects and programs. Our main concern in this area relates to the data used to inform these documents.

3.39 The Auditor General identified weaknesses in both the quality of data used by the Waste Authority and the manner in which it was collected by the department (see 2.9 above). Three of the 16 recommended actions in the audit report sought to address the shortcomings in these areas.81

3.40 DWER collects data on waste and recycling annually from local government and industry to determine progress against Waste Strategy targets and budget key performance indicators.82 The department collects much of this data via its administration of the landfill levy and an annual survey of local governments.83 Critically, two key methods of data collecting—including the survey—are voluntary.84

3.41 The Waste Authority acknowledges that the voluntary provision of key data leads to variable response rates and a reduced incentive to provide accurate information.85 This ‘reduces the effectiveness of assessment of progress against Waste Strategy targets.’86 The Waste Authority advised us that response rates from private sector waste facilities vary between 65 and 70 percent. The dilemma this presents is obvious because:

There are some huge operators and they can actually skew the outcome of the numbers of how much is recycled and how much is received.87

3.42 To address this issue, the Waste Authority and DWER are ‘close to finalising a waste data information strategy research report’ to identify ‘waste data needs and gaps.’88

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81 See recommendations 2b, 2c, and 4a in Table 2 on pages 10-11.
83 ibid. See also, Waste Authority, Business Plan 2017-18, no date, p. 19.
87 Mr Marcus Geisler, Chairman, Waste Authority, Transcript of Evidence, 20 June 2018, p. 7.
88 Mr Mike Rowe, Director General, Department of Water and Environmental Regulation, Transcript of Evidence, 20 June 2018, p. 7.
More importantly, DWER is working on proposed amendments to the *Waste Avoidance and Resource Recovery Regulations 2008* ‘to require reporting and record-keeping of waste and recycling data by local governments, waste recyclers and licensees of major regional landfills.’\(^89\) This work has been underway since mid-2016 and has involved numerous rounds of stakeholder consultation. DWER expects the amended regulations to be in place within the next ‘six to 12 months... depending on the drafting priorities and the priorities of government.’\(^90\)

3.43 We were initially surprised by the seeming inaction around the voluntary data protocols given how long the Waste Strategy has now been in place. However, it appears there are mitigating circumstances for the Waste Authority, which has previously sought to address this issue. Appearing before us, the Director General of DWER said he understood this was a ‘longstanding issue... [and that] the Waste Authority has had this on its radar for some years.’\(^91\) The Chairman of the Waste Authority then confirmed the Authority had requested mandatory data collection in 2013 and 2015, but it is only under the new Director General that action has been taken.\(^92\)

3.44 This is one of several examples where the lack of support from the former DER seems to have impeded the work of the Waste Authority and undermined the effectiveness of the Waste Strategy.

3.45 We urge the Waste Authority and DWER to work swiftly to complete the regulatory amendments necessary to enable mandatory data collection, and for the Minister to ensure the amendments receive priority in the government’s legislative agenda. The reality is that until these amendments are passed, much of the performance data in reports published by the Waste Authority will be of limited value.

**Finding 10**

While the Waste Authority publishes reasonably detailed information regarding the Waste Strategy, the quality of reporting on progress against Waste Strategy targets is undermined by incomplete data on waste and recycling activity.

**Finding 11**

The Waste Authority currently relies on the voluntary provision of at least two key data sets from local governments, regional councils, and industry recyclers to inform its reporting.

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90  Mr Mike Rowe, Director General, Department of Water and Environmental Regulation, *Transcript of Evidence*, 20 June 2018, p. 7.
91  ibid.
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Finding 12
The Waste Authority requested regulatory amendments to mandate data collection in 2013 and 2015, but these requests were not acted on by the then Department of Environmental Regulation. The new Department of Water and Environmental Regulation is now working to have the amendments in place within the next six to 12 months. Until these changes take effect, the veracity of the performance data published in Waste Authority reports will be open to question.

3.46 Serious questions also remain around the integrity of the data provided via landfill levy returns. Licensed metropolitan landfill operators are required to submit landfill levy returns quarterly with information on the three forms of waste (MSW, C&D, and C&I) deposited at their facilities. The audit report noted that waste processors 'only provide a summary of data and an estimate of the proportion of the three waste streams.'93 Estimates vary in accuracy. Facilities with weighbridges provide the most accurate data, whereas others rely on 'less accurate truck counts and visual estimates'.94

3.47 The accuracy of this data has implications for both the landfill diversion rates reported to the Waste Authority and the amount of landfill levy revenue paid to the WARR Account.

3.48 It is interesting that the Waste Authority requested the compulsory installation of weighbridges at all facilities subject to the landfill levy as far back as 2011.95 It appears that, once again, the former DER was reluctant to act on this request. We asked DWER whether all facilities that collect the landfill levy now have weighbridges installed. DWER confirmed there are currently 30 licensed landfill facilities that meet the criteria for landfill levy liability. It then advised that '[t]here are 13 (of the 22 that have paid the levy in the year to date) ...with a weighbridge installed.'96 We take this to mean there are, in total, 13 landfill levy-liable facilities with a weighbridge. Therefore, it is likely that more than half (17 of 30) licensed metropolitan waste facilities are using manual methods to calculate data on which landfill levies are charged and performance against Waste Strategy targets is measured.

3.49 We do not have the expertise or confidence to offer definitive solutions to this dilemma. However, we feel it is imperative to draw the issue to the attention of the Parliament given the amount of money raised via the landfill levy to support the Waste Strategy.

94 ibid.
95 ibid.
96 Mr Mike Rowe, Director General, Department of Water and Environmental Regulation, Letter to the Committee, 20 July 2018, p. 3.
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Finding 13
In 2011, the Waste Authority requested the compulsory installation of weighbridges at all facilities subject to the landfill levy. This idea was not supported by the former Department of Environmental Regulation. The new Department of Water and Environmental Regulation has confirmed that while 30 facilities are currently subject to the levy, only 13 have a weighbridge installed.

Finding 14
It is likely that more than half (17 of 30) of licensed metropolitan waste facilities are using manual methods (e.g. truck counts and visual estimates) to provide data against which landfill levies are charged and performance against Waste Strategy targets is measured. This further undermines confidence in the accuracy of the performance data published in Waste Authority reports.

3.50 A final concern around data integrity came about after DWER and the Waste Authority confirmed to us that they have altered their methodology on two waste categories without explaining this clearly in their public reports. During the public hearing, we asked what was behind the decline in the metropolitan MSW landfill diversion rate, which fell from 45 per cent in 2012-2013 to 36 per cent in 2015-2016 (against a 2015 Strategy target of 50 per cent and were advised:

It is really important to know that the municipal solid waste recycling rate is not just about kerbside collection. It includes all of the activities that local governments do. There has been a change in the way that we report the construction demolition aspect of that—quite a significant reduction. As Mr Rowe said previously, the C&D recycling rate is actually better, but part of that is also because some of that was previously being reported under the MSW category, and now it is being reported through the C&D recycling rate.97

3.51 We would expect in these circumstances to see a clear explanation of the change in methodology in the Waste Authority’s Annual Report. Moreover, we would expect to see the respective landfill diversion targets adjusted to reflect this change. Currently, neither action has been fully carried out.

3.52 While there is a reference to some transfers across the two categories in the Waste Authority’s 2016-2017 Annual Report, it is difficult to infer that there has been a change in how the categories are reported. The report simply states:

97 Ms Sarah McEvoy, Executive Director, Strategic Policy and Programs, Department of Water and Environmental Regulation, Transcript of Evidence, 20 June 2018, p. 13.
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The diversion rate for metropolitan municipal solid waste (MSW) decreased in 2015-16, reflecting a drop in the quantity of C&D materials recycled in the MSW stream.98

In terms of revising the MSW and C&D targets, the Waste Authority has confirmed it is considering this as part of a review of the Waste Strategy that is currently underway.99

Finding 15

The Waste Authority and the department have changed the methodology around how two landfill diversion targets are calculated and reported without clearly explaining the rationale behind these changes, or resetting the respective targets. This serves to undermine confidence in the quality of reporting on progress against Waste Strategy targets.

Recommendation 6

The Waste Authority, in its next Annual Report, clearly explain any changes it has made around how it defines its four landfill diversion categories and the impact these changes have had on the targets and rates for each category.

Key communications strategies developed by the Waste Authority not supported until very recently

Success for the Waste Strategy is very much contingent upon the extent to which its messages are effectively promoted to the community, industry and local governments. It is not surprising that one of the five key objectives of the Waste Strategy is to ‘communicate messages for behaviour change and promote [the Strategy’s] adoption’.100 What is surprising is the difficulty the Waste Authority has endured in trying to establish a coordinated communications plan with the department and the government to meet this objective. The audit report found that the Waste Authority was still awaiting implementation of key messages it had prepared in 2013.101

We asked the Waste Authority whether these messages had now been implemented and what had caused the delay. The response again highlighted the difficulties the Waste Authority experienced with departmental (and government) support up until 2017. The Waste Authority confirmed it developed ‘a communication plan as well as key messages’ in 2013 that were not supported:

99  Ms Jenny Bloom, Deputy Chair, Waste Authority, Transcript of Evidence, 20 June 2018, p. 13
100 Waste Authority, Western Australian Waste Strategy: Creating the Right Environment, 6 March 2012, p. 22.
101 As noted in paragraph 2.14 above.
The government at the time determined that it would manage communications and a communications strategy direct with DER.\textsuperscript{102}

3.56 The Waste Authority stressed that since 2017, the situation has improved due to an ‘increased focus’ from the current Minister ‘to address behaviour change and environmental impact’ and ‘considerably improved support from the new Director General of DWER.’\textsuperscript{103} Accordingly, the Waste Authority says it has ‘managed to integrate its key messages into the broader government messaging on resource and material efficiency.’\textsuperscript{104} The Waste Authority did warn that ‘[t]iming and delays are still an issue’ around the preparation and delivery of some materials. However, it is ‘confident these [issues] will be overcome once the revised Waste Strategy is in place.’\textsuperscript{105}

3.57 For several years after the Waste Strategy was released, the Waste Authority and the former DER failed to agree on an integrated communication plan to promote the Strategy’s targets and objectives. This impasse appears to have been partly attributable to a level of intransigence and a lack of support from the former DER towards the work of the Waste Authority. What is quite disturbing is the fact that this issue remained largely hidden from public scrutiny until the audit report.

3.58 One way of measuring improved relations between the Waste Authority and DWER should be that legacy issues around lack of support largely dissipate. However, we think it is prudent—at a minimum—to establish a mechanism whereby any sustained lack of support for Waste Authority initiatives is easier for the responsible Minister to identify and question.

Finding 16
The Waste Authority prepared a communication plan and a collection of key messages to promote the Waste Strategy in 2013, which were not supported by the former Department of Environmental Regulation. This is the third instance we have identified where the work of the Waste Authority appears to have been stymied by departmental intransigence up until 2017.

Finding 17
It is troubling that the former Department of Environmental Regulation’s lack of support for key operational initiatives put forward by the Waste Authority remained largely hidden from public scrutiny until the audit office released its 2016 audit report on the Waste Strategy.

\textsuperscript{102} Mr Marcus Geisler, Chairman, Waste Authority, Letter to the Committee, 20 July 2018, p. 10.
\textsuperscript{103} ibid.
\textsuperscript{104} ibid.
\textsuperscript{105} ibid., p. 10.
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Recommendation 7
The Department of Water and Environmental Regulation formally advise the Minister for Environment whenever it decides not to support recommendations for Waste Strategy-related initiatives put forward by the Waste Authority.

Concluding observations: Improvements apparent, but much still to be done

3.59 It is important to highlight and discuss several points the Waste Authority and DWER put forward in their correspondence during this follow-up. Firstly, the Waste Authority advised that the ‘overall rate of waste diverted from landfill’ had improved to 49 per cent by 2015-2016 compared to 31 per cent when the Waste Strategy was launched.106 This showed that the Waste Strategy has ‘improved waste and recycling outcomes’ in WA.107 Notably, the audit report recognised these improvements, when it acknowledged that ‘waste generation and recycling figures are trending in the right direction.’108

3.60 Secondly, the Waste Authority and DWER stressed that responsibility for achieving Waste Strategy targets and objectives does not sit exclusively with them. Ultimately, this is a shared responsibility requiring actions by ‘all levels of government, the private sector including the waste management industry, as well as the general community.’109 This audit report also recognised this point.110

3.61 The final point is that working relations between the Waste Authority and the department under the new Director General of DWER appear to have improved. Both entities claim to be enjoying a more collaborative approach and shared focus on the importance of effectively implementing the Waste Strategy.

