

March 6, 2024

Via Email: solidwasteoperations@metrovancover.org

Metro Vancouver Regional District
4515 Central Boulevard Metrotower III
Burnaby BC V5H 0C6

RE: Smart Waste Program and Draft Tipping Fee Bylaw Updates

Dear Mayors and Councillors,

The Business Council of British Columbia, the Greater Vancouver Board of Trade, the B.C. Chamber of Commerce, the Canadian Federation of Independent Business, and the Independent Contractors and Businesses Association together represent tens of thousands of businesses in the region. We appreciate the opportunity to provide input on Metro Vancouver's (MV) bylaw process.

In July 2023, MV's Zero Waste Committee introduced the revised Tipping Fee Bylaw and the Smart Waste Program (SWP). Respectively, these initiatives compel waste haulers to provide information related to their business activities in collecting and disposing of waste (Tipping Fee Bylaw) and authorize MV to use GPS devices in waste bins to track them (SWP). As noted in MV's [Engagement Summary](#), industry stakeholders provided feedback on many issues. Most of the concerns remain outstanding in new drafts of the Bylaw released after the Engagement Summary. We are concerned that the important **competitive, privacy, and cost** issues raised by industry during this process have not been fully heard and have not been addressed.

To reiterate, we oppose the Bylaw and proposed SWP as written. We believe it is more productive for MV to complete a *new* Integrated Solid Waste Management Plan (ISWMP) before considering updating or proposing new bylaws. The rest of this submission lays out specific issues with the elements of the proposed Tipping Fee Bylaw and Smart Waste Program.

The proposed amendment to the Tipping Fee Bylaw is essentially a **substantive relabelling of 2019 Bylaw 307**. It was not approved by the Minister of Environment and Climate Change Strategy, pending a requirement for proper consultation and renewal of the current (and three-years-out-of-date) ISWMP, which remains outstanding. Therefore, we are concerned the current proposed Bylaw amendment is trying to achieve an outcome indirectly and counter to the Minister's decision. A full and complete consultation, with sufficient time to explore complex issues, is critical. The process to date has not met these criteria. In our view, the Bylaw amendment is premature.

We recommend MV suspend further work until it has completed a new ISWMP.

We also recommend MV engage an independent third party to facilitate such a process.

In terms of **competition in the waste hauling sector**, we are concerned what is currently being proposed will lead to a MV monopoly. This issue was raised in 2019 in an [opinion by the Competition Bureau of Canada](#) related to 2017 versions of Bylaws 307, 308 and 309 to the B.C. Minister of Environment and Climate Change Strategy. The opinion concluded (para 24) with:

*“[T]he Generator Levy Bylaw [308] and Commercial Waste Licensing Bylaw [307] raise competition-related concerns in that their adoption and implementation may result in a reduction of choice and innovation and/or an increase in tipping fees paid by waste generators in the Metro Vancouver area that would not occur absent these measures. Moreover, **the Bureau is of the view that measures put in place by Metro Vancouver, indeed any public or quasi-public entity, should not create competitive advantages for one competitor over another.**”* [emphasis added]

MV acknowledges the Bureau’s opinion in the Engagement Summary but avoids dealing with the central issue of competitive advantages by noting the Bureau “*did not establish any related requirements or regulations.*” MV also misses other important opinions from the Bureau as described under the following headings:

- The Generator Levy Bylaw may reduce and/or eliminate competition in the market. (para 5 to 10)
- Less competition may result in reduced choice and innovation. (para 11 to 13)
- Less competition may result in higher prices. (para 14 to 10)
- The Generator Levy does not reflect the actual fixed costs of Metro Vancouver transfer stations. (para 20 to 23)

