

**STANDING COMMITTEE ON
ENVIRONMENT AND PUBLIC AFFAIRS**

**INQUIRY INTO MUNICIPAL WASTE MANAGEMENT IN WESTERN
AUSTRALIA**

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
THURSDAY, 26 MARCH 2009**

SESSION TWO

Members

**Hon Sheila Mills (Chair)
Hon Bruce Donaldson (Deputy Chairman)
Hon Kate Doust
Hon Paul Llewellyn
Hon Wendy Duncan**

Hearing Commenced at 10.28 am**ATKINS, MR ROBERT**

**Acting Deputy Director General, Department of Environment and Conservation,
168 St Georges Tce,
Perth 6000, sworn and examined:**

COWIE, MR STUART

**Acting Director Sustainability, Department of Environment and Conservation,
168 St Georges Tce,
Perth 6000, sworn and examined:**

The CHAIR: On behalf of the committee, I welcome you to the meeting. Before we begin, I must ask you to take either the oath or affirmation.

[Witnesses took the oath or affirmation.]

The CHAIR: You will have signed a document entitled “Information for Witnesses”. Have you read and understood that document?

Mr Atkins: Yes, I have.

Mr Cowie: Yes.

The CHAIR: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record, and please be aware of the microphones and try to talk into them. Ensure that you do not cover them with papers or make noise near them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today’s proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

What is the role of the Department of Environment and Conservation with respect to local government waste management, and what relationship does DEC have with the Waste Authority of WA?

Mr Atkins: The role of DEC in this regard is twofold: firstly, it provides services to the Waste Authority under section 16 of the WARR act. Under the WARR act, it also has responsibility for regulating the functions of the WARR act—that is, the functions that are otherwise carried out by the Waste Authority. The department also regulates licensed premises under part 5 of the Environmental Protection Act 1986, where premises that are disposal sites for either the treatment or final disposal of waste are licensed as prescribed premises under a range of categories and have a licence to control emissions and discharges.

The CHAIR: What does the waste management branch of DEC do, and what is its relation to the Waste Authority?

Mr Atkins: The waste management branch of DEC was explicitly established to provide direct services to various waste advisory committees and waste management boards that predate the WARR act and the Waste Authority, and has been maintained to provide the direct services under

section 16 of the WARR act for the Waste Authority. It had, at the commencement of this financial year, an establishment of 35 staff, and it currently has approximately 23 occupants.

The CHAIR: We have just heard from Mr Carbon that this is obviously not a very satisfactory arrangement, in that there are no designated staff seconded to the authority. Is there any reason why that is the case?

Mr Atkins: As I mentioned a minute ago, the waste management branch is explicitly established to provide direct services and support to the Waste Authority. Those arrangements are similar to the arrangements for the Environmental Protection Authority, which is another statutory authority that the department provides services for and that has DEC staff assigned to it as well. There is obviously in progress, as Mr Carbon raised, a memorandum of understanding and service level agreement that is being discussed between himself and the director general, which is obviously taking some time to reach finality in terms of its terms. But, in the meantime, the waste management branch is there for the Waste Authority and to act for the Waste Authority.

Hon KATE DOUST: Is there a time frame for when those matters will be resolved?

Mr Atkins: As soon as possible. Obviously, there are negotiations going on between the director general and the chairman of the Waste Authority. I am not directly privy to those negotiations. They will run their course and, ultimately, there will be an agreement signed.

The CHAIR: Are there any further questions on those matters? Okay. Would you agree that local government and regional groupings of local governments bear a disproportionate responsibility for the costs of waste management compared with the state government?

Mr Atkins: Local government is responsible for providing waste services under, I think, what is now section 53 of the WARR act. Previously, those services were provided through the public health act.

The CHAIR: Yes, but the question was: do you think that local government bears a disproportionate amount of responsibility, not whether it does. Is it disproportionate in your view?

Mr Atkins: The responsibility for the state government is set out in the WARR legislation, and that is to regulate those services. I guess the WARR act provides, through the Waste Authority, that high-level policy setting and strategic planning for waste services. In terms of whether local government provides a disproportionate load in providing waste services, I am not in a position to comment on that.