3.62 While we acknowledge these points, we think it is important to make the following concluding observations in response. Firstly, despite the recent improvements cited by

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106 Mr Marcus Geisler, Chairman, Waste Authority, Letter to the Committee, 20 July 2018, p. 1. This trend data appears to have been taken from ASK Waste Management Consultancy Services, Recycling Activity in Western Australia 2015-16, 2 August 2017, pp. 3-4. An amended final version of this report, released nine months later, revised this rate back to 48 per cent. See ASK Waste Management Consultancy Services, Recycling Activity in Western Australia 2015-16, 18 May 2018, pp. 3-4. It is important to note that these figures relate to the total proportion of waste diverted from landfill and should not be confused with the four separate waste category landfill diversion targets referred to in Waste Strategy publications.


109 Mr Marcus Geisler, Chairman, Waste Authority, Letter to the Committee, 20 July 2018, p. 1; Mr Mike Rowe, Director General, Department of Water and Environmental Regulation, Transcript of Evidence, 20 June 2018, p. 15.

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the Waste Authority, WA’s 2015-2016 overall waste diversion rate was still nine points below the 2014-15 national average.\textsuperscript{111} Moreover, the most recent reporting available shows that only two of the four waste categories listed in the Waste Strategy have achieved their 2015 targets.\textsuperscript{112} Unfortunately, with all the figures cited for WA, there are significant underlying concerns around the quality of the supporting data. In addition to the data integrity issues we discussed earlier, we note that landfill diversion rates could be further skewed by the amount of waste that facilities may be stockpiling to minimise landfill levy liabilities.\textsuperscript{113}

\textbf{Finding 18}

While the Auditor General’s report confirmed that waste generation and recycling figures are ‘trending in the right direction,’ WA’s 2015-2016 overall waste diversion rate was still nine points below the 2014-15 national average. Moreover, the most recent reporting available shows that only two of the four waste categories listed in the Waste Strategy have now achieved their 2015 landfill diversion target rates. In addition to the data integrity issues we have already raised, there is a risk that these landfill diversion rates could be skewed by the amount of waste that some facilities may be stockpiling to minimise landfill levy liabilities.

Secondly, we accept that responsibility for achieving Waste Strategy does not rest exclusively with the Waste Authority and DWER. Like the Auditor General, we agree that both entities ‘have a tough task in changing behaviours and practices’ throughout industry and the community.\textsuperscript{114} However, the Waste Authority and DWER are responsible for implementing the Waste Strategy. As such, their focus should be on developing and managing projects and programs that seek to facilitate the behavioural change they rightly claim is critical to improving diversion rates. Unfortunately, the ongoing failure of both entities to establish an agreed governance framework appears to have diverted their focus away from these core tasks. The result is that a major strategy, which has already received more than $140 million of public money, has underperformed in its early years.

\textsuperscript{111} The latest figure we were able to source is the national waste recovery rate as cited in, Department of the Environment and Energy (Cth), \textit{Australian National Waste Report 2016}, 20 June 2017, p. vi.

\textsuperscript{112} See Table 1 on page 7 above.

\textsuperscript{113} DWER confirmed that it collects data on stockpiled waste through the voluntary Recycling Activity in Western Australia report survey, and visual estimates based on an online mapping tool. For the year 1 July 2016 through 30 June 2017, the data showed a 268,500 tonne increase in stockpiled C&D waste. This represents an increase of 36 per cent over the 12-month period. Mr Mike Rowe, Director General, Department of Water and Environmental Regulation, Letter to the Committee, 20 July 2018, p. 4.

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3.64 Both the Waste Authority and DWER have demonstrated to us a commitment to addressing the issues that have plagued the early years of the Waste Strategy. They conveyed a level of confidence that most of the issues will be resolved—and the Auditor General’s recommendations fully actioned—following the imminent completion of several major tasks. These include:

- finalising the governance framework—due by the end of the year;
- any subsequent revision of the current SLA that may come out of a review scheduled to take place within 12 months of the governance framework being finalised;
- the review of the WARR Act—commencing in 2019;
- the review of the 2012 Waste Strategy—currently underway;
- the development of a waste data information strategy—in its final stages; and
- regulatory amendments to mandate waste and recycling data collection—within the next six to 12 months.

3.65 These are important steps and it is critical they are all followed through. It is likely we will return to this matter within the next eighteen months. We would hope by then to see these actions completed and the challenges observed during the early implementation period of the Waste Strategy resolved.

DR A.D. BUTI, MLA
CHAIR
Appendix One

PAC’s role in following up reports from the Auditor General

PAC’s role in following up performance audit reports

The Office of the Auditor General plays a critical role in public administration by examining how effectively public sector agencies implement government policies and programs. As part of this role, the Auditor General’s team routinely conduct performance audits, which can highlight examples of good practice or identify deficiencies in an agency’s operations and procedures.

Performance audit reports generally include recommendations designed to help the audited agency address identified shortcomings, thereby facilitating a more efficient use of public money. Yet there is no formal requirement for agencies to provide a response to these recommendations and the Auditor General has no authority to demand one.

Consequently, public accounts committees (PACs) across most Commonwealth jurisdictions usually provide some form of support to their audit offices to ensure performance audit recommendations receive due consideration. In Western Australia (WA), the PAC has undertaken an agency follow-up process since 1996, although the approach has varied in accordance with the preference of the committee members over the six parliamentary sessions that have ensued.

Our approach is based on a triage methodology that assigns a follow-up rating based on five criteria:

• program or policy cost;
• public interest;
• criticality of audit findings;
• level of urgency; and
• level of commitment and detail provided by the audited agency in its initial response (which is usually included in the audit report).

In March this year, we triaged 25 performance audit reports from 2015 and 2016.
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Out of this process, nine reports fell within our ‘low-priority’ triage range. For these reports, we opted to conclude our follow-up while reserving the right to open correspondence with the audited agencies should circumstances warrant interrogation in future.

Nine other reports fell within our ‘medium-priority’ range. With one of these reports, we chose to conclude our follow-up. For the remaining eight, we have sought and received written responses from the audited agencies. These follow-ups remain open while we consider the adequacy of the responses.

Seven reports received a ‘high-priority’ triage score. For one of these, we decided to write to the audited agencies, as they appeared to have already addressed the most pressing issues identified by the Auditor General. For the other six reports, we thought it appropriate to call the audited agencies in for a public hearing to discuss their response to the audit reports in depth. These hearings occurred over three sitting weeks in June 2018 and we followed-up each agency with a series of further written questions.

Over the next few months, we hope to deliver a series of reports highlighting follow-ups where we retain concern over the adequacy of the agency responses, or where we see opportunities to build on some encouraging actions.
Appendix Two

Transcript of hearing with the Waste Authority and the Department of Water and Environmental Regulation

PUBLIC ACCOUNTS COMMITTEE

REVIEW OF AGENCY RESPONSES TO AUDITOR GENERAL REPORTS

TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 20 JUNE 2018

SESSION ONE

Members

Dr A.D. Butti (Chair)
Mr D.C. Nalder (Deputy Chair)
Mr V.A. Catania
Mr S.A. Millman
Mrs L.M. O’Malley
Hearing commenced at 9.28 am

Mr MICHAEL CHARLES ROWE
Director General, Department of Water and Environmental Regulation, examined:

Ms SARAH CRADYL McEVOY
Executive Director, Strategic Policy and Programs, Department of Water and Environmental Regulation, examined:

Mr MARCUS JACOBUS GEISLER
Chairman, Waste Authority Western Australia, examined:

Ms JENNIFER ANN BLOOM
Deputy Chair, Waste Authority Western Australia, examined:

The CHAIR: Thank you for appearing today to discuss your responses to the recommendation in the twenty-third Auditor General report of 2016: "Western Australian Waste Strategy: Rethinking Waste". My name is Tony Buti and I am the committee Chair and member for Armadale. With me is to my left, Dean Nalder, the committee’s Deputy Chair and member for Bateman. To my right is the member for Mount Lawley, Simon Millman, and to his right is Mrs Lisa O’Malley, member for Bicton. Vince Catania, member for North West Central, will be joining us at some stage. I would like to advise you that the committee has asked the Acting Deputy Auditor General and his officers from the performance audit team to observe today’s proceedings from the public gallery, which is actually behind you. Following the hearing, the committee may consult with the audit team for clarification on matters raised. I would also like to advise that today’s hearing will be broadcast live over the Parliament House website. It is important that you understand that any deliberate misleading of this committee may be regarded as a contempt of Parliament. Your evidence is protected by parliamentary privilege. However, this privilege does not apply to anything that you might say outside of today’s proceedings.

Do you have any questions about your attendance here today?

The WITNESSES: No.

The CHAIR: Before we ask some questions, do you have any opening statements that you might like to make?

The WITNESSES: No.

The CHAIR: You mentioned in your agency response that you did not see the Waste Authority and the department being a natural fit. I would like you to maybe tell us why you think that is the case? Also, with regard to recommendation 1 from the Auditor General —

1. By the end of February 2017, Waste Authority and DER should:
   a. Clarify and communicate the roles of each agency ...
   b. Finalise a Service Level Agreement ... and governance framework.
   c. Develop business cases and implementation plans for all projects funded by the WARR Account.
d. Provide regular and comprehensive progress reporting for all annual business plans, associated projects and financial expenditure to the Waste Authority board.

The agency has not been able to find any information in regards to that—well, if you have achieved that recommendation. It is a two-pronged question really: why do you think it is not a natural fit; and then can you tell us a bit more about what the agency has done in response to recommendation 1?

Mr GEISLER: I will lead off. The comment about the natural fit is—I think from the report it also shows that at the moment there is a fair bit of confusion in the sector because the Department of Water and Environmental Regulation is a regulator and we are more a strategic and a proactive forward-looking organisation that wants to change behaviour of the community to become a low-waste society. Here we have a regulator giving support to someone that wants to change behaviour. I have to make a comment that in the meantime, there was a change of government and a change of director general and the attitude towards the support has changed a fair bit. Under the previous director general, for example, the director general did not support us to be involved with planning. Planning was objective 1 in the waste strategy—it still is in the current waste strategy. The DG at the time actually said, “Planning is not the role of the Waste Authority. It is a role for the planning department.” Here we have a regulator that has actually tried to control and, in a way, restrict us to perform our duties and our responsibilities. That is why we said at the time it is not a natural fit that a regulator gives support to an authority that wants to change the community mindset and behaviour.

The CHAIR: I know you have mentioned there is no change. Are you still satisfied with that comment or do you think it is more of a natural fit now?

Mr GEISLER: It is a better fit because of the attitude and also because of the change of focus of the current government. There is a big focus on waste and obviously, if the government is focused on waste, I think the automatic response is that the DG is very interested in waste as well. Waste and recycling has definitely been lifted. It is still not a natural fit because there is some angst in the sector, for example, share information with us because the regulator is always involved in that discussion because they work on our behalf. We are a five-man team. We are part-time with members—kind of like a board. But all the operations are actually performed by officers of the department of environment. Also the officers do not identify themselves as being—they are not employees of the Waste Authority but they always introduce themselves as employees of the department of environment and regulation. If you want to have an open, transparent and constructive relationship with the sector, it is not always best to go in with the badge of the regulator.

The CHAIR: While you think things are better now, what would be the optimum situation for you?

Mr GEISLER: I think it is good to be linked to an organisation like the department because it is better to be in than to be out because, in the end, we both have to work together as two organisations to deliver the same goal and to actually deliver the waste strategy. We have to work together. It is just about the attitude of working together and being open and transparent. The issue still is that we have no visibility on the intent of what the regulator wants to do but the regulator knows exactly what we want to do because they deal with all our operational issues. But as I said before, it is more transparent currently with the new DG and that is throughout the whole organisation. Ultimately, we would like to have waste lifted within the structure of the Department of Water and Environmental Regulation and have a director managing the waste area instead of it just being a subset or a division. We have argued for that to have a leader not to be a level 9 public officer but
Appendix Two

actually to have it as a director’s function to give it more focus and report directly to the director general. But I understand the new structure is being finalised and we have given input into that restructure.

The CHAIR: Do you have any further comments with regard to that?

