Parliamentary Committees



Waste Reduction and Recycling Amendment Bill 2017

Report No. 39, 55th Parliament
Agriculture and Environment Committee
August 2017

Agriculture and Environment Committee

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Acknowledgements

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Abbreviations

Act	*Waste Reduction and Recycling Act 2011*
BEYAP	Bulimba Electorate Youth Advisory Panel
BCC	Brisbane City Council
Bill	Waste Reduction and Recycling Amendment Bill 2017
BUA	beneficial use approval
CCIQ	Chamber of Commerce and Industry Queensland
CDSO	Container Deposit System Operators
CFNEC	Cairns and Far North Environment Centre
committee	Agriculture and Environment Committee
CRS	Container Refund Scheme
department	Department of Environment and Heritage Protection
ECCQ	Environment Council of Central Queensland
EOW	End of Waste
FLPs	fundamental legislative principles
IAG	Container Refund Scheme Implementation Advisory Group
LGAQ	Local Government Association of Queensland
MGA	Master Grocers Australia Limited
Minister	Honourable Dr Steven Miles MP, Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef
MRF	Material Recovery Facility
N4C	Norman Creek Catchment Co-ordinating Committee
NRA	National Retail Association
PRO	Product Responsibility Organisation
QHA	Queensland Hotels Association
QRC	Queensland Resources Council
SCEC	Sunshine Coast Environment Council

SDRC	Southern Downs Regional Council
WBBEC	Wide Bay Burnett Environment Council Inc
WPSQ	Wildlife Preservation Society of Queensland

Chair's foreword

While plastic was a product developed in the late 1800s, it was not until the 1940s that it moved to being a widespread part of our daily life. People eat off it and with it, people wear it, people drive in vehicles full of it, people communicate with devices full of it, people live in dwellings full of it and it is essential in our schools and hospitals. Few of us now could navigate our daily activities without plastic.

The properties that make plastic useful, its strength, its longevity and its adaptability; also make it a major environmental problem. There is a growing awareness that people need to re-think their relationship with plastic and the way we use it.

This report presents a summary of the Agriculture and Environment Committee's examination of the Waste Reduction and Recycling Amendment Bill 2017.

The committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles – that is, to consider whether the Bill had sufficient regard to the rights and liberties of individuals, and to the institution of Parliament.

The support for the measures in this Bill was universal. The provisions will require significant changes but the submitters overwhelmingly indicated that the community is ready to make the change. The banning of single use shopping bags will require changes of practices for everyone. We all take it for granted that we can go to any retail outlet and get a plastic bag to carry home our goods. The environmental impacts of this assumption are enormous and the submitters demonstrated that the community is ready to make the switch.

The flexibility built into the container refund scheme is ideally suited to a sector that is currently operated by local government and private sector operators. The flexibility will allow for community organisations to increase the volume of recycling without impact on the current recyclers. The flexibility also allows for a range of solutions to be implemented that will suit our very decentralised and large state.

Many submitters rightly pointed out that there is more to do but this Bill is an exciting step in the process of re-defining how we utilise plastic.

On behalf of the committee, I thank those individuals and organisations who lodged written submissions on the Bill and who participated in the committee's public roundtable meeting In Yeppoon. I also thank the committee's secretariat, and the Department of Environment and Heritage Protection.

I commend this Report to the House.

Joe Kelly MP

Chair

Recommendations

The committee recommends the Waste Reduction and Recycling Amendment Bill 2017 be passed.

The committee recommends that the Bill be amended to mandate the inclusion of a recycling industry representative on the board of the Product Responsibility Organisation.

The committee recommends that the Minister report to the committee on progress in reaching relevant benchmarks within two years of commencement of the Container Refund Scheme.

The benchmarks should include:

- key performance indicators for the Container Refund Scheme and Product Responsibility Organisation, including a container recycling target, a convenience and accessibility target in relation to the availability of container refund points, and targets relating to social enterprise and innovation and technology outcomes, and
- the appropriate timeframe in which those targets are required to be achieved.

The committee recommends that the Minister specify in regulation those benchmarks referred to in Recommendation 3.