Hon PAUL LLEWELLYN: I just want to make the distinction between the functions of the authority and the functions of DEC. The Waste Authority sets out policies and directions, and your responsibility in DEC is to regulate and ensure that there is compliance and so on. In that regard, if your staff are hypothecated—not seconded, just hypothecated—to the services of the management authority, is there some sort of conflict between the functions and responsibilities of the authority to provide directions, and your functions and responsibilities to actually regulate and oversee?

Mr Atkins: My personal opinion is that I do not see that there is a conflict of interest. The regulatory powers that the DEC exercises in this space are set out in two places: firstly, there are regulatory functions around the provision of waste services under the WARR act. I have explicitly mentioned section 53, but part 6 of the WARR act covers waste services. There are currently no resources assigned to those regulatory functions at this stage. When the WARR legislation passed through Parliament, there was not an appropriation from Treasury to establish the resources to implement those functions of the WARR legislation. That issue is yet to be resolved, bearing in mind that the WARR legislation has been in place only for some six months.

Hon PAUL LLEWELLYN: Just to get that clarification, you are saying that there is no appropriation to implement part 6?

Mr Atkins: Yes, part 6 of the WARR act. The other regulatory functions in this space are under the Environmental Protection Act, which are obviously funded, and those functions are carried out by a different part of the department. The waste management branch is there to provide the services and the support for the Waste Authority and for the collection and administration of the landfill levy and the waste avoidance and resource recovery account, which holds those funds.

Hon PAUL LLEWELLYN: I just want to go back there. If those are its functions, then surely if the Waste Authority needs to make some stronger regulations it will need to be at some arm's distance from the regulator in order to do that effectively, because, firstly, it might be creating work for your department; and, secondly, it might be creating completely different industry conditions. How do we get that independence in terms of advice and work between the regulatory body and the authority?

[10.40 am]

Mr Atkins: The WARR act has two parts to it, obviously—it has the regulation of services, and it has the policy function of the Waste Authority. The waste management branch is established to support the policy function of the Waste Authority and the administration of the fund. The functions of the Environmental Protection Act are not funded from the WARR account and are not carried out by the waste management branch; they are carried out by a different part of the department. Those functions do not overlap with the functions that regulate waste services under the WARR act. The issue of conflict that has arisen in this space is around the SMRC. I have made it clear to the SMRC board, and I will make it clear to this committee, that those regulatory functions are about control and management of emissions and discharges from the premises as a licensed premises under part 5 of the Environmental Protection Act. They are not in relation to the efficiency and provision of services for waste collection. In my opinion, section 53 of the WARR act is about functions related to the collection and disposal of waste. I would say that the SMRC is carrying out those functions adequately in terms of collection and treatment and disposal of waste. That is not in contention.

Hon WENDY DUNCAN: To follow on from what you have just said, in the case of the SMRC who does it go to for advice and strategic guidance as to how to deal with its problem? If DEC is the regulatory body that may or may not prosecute the SMRC, then obviously it is difficult for DEC to then assist the SMRC in analysing what the problem is and helping them to resolve it.

Mr Atkins: It depends on which problem we are referring to. If we are referring to the problem of odour emissions from the premises, that is regulated by the department. The department has provided assistance to the SMRC in resolving that problem.

Hon KATE DOUST: Can you tell us the form of the assistance that has been provided?

Mr Atkins: That assistance has been provided in a number of ways. We have used environmental protection notices to require the SMRC to undertake investigations into sources and causes of the odour and to come up with solutions to those sources. Those notices provide adequate time to undertake that work. The department's staff review the documentation produced by the SMRC. In addition to that, we have had various experts, including air quality experts, working with the SMRC's consultants and viewing the consultants' approach to their analysis of the problem, and also joint site inspections of the facility.

Hon KATE DOUST: When you issue those notices and talk about solutions, do you actually offer a range of solutions to the SMRC that could be applied to that situation, or do you leave it up to them to arrive at the solutions themselves?

Mr Atkins: It is obviously the latter. It is up to the SMRC to investigate the source of odours and come up with solutions.