Mr ROWE: Thank you for the opportunity. I would like to make a few comments. I think in general terms the department and the Waste Authority has a good relationship. I understand it is a better relationship than what has happened in the past, which is positive. I have been very clear that we should be positioning the Department of Water and Environmental Regulation as a system steward for the environment and for water resources. Clearly, we have a lot of regulatory functions in the way that we do our work but we are more than a regulator. If you look at our science capacity, that is a lot about understanding the natural resources. Certainly on the water side there is a lot of capacity in that space in terms of air, noise and other things. We have a very strong role to understand what is going on in the environment and to communicate that. We have a policy function that we provide advice to government on all matters to do with water and environmental regulation and we are, as Marcus said, a regulator as well and we discharge our functions under particularly the Environmental Protection Act and the Rights in Water and Irrigation Act in relation to the compliance functions that we have to do in the way that we administer those things. We also support a number of advisory committees, just like the Waste Authority. We support the Environmental Protection Authority, which is a significant advisory body in its own right; the Waste Authority; the Keep Australia Beautiful council; a number of water resource advisory councils; and the Contaminated Sites Committee, and our staff support the Office of the Appeals Convener. I think it is possible to be able to maintain the role of the regulator as well as provide a high level and effective level of service to the various bodies that the minister and the government have asked us to service. Ultimately, it is the government’s choice about how they choose for these committees to be serviced, and in this instance the departments and the government has decided that this department should provide that level of executive service to the various authorities that we support including the Waste Authority. I think that there is always room for improvement. Certainly, I would make the comment that the Auditor General’s advice, I think, has sharpened both the Waste Authority’s and our own efforts at what we can do better to work together. We have made good progress on all the recommendations that were set out by the Auditor General, which we are happy to talk about.

The CHAIR: Maybe we could go to recommendation 1.

Mr D.C. NALDER: Can I just check, with the titles, why have we got a chair and an acting chair? Is that incorrect?

Ms BLOOM: It is because the chair has been on leave and there was a possibility that he may not have made this meeting, so, as the acting chair while he was away, I handed over as of yesterday. I am the deputy chair normally.

The CHAIR: Back to recommendation 1.

[9.40 am]

Mr ROWE: Recommendation 1 was about clarifying and communicating the roles of each agency, including details of agency responsibilities for waste policy development and actions to make waste strategy objectives and the decision-making process between department staff and the Waste Authority. A number of things have happened to do that. The first of which is that the Minister for Environment, consistent with the Public Sector Commission’s good governance guide for boards and committees, has issued a statement of expectations to the Waste Authority. That
has set out his expectations for how the Waste Authority should operate. Similarly, the Waste Authority has responded with a statement of intent confirming its intention to operate within that arrangement. In addition, we now have a finalised service level agreement that Marcus and I signed in August 2017. That is a service level agreement that will take us from 2017 through to 2020. Of course, it is open to review and we will be reviewing it again shortly. We have started to get those basic mechanics in place that allow that clarity to be further understood and communicated between the parties. In addition to that, following discussions with Marcus and the Waste Authority, I sought advice from the Public Sector Commission about looking particularly at the Waste Avoidance and Resource Recovery Act and the way that it is structured to see whether there was more clarity that could be brought to the roles and responsibilities of both entities. We received that advice and we will be using that as the basis of inviting Ernst and Young to do some additional work on a governance framework. There is a whole suite of activity that has happened as a result of the Auditor General’s report. I think the general consensus is that that is providing much-needed clarity between the functions of the department and the way that we service the Waste Authority and the functions of the Waste Authority and the way that it reports to the minister.

The CHAIR: Is it the clarification aspect and also the service level agreement—are they public documents?

Mr ROWE: Yes, they are.

Mr GEISLER: The clarification is not.

Mr ROWE: No, the statement of intent is published, and the statement of expectation is —

The CHAIR: The statement of intent is the ministerial statement of intent, but what about your response to that?

Mr ROWE: Yes, that is also published.

Mr GEISLER: That is also on the website, yes. But the advice we got from the Public Sector Commission on the clarification of the roles and responsibilities, that is not public, but it highlighted that there is some confusion about the wording. In some documents we are the agency and sometimes the department is the agency. It is about financial management and there is a finance act and there is the responsibility of the DG. But the Waste Authority also has a responsibility for the WARR account, so there is room for improvement, but the WARR act review is coming up next year and that is an opportunity to fine-tune that.

The CHAIR: So there has been clarification but there is still confusion.

Mr ROWE: I think the confusion probably relates to the way that the act is constructed. Mr O’Connor’s advice did go to the question of how the act was constructed, particularly, as Marcus was suggesting, because under the Financial Management Act, I am the responsible authority for the expenditure, even though the Waste Authority is advising the minister on how the money should be expended. The minister ultimately makes that decision but it is the director general under the Financial Management Act who is responsible for that funding. There are those kinds of things that could probably benefit from a bit of teasing out in the way the act is constructed, and there are probably a few other things that could benefit from that. Fortunately, as Marcus indicated, the WARR act, the Waste Avoidance and Resource Recovery Act, is due for review anyway, so it does provide that opportunity to look at whether we can provide additional legislative clarity between the roles and responsibilities in addition to what we are doing administratively through the various instruments that we have established—the service level agreement, the regular discussions that we have—and the statement of intent and expectation that has been received from the minister.
The CHAIR: What about the development of business cases? The third and fourth parts of that recommendation includes the development of business cases and implementation plans for all projects funded by the WARR account, and then the provision of comprehensive progress reports.

Mr ROWE: My understanding is that that is now in place and it has been since 2016–17. All of the projects and programs now have a business case developed and recommended.

The CHAIR: Since 2016, but I think the Auditor General said they could not find the information in regard to that.

Mr GEISLER: There are business cases and project management plans for every external expenditure program. There is no business case required for internal expenditure like staffing costs and the support costs, which are provided by the department. I think that is the logical next step. Even if there is a funded program externally or an external party, there is a business case that is approved through the business plan by the minister and there is transparency and tracking, so that is in place. Now we just need the same rigid tracking and development for the internal cost of the department as well, because we need transparency on that as well.

The CHAIR: And there are comprehensive and consistent or continuing progress reports on what you do?

Mr GEISLER: Yes, on a monthly basis. We have the traffic light report that shows what programs are all on track and there is the financial information on that. Every quarter there is a review of the total expenditure tracking against the budget. We got some advice from Ernst and Young. They went into the department and we set up a reporting format together with the consultant and it has been in place now for four months. That is actually performing well.

Mrs L.M. O’MALLEY: Just on that, when you were referring to the quota and expenditure, what about collection? When we look at levy collection, how is that being tracked?

Mr GEISLER: The Waste Authority or the WARR account—the levy account—automatically gets 25 per cent allocated of the budgeted amount. Then the department’s responsibility is to collect the outstanding levies. That is not a role of the Waste Authority.

Mrs L.M. O’MALLEY: Would you mind expanding on that?

Mr ROWE: I might ask Sarah McEvoy to give the detail on how that works.

Ms McEvoy: We have quarterly payment of levy. There is a team that undertakes the levy collection. That includes following up any late payments et cetera. Because the levy applies to waste that is either generated in the metropolitan area or disposed of in the metropolitan area, we are well aware of the liable entities. There is a different method of calculation for the different kinds of waste but the team is well aware of those kinds of things. We track that in a similar kind of way to other financial tracking, and that includes an analysis of levy receipts against levy forecast revenue.

Mrs L.M. O’MALLEY: Additionally to that, I have noted in some of the communications from the report of the possibility or intention of moving waste from metro to regional and how that is potentially a point of loss. Is that something you have a comment on as well?

Ms McEvoy: That is a compliance function. That is certainly something that is part of the compliance and inspection program. We are also aware of the liable kind of potential places where that sort of waste can be disposed of, so we check that. We also have an illegal dumping team. They also check to see if there is any commercial quantity disposal of material to non-licensed premises.

Mrs L.M. O’MALLEY: Just on that, the experience I have, too, with the illegal dumping is that it also puts additional pressure on some of those areas of bush that are being managed.
Ms McCORQUODALE: That is true. We have partnerships with local governments and other agencies that are land managers to be able to work with them to reduce the incidence of illegal dumping through covert operations and targeting particular dumping sites.

Mrs L.M. O’MALLEY: Just finally on that point, is there any way of getting an understanding of potential loss of revenue through illegal dumping or through movement of waste to regional areas?

Ms McEOVY: There is no significant evidence of illegal dumping being a significant loss. Obviously, it is an amenity issue. I think having that deterrence of regular operations definitely helps with avoiding that being a source of loss. In terms of regional landfills, there is no significant evidence of loss of levy from there. Obviously, we would need to keep on top of that because there is always the chance that individual operators may try to avoid levy payment. Because of the way the levy works, it is possible to stockpile material and not dispose of it to landfill. That can affect the flow of levy liability because it is only liable once it is disposed of to landfill.

The CHAIR: I want to go off track a little bit before my colleagues ask a question and it is really triggered by what Lisa said about levies and so forth. Part of this is the act and the interpretation of the act. From what I can gather, once you determine a substance is waste, the material is a waste material forever and you do not seem to look at the use of it. I think there was a High Court case, and you know of a dispute of a certain organisation. Is there any material that does not attract the landfill levy and does the department classify any landfill sites that do not attract the levy?

Ms McEOVY: By definition, landfill sites only accept waste. That is —

The CHAIR: So you do not have any sequential land — there can be no sequential land use in WA?

[9.50 am]

Ms McEOVY: Absolutely. We have addressed the court case to which you refer by making some regulatory amendments recently and also changing our landfill classification and waste definitions document. The definition of waste is quite complex, which obviously we found from that court case. It can change — whether something is waste at any particular time in its life. Justice Beech basically said that waste was a material that was unwanted by its source. That can change from time to time. What is unwanted at some particular time might be wanted at a different time. We are very much wanting to encourage re-use, recycling, so that is a key part of waste avoidance and resource recovery. The changes to the regulations were all about making things like sequential land use much more possible, so defining clean fill and uncontaminated fill so that you could use those materials for filling for land development, including moving materials from site to site without attracting a levy or being required to hold a landfill licence.

The CHAIR: With the changes you have made, would that mean that with decision that you have responded to, there is now a greater chance of sequential land use in WA?

Ms McEOVY: Yes. Having said that, it is not possible to change something from being landfill to not landfill at a whim. You need to be using that material as part of the development. If it is uncontaminated material, you are filling that land with the intention of developing it from the start, rather than converting a licensed landfill right at the end and saying, “That’s no longer a landfill.”

Mr D.C. NALDER: Just on the recycling, I am referring to the fact that by the end of June 2017, the DER should have identified and agreed on solutions that will enhance the accuracy of waste and recycling data to report against the waste strategy. There has been a lot of talk about what is happening with China and accepting recyclables and accepting all this sort of stuff. Are you able to share where this is at and what is actually happening so that we can see it in practice or the practical outcomes or applications of the new policies in this space?
Mr Rowe: I might make a start and then others can chip in. I understand that this is a longstanding issue. We were talking about it earlier and the Waste Authority has had this on its radar for some years. Of course, the Auditor General brought it further to attention through this process. My understanding is that we are close to finalising a waste data information strategy research report to look at waste data needs and gaps. That is to be expected as part of mid-2018, so that is an overall piece of strategy work. However, we are also drafting amendments right now to the Waste Avoidance and Resource Recovery Regulations 2008 to effectively make data collection from local governments, recyclers and large non-metropolitan local governments mandatory so that will really tighten up what we expect or require from people and greatly improve the accuracy of the information that we collect. That will be a matter of finalising those regulations and probably some further consultation with stakeholders about the methods that will be applied so that we are clear about what we are asking for and that people are able to provide that information. Then, depending on the drafting priorities and the priorities of the government, hopefully, that will be in place in the next six to 12 months. We would start to see greater requirements on people to comprehensively and consistently report back to us about the level of recycling that is occurring.

Mr D.C. Nalder: That is councils?

Mr Rowe: They will be included—local governments, recyclers and large non-metropolitan local governments. Is there anybody else there that is included on that list?

Ms McEvoy: Waste operators.

Mr Rowe: Waste operators, yes.

Mr D.C. Nalder: How do you define "large non-metro"?

Mr Geisler: The regional council? This is a local government with more than 15,000 population—Kalgoorlie, Albany, Port Hedland.

Mr D.C. Nalder: So the Narrogin, Wagin and Merredin do not count?

Mr Geisler: No. I think they are classified as remote.

Mr D.C. Nalder: It is mostly on the coast.