1 Introduction

1.1 Role of the committee

The Agriculture and Environment Committee (committee) is a portfolio committee of the Legislative Assembly which commenced on 27 March 2015 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.[1]

The committee's primary areas of responsibility are:

- Agriculture, Fisheries and Rural Economic Development
- Environment, Heritage Protection, and
- National Parks and the Great Barrier Reef.

Section 93(1) of the *Parliament of Queensland Act 2001* provided that a portfolio committee is responsible for examining each bill and item of subordinate legislation in its portfolio areas to consider:

- the policy to be given effect by the legislation
- the application of fundamental legislative principles, and
- for subordinate legislation – its lawfulness.

The Waste Reduction and Recycling Amendment Bill 2017 (Bill) was introduced into the House and referred to the committee on 14 June 2017. In accordance with the Standing Orders, the committee was required to report to the Legislative Assembly by 11 August 2017.

1.2 Inquiry process

On 16 June 2017 the committee invited stakeholders and subscribers to lodge written submissions on the Bill. On 23 June 2017, the committee wrote to the Department of Environment and Heritage Protection (the department) seeking advice on the Bill.

The committee received written advice from the department, including a written brief on the Bill, jurisdictional comparisons and information on the government's consultation. This information has been published on the committee's website and much of it forms appendices to this report.

The committee received 63 submissions, from:

- beverage and retail sector - seven submissions
- community and environment groups - 23 submissions
- local government- four submissions
- resources sector- one submission
- container deposit system operators - one submission,
- individuals - 26 submissions, and
- Member of Parliament- one submission

(see **Appendix A**).

On 10 July 2017, the committee received written advice from the department in response to matters raised in submissions.

The committee held a public hearing on the Bill, followed by a public briefing with the department, on 12 July 2017 (see **Appendix B**).

[1] *Parliament of Queensland Act 2001*, section 88 and Standing Order 194.

On 27 July 2017, the committee held a public roundtable meeting at the Keppel Bay Sailing Club at Yeppoon. The committee issued a general invitation for interested persons to attend, and participate in, the meeting. Participants included representatives of local government, environmental and business groups, local business, community organisations and members of the local community. Representatives of the department also attended to assist the committee. The meeting included discussion on the anticipated ramifications of the proposals in the Bill on the local community.

1.3 Policy objectives of the Waste Reduction and Recycling Amendment Bill 2017

In his introduction speech, Honourable Dr Steven Miles MP, Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef (Minister) observed that Queensland is '…top of the leaderboard for littering' and has '…one of the lowest recycling rates in Australia'.[2]

The objectives of the Bill are to:

- provide a head of power and framework for the introduction of a lightweight plastic shopping bag ban
- provide a head of power and framework for the introduction of a container refund scheme for Queensland, and
- amend provisions in relation to End of Waste Codes.

1.3.1 Lightweight plastic shopping bag ban

The objects of the proposed plastic shopping bag ban are to:

- reduce the amount of plastic pollution by reducing the number of plastic bags that become waste and enter the environment as litter, and
- encourage retailers and consumers to consider whether a carry bag is necessary in the first instance and if a bag is needed then to use alternative shopping bags.[3]

1.3.2 Beverage container refund scheme

The objects of the proposed container refund scheme are to:

- increase the recovery and recycling of empty beverage containers
- reduce the number of empty beverage containers that are littered or disposed of to landfill
- ensure that manufacturers of beverage products take a product stewardship responsibility for their beverage products that generate waste in the form of empty containers
- provide opportunities for social enterprise and benefits for community organisations by—
    - making funds available through the payment of refund amounts for empty beverage containers, and
    - creating opportunities for employment in activities related to collecting, sorting and processing containers for recycling
- complementing existing collection and recycling activities for recyclable waste.[4]

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2 Queensland Parliament, Record of Proceedings, 14 June 2017, p 1607.

3 Clause 4 of the Bill proposes to insert Part 3A 'Banned plastic shopping bags', which includes s 99A 'Objects of part'.

4 Clause 4 of the Bill proposes to insert Part 3B 'Beverage container refund scheme', which includes s 99H 'Objects of part'.

