

Implementing Cost Recovery for Part IV *Environmental Protection Act 1986*

WALGA submission

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Contact:

Garry Middle

A/Manager, Environment Policy

WALGA

ONE70, LV 1, 170 Railway Parade West
Leederville

Phone: (08) 9213 2047

Email: environment@walga.asn.au

Website: www.walga.asn.au

About Us

The Western Australian Local Government Association (WALGA) is the peak industry body for Local Government in Western Australia. WALGA is an independent, membership-based organisation representing and supporting the work and interests of 139 Local Governments in Western Australia.

WALGA provides an essential voice for approximately 1,222 Elected Members and approximately 22,000 Local Government employees, as well as over 2.5 million constituents of Local Governments in Western Australia. WALGA also provides professional advice and services that provide financial benefits to the Local Governments and the communities they serve.

WALGA's governance structure is comprised of WALGA State Council, the decision-making representative body of all Member Councils, responsible for sector-wide policy making and strategic planning on behalf of Local Government, and Zones, (5 metropolitan and 12 country), groups of geographically aligned Member Councils responsible for direct elections of State Councillors, providing input into policy formulation and providing advice on various matters.

General Comment

WALGA welcomes the opportunity to comment on the Discussion Paper Implementing Cost Recovery for Part IV *Environmental Protection Act 1986* (EP Act) and draft Regulations.

WALGA's submission is based on consultation with the Local Government Sector, including feedback provided at an information session and workshop held on 1 October 2021 with the Department of Water and Environmental Regulation (DWER). This submission was endorsed by WALGA State Council on 25th October 2021.

This submission should also be considered in conjunction with WALGA's previous related submissions:

- WALGA's [submission](#) on proposed amendments to the EP Act, January 2020.
- WALGA's [submission](#) on the Cost Recovery for Clearing Permits and Water Licences and Permits Discussion Paper, November 2018.

Local Governments carry out a range of activities and projects that can be considered proposals under Part IV of the EP Act, but very few that would classify as significant proposals. Since 1990, 28 proposals have been subject to assessments, five of which have also had s45 assessments: 8 waste treatment facilities, 7 roads, 2 airports, 2 quarries, and 9 other proposals.

WALGA has previously argued in its submission on the Cost Recovery for Clearing Permits and Water Licences and Permits Discussion Paper that it supports the user-pays principle and considers cost recovery as appropriate where there is a private benefit accruing to the applicant for a permit or licence. However, the majority of

projects undertaken by Local Governments are almost entirely for public benefit, and these benefits often extend beyond the Local Government's own community. Imposing cost recovery in these circumstances amounts to cost shifting from one government entity to another.

The same principle applies for the proposed cost recovery for Part IV EP Act. Indeed, the proposed cost recovery model will add significantly to the costs of Local Government projects, requiring EPA assessment, as illustrated in the following case studies below.

In 2007, the City of Armadale proposed to construct the Keane Road Strategic Link road, a 1.5km road that would provide a local link between the suburbs of Harrisdale and Forrestdale. The road had yet to be reserved in the Metropolitan Region Scheme as a regional road, but it was included in the preferred option for the Western Australian Planning Commission's Southern River/Forrestdale/Brookdale/Wungong District Structure Plan.

The purpose of this road was to provide a public benefit to the residents of Harrisdale, Forrestdale and beyond. It had a level of planning endorsement.

The construction costs for these suburban roads are typically around \$4 million per km meaning the total cost of this project if constructed today would be approximately \$6 million.

This proposal was subject to an EPA assessment, which concluded in 2014. The EPA report noted that there were four key environmental factors:

- Flora and Vegetation;
- Hydrological Processes;
- Terrestrial Fauna; and
- Inland Waters Environmental Quality.

Table 1 below shows the expected cost of that assessment under the proposed cost recovery model.