Mr Geisler: Yes. But this is interesting. We requested this mandatory data collection in 2013 and 2015 of the then DG and finally in 2018, there is an action through this response. Of the private sector, we get about a 65 to 70 per cent response. There are some huge operators and they can actually skew the outcome of the numbers of how much is recycled and how much is received. It is very important to have this mandatory data collected.

Mr D.C. Nalder: Pardon my ignorance on this; I just want to explore this little bit. What I hear is anecdotally and what people talk about is that councils are taking recyclable material, so people in their homes are putting it in the appropriate bin, but a lot of that is ending up in landfill somewhere because there is no-one to take these recyclables, whether it is China not taking them or —

Mr Geisler: I think that is a different discussion, but just on the China situation, it is basically an opportunity. It is a short-term threat but a long-term opportunity. China made a decision 15 years ago to clean up their environment because they were importing recyclables and within these recyclables a lot of waste was mixed in as well. Last year, they actually said to the market, “We will only accept, instead of five per cent contamination, 0.5 per cent”—so non-recyclables in your bales of recyclable materials. They are just tightening up their quality control. We would do the same. I think if we were importing. We could not even get 0.5 per cent into the country here because you cannot bring in waste into Australia. I think they are doing the right thing from that point of view. They are cleaning up their environment. The recyclables are now finding their way—not directly to
China but we are now going to other countries like Indonesia, Malaysia and Vietnam until they tighten up their restrictions as well. It is just a matter of time. The opportunity to look at onshore processes instead of just sending bales with a little bit of rubbish in it—we should do onshore processing. The minister has formed a task force and we are exploring the opportunity for that. Where this goes back is to what we call a recycling centre. We never recycled in Australia, so it is a sorting facility. When the community puts recyclables in the yellow-top bin, unfortunately, they put in about 20 per cent of material that should not be in there. Then it has to go through a process and this process tries to eliminate these non-recyclables —

Mr D.C. NALDER: Nappies and all sorts.

Mr GEISLER: Nappies and stuff that should not be in there. A lot of it is actually clarity on what can go in the bin, and a lot of it is wish-cycling. People actually wish or hope that if they put it in the recycling bin, it gets recycled. If it is not on the list of recyclables that can go into the yellow-lidded bin, it will never be recycled and that material will have to go to landfill. That is about 20 per cent and some areas are 30 per cent. That all goes back to awareness and engagement and education.

The CHAIR: Is it the local governments that have to do that?

Mr GEISLER: Yes, the local government is responsible for that.

Mr ROWE: Just to be clear on that, in relation to your question, Mr Nalder, around how you hear that recycled materials are going to landfill, that is not our understanding. Notwithstanding that China saw a decision and the fact that there might be challenges over time and the need to develop a local processing facility, at least in Western Australia we do not think it is the case that recycled material is ending up in landfill.

Mr D.C. NALDER: I have only read it in reports and it is anecdotal and so forth. But is there a governance process around to ensure that that is the case?

Ms McEVoy: I guess just through the task force there is the conversation about the local processes.

Mr ROWE: Sarah has just reminded me of the minister’s task force, which is chaired by his parliamentary secretary, Reece Whitby, and includes representation from the waste industry, local governments, community organisations, the Waste Authority, the department and others. We have had three or two meetings. In each instance we have been trying to check with the operators about whether there is any evidence to suggest that the situation is changing in response to China. Their advice to us is, “No, it is not; the recycling is still continuing.” There are still markets that they have for it. Often people are confused with the situation on the east coast of Australia. We are not in the same situation as many of the eastern coast local governments are.

Mr D.C. NALDER: Why is that?

Mr ROWE: Because there is a different contractual relationship between the way that the waste is managed here between local governments and the waste providers. The general understanding we have is that there are very few local governments in metropolitan Perth that are having an issue at the moment with regard to recycling their material. Where there are the few that may be having an issue with their provider, they are dealing with that in a contractual sense. That is a relationship that they have in their contract, but Marcus would have much greater visibility of the intricacies of how that relationship is working. Where there are the few that may be having an issue with their provider, they are dealing with that in a contractual sense, so that is the relationship they have with their contractor, but Marcus will have a much greater visibility of the intricacies of how that relationship is working.

[10.00 am]
Mr GEISLER: A good example is Victoria. There, the operator of the sorting facility were paying at
the gate for the material. Now the commodity prices are dropping they have to fund the process,
so now they actually want to open up their contracts; they want to get a gate fee now. Typically, in
the facilities in Western Australia a gate fee is already applicable, so the pain is not that much. But
if the commodity prices, because they are still commodities—plastic, paper and cardboard, steel
and aluminium—keep dropping, obviously, there needs to be more revenue at the gate. So there is
definitely a link between them.

Mr D.C. NALDER: Twenty per cent of recyclable has general waste in it. What is the other side, for
general waste? Are we getting better? Is that ever checked, as to how efficient households are
going? I know, as a consumer, I am sometimes confused. I sit there going, “Is this recyclable or not
recyclable?” I will wash something out and hope it is. There is a degree of ignorance, but is that
getting better? As an education process, what are your processes for checking and then ensuring
that this improves?

Mr GEISLER: A couple of years ago, one of our programs started, called the Better Bins program,
because there were still local governments that had one bin, and over the other side of the main
road there was a local government that had three bins. I am talking about Stirling and Bayswater. It
was very confusing that the neighbour on the other side of the street has three bins and I have one
bin. The lid of that one bin was yellow. Just put it all in, we will recycle it for you! The national and
international evidence is that separating at the source is the best way to recover material and to
minimise waste generation as well, because you create an awareness with the community, what
goes in what bin and how much waste you generate. The Better Bins program is actually about
subsidising the rollout of more bins, so more separating at the source for households. It is between
$6 and $30, whatever option they choose. For example, Stirling, the biggest local government in the
metro area, they went from a one-bin system to a three-bin system. Now they have a yellow-lid bin
for recyclables, they have a lime green-lid bin for the organics, and they have a red-lid bin for the
residual waste.

Together with that Better Bins program, there is an education program that local government has
committed to. Through the funding, they have to put some of the funds towards education and
awareness.

We also develop, as the Waste Authority, the right bin toolkit. It is more a guide for local
government, how to communicate with the residents on what goes in what bin, because it is
confusing. Until we have the same collection system and consistency in the metro area or in
Western Australia, so we all have the same collection system, it is going to be difficult to get that
simple message across.

Mr D.C. NALDER: So that is something you are looking to enforce?

Mr GEISLER: Yes, it is a $20 million program. We are three years in the program, and about
40 per cent of residents will have a three-bin system in the next couple of years. It is a voluntary
program. It would be easier if these things are mandatory and we work towards a transition period
so everybody has the same system, because then obviously the communication is much easier.

The CHAIR: Bunbury has the three-bin system and my 83-year-old mother is completely confused.

Mr GEISLER: Maybe she should look on our app!

Mrs L.M. O’MALLEY: The City of Melville is also rolling out the three-bin system. Just to clarify, the
cost of that will largely sit with the local government authority, is that correct?

Mr GEISLER: About 80 per cent of the up-front cost.
Mrs L.M. O’MALLEY: It is voluntary; therefore, it is probably going to depend a little on the size and the capacity for the local government to deliver. So is that something that the authority is tracking as to, like you said, 40 per cent at this point in time?

Mr GEISLER: Yes. Officers are talking to all local governments; we are trying to convince them to get on board early. We limited the time frame to three years. It is a $20 million program. It was a very slow take-up in the first couple of years; now a lot of local governments are getting on board. The minister has approved the extension of one year, and I think we will keep on extending it until everybody is on board. There are existing collection contracts in place, so obviously we have to take that into account as well.

Mrs L.M. O’MALLEY: Is the $20 million mostly taken up with promoting it?

Mr GEISLER: No, that is hardware. That is the bins, that is the rollout cost, and education is 10 to 15 per cent of that as well.

Mrs L.M. O’MALLEY: I am quite interested in looking at recommendation 3, which is around improving stakeholder guidance and current resource recovery rates, and the role of the state government in that. I am curious as to what progress has been made towards completing a waste and recycling infrastructure plan, and also, in particular, number 17 around the role the state government has in adopting a procurement policy that promotes the use of recycled products. I guess it is procurement around the actual purchase of recycled products for government, but also on recovered waste. I think you mentioned the example earlier, which I have experience of, and that is the clearing of the Roe 8 site; a lot of that waste was able to be repurposed for the Murdoch extension, so showing that really positive impact in that regard. So where are we up to with any other commitments around that?

Mr GEISLER: Two years ago, another flagship program started, the recycled construction products program. That is a $10 million program, and that actually subsidises the end user. In this case, 80 per cent—$8 million—is earmarked for local governments to use recycled road base in their roads and footpaths and parking lots. There is $2 million earmarked for private developers, so they actually have access to it as well, and that is by subscription, so we open up the round and they can put their projects in.

Unfortunately we have not been able to spend a lot of those funds, I think between $50 000 and $100 000 of the $10 million over the last two years, because the acceptable limits of the material—this is a technical discussion, and this has been resolved, actually, in the last two months. The department has now agreed with the maximum contamination limits that are acceptable, so that technical argument is off the table, so that is good; the way is open. Now local government just has to take up the material. We are promoting it heavily.

What also happened in the last six months is that the procurement of recycled product is definitely pushed by the current government, and the department is doing a lot of work on developing this procurement. For example, in Victoria, 20 per cent of road base has to be recycled material, so to create a little bit of pull in the market, if it is economically available in the area. I am originally from the Netherlands. We have had for a decade now that 50 per cent of road base has to be recycled content. So by having a recycled content policy as a government, obviously, that will help the market to integrate that pull through the facilities. Then obviously industry will invest in processing capacity.

There is about 5.4 million tonnes of waste generated in Western Australia, and half of that is construction and demolition waste, so if you want to achieve our diversion from landfill targets, construction and demolition waste is definitely an area to target.
Mr ROWE: I might just add to that, if I may. As Marcus suggested, the department has made good progress in working with particularly the health department in terms of arriving at an agreed standard in relation to potential contamination of materials. Marcus and I have also been having very productive discussions with the director general of the Department of Transport about how the transport portfolio might demonstrate government leadership in greater use of construction and demolition materials, and that agency is actively looking at opportunities to support that. The general advice we have from that portfolio and our understanding is that local governments will probably look to the state government in leadership in this space, so if the local governments are confident that the re-use of construction and demolition materials, particularly for things like road base, are good enough for the state government, then local governments generally will follow suit. So we are hopeful that these are positive moves in the right direction and we continue to work across government to that outcome.

Your other general question was about government procurement more generally, to do with sustainable procurement. The Waste Authority had approved a consultancy which is engaging with government departments to explore that option across the board. In addition, as part of informing the current waste strategy, Marcus and I have also met with a number of the key directors general of government agencies to really look at what opportunities their portfolios and departments may have to lead by example. So we have met with the Department of Finance, who obviously is responsible for government procurement overall, and they are very open to reviewing the sustainable procurement policy to support that kind of agenda.

We have met with the education department. Clearly, they have a big footprint and obviously a very important educational role to encourage our next generation to think this way. They are open to working with us. There are some opportunities in that space. The Department of Communities, particularly in the housing space, the public housing that they construct either privately or within joint ventures, again is another great opportunity for government to be leading by example. So there is a very active conversation across government right now to support a greater uptake of sustainable procurement by the state government.

[10.10 am]

Mr D.C. NALDER: Coming back to this question I asked around landfills and recyclables, you said there is no evidence. Can I ask why our landfill diversion rate for metro and municipal solids is continuing to worsen, so the rates that are actually going is continuing to climb? Why is that occurring? What is causing that?

Mr GEISLER: I think we are in a transitional phase. Local government is moving away from fixing and pulling apart waste at the end of pipe, so the technical solution, and they are moving towards separating at the source through the three-bin system. It was mentioned before: in Bunbury, they have been very successful with the three-bin system. They get a diversion rate of 65 per cent for the municipal waste from the households. It is all about local governments implementing the right collection systems and employing the right engagement and awareness campaigns.

Mr D.C. NALDER: But the diversion rates are getting worse.

Mr GEISLER: That is because processing facilities are closing down. The Atlas facility closed down, that was looking after the Stirling waste stream.

Mr D.C. NALDER: So more recyclables are going into landfill?

Mr GEISLER: Potentially.

Mr D.C. NALDER: I asked that earlier, and you told me there was no evidence. I am saying that diversion rates are actually getting worse.
Mr ROWE: Yes, I understand your question now. At the risk of not wanting to mislead the committee, what I had thought you were interested in was where there was active source separation occurring, say, with the material that was sourced, and at that end —

Mr D.C. NALDER: I did not define it that way.