1.3.3 Amending End of Waste Codes

According to the explanatory notes, the Bill proposes to amend the existing End of Waste (EOW) Codes to:

- enable greater control on the use of EOW resources, when necessary, to reduce the potential for environmental harm, and
- streamline and clarify administrative arrangements for EOW waste approvals.[5]

1.4 Background

1.4.1 End of Waste framework

The EOW framework entered into force on 8 November 2016 and replaced the beneficial use approval (BUA) framework:

> *The intention of the end of waste framework is for a waste to be approved for use as a resource, provided it meets very strict quality criteria that minimise the potential for environmental harm when it was used as designated.*
>
> *The need for controls on the end-user of the resource would therefore be unnecessary as the resource would be considered to be no different to another virgin material or non-waste resource.*[6]

1.5 Consultation on the Bill

1.5.1 Lightweight plastic shopping bag ban

In June 2015, the Queensland Government announced it would investigate the introduction of a lightweight plastic shopping bag ban.[7] In November 2016, the government announced such a ban would be introduced:

> *A discussion paper 'Implementing a lightweight plastic shopping bag ban in Queensland' was released for public consultation on 25 November 2016. During the consultation period, which closed on 20 February 2017 over 26 000 submissions were received. Over 96% of submissions supported the introduction of the ban on 1 July 2018 and over 60% of submissions supported the inclusion of biodegradable plastic shopping bags in the ban*.[8]

The department provided the committee with a summary of the results of the government's consultation on its discussion paper, *'Implementing a lightweight plastic shopping bag ban in Queensland'* (reproduced in **Appendix C**).

1.5.2 Beverage container refund scheme

In June 2015, the Queensland Government announced that it would investigate the feasibility of the introduction of a state-based container scheme for Queensland: 'An Implementation Advisory Group was established to assist with the investigation'.[9]

In July 2016, the government announced its decision to introduce a Container Refund Scheme (CRS):

> *On 17 February 2017 the discussion paper 'Implementing Queensland's Container Refund Scheme' was released for public consultation. Submissions closed on 20 March 2017 with over 2600 submissions received during this period. There is overwhelming public support for the*

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5 Explanatory notes, p 1.

6 Explanatory notes, p 1; Department of Environment and Heritage Protection, correspondence dated 30 June 2017, attachment, p 4.

7 Explanatory notes, p 3.

8 Explanatory notes, p 3.

9 Explanatory notes, p 3.

> *introduction of a container refund scheme. While the beverage industry does have concerns regarding the potential impact of a scheme, the sector expressed a willingness and desire to work with government to help design an efficient and effective scheme to achieve the outcomes of reduced litter, increased recycling and opportunities for communities and social enterprise organisations.*[10]

According to the explanatory notes, extensive consultation has also been undertaken through the Container Refund Scheme Implementation Advisory Group (IAG), whose membership comprises of representation from: Australian Beverages Council, Australian Council of Recycling, Australian Food and Grocery Council, Boomerang Alliance, Container Deposit System Operators, Local Government Association of Queensland, National Association of Charitable Recycling Organisations, National Retail Association, Scouts Queensland, Waste Management Association of Australia and Waste Recycling Industry Association (Qld).[11]

Consultation on the detail around the technical design elements and implementation has also been undertaken through four Technical Working Groups: Local Government, Resource Recovery, Beverage and Retail and Community and Environment; as well as through bilateral discussions.[12]

The explanatory notes provide additional information concerning the consultation process with key stakeholders, including details of divergent views around certain aspects of the proposed scheme which were held by members of the IAG.[13]

The department provided the committee with information on the results of stakeholder consultation, including:

- a summary of the results of the government's consultation on its discussion paper *'Implementing Queensland's Container Refund Scheme'* (reproduced in **Appendix D**), and
- a summary of stakeholder feedback received from the IAG, along with the department's response to the feedback (reproduced in **Appendix E**).

1.5.3 Amending End of Waste Codes

In relation to the existing EOW framework, the explanatory notes state:

> *During stakeholder consultations on potential regulatory provisions to clarify and support the administration of the end of waste framework, several concerns with the framework under the* Waste Reduction and Recycling Act 2011 *were highlighted. The main issue concerned the inability to control the use of end of waste resources.*[14]

The explanatory notes provide further detail on the proposed amendments and their relationship with stakeholder consultation:

> *The amendments to the end of waste framework are largely in response to concerns raised by stakeholders during consultations conducted in late 2016 and early 2017. During the process to develop the regulations to support end of waste in September 2016, stakeholders were consulted, including those operating under the then beneficial use approval framework, and peak bodies representing waste generators, and the waste and resource recovery industry. Out of this process, a number of concerns about the provisions under the Waste Reduction and Recycling Act 2011 were highlighted.*

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10 Explanatory notes, p 3.