Fixed charges	Amount	Complexities charges
Referral	\$32,000.00	
Assessment base fee	\$16,000.00	
EPA report	\$48,000.00	
	\$16,000.00	Environmental Scoping Document (ERD) prepared by proponent
	\$32,000.00	Public consultation of ERD required
	\$48,000.00	Submissions on ERD - 92 received units
	\$192,000.00	4 key factors - 12 units
	\$32,000.00	Offsets - loss of Banksia woodlands
Total	\$416,000.00	

Table 1: Estimate of cost recovery for the EPA assessment of the Keane Road Strategic Link. This does not include the cost of the consultants required to prepare the environmental review and associated documents or assessment under the

Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) bilateral agreement with the Commonwealth.

Based on this, the proposed EPA assessment cost recovery would add nearly 10 per cent to the cost of the project. Funding for new road construction projects typically comes from the Commonwealth Government or in some cases the State Government. The Federal Government seeks to fund “shovel ready” projects that have all required approvals and permits in place. Consequently, the total cost of the assessment would in most instances have to be borne by the City.

Another case study is the Esperance Waste Management Facility, which is currently under assessment by the EPA. This facility will replace the existing Wylie Bay waste management facility which is approaching the end of its operational lifespan. The new facility would include a Materials Recovery Facility, which is consistent with State Government’s 2030 Waste Avoidance and Resource Recovery Strategy. These facilities primarily provide a public benefit as it is a service to residents. Table 2 shows an estimate of the cost of completing that assessment.

Fixed charges	Amount	Complexities charges
Referral	\$32,000.00	
Assessment base fee	\$16,000.00	
EPA report	\$48,000.00	
	\$16,000.00	Submission received on referral information
	\$16,000.00	ESD prepared by proponent
	\$32,000.00	Public consultation of ERD required
	\$48,000.00	Possible Submissions on ERD - based on submissions on referral (84)
	\$144,000.00	3 key factors - 9 units
Total	\$352,000.00	

Table 2: Estimate of cost recovery for the EPA assessment of the Esperance Waste Management Facility

This cost represents about 5 per cent of the Shire’s total annual income.

Cost recovery fees paid by Local Governments relating to the provision of a public good will necessarily result in less funding available for other projects and the provision of services to the local community. This further disproportionately impacts on smaller Local Governments where there is limited discretionary funding available. The opportunity cost of shifting the funding burden of cost for the EPA assessment to Local Government is also a relevant consideration.

The imposition of cost recovery fees at the scale proposed may impact the cost/benefit analysis to such an extent that a project that provides a public good may not proceed due to the additional charges.

In summary, most Local Government proposals that could be subject to an EP Act Part IV assessment are for the provision of essential public infrastructure. These projects are for public, not private, benefit, are endorsed activities either through State and Local Planning (e.g. roads and waste treatment facilities) and provide

benefits beyond the local area at a regional and State level. WALGA contends that these proposals should be exempt from cost recovery.

Local Governments recognise the need for environmental impact assessments where the potential environmental impacts could be significant and accept the need to comply with the conditions of an environmental approval resulting in better environmental management. However, as demonstrated in the case studies included in this submission, the imposition of fees of the scale proposed will not only add significant costs to the delivery of public benefit Local Government projects but could result in projects becoming unviable.

It is noted that the draft regulations allow for fee waivers, and the discussion paper provides examples of proponents that could have fees waived – individual and small businesses. The draft regulations give the CEO of DWER the power to grant fee waivers or reductions on a case-by-case basis. This ad hoc approach will not provide Local Governments with the certainty required when planning for new projects and applying for grants. A more transparent approach, which would increase certainty for the sector, would be to allow the CEO to prescribe categories of proposals that would have fees waived automatically. WALGA suggests that one such category should be Local Government proposals that are predominantly of public benefit, are consistent with State Government endorsed planning, strategies and policies, and are not for profit activities.

Recommendations

WALGA recommends that:

- 1. The Regulations be amended to allow the CEO to prescribe categories of proposals that will automatically have fees waived, and**
- 2. That one category for fee waiver be for proposals, such as those of Local Government, that are for public benefit, are consistent with Government planning, strategies and policies, and not for profit activities.**