Mr ROWE: My apologies; I must have misunderstood the nature of the question. If you look at the recycling rate as we understand it—the latest figures that we have are for the 2015–16 financial year—the overall state recycling rate has gone from 31 per cent in 2010–11 to 48 per cent in 2015–16, but that includes three separate waste streams. It includes municipal, construction and demolition waste, and commercial recycling as well. So if you look at the municipal solid waste recycling figure, which I think is the one you are interested in, it has gone from 39 per cent in 2010–11 to 35 per cent in 2015–16.

Mr D.C. NALDER: It got up to 45 per cent in 2012–13.

Mr ROWE: It did; that is right.

Mr D.C. NALDER: That is what I am more concerned with. It was improving and then since 2012–13, it has fallen off a cliff.

Mr ROWE: Yes. I guess the other point we discussed a little bit earlier was the increased uptake of the Better Bins program, and this is a lagging indicator. We would hope, given the uptake of local governments in the last few years of that new Better Bins program, that we would start to see these figures improve as source separation, we hope, will start to improve at the local government level.

The CHAIR: Is it not Marcus’ point that we are putting a lot of emphasis on source separation by residents, but local councils are doing away with separation at their end. You are about to embark on an explanation of what the City of Stirling used to do with Atlas and how they have stopped doing that. I do not mean to cut across Dean’s line of questioning, because I am interested to see where it ends, because I think it is the right line of questioning. But, firstly, is that happening; secondly, what sort of penalties can we put in place for the local councils not carrying the weight?

Mr GEISLER: First of all, I think Stirling and Atlas is a great example, because everything that went into Atlas that went into the recycling facility was assumed that it was recycled, and it was reported in the data collection that it was 100 per cent recycled. The organics went to a farm 200 kilometres from Perth, and 100 per cent of the material was recycled.

We have not verified, and I cannot believe that, actually, if you put something in a facility, 100 per cent is then reused and recycled. So one good question, the 45 per cent achievement or diversion, they claimed 100 per cent. This facility has stopped operating because of the low quality of material.

Another facility that is going to close down in three years is the SMRC facility, because it has a 20-year life. The SMRC region is actually moving to source separation, because through source separation you get a better quality material, which then improves the opportunity for markets, instead of having inferior products, first putting everything into one bin and trying to pull it apart. So we are going to see these movements for the next couple of years until the mechanical separation has been phased out and we move to source separation.

The CHAIR: What is wrong with doing both? Why would you not do both? Because if residents of Perth are throwing—what you said earlier is that 20 per cent of the stuff that goes in the yellow top bin is not recyclable.

Mr GEISLER: Yes.
Appendix Two

The CHAIR: So you are still going to need to do mechanical separation at the end, even if you get 80 per cent.

Mr GEISLER: Well, we are talking about two different bins.

The CHAIR: Except that the residents keep putting rubbish in the recycling bin.

Mr GEISLER: That is correct, so more emphasis should be laid on awareness and engagement.

Mr ROWE: Can I just clarify. I think Ms McEvoy might have an answer that might help Mr Nalder understand the shift in those numbers as well.

Ms McEVOY: Yes, it is really important to know that the municipal solid waste recycling rate is not just about kerbside collection. It includes all of the activities that local governments do. There has been a change in the way that we report the construction demolition aspect of that—quite a significant reduction. As Mr Rowe said previously, the C&D recycling rate is actually better, but part of that is also because some of that was previously being reported under the MSW category, and now it is being reported through the C&D recycling rate. So I think it emphasises the previous discussion we had about the data not being very good and there really needing to be a lot more emphasis on accuracy of the data.

Mr D.C. NALDER: Your problem with that explanation is that your C&D strategy target for 2015 was 60 per cent, and you have not hit it.

Mr ROWE: No, that is quite true.

Mr D.C. NALDER: Your 20 per cent target is 75 per cent, whereas at the same time your strategy target for MSW was 50 per cent by 2015 and 65. So that does not actually hold that argument, because you have these targets on both of them that are well above what you are actually delivering. Even though it has come off, and you say this one has climbed, they are still both below target.

Ms McEVOY: Yes, they are, that is quite true, but the explanation within the bounds of the performance not being adequate is still that the way we have accounted for recycling in various sectors has changed.

Mr D.C. NALDER: Why were the targets not updated? They are relevant.

Ms McEVOY: The targets are part of the waste strategy, which was from 2012.

Mr D.C. NALDER: But you have changed the methodology, you said, as to how you ascertain it, so part of changing a methodology, you would think you would reset your targets, would you not? Otherwise they are irrelevant.

Ms BLOOM: That is currently being done. Right now the waste strategy is being reviewed; the act requires it to be reviewed. As part of that, the targets are also being reviewed, and that is at a stage now where it is with the minister’s office in the third round. We are just about to go back and make any changes. That will go back out for public comment and then it will come back in for the final iteration, so in actual fact the targets will be reviewed as part of that. That will take into account what Ms McEvoy has just said in terms of the way that we are applying the methodology.

Mr D.C. NALDER: You would acknowledge that it is very hard for us as the community to have confidence in the numbers if there is a change in the methodology and we are trying to understand how the department is performing against those measures, because at this point, when you look at this, it says you have failed. Do we agree on that—that the department has failed in the targets it has set itself?
Mr ROWE: I do not think I would necessarily agree with that statement, given that it is not just the department’s responsibility to achieve this, and in the end a lot of it depends on community behaviour. There are other actors in the system that will assist with delivering these targets. They are targets that should be applying at the community level, I would have thought, because there are more influencing factors than just the Waste Authority alone; indeed, than the government can do. Local government has a part to play in terms of educating their community; the community themselves have a role to play.

Mr D.C. NALDER: So what accountability sits on the government in this area?

Mr ROWE: I think the accountability sits with the decisions it makes in relation to the funding it chooses to expend and the success of those programs.

Mr D.C. NALDER: Are you saying that we have not put enough expenditure into those programs?

Mr ROWE: I am not necessarily saying that, no.

[10.20 am]

Mr D.C. NALDER: We have set targets; we have not hit targets. I assume we have established these targets?

Mr ROWE: The Waste Authority under the act prepares the strategy; the government adopts the strategy. This was done for 2012.

Mr D.C. NALDER: But it is the recommendations from the department that these are the targets that you are establishing?

Mr ROWE: It is the recommendation of the Waste Authority to the government, and it is whatever the government finally determines, so it is the government’s strategy, ultimately.

Mr D.C. NALDER: But the government has taken its advice from the department, correct?

Mr ROWE: And the Waste Authority.

Mr D.C. NALDER: But the Waste Authority is part of the department, correct?

Mr ROWE: No, the Waste Authority is separate from the department. It is a five-member board. It is entitled to express its own views, and it does, and its responsibility is to develop the waste strategy under the act. The department supports it in doing that.

Mr D.C. NALDER: Who is accountable for setting these targets?

Mr ROWE: Ultimately, it is the government on the advice of the Waste Authority.

Mr D.C. NALDER: So the Waste Authority is the one that made the recommendations around these targets. Is it the Waste Authority that has changed the methodology in assessing what is considered MSW and C&D?

Ms McEVOY: It is basically decreasing the amount of recyclable material reporting as arising in that stream, so it is really about local government and what they have done with that material.

Mr D.C. NALDER: What I am trying to get to is there seems to be all care but no responsibility. I am trying to understand who is accountable for setting the policies and then accountable for actually implementing them, and what I do not get a sense of today is accountability around the implementation of ensuring that things happen. I imagine, if you set a target, you are setting programs in place to deliver on those, and either the programs are working or—you have suggested there is a change in the methodology, which does not add up. It still does not add up. I am not sure exactly what processes you follow to actually be clear about what the objectives are, what the
strategy is, and the implementation plan, and who is actually responsible for delivering that. I am not sure where that is at.

Mr ROWE: I think the review of the Waste Authority’s strategy right now provides exactly the opportunity that Jenny has already mentioned, to look again at those targets to see whether they are realistic and what they could be. I guess I would go back to what the Auditor General said in his comments, which was —

This audit showed that waste generation and recycling figures are trending in the right direction. However, they are still well short of the 2020 targets in the WA Government’s Waste Strategy: Creating the Right Environment.

The Waste Authority and the Department of Environment Regulation have a tough task in changing behaviours and practices. More effective coordination and cooperation will go some of the way to achieving desired outcomes. But what is really required, particularly as our population increases, is commitment by the entire community.

So I do take the point that you are making, which is trying to be clear about who is ultimately responsible for this. It is reasonable for a strategy to have realistic targets, and for that to frame the investment by government to try and achieve those targets, but ultimately it has to be a shared responsibility.

Mr D.C. NALDER: I do not disagree, but if I come back to the responsibility of the department, you have set these targets, you have set a plan in place. What reporting is there on how we are tracking against this, and are there reports there that actually describe those things that we have just talked about that are missing? Because it has taken this inquiry and an Auditor General’s report to get in and go: Where are the service level agreements? Where are all the strategies and the activities that have been undertaken? Because according to the reports we have, they cannot locate them, even following the recommendations that they made.

Mr ROWE: Right. I guess my general overview about all of the recommendations is that the department and the Waste Authority have acted on all of them, so where they refer to additional governance mechanisms that needed to be put in place—the service level agreement is now in place, the governance review is underway, the data strategy is being finalised. So there are pieces that have been done; there are pieces still in play. They may not have been against the time frames that the Auditor General recommended, but all of the recommendations have been acted on from that inquiry. To an extent, some of those are publicly available already on the Waste Authority’s website.

The Waste Authority right now is reviewing the next iteration of the waste strategy, as it is required to do under the legislation. That will then set out the next five years of direction as well as potential investment by the government on the advice of the Waste Authority in terms of new programs. Clearly, we have to be aware of the success or failures that have happened over the last five years in relation to what needs to be done differently into the future.

Mr D.C. NALDER: The Auditor General has been relying on desktop audits to be able to ascertain, where this is at. What I am trying to get to is more transparency. Is there a commitment from the department and the Waste Authority that, in reviewing what you are currently doing, there will be a lot more transparency and communication, such that it does not rely on someone to have to come and do a deep dive on the department to understand what is going on?

Mr ROWE: I think that is a very reasonable expectation. This government has made it very clear that it expects its agencies to be transparent, and if we can do a better job of doing that, then we are happy to do so. We do report in our annual reports about the targets and how they are being
delivered. Some of the targets form performance indicators that we report on as a department in part of our budget process. So there is a degree of transparency there but we can always do better.

The CHAIR: Not wanting to cut you off, Dean, but we do have to stop. Lisa, quickly ask the question, and can we have a quick response.

Mrs L.M. O’MALLEY: I want to go back to quality of the product, because underlying a lot of this potential closure of markets is around quality and also the fact that some facilities have closed up shop, and whether that is also a possible reflection of that. Very quickly, two parts—one is I do not necessarily need to get the full run-down of what all the various strategies are around improving quality, that is really key and important, but the other part of my question is whose job is it to seek new markets?

Mr GEISLER: First of all, I think we should target—and this features heavily in the new strategy—avoidance. Avoidance is the best way to deal with waste in the first place. But the better quality and the cleaner we can get the material, the more opportunities there are to look for markets. There is another issue coming towards us, which is glass in paper and cardboard. That is going to be a big issue, especially for the printing industry. Whoever has the cleanest products will have the most opportunity to get the highest price in the market and actually have sustainable markets. So it is important to get the collection system right up-front so that we can deal with the product in a better way.

Market development, it is interesting. We are trying to give an incentive to the market and give it a little bit of a kickstart. We tried to do that with the recycled construction product. But you cannot endlessly subsidise a market just to keep it alive. Sometimes you have to accept that it is a dead end. We have to look for another opportunity, and a good one is plastics. There is a big focus on plastics. There is a lot we can do with local plastics instead shipping it overseas. We generate about 8 000 tonnes of plastics. We generate a total of 5.4 million tonnes of waste in Western Australia—8 000 tonnes of that is plastic in the yellow recycling bin. We can make plastic lumber out of that; the local government can use it for furniture in parks and gardens. We should look at innovations in markets, and that is the whole idea why we have the community grant scheme, so we fund these innovations. We have community engagement.

Mrs L.M. O’MALLEY: I could talk waste all day.

The CHAIR: We really do need to stop. There will be some follow-up questions coming, probably following on from some of the things that Dean said. I have some questions also.