11 Explanatory notes, p 4.

12 Explanatory notes, p 4.

13 Explanatory notes, pp 4-5.

14 Explanatory notes, p 1; Department of Environment and Heritage Protection, correspondence dated 30 June 2017, attachment, p 4.

> *In February 2017, the end of waste framework was presented to a forum of stakeholders from the waste and resource recovery industry forum facilitated by the Waste Recycling Industry Association of Queensland (WRIQ). During this event, concerns with the end of waste framework were raised and reiterated, particularly around the inability to control the end use of resources under the framework.*
>
> *In response to these concerns, potential amendments to the Waste Reduction and Recycling Act 2011 were identified and discussed bilaterally with several peak body stakeholders during April and May 2017.*
>
> *Peak bodies consulted included the Australian Council of Recycling, Australian Organics Recycling Association, Australian Sugar Milling Council, Australian Tyre Recyclers Association, Cement Concrete and Aggregates Australia, Queensland Farmers Federation, Queensland Resources Council, Waste Management Association of Australia, Waste Recycling Industry Association Queensland.*[15]

1.5.4 Waste Reduction and Recycling Amendment Bill 2017

The explanatory notes state:

> *No consultation was undertaken on the draft Bill. However, targeted and limited stakeholder consultation on the exposure draft was undertaken with the Advisory Group on 30 May 2017. Consultation with state government departments was undertaken prior to introduction of the Bill.*[16]

A number of submissions received by the committee referred to the Bill's proposed inclusion of particular issues in regulation. The department advised: 'Further consultation with key stakeholders will continue in relation to the preparation of these provisions'.[17]

1.6 Other Australian jurisdictions

1.6.1 Lightweight plastic shopping bag bans

The explanatory notes observe that four other states and territories[18] have plastic shopping bag bans in place, covering single-use lightweight plastic shopping bags, and that the provisions in the Bill are:

> *…consistent with the plastic bag ban legislation in other jurisdictions where a ban applies, with the exception that Queensland's ban also covers biodegradable plastic shopping bags. This is because these bags have the same potential impact on the environment and wildlife as a 'traditional' plastic bag if they are littered.*[19]

The department provided the committee with a summary of plastic bag bans in other jurisdictions (reproduced in **Appendix F**).

1.6.2 Beverage container refund schemes

South Australia and the Northern Territory are currently the only Australian jurisdictions with established container schemes: 'A NSW scheme will commence on 1 December 2017, closely followed by the ACT and Western Australia'.[20]

According to the explanatory notes, the proposed amendments in the Bill:

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15 Explanatory notes, p 5.

16 Explanatory notes, p 4.

17 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 1.

18 South Australia, Tasmania, the Australian Capital Territory and the Northern Territory.

19 Explanatory notes, p 5.

20 Explanatory notes, p 6.

> *…provide consistency between schemes in relation to the amount of refund to be provided, and specifically consistency with the NSW scheme around the scope of containers included and excluded and the approved refund marking for the containers. The amendments are consistent with other legislation in that a scheme governance framework is established; however the governance arrangements are significantly different between jurisdictions*.[21]

The department advised that the Queensland scheme differs from the New South Wales model:

> *…in that the Bill does not mandate in legislation the establishment of container collection zones nor does it mandate monopoly network operators for each zone. This approach will provide the PRO with the flexibility to meet targets set by the government to address challenges posed by Queensland's geography, distances and population distribution to establish container refund and collection points that is market-driven*.[22]

The department provided the committee with a comparison of key elements of container refund schemes in other Australian jurisdictions (reproduced in **Appendix G**).

1.6.3 End of Waste frameworks

The explanatory notes state that New South Wales, South Australia, and Victoria have legislation that provides for the reclassification of a waste into a resource or a product for a beneficial use:

> *However, each jurisdiction achieves the reclassification by different means. In all cases, each jurisdiction has the ability to put conditions on the end user of the resource, to ensure that the use or management of the resource is not likely to result in unacceptable risks of environmental harm*.[23]

The department provided the committee with information relating to waste-to-resource frameworks in Australia, including:

- a jurisdictional analysis of Australian waste-to-resource frameworks, and
- a comparison of waste-to-resource frameworks in several Australian jurisdictions

(both reproduced in **Appendix H**).