Hon KATE DOUST: Given DEC's experience, would it not have a range of solutions that you can recommend to deal with that issue, so that organisations such as the SMRC could expedite the matter? Sometimes if you leave it up to an organisation, they may not have had the level of

experience or contact, and may not be aware of all of the types of solutions available. Surely that is part of your role as well, or is that something if the Waste Authority was operating at full capacity, they would be able to do that?

Mr Atkins: In reality the short answer to your question is no. The reason for that is that the department regulates over 900 premises around the state, ranging from premises as large as the gas liquification plants, down to —

Hon KATE DOUST: I appreciate that —

Mr Atkins: If I could finish—as simple as landfills. We do not have the technical experts that can understand the premises —

Hon KATE DOUST: But you employ 2 000 people in your department; surely you must have technical people that can offer that type of advice to industry?

Mr Atkins: We employ 2 000 people across the department. They cover a range of functions, from managing national parks and dealing with beached whales, through to regulating complex industries. All of those staff are not available for that one function. It is simply not possible for a regulator to employ a sufficient range of technical expertise to understand all industrial processes which it regulates. There is a consulting industry out there that has tremendous capacity to do that, and it is up to the industry itself to employ those consultants, with guidance and advice from the department, to address the problem.

Hon KATE DOUST: But even when WorkSafe issues notices on workplaces for unsafe practices, it offers solutions that could be picked up on as part of that notice. That is why I am saying that if you are issuing notices, surely you give that opportunity—but obviously you do not.

Mr Atkins: We give the opportunity of the person receiving the notice to engage suitably qualified consultants to do the investigation and to report. We negotiate with the receiver of the notice—in this case the SMRC—adequate time frames to do that. The way we do it is that we draft a notice, we send it informally to the SMRC with the time frames on it, and those time frames are open to challenge. We will then modify the notice to give practical but reasonable time frames that do not take too long but allow proper investigation, and then we issue the notice.

Hon PAUL LLEWELLYN: Obviously you can set out some expectations, but you cannot necessarily go out there and solve problems for industries. Do you see that there is a gap in the way in which waste management is managed in Western Australia, in that there is no clearing house for effective advice to councils and anybody involved in the waste industry? Can you see that there might be a role for an authority that is resourced to provide those services?

Mr Atkins: Again, it depends on what we are talking about. The odour emission —

Hon PAUL LLEWELLYN: We are talking about waste and waste services and delivery of the best possible outcomes for the community.

Mr Atkins: That is different to managing the odour problem at the SMRC.

Hon PAUL LLEWELLYN: We will leave the SMRC a little bit out of it for the moment. I think that there are technical solutions to that, we believe.

Mr Atkins: So do I.

Hon PAUL LLEWELLYN: Outside of that specific thing, we are talking about a distinction between your regulatory functions and the need for, effectively, a large-scale strategic industry development so that everyone is on the same track and we do not have the problems that SMRC have had. Can you see a role for some authority or government involvement in providing guidance in the matter of waste management in WA?

Mr Atkins: That is clearly the function of the Waste Authority under the provisions of the WARR act. That act has those provisions in it.

Hon PAUL LLEWELLYN: They said their function was, in effect, to develop strategic policy, but not actually to provide an advisory service to facilitate best practice across the whole of the state—otherwise we would not have the problems that we have. Can you see a role for an independent authoritative advisory service that is government funded that could help resolve some of these big issues?

Mr Atkins: That is a difficult question for me to answer.

Hon PAUL LLEWELLYN: It is a difficult question

Mr Atkins: It is a question of policy, which I am not at liberty to comment on, obviously. The issue is quite large; the range of options worldwide is quite large. The standard of expertise you would need to resolve those issues is extensive. I believe it can be addressed cooperatively between the Waste Authority and the regional council network, through WALGA. The local government, as the Chairman of the Waste Authority advised earlier, is very well organised in waste management—it is a leader nationally. It has tremendous expertise available to it. In terms of policy and strategy, and, if you like, setting some strategic directions and coming up with how waste should be managed best in this state in the future, I think it can be done within that space. Clearly, one would need to draw quite heavily on overseas expertise and experience and the expertise and experience that are available in the consulting industry to assist that process.