Thank you for your evidence before the committee. We will forward a copy of this hearing to you for correction of transcription errors. Please make these corrections and return the transcript within 10 working days of receipt. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be introduced via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee’s consideration when you return your corrected transcript of evidence. Thank you once again for coming today.

Hearing concluded at 10.28 am
Appendix Three

Response to further questions: Waste Authority

Dr A D Buti
Chair
Public Accounts Committee
Legislative Assembly of Western Australia
Parliament House
PERTH WA 6000

Dear Dr Buti

Foreword

The overall rate of waste diverted from landfill in 2015/16 in Western Australia was reported as 49% compared to only 31% when the first Waste Strategy was released in 2012. The Strategy has achieved improved waste and recycling outcomes in Western Australia and although targets have not been met, the Authority believes the current focus and initiatives have contributed to more sustainable outcomes and that Western Australia continues the journey towards a low waste society. Achieving the targets requires actions by all levels of government, the private sector including the waste management industry, as well as the general community. The Waste Authority’s powers and functions are limited under the Waste Avoidance and Resource Recovery Act 2007 (WARR Act).

The Authority notes that there has been significant movement in recent years from a passive to a more proactive approach to driving behaviour change in the community, to funding waste related projects and working more closely with the sector. This is in contrast to a major focus in the past on direct environmental impacts and the strict application of the requirements of the Environmental Protection Act 1988 with limited focus on areas such as planning and behaviour change through education and engagement as per the 2012 Waste Strategy. This affected the priority given to the work proposed and recommended by the Authority.

The main triggers for achieving the current landfill diversion targets are:

- removing organics from the residual waste green-lid ‘landfill’ bin (2/3 of Municipal Solid Waste (MSW) is organic material by weight),
- minimising the contamination levels in the yellow-lid recycling bin (20% are non-recyclables),
- to have appropriate infrastructure which optimises avoidance, reuse and recycling in place in the right location at the right time,
- engaging the community to create awareness and ownership of the waste challenge with individuals, and
- utilising recycled materials locally.
Appendix Three

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The next iteration of the WA Waste Strategy are likely to contain refined targets for avoidance and recycling as well as diversion from landfill, building on the work done to date.

1. Why has it taken so long to finalise the governance framework and the service level agreement?

The Waste Avoidance and Resource Recovery Act 2007 (WARR Act) does not provide a consistently clear delineation between the roles and responsibilities of the Minister, the department responsible for the implementation of the Act and the Waste Authority. Consequently, the arrangements for how actions are to be shared between the parties requires a degree of interpretation and has varied over time depending on the outcomes of negotiations between those parties based on their individual preferences and requirements.

This lack of certainty has been exacerbated by the splitting and remerging of departments responsible for the provision of services to the Waste Authority and the approach that different departments have taken to arranging the management of the services they provide, having regard to the requirements of the Government of the day.

After the 2013 State election the functions of the former Department of Environment and Conservation (DEC) were separated into two new departments: the Department of Environment Regulation (DER) and the Department of Parks and Wildlife (DPAW). DER was the department the Minister originally charged with providing services and facilities to the Waste Authority in accordance with sections 16 and 17 of the WARR Act. Services were also delivered through the Office of the Waste Authority (OWA) which was a separate office with dedicated staff delivering the approved programs and supporting the Waste Authority. The CEO was the Director General DER.

Since its inception the Waste Authority had been operating under the following governance instruments:

- MOU and SLA with DER - dated 23 September 2009
- Conflict of Interest Policy - dated 4 August 2010, reviewed 2014
- Waste Authority Charter – dated March 2011
- Delegation Policy - dated November 2014
- Minister for Environment Statement of Expectation – dated 1 June 2017
- Waste Authority Statement of Intent – dated 19 June 2017
- SLA Agreement between DIWER and Waste Authority (1 July 2017-30 June 2020) - dated 28 August 2017
- Communications Agreement – most recent dated 18 April 2018
- Various Premier’s / Public Sector Commissioner’s Circulars

The documents listed above describe various aspects of the governance framework, but rather than setting out progress on clarifying roles and responsibilities, they have simply reflected the different approaches to a range of governance issues at various points in time.

Recent progress on establishing an agreed governance framework has been more positive and work is underway to develop a workable framework to ultimately support the delivery of the Strategy.
Originally, the ONWA was the Waste Authority’s primary interface and provided the first line of support, ensured program development and service delivery and liaised with the market, operators, WALGA and Local Governments. Staff were well informed about what was happening in both the industry and government. They were focussed on the work of the Authority and provided a high level of support and advice.

In May 2014, the then Director General of the DER restructured the department and effectively merging two formerly separate groups: the Office of the Waste Authority and the DER Waste Management Branch. The Office of the Waste Authority was abolished with tasks spread over a wide range of DER staff with finance management and IT functions undertaken by OPAW.

The restructure created difficulties and affected the delivery of programs. The Authority’s observations were that internally staff were being diverted to non-waste strategy program work and programs fell behind. Waste rapidly became a lower priority. Relations were strained between the Authority, DER and the Minister’s office.

The very successful and widely supported Strategic Waste Infrastructure Planning Working Group (a section 18 committee established in 2013 by the Minister) was convened to engage key stakeholders to provide input into a waste and recycle infrastructure plan. It delivered a significant body of valuable work during 2013-14. Whilst its report was eventually published on the Authority’s website, the process has not continued, and its work has been held in abeyance.

For these and other reasons the Authority resolved to have a Service Level Agreement (SLA) established to ensure roles, responsibilities, accountabilities, service standard and efficiencies could be tracked to assess the delivery of the Strategy programs. The Authority was also concerned with the quality of financial reporting and charges for delivery of service.

The Authority engaged an external party (Freehills) to develop the SLA however there were many comments by the department which led to a protracted process. The final version presented by DER was, in the opinion of the Authority, not clear and solid enough. The review was eventually accepted by the Authority on the provision it would be subject to a 12-month review. The Authority signed this SLA in November 2015. Subsequently the SLA remained unsigned by DER for unknown reasons and this added strain to the relationship.

More recently, the Authority also updated its Code of Conduct and integrated a Governance Charter in line with Public Sector Commission’s guidance on good governance for boards and committees.

In August 2017, when the current Director General endorsed a (temporary) SLA, agreement was reached that this SLA was to be reviewed within 12 months of adopting a new Governance Charter to ensure no gaps or conflicts in both complementary documents. The Authority has a very good working relationship with the current Director General of DWER and the department generally and on 1 July 2016, a Waste Avoidance and Resource Recovery Division was established to service the Authority.

In late 2017, the Director General of DWER proposed that the Public Sector Commission (PSC) develop the governance document and the Authority was supportive of this subject to seeking external advice. It was agreed if this was not successful then an existing framework should be used to base a new agreement upon (such as that of the Fremantle Ports...
Authority). The deliverables were a draft Governance Charter. In January 2018, the Authority was provided by the PSC with a Legislative Review on governance arrangements as to the powers, functions and roles of the Authority. Whilst this was of assistance, the Authority was advised that no further work was able to be provided by the PSC.

Following concerns about finance and project reporting and tracking, the Authority (in 2017) introduced an additional governance instrument for internal project performance reporting. This was welcomed by the Director General of DWER and Ernst & Young (EY) was engaged to develop a reporting model at the request of the Authority.

In April 2018, the Authority negotiated a package of work to be delivered by EY consisting of a Governance Charter, the Risk and Performance Committee Charter (for a newly established Authority committee) and an updated SLA. This service has been procured by DWER under a panel arrangement as of 3 July 2018.

Inputs consist of (from email Chairman to EY dated 25 June 2018):
- We have spoken to the DG DWER extensively and additional to access to DWER staff to prepare the documents, the following information for reference will be made available by DWER:
  - The WARR Act that enables the Authority and the Financial Management Act 2006, as appropriate
  - Public Sector Commission’s background advice on governance arrangements prepared by Paul O’Connor
  - Public Sector Commission’s guidance on good governance for boards and committees: https://publicsector.wa.gov.au/sites/default/files/documents/good_governance_principles_0.pdf
  - An example of good Governance Charters (such as the Fremantle Port Authority)

The Authority is now confident that an SLA and Governance Agreement will be properly prepared and agreed in a reasonably short time frame and notes that it will still be open to review and amendment in the future due to the ongoing uncertainty arising from the construction of the WARR Act.

2. Does the service level agreement that was signed off in August 2017 make clear the Waste Authority’s and DWER’s respective responsibilities?

The 2017 SLA remained silent in areas regarding responsibilities that arise from an interpretation of provisions in the WARR Act. The new overarching Governance document will include clarifications on roles and responsibilities to the extent that these are agreed between the parties however the actual wording in the Act makes it a more complicated process as per the PSC background advice on governance arrangements. The opportunity should be taken at the next WARR Act review to resolve the complexities that arise from the construction of the Act.

a. Does it clarify expectations around service standards for both entities?

In late 2017, at the Waste Authority’s request, DWER engaged EY to review the workings of the SLA, which resulted in a financial and project reporting model to
Response to further questions: Waste Authority

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better capture the costs for the services provided to the Waste Authority and funded from the WARR Account.

This model is in its early stages of implementation and further work is required to ensure its optimum performance and the Authority is confident that this will allow for better clarity and management of the standard of services delivered under the SLA.

Notwithstanding this, the Authority will continue to monitor the critical issues such as non-performance, escalation and reporting and work with the Department through the SLA to resolve any areas of concern and are more effectively addressed going forward.

3. Is the Waste Authority satisfied with the final terms of the service level agreement?

As expressed previously, areas for improvement were identified and therefore a review within 12 months of developing the Governance charter was a condition of endorsing in July 2017. We are confident the new SLA will include all issues previously identified as critical for an efficient service standard.

4. Does the Waste Authority have any ongoing concern about the role of staff allocated to it from the department’s Waste Authority Services division?

The Authority would like to stress to the committee that there are currently no issues with the performance of individual officers, in fact, many officers go beyond the call of duty and out of their way to provide comprehensive guidance and information to queries from the sector and the community regarding waste management and recycling. The current Director General is very supportive of the Authority’s work.

However, it is unfortunate that over the past 5 years ongoing salary caps, staff freezes, other priorities, secondments, the policy of not using contractors or panels and non-replacement of key personnel has decreased the ability to deliver agreed services. For example, the position of the Executive Manager was not filled by a permanent appointment for almost two years and within this period it was vacant for almost 7 months from 1 July 2015 through to 26 January 2018. Apart from the Director General, this position is the main departmental interface with the Authority and is critical to ensure Authority priorities, decisions and programs are provided for in a timely manner.

The budget submitted each year to enable the delivery of the strategy incorporates allocation of staff costings to deliver the programs. The WARR Levy hypothecation to the Waste Authority is not considered when departmental staff freezes etc are enacted and the delivery of service is affected even though the funds are in place to cover the staff to deliver approved programs.

The Director General of DWIER restructured the Department effective 1 July 2018 creating a Waste Avoidance and Resource Recovery Division. The following is an extract of the Authority’s input into the department restructuring process (dated 6 February 2018).

As expressed before, the Authority members, for a long time, have had issue with the level of service and more importantly value for money for the Waste Authority.
Often there is no ownership within senior levels to carry Authority priorities or ownership of day to
day tasks (as per the SLA) which makes it impossible to deliver our responsibilities.

The background advice and summary by PSC regarding the interpretation of the relevant
legislation was great.
The main functions of the Authority were summarised as follows:
1. To advise, which would include the setting and variation of the levy, and to make
   recommendations to the Minister on matters relating to the Act. This function is not
   open-ended but must be read subject to the objects of the Act and the manner in which
   they are to be attained, that is, by promotion and waste reduction strategies which are
   reasonable and practicable. Additionally, the Authority may monitor and assess the
   adequacy of and report to the Minister on the operation of a Waste Strategy and other
   initiatives.
2. To advise and make recommendations to the CEO on the regulation of waste
   services and with respect to subsidiary legislation under the WARR Act (i.e. Regulations).
   The CEO is not obliged to act on any advice or recommendation from the Authority.
3. Bundled under the heading of promotion and advocacy are the following promotional
   activities relating to:
   • bring provisions of the Act to the attention of the public;
   • community awareness and understanding of resource efficiency, waste avoidance and
     resource recovery;
   • coordination between organisations seeking to prevent waste;
   • resource efficiency, waste avoidance and resource recovery;
   • market development of locally owned resource recovery infrastructure; and
   • publish a statement of the objectives to be achieved by programs funded under section
     80(1)(a) of the WARR Act.
4. Under the heading of cooperation with local government the Authority can cooperate
   with local governments to coordinate efforts to prevent waste and to develop, promote
   and review the Waste Strategy and to coordinate its implementation. The Authority may
   report to the Minister on the operation of the Waste Strategy with particular reference to
   the adequacy of the strategy.