1.7 Should the Bill be passed?

Standing Order 132(1) requires the committee to determine whether or not to recommend the Bill be passed.

After examination of the Bill, including the policy objectives which it will achieve and consideration of the information provided by the department and from submitters, the committee recommends that the Bill be passed.

Recommendation 1

The committee recommends the Waste Reduction and Recycling Amendment Bill 2017 be passed.

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21 Explanatory notes, p 6.

22 Department of Environment and Heritage Protection, correspondence dated 30 June 2017, attachment, pp 2-4.

23 Explanatory notes, p 6.

2 Examination of the Waste Reduction and Recycling Amendment Bill 2017

This section discusses issues raised during the committee's examination of the Bill. These issues are set out in the order appearing in the Bill.

2.1 Lightweight plastic shopping bag ban

The Bill proposes to introduce a legislative framework that ensures all retailers are obliged to meet the requirement not to supply a banned plastic shopping bag.[24] It will be an offence for a retailer to supply a banned bag and penalties will apply for failure to comply.[25]

2.1.1 Key provisions in the Bill

The Bill proposes to insert Part 3A 'Banned plastic shopping bags' into the *Waste Reduction and Recycling Amendment Act 2011* (Act).

2.1.1.1 Scope of the ban

The Bill defines what is meant by a 'banned plastic shopping bag' and what is meant by an acceptable 'alternative shopping bag' that can be used to replace the banned bag.[26]

A banned plastic shopping bag is defined as a carry bag with handles that is made in whole or part from plastic, whether or not the plastic is degradable:

> *The bag may be made of a thickness that is less than the thickness that is prescribed in regulation, or unless otherwise prescribed, is of a thickness less than 35 microns.*
>
> *A banned plastic shopping bag may also be a bag that is prescribed in regulation as a banned plastic shopping bag.*
>
> *This allows for a regulation to ban, for example, a thicker single-use plastic shopping bag if these bags start to be supplied as an alternative to the lightweight single-use shopping bag. The intent of the ban is to move behaviour away from single-use plastic bags and towards reusable alternatives – not to simply substitute a single-use lightweight plastic bag with a slightly thicker single-use bag that has the same environmental and wildlife impacts if littered.*[27]

Certain types of bags will not be captured by the ban:

> *…bags that may be used by local governments at off-leash dog parks as 'dog poo' bags, nappy bags and other similar plastic bags are not included in the definition of a banned bag.*
>
> *…Bags that are not included in the ban are 'barrier bags'; a plastic bag that is, or is an integral part of, the packaging in which goods are sealed for sale; and a bag that is prescribed in regulation as a bag that is not a banned plastic shopping bag.*
>
> *A barrier bag may include a bag that is used for containing fruit and vegetables or deli products. A bag that is integral to a product's packaging may be a bread bag or similar. Regulation may also specifically state that a certain bag is not a banned bag. This will provide the opportunity to exempt certain bags from being a banned shopping bag if these bags can be demonstrated to meet the objectives of the ban*.[28]

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24 Explanatory notes, p 1.

25 Department of Environment and Heritage Protection, correspondence dated 30 June 2017, attachment, p3.

26 Waste Reduction and Recycling Amendment Bill 2017, s 99B.

27 Explanatory notes, pp 7-8.

28 Explanatory notes, p 8.

The Bill defines an 'alternative shopping bag' as a bag other than a banned plastic shopping bag that is suitable for carrying goods from the retailer's premises.[29]

The Bill defines 'degradable' to mean:

> *…plastic that is biodegradable, including material that is compostable under AS 4736 – 'Biodegradable plastics – Biodegradable plastics suitable for composting and other microbial treatment'—and plastic that is designed to degrade and break into fragments over time*.[30]

2.1.1.2 Alternative shopping bag

Under the Bill, a retailer may charge for an alternative shopping bag:

> *Lightweight plastic shopping bags (banned bags) are currently provided by retailers at no visible cost to the consumer. However many alternative bags will be more expensive than a lightweight single-use bag and retailers may wish to treat these bags as they would any other sale product*.[31]