[10.50 am]

Hon PAUL LLEWELLYN: I think one of the first questions we asked referred to the fact that local government seemed to be doing the heavy lifting and there was a limited levy. Part of the problem is that local government has to take on a big part of the load. I know there are big consulting organisations out there. I asked specifically whether there was space in government to provide a state government regulatory body or a department that might assist with that. You are saying that it can be done cooperatively.

Mr Atkins: That is my observation. I think, Mr Llewellyn, you are venturing into government policy areas, which are questions that really should be addressed to the minister rather than to me.

The CHAIR: Mr Atkins, it has been suggested in submissions received by this committee that there is a lack of strategic planning in waste management in WA and that DEC's regulatory role will prevent DEC from effectively engaging in strategic planning in this area. Do you have a view on that issue or is that policy?

Mr Atkins: My view on that is that DEC has two roles. It obviously has regulatory role under the Environmental Protection Act and parts of the new WARR act, but my observation is that the WARR act was actually established as the first comprehensive piece of waste management legislation in Western Australia with the Waste Authority to take that leadership role. The Waste Authority is just over six months old, and it is early days in its development of its place in that space.

Hon KATE DOUST: We have already hear about the problems that the Waste Authority is already experiencing and the time delays in even getting responses to correspondence to progress discussions about how they can become fully operational in accordance with the act. I understand that the minister has been approached. I do not know whether she has issued directions or she has made statements to the effect that she wants this to happen. I just do not understand why it is taking so long. If the Waste Authority cannot be set up to do its job, what is the point of having it there? It is quite clear in the act what has to happen with the provision of assistance.

Mr Atkins: As I said earlier, the waste management branch is there specifically to provide that assistance and support. In terms of some of the issues that were raised earlier, we are talking about clarifying some accounting areas of funds expended on staff and staff support. In fact, the request that came to the department was not just staff and staff costs but all of the costs that could be debited to the waste account. There is quite a bit of work going on to do all of that. It is a bigger job

than just looking at staff and staff costs. There is also an issue that quite a substantial amount of the staff on-costs in the provision of accommodation and corporate services have not previously been debited against the waste account by previous waste boards and they are a cost that is carried by the department. So there are some complexities, if you like, in answering the accounting question, but that is an accounting question; that does not prevent the waste management branch from providing the services that the authority needs. The other issue is the memorandum of understanding between the director general as the head of the department and the Waste Authority. There have been quite a number of exchanges and negotiations in that space, the detail of which I am not privy to.

Hon WENDY DUNCAN: Just on the issue of costs, do you believe that the landfill levy is high enough from two points of view: one is to assist with costs and the other to actually send a message out about trying to divert waste from landfill? Do you have a view on where the landfill levy should be set?

Mr Atkins: Again, that is a government policy issue for the minister to answer. I would make the observation, though, that it is low relative to other states. That, to me, is an indication of its level and its value.

Hon PAUL LLEWELLYN: How low is it compared with other states? Can you give us a sense of what the costs are and what the landfill levies are across other states and then perhaps a little indication of the understanding of the gate fees and how they work together?

Mr Atkins: I would have to confirm these figures, but my recollection is that landfill levies in other states range from around the mid \$20s to the high \$40s per tonne. I would certainly have to confirm that for you.

Hon PAUL LLEWELLYN: Obviously, landfill levies will be driving the technology that you can afford to buy, so two things are operating: there is the landfill levy plus the gate fees. If the landfill levy is low the gate fees will have to be high. Do you have a view about how we are going to fund these advanced waste treatment facilities and so on, and what is appropriate to drive the industry?

Mr Atkins: The types of technologies and the scale of facilities, like the one that is being built at Neerabup at the moment and the SMRC facility, are several tens of millions of dollars. It is hard to imagine that revenue from a landfill levy would ever be sufficient to fund those sorts of things, but clearly the landfill levy is there to assist and support planning facilities and providing assistance to providers of services for their strategic planning. I think the waste authority's submission sets out some of those grant schemes. Certainly, our submission does. I think it is part of the whole story but it is not the whole story.

[11.00 am]

Hon KATE DOUST: I suppose that flows on from your earlier answer to the other question.