If the Authority and DWER are to be delivering efficient and excellent support to the Minister to
move WA to a low waste society we need to fundamentally rethink the mechanics of our
relationship.

We appreciate the review aims to structure the new DWER for excellence across all your
disciplines, however our understanding is only limited to the WAS, part of the current SPP and
Comms and therefore comments are limited to relevant areas to us.

We have to also note that some magnificent work is being delivered as well and a lot of goodwill
of officers demonstrated over and over again.

It seems to come back to leadership and structure and unfortunately, we feel with the proposed
options A and B the DWER strategic plan alignment including our service levels will not be
achieved.
Observing the following outcomes we present an alternative which I would be happy to discuss further. (Attached alternative to A and B, alternatives identical, just applied to model A and to model B).

a. Accelerated delivery of business plan programs to meet approved timelines
b. Provision of timely and proactive advice to the Minister
c. Delivery of efficient and meaningful financial control and service level compliance
d. Connection with external stakeholders through direct interaction and appropriate communication
e. Effective Minister Office liaison
f. Accumulation of knowledge to inform the Minister and guide decisions
g. Give effect to community and industry behaviour change integral to delivering outcomes
h. Measurement of tangible outcomes through improved data collection to track initiatives/project results
i. Provide a level of confidence to existing and emerging markets to deliver economic benefits to the state economy
j. Applicable cross-department interaction for synergistic outcomes

Although the suggestion to elevate the leadership role to an Executive Director level heading an Office of the Waste Authority was not implemented, the Authority notes that the Executive Manager position has been replaced by a Director position in the new structure. The Authority also notes that while several staff have been effectively dedicated to provide administrative and communications support to the Authority in the new structure, this alone will not fully address all of the issues the Authority has raised. The Authority remains strongly of the view that the Waste Avoidance and Resource Recovery Division should be led by an Executive Director position and that staff work is ‘ring-fenced’ to Authority work.

a. How many departmental staff now work for the Waste Authority and to whom are these staff accountable?

DWER’s new Waste Avoidance and Resource Recovery Division (WARR Division) delivers services and reports to the Waste Authority, the DWER Director General, and via the Director General, the Minister for Environment.

As at 17 July 2018, out of a total of 30.55 established positions, the WARR Division consisted of 24.25 full time equivalents (FTEs). This included 2.2 FTEs as dedicated officers (two part time executive officers and one communications officer) for the Waste Authority.

The unfilled gap of 6.3 FTEs represents a total of three vacant positions while the remainder represents gaps left by officers occupying positions on a part time basis. We understand that processes are being progressed to fill vacant positions.

WARR Account funds are also provided to DWER for the delivery of services by other DWER Divisions under the WARR Act, which include services related to corporate services, communications, finance, human resources, legal services and compliance and enforcement.

5. Can you please provide the committee with a copy of the service level agreement?

Yes, Version 1i for the period of 1 July 2017 – 30 June 2020, executed on 30 August 2017 is attached.
6. Page 9 of the audit report states that in 2015-2016, only 9 of the 25 projects that received funding from the WARR Account had approved business cases against which progress could be measured. Is it correct that the 16 other projects did not have an approved business case?

The reference to Business Case is used very narrowly in the OAG report and subsequent questioning. The term Business Case was introduced in 2015 as part of the drafting of the 2015-16 Business Plan to ensure consistency of how programs are presented, evaluated (including cost benefit and scenario planning), managed and reported. However, for funded programs there were processes equivalent to the function of business cases in place before 2015, for example detailed briefing notes, templates, letters, project descriptions and management plans with timelines, Gant charts etc with approval processes similar to the new Business Case format.

It is important to note Business Cases are not used to track the progress of each funded activity, but instead provide the case for pursuing an activity of work.

In preparing the 2015-16 Business Plan, the Department and the Waste Authority agreed to an approach that involved the preparation of business cases for:
- new programs and projects; and,
- established projects that were proposed to be significantly changed.

Given that the intent of a business case is to build a case for initiating an activity, previously approved and established programs and projects that were ongoing were not the subject of new business cases.

It is not unusual for projects to have a business case against which progress cannot be measured immediately after the implementation of the program. Programs can take years to deliver outcomes that may be measured, however this does not diminish the merit of the program per se.

a. If so, what was the total value of the 16 projects that did not have an approved business case?

It is unclear which projects this question refers to. As described above, established projects that did not have a Business Case developed as part of the 2015-16 Business Plan had been approved via alternative formal mechanisms prior to the use of Business Cases.

b. With reference to your testimony before the Committee (page 5 of the transcript), where you indicated that only external projects have business cases, is there a reason why internal projects could not also have business cases?

i. If so, please explain why.

There are no reasons why internal projects (expenditure within the DWER) could not have Business Cases. Many of these are multi-year projects like ‘end of waste’ and as this is expenditure of the WARR account as well, the same quality of consideration, milestones, KPI and outcome setting including project and expenditure tracking against budget should apply.
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ii. If not, please indicate when business cases will be developed for internal projects.

Business Cases are one way to manage projects and to ensure consistency. The Authority’s intent is that business cases will be developed for all projects included in the SLA and Governance charter.

Since 2016-17, business cases have been developed for new programs and projects and incorporated into the next financial year’s business plan and budget for approval.

c. How are project deliverables and outcomes reported for each of the approved projects?

Projects and programs are regularly monitored against milestones, deliverables and outcomes. Quarterly reports are provided to the Waste Authority highlighting the progress of projects and programs. Specific agenda items are provided outside of this quarterly cycle when notable project milestones have been achieved or need to be amended. More significant programs such as the Regional Funding Program may be subject to external reviews or reports on performance which are provided by DIVER to the Waste Authority via their monthly meeting papers.

7. The Waste Authority’s 2016-2017 Annual Report (p. 31), shows a 10 per cent increase in the balance of the WARR Account to $33.2 million. Why does the WARR Account run with such a large operating surplus?

This question highlights two issues being (a) the ability to manage the surplus down and (b) the underlying reasons for expenditure falling short of budgeted expenditure.

(a) The Government budget papers set expenditure levels and therefore impact on the Waste Authority’s capacity to spend surplus funds.
(b) Annual budgets are developed based on ongoing programs, grants and funding as well as approved business cases addressing priorities of the Government, suggested new business cases by the Authority and available staffing for delivery. The annual allocation of the Levy funds to the WARR Account (minimum 25% = typically $19 million) is budgeted for expenditure in that year based on best estimates and timing of program uptake. There is no allowance for over provisioning to factor in slippages in expenditure timing or less than full uptake of programs.

The operating surplus, therefore, is a combination of various factors largely outside of the control of the Authority (and departmental staff), some already detailed in the OAG audit report no. 23 of 2016.

The main contributing factors can be summarised as follows:

- Timely approval of business cases and the annual business plan.
- Accepting advice from the Authority and subsequent approval to develop a business case (such as excluding planning, data management and infrastructure funding).
- The voluntary nature of most large funding programs makes take-up and actual expenditure difficult to budget.
- The announcement and roll-out of funded programs.
- The Waste Avoidance and Resource Recovery Division and DIVER capacity to deliver the programs.
8. The audit report (p. 11) noted that key messages prepared by the Waste Authority in 2013 to promote awareness of Waste Strategy targets and objectives had not still not been implemented by October 2016. Have these messages now been implemented?

a. Why was there such a delay?

Over the past 6 years the Authority has been advising the Government and the department, including requesting the development of business cases for planning, communications and data collection. These initiatives were largely not supported and not approved for inclusion in annual business plans.

In 2013 the Authority developed, in consultation with the sector, a communication plan as well as key messages. The government at the time determined that it would manage communications and a communications strategy direct with DER.

The Authority has attempted to share key messages through position statements, awards, presentations, participation in interest groups, its newsletter and frequent meetings with stakeholders in industry, local government, Waste Wise Schools and community groups. Authority key messages were uploaded by DIVER communications to the Authority website in 2017 http://www.wasteauthority.wa.gov.au/publications/key-messages.

These key messages have also been incorporated in the Waste Authority funding guidelines and soon to be rolled-out WasteSorted Toolkit.

Timing and delays are still an issue, but the Authority is confident that these will be overcome once the revised Waste Strategy is in place.

b. What has been done to address the issues that lead to these delays?

There is an increased focus of the Minister and government to address behaviour change and environmental impact. There is considerably improved support from the new Director General of DIVER. These have had a very positive impact. For example, the DIVER communications manager attends and reports at monthly meetings, and the Waste Authority has managed to integrate its key messages into the broader government messaging on resource and material efficiency. Increased government leadership will deliver more impact and more sustainable change in the community through a recently shared comprehensive list of priorities that are being pursued by the government which included most of the areas the Authority has given advice on. Communications and key messages featured heavily, and the Authority is grateful for the recent support in the communications area.

Yours sincerely,

[Signature]

Marcus Desler
CHAIRMAN

20 July 2018
Appendix Four

Response to further questions: Department of Water and Environmental Regulation

Dr AD Buti
Chair
Public Accounts Committee
lapac@parliament.wa.gov.au

Attention: Mr Tim Hughes

Dear Dr Buti

FURTHER QUESTIONS FOLLOWING PUBLIC HEARING

Thank you for your letter of 29 June 2018 requesting a written response to further questions of the Committee on audit report No. 23 of 2018 Western Australian Waste Strategy: Rethinking Waste.

Please find attached the Department's response.

If you require any further information, please contact...

Yours sincerely

Mike Rowe
DIRECTOR GENERAL

20 July 2018
1. When do you expect the governance framework [referred to on page 4 of the transcript] to be finalised?

It is expected that a revised governance framework will be finalised by the end of 2018.

2. Why has it taken so long to finalise the governance framework and the service level agreement?

It has been delayed by a legal review of the roles and responsibilities of the Waste Authority and the CEO under the Waste Avoidance and Resource Recovery Act 2007 (WARR Act) from the Public Sector Commission that was requested by the Director General. The review noted that there were overlapping responsibilities and a lack of clarity in the legislation. The clarity of roles and responsibility is the focus of the statutory review of the WARR Act which will commence in 2018. The Department has engaged EY to assist in the preparation of a revised governance framework.

A new Service Level Agreement to replace that previously signed by a former Director General of the Department has been finalised and was signed by the Waste Authority Chairman and the Chief Executive Officer (CEO) of the Department of Water and Environment Regulation (DWER) in August 2017 and will run to 2020.

3. Is DWER satisfied with the final terms of the service level agreement and does it clarify expectations around service standards for both entities?

The CEO approved and signed the SLA in August 2017 as it clarified understanding about the Department's delivery of services to the Waste Authority. A revised SLA will be informed by the revised governance framework that is being prepared by EY.

4. How much Landfill Levy revenue does DWER spend on internal projects annually?

Not less than 25 per cent of the forecast annual levy revenue from the waste levy each financial year is credited to the WARR Account. The expense limit for WARR Account funds each financial year is set out in the Budget Statements.

WARR Account expenditure on waste related programs and services (including internal projects) is set out in the annual business plan drafted by the Waste Authority and approved by the Minister, or approved by the Minister under section 80 of the WARR Act. The amount varies from year to year. Further details for the most recent Business Plan are outlined below.

a. What are these projects and are they associated with the Waste Strategy?

The annual Business Plan sets out the allocation of WARR Account funds for each financial year with a five year projection. The 2017-18 Business Plan reported a total budget of $19 million which included:

- $9.1 million allocated to Waste Authority programs.
- $8.6 million allocated to services provided by the Minister under section 16 of the WARR Act and performed by DWER (including strategic policy and programs for waste, waste data monitoring, administration and overheads, levy inspection, compliance and enforcement, Waste Authority support and illegal dumping).
- $1.3 million allocated to functions under section 80 of the WARR Act for activities requested by the Minister of Environment that are also undertaken by DWER (including...
development of container deposit scheme, progression of a ban on single use lightweight plastic bags, and economic analysis of the waste levy).
- All expenditure is consistent with the waste strategy and WARR Act.

b. Is there any reporting on the annual expenditure and outcomes associated with these projects?

DWER provides quarterly reports to the Waste Authority on services that are delivered under section 16 of the WARR Act. These reports include both financial information and program delivery details.