2.1.1.3 Penalties

The Bill provides for an offence, where a retailer gives a banned plastic shopping bag to a person to use to carry goods that the retailer sells from the retailer's premises:

> *This offence carries a maximum penalty of 50 penalty units… For an individual the infringement value would be $609.50 and for a company it would be $3047.50*.[32]

Additionally, a retailer must not give information to another person that they know is false or misleading about a banned plastic shopping bag, including about what the bag is made of or the fact that it is not a banned bag if it is.[33] A maximum penalty of 50 penalty units applies for this offence.[34]

2.1.1.4 Regulation

The Bill provides for:

> *…a regulation to prescribe that a different thickness of plastic bag, or different type of plastic bag, may be prescribed in regulation as a banned bag – or as a type that is not a banned bag. This allows for thicker single-use plastic shopping bags to be included in the ban if the review finds that slightly thicker single-use bags are being provided as an alternative to the single-use lightweight bag. It also allows for regulation to declare that a certain type of bag is not a banned bag. This is in recognition of the fact that technologies may change that mean a biodegradable bag, for example, may be a suitable alternative in the future*.[35]

2.1.1.5 Implementation and review

The Bill provides a transitional arrangement where:

> *…on a date before 1 July 2018, retailers will still be able to provide a banned bag but must also supply an alternative shopping bag, if requested by a customer. The commencement of the*

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29 Waste Reduction and Recycling Amendment Bill 2017, s 99B(3).

30 Explanatory notes, p 8.

31 Waste Reduction and Recycling Amendment Bill 2017, s 99F; Explanatory notes, p 9.

32 Explanatory notes, p 9; Clause 4 of the Bill proposes to insert new s 99D 'Retailer not to give banned plastic shopping bag'.

33 Explanatory notes, p 9; Clause 4 of the Bill proposes to insert new s 99E 'Giving false or misleading information about banned plastic shopping bag'.

34 Ibid.

35 Explanatory notes, p 6.

> *phase out period will be prescribed in regulation to provide consumers and retailers opportunity to adjust their usage of plastic shopping bags ahead of the ban taking effect.*[36]

According to the explanatory notes:

> *…the Queensland Government has entered into a partnership with the National Retail Association to undertake extensive retailer engagement in the lead up to the introduction of the ban on 1 July 2018 and the Department of Environment and Heritage Protection will also undertake broad community messaging*.[37]

The Minister must ensure that the plastic bag ban provisions are reviewed, with the review to commence no later than three months after 1 July 2020.[38]

2.1.2 General views on plastic shopping bag pollution and the proposed ban

Many submissions received by the committee identified plastic shopping bags as a major source of plastic pollution in Queensland. Submissions indicated considerable support for the introduction of a lightweight plastic shopping bag ban.[39]

The Environment Council of Central Queensland (ECCQ) supported the proposed ban, acknowledging that:

> *…this initiative will hopefully reduce the amount of litter in our natural environment, and particularly that which ends up in the marine environment and the damage caused to our marine flora and fauna, and in particular the Great Barrier Reef*.[40]

Wildlife Preservation Society of Queensland (WPSQ) observed that, with about 1 billion plastic bags used in Queensland every year and over 16 million estimated to be littered, the ban will have a much needed outcome:

> *The majority of plastic bags end up in landfill. This is not a preferred option as they clog up landfills and complicate the efficient processing of wastes. They also represent a major problem for recycling facilities where they can block machinery. Ironically, landfill represents the largest point source for plastic bag litter.*
>
> *Their nature, being easily picked up by the wind, allows their escape from landfill, shopping centres and public places. Their movement in the breeze means they can easily get into rivers, creeks and the marine environment. It is here that they are exposed to the many birds, animals and reptiles who get entangled or mistake them for food.*
>
> *Banning the use of plastic bags is an easy and obvious option to reduce litter and wildlife threats*.[41]

According to WPSQ, jurisdictions that have banned plastic bags:

> *…report a dramatic reduction in plastic bag litter, notably from their landfill sites. They also report a change in behaviour by consumers when not given the option of a plastic bag.*

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36 Department of Environment and Heritage Protection, correspondence dated 30 June 2017, attachment, p3.

37 Explanatory notes, p 2.

38 Waste Reduction and