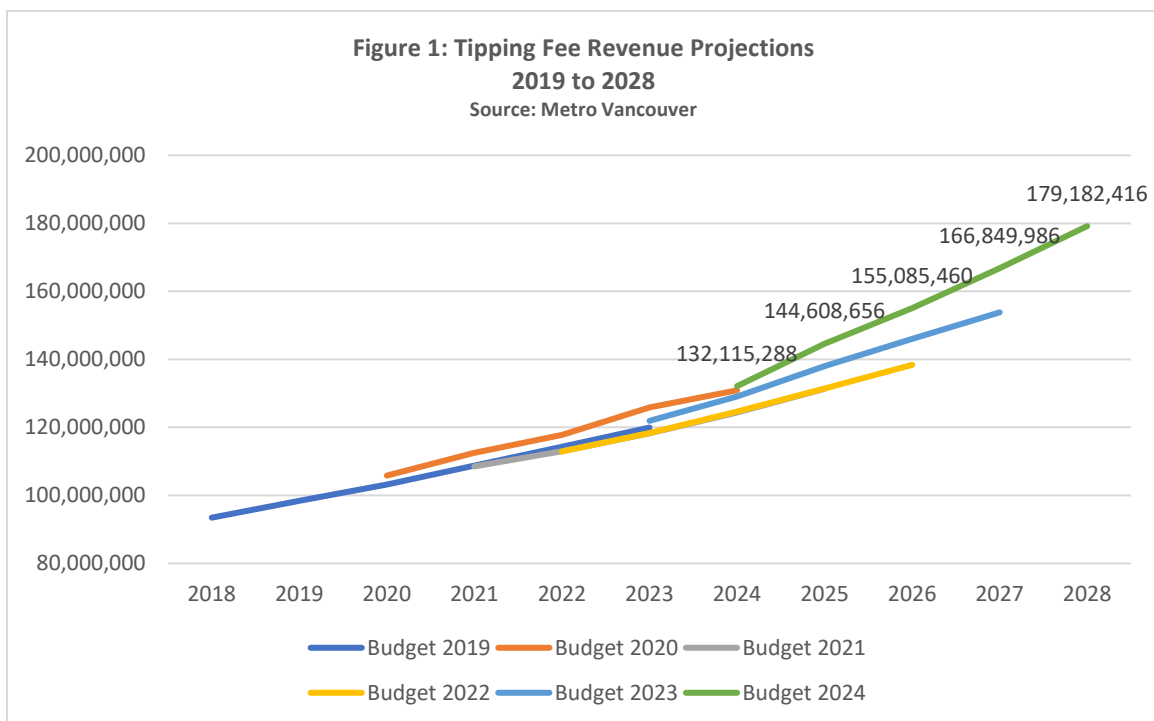
The decision by MV to build and operate infrastructure diminishes the opportunity for private sector operators to invest and innovate in the region’s waste sector. Creating a tax and regulatory environment that makes it attractive for companies to make more capital investments would derisk waste management for regional taxpayers. It would also encourage private sector investments in modern technology and equipment that will lower the environmental footprint of waste management. **As such, we agree with the Bureau’s conclusion that these Bylaws will create a reduction in choice and will increase costs through higher tipping fees that are anti-competitive. We believe the Bylaws should be set aside.**

The proposed changes to the Tipping Fee Bylaw raise significant **access to information and privacy concerns**. Combined with the Smart Waste Program, we question the legality and authority of MV to compel private companies to divulge proprietary business information and conduct surveillance without consent. Waste bins are private property. Placing surveillance trackers in bins without the permission of bin owners, as is proposed, is government overreach and establishes a dangerous precedent.

MV is in the position of being both a market participant (i.e., it competes with private companies) and a regulator. Tracking operations of private companies creates a real or perceived conflict of interest in that such information could be manipulated by MV for market advantage. MV could design fees and business processes that place private companies at a competitive disadvantage relative to MV or unfairly create opportunities for “preferred partners.” This is an inappropriate arrangement. **Even if the data is anonymized, we oppose the use of tracking devices or compelling companies to submit sensitive business data in general and especially when MV is both a market participant and the regulator.**

Since Bylaw 280 was contemplated, we have been concerned about increasing **costs** of solid waste management for businesses and residents of the region. All costs associated with implementing bylaws are paid by regional taxpayers adding to operating cost increases and affordability challenges. Adding to administrative burden and costs is unlikely to achieve waste reduction goals or protect the environment.

Figure 1 shows tipping fee revenue projections from successive MV budgets. Total revenue is on track to almost double over the decade to 2028. Fees waste haulers pay are passed on to residents and included in business contracts for waste disposal. The 2024 MV Budget forecasts fee tipping revenue will grow an average of 8% per year. These increases are larger than the 5% growth generally seen in previous budgets and exceed population growth and inflation. There is no reason for fees to grow many times faster than the region’s population growth.



MV has created a situation where **waste haulers are now tax and fee collectors**. Under the Bylaw 308 Section 8.1, waste haulers must collect and remit the generator levy to MV. User fees paid by a person or entity for a specific service can only be levied by a government. Having waste haulers collect fees means the element of MV’s financial responsibility and accountability is obscured. This structure raises transparency concerns and is adding to operator administrative costs. In summary notes contained in an MV email dated Feb 6, 2024, sent to industry stakeholders on the matter of “What will the updates achieve?”, the fifth bullet indicates

- “A reduction of future tipping fees of up to \$3,000 per submission of records to offset costs incurred by haulers in assembling and submitting records.”


The communication recognizes haulers are incurring additional administrative costs and seems to suggest a reduction in tipping fees could be a way to offset these costs. Regardless, it is inappropriate to transfer this responsibility.

In sum, we are opposed to the changes to the Smart Waste Program and amendment to the Tipping Fee Bylaw that are currently being contemplated. Metro Vancouver should reconsider its current plan especially considering the changes may be unnecessary depending on the new ISWMP, which should act as the foundation for regulatory amendments. We reaffirm the need for transparent and meaningful consultation with business and residents.

Thank you for your consideration.

Yours sincerely,





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cc: Metro Vancouver Board Members
Honourable George Heyman, Minister of Environment and Climate Change Strategy
Honourable Anne Kang, Minister of Municipal Affairs
Mr. Grant Hankins, President, Waste Management Association of BC
Ms. Lori Bryan, Executive Director, Waste Management Association of BC