In December 2017, the Department engaged EY to further refine the department’s quarterly reporting on delivery of WARR Account funded activities and associated expenditure. The revised reporting format was accepted by the Waste Authority and is now used for reporting.

c. Does the Waste Authority have any oversight of this expenditure?

The quarterly reporting provided to the Waste Authority includes detailed information about the activities and outcomes associated with these services.

As the accountable authority for the Waste Avoidance and Resource Recovery Account, the CEO is responsible for compliance with the Financial Management Act 2006.

The Department’s financial statements and performance indicators are audited annually by the Office of the Auditor General under the Auditor General Act 2006.

5. The audit report [p. 10] found that DWER was not meeting its timeframes for inspecting licensed waste management facilities, with only 47 per cent of high-risk sites inspected annually as per the required benchmark.

a. What is the difference between a high and moderate risk site, and what has the department done to improve the number of site inspections across both categories?

The Department’s risk-based inspection program assesses compliance with conditions of premises licensed under the EP Act.

The risk priority (high, moderate, low) for premises at the time of the Auditor General’s report was based on location, the environmental risk of the activity and environmental compliance history of the premises. Currently there are three high risk waste facility premises and 40 moderate waste facility premises in the state.

Following the Auditor General’s report and the machinery of government formation of the new Department of Water and Environmental Regulation, a focused approach to compliance performance has resulted in significant improvements including an assessment on operational risk using available intelligence to focus inspection resources on premises based on operation performance rather than inherent risk. In addition, in 2018 DWER established a dedicated Waste Operations Branch which is responsible for waste levy compliance and enforcement and illegal dumping investigations.

b. What percentage of high-risk sites have been inspected annually since 2016?

All high risk waste facility premises (100%) have been inspected at least annually since 2016.
Appendix Four

c. What percentage of moderate-risk sites have been inspected biennially since 2016?

87.5 per cent of all moderate risk waste facility premises have been inspected at least biennially since 2016.

6. How many licensed facilities are subject to the landfill levy?

Under the WARR Act waste that is generated in the Perth metropolitan region, or disposed of in the Perth metropolitan region, at a category 63, 64 or 65 landfill premises is subject to the waste levy. It is not necessary that the premises is licensed, only that it requires a category 63, 64 or 65 licence. There are 175 active category 63, 64 or 65 prescribed premises in Western Australia.

Currently 30 landfill prescribed premises are regularly inspected by the Department based on their potential for levy liability due to their location within, or in proximity to, the Perth metropolitan region. In any given quarter, not all of these premises will have disposed of waste which is subject to the levy.

a. How many of these facilities pay the levy?

For the 2016-17 financial year, 24 landfill premises paid the waste levy.

For the 2017-18 financial year to date (first three quarters), 22 landfill facilities have paid the waste levy.

b. How does DWER determine whether each facility is paying the correct levy amount?

Quarterly waste levy returns received from landfills are completed by the licensee.

Once levy returns are submitted to the Department:

- a desktop review is undertaken;
- discrepancies are followed up on with licensees;
- inspections may be conducted and include a review of premises records kept in accordance with legal requirements; and
- all quarterly levy returns are audited to verify that the amount of levy paid is accurate.

In addition to the quarterly compliance inspection/validation process, the waste levy compliance program also undertakes targeted operations. In 2017 DWER undertook a program to assess the level of compliance with the waste levy record keeping requirements.

c. Do all facilities that collect the landfill levy have weighbridges installed?

There are 13 (of 22 that have paid levy in the year to date) landfill premises (both inert and putrescible) with a weighbridge installed.

Does DWER have measures in place to accurately determine the amount of inert waste that is being stockpiled, thereby falsely inflating landfill diversion rates?

a. If yes, is the amount of stockpiled inert waste increasing or decreasing?

DWER has undertaken inspection programs to estimate the amount of inert waste (processed and unprocessed) stockpiled at waste facilities. These programs were based on waste records
and stockpile volume estimations to determine the amount of waste stored at these facilities. The available data were site specific.

Data about stockpiled waste are collected through the annual Recycling Activity in Western Australia report based on a survey of the recycling industry. The survey has previously included a question about the amount of processed stockpiled waste at the beginning and end of each financial year. The 2016-17 survey introduced a question on the amount of unprocessed stockpiled waste.

To supplement the survey data, the consultants conducting the recycling survey have also used the online mapping tool nearmap.com.au to estimate quantities of stockpiled construction and demolition (C&D) waste. This tool was used to assess up to 21 facilities identified as stockpiling waste in 2015, 2016 and 2017.

The Recycling Activity in Western Australia 2016-17 report, due to be released later in 2018, shows that based on the survey and nearmap methods, the estimated quantity of both processed and unprocessed stockpiled C&D waste increased between 2015-16 and 2016-17 as shown in the table below.

<table>
<thead>
<tr>
<th></th>
<th>1 July 2016 (tonnes)</th>
<th>30 June 2017 (tonnes)</th>
<th>Change (tonnes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reprocessed C&amp;D material stockpile</td>
<td>463,900</td>
<td>646,800</td>
<td>182,900</td>
</tr>
<tr>
<td>Unprocessed C&amp;D material stockpile</td>
<td>287,100</td>
<td>372,800</td>
<td>85,600</td>
</tr>
<tr>
<td>Total</td>
<td>751,000</td>
<td>1,019,600</td>
<td>268,500</td>
</tr>
</tbody>
</table>

7. Does DWER have an accurate estimate of the number of unlicensed waste facilities in WA?

Waste facilities are subject to the relevant legislation administered by the Department, particularly the EP Act. Schedule 1 of the Environmental Protection Regulations 1987, which establishes prescribed premises that require regulation, is a risk based approach and does not require the licensing of the activities of waste facilities operating below a certain threshold, nor does DWER maintain comprehensive data on such premises.

Inspections are undertaken of unlicensed waste premises to assess whether there is a requirement to hold a licence.

8. How does DWER monitor unlicensed and unregistered waste operators who may be nearing the threshold for licensing requirements?

DWER works in partnership with the community (including other industry operators) which provides information identifying potential breaches of legislation. The reporting of such information is managed in accordance with its complaints management process. The response to complaints involves information gathering, assessment and a decision as to the course of action to be followed. Where there is prima facie evidence of a legislative breach established, enforcement action is taken in accordance with the Department’s Compliance and Enforcement Policy.
Appendix Four

Officers use aerial photography and gather intelligence including from waste transporters and waste operators to identify increasing activity at these sites. Sites may be inspected to verify annual throughput using waste acceptance records and observations of waste stored onsite.

9. How does DWER monitor waste transfer to regional landfills to ensure no metropolitan waste is disposed at regional landfills without payment of the appropriate landfill levy?

Regular inspections of waste facilities are used to identify where waste leaving the premises is sent for disposal or recycling. Records are reviewed to verify the location of the final disposal facility.

10. Further to the discussion on page 6 of the transcript, what regulatory amendments followed the decision in Eclipse Resources Pty Ltd v The State of Western Australia [No. 4] [2016] WASC 62 and how have these amendments changed DWER’s landfill classifications and waste definitions?

The Environmental Protection Amendment Regulations 2018 were gazetted and the Landfill Waste Classification and Waste Definitions 1996 (amended 2018) were published on 27 April 2018.

These amendments allow for the use of clean fill, or uncontaminated fill that meets environmental and health thresholds after testing, without the need for a landfill premises licence or payment of the waste levy. In particular, the amendment regulations define a clean fill premises as a premises that accepts, and has only ever accepted, either clean fill or uncontaminated fill for burial as defined in the amended Landfill Waste Classification and Waste Definitions.

The amendments are relevant to material that is defined as waste under the EP Act and WARR Act as interpreted by the Eclipse case, and for premises classified as a landfill category in the EP Regulations. They do not apply to waste that is processed by recyclers and sold as a product.

The threshold criteria for uncontaminated fill allow the reuse of the material on any sites at any location without increasing the risk to human health, the environment or any environmental values at that location, and are therefore conservative.

Broader waste reforms, including to the definition of waste and the application of the levy and licensing requirements, are being progressed separately and relevant issues will be considered as part of this process. This includes changes to the Landfill Waste Classification and Waste Definitions beyond those necessary to address the Eclipse decision.
Appendix Five

Combined acronym list and glossary of key terms

**C&D**—construction and demolition (waste)—a category of waste commonly used to measure landfill diversion rates. C&D includes construction and demolition waste generated from commercial, government or residential building and demolition sites.

**C&I**—commercial and industrial (waste)—a category of waste commonly used to measure landfill diversion rates. C&I includes waste originating from commercial and/or industrial activities (e.g. metals, paper, cardboard, plastic, food organics, glass, and timber).

**CEO**—Chief Executive Officer

**DER**—Department of Environmental Regulation—formerly responsible for a range of functions under the WARR Act including the provision of support services to the Waste Authority. DER was subsumed into DWER in July 2017 under machinery of government changes.

**DWER**—Department of Water and Environmental Regulation—assumed the responsibilities of the former DER from 1 July 2017 under the machinery of government changes.

**FTE**—full-time equivalent

**MLA**—Member of the Legislative Assembly of Western Australia.

**MLC**—Member of the Legislative Council of Western Australia.

**MSW**—municipal solid waste—a category of waste commonly used to measure landfill diversion rates. MSW includes waste from households, and waste collected from public places and public buildings by local governments or their contractors.

**OWA**—Office of the Waste Authority—a business unit within the former DER that was established to provide support services to the Waste Authority. The OWA was abolished in May 2014 under a departmental restructure.

**PAC**—Public Accounts Committee

**SLA**—service level agreement—a formal document used to define the parameters of a working relationship between two entities and to establish agreed expectations around levels of service.
Appendix Five

**WA—Western Australia**

**WARR Account—Waste Avoidance and Resource Recovery Account**—Established under section 79 of the WARR Act to hold 25 per cent of funds obtained through the WARR Levy for expenditure linked to administration of the Waste Authority, and delivery of Waste Strategy initiatives as approved by the Minister for Environment.

**WARR Act—Waste Avoidance and Resource Recovery Act 2007**—passed by the WA Parliament in 2007, the WARR Act provides for waste avoidance and resource recovery; establishes the Waste Authority, provides for waste services by local governments; and provides for levies on waste.

**WARR Division—Waste Avoidance and Resource Recovery Division**—Successor to the OWA. Established under a recent DWER restructure to provide support and deliver services to the Waste Authority from 1 July 2018.

**WARR Levy—Waste Avoidance and Resource Recovery Account Levy**—Established under the Waste Avoidance and Resource Recovery Levy Act 2007 and commonly referred to as the “landfill levy”. The WARR Levy is applied to waste received at metropolitan landfills and metropolitan waste received at non-metropolitan landfills. No less than 25 per cent of funds raised via the levy must be allocated to the WARR Account. The balance of the landfill levy is a general revenue source for DWER.

**Waste Authority**—established under the WARR Act and came into operation on 1 July 2008. The Waste Authority has a five-member board with a range of functions (listed in Schedule 2 of the Act) including the preparation of a Waste Strategy for Western Australia and the administration of the WARR Account.

**Waste Strategy—Western Australian Waste Strategy: Creating the Right Environment**—developed by the Waste Authority and launched on 6 March 2012, the Waste Strategy aims to reduce the amount of waste generated while simultaneously increasing the proportion of unavoidable waste diverted from landfill through improved resource recovery and recycling processes.
Appendix Six

Committee’s function’s and powers

The Public Accounts Committee inquires into and reports to the Legislative Assembly on any proposal, matter or thing it considers necessary, connected with the receipt and expenditure of public moneys, including moneys allocated under the annual Appropriation bills and Loan Fund. Standing Order 286 of the Legislative Assembly states that:

The Committee may -

1 Examine the financial affairs and accounts of government agencies of the State which includes any statutory board, commission, authority, committee, or trust established or appointed pursuant to any rule, regulation, by-law, order, order in Council, proclamation, ministerial direction or any other like means.

2 Inquire into and report to the Assembly on any question which -
   a) it deems necessary to investigate;
   b) (Deleted V. & P. p. 225, 18 June 2008);
   c) is referred to it by a Minister; or
   d) is referred to it by the Auditor General.

3 Consider any papers on public expenditure presented to the Assembly and such of the expenditure as it sees fit to examine.

4 Consider whether the objectives of public expenditure are being achieved, or may be achieved more economically.

5 The Committee will investigate any matter which is referred to it by resolution of the Legislative Assembly.