I was just wondering: have there been any discussions between DEC and the agencies in the energy portfolio with respect to the development of technology to convert organic waste material for power generation? We saw some very interesting things in New South Wales where that was actually occurring. We are just wondering if that sort of discussion has been had here.

Mr Atkins: Not that I am aware of; Mr Cowie might know.

Mr Cowie: No.

Mr Atkins: No, not that we are aware of. A number of those sorts of proposals have gone before the EPA. I am aware of some waste to energy proposals, and the only one I am aware of that has got through an assessment to an implementation stage but is yet to be built would be the poultry manure power station at Neerabup.

Hon PAUL LLEWELLYN: I think there is a bit of confusion there. This is not talking about combustion technologies; this was talking more about digestion. We are not talking about

combustion of waste in to thermal energy and electricity. Just to put it on the record, I think that the proposal we saw was an anaerobic digester taking off methane and that pathway to energy, rather than direct combustion.

Mr Cowie: I understand that is being looked at by some of the regional councils as part of their waste plans they have been developing, which is a proposal put forward by the Waste Authority.

Hon KATE DOUST: Is there any particular regional council that is looking at that?

Mr Cowie: It is probably a little early to say, but I believe the Pilbara council may be looking at it as part of their waste development plan.

Hon PAUL LLEWELLYN: Just with regard to that, the question would really be: do you have a view about the use of combustion technologies—waste to energy combustion technologies—being used in Western Australia in terms of their environmental impacts and so on?

Mr Atkins: Obviously, any of those technologies need to have the right sort of pollution abatement equipment on them, and I have no reason to believe that those sorts of technologies cannot operate safely in Western Australia, if there is appropriate pollution abatement equipment that can be fitted. One of the fundamental impediments to some of those technologies is community attitude, particularly if you are talking about thermal combustion. However, those technologies, as I understand it, work well in other parts of the world.

The CHAIR: To what extent is waste management policy and legislation uniform across states and territories?

Mr Atkins: That I cannot answer. Within Australia, the Environment Protection and Heritage Council, which the federal environment minister chairs, is a council of all state and territory environment ministers. That is the one forum, if you like, where national policy comes together through the states and territories. My recollection is that the Environment Protection and Heritage Council has recently commissioned a working group to develop a national waste strategy.

Mr Cowie: That is correct.

Hon WENDY DUNCAN: I just wonder whether you could explain the final sentence in your submission; that it is important that the DEC staff employed can basically provide advice without prejudice. Is there some message there that you are trying to get through to us or is that just a standard sentence?

Mr Atkins: I guess it is just summarising the position that where we have people providing waste management policy advice to the minister, director general and the Waste Authority, that they can do, if you like, without being encumbered by the regulatory functions that the department provides through separate areas in the department. It is clearly why we keep the waste management branch as a clearly defined body of people separate from the regulatory arms that operate under the Environmental Protection Act and, indeed, the EPA service unit was established to support the EPA in the same way.

Hon WENDY DUNCAN: Just following on from that, earlier we were talking about the issue of notices to agencies or bodies that are undertaking waste management, and that under that notice procedure you then give them advice or time to comply with the notice. Surely, in that situation, the receiver of the notice is in a situation where there may be legal implications about how they respond, so I am just thinking about advice that is provided under the threat of a notice is something that where the receiving body is not getting advice without prejudice. I was just wondering whether you can see the other side of the story there.

Mr Atkins: I can understand that the, I guess, organisation that is subject to the notice can be confused between the two roles that the department provides, and we are very careful to make sure that that is clear. I have gone to great lengths to do that to the organisation in question. The notices that I am talking about, of course, are not issued through the waste management branch. The waste

management branch does not participate in any way in that activity. We are quite careful to keep those roles apart.

The CHAIR: So, would it not be appropriate to spin off the waste management branch and put it under the Waste Authority; to keep it all separate, completely, from the department?

Mr Atkins: That is a government policy decision and I am not prepared to comment on that.

The CHAIR: Okay, thank you very much for your attendance at the committee.

The Witnesses: Thank you.

Hearing concluded at 11.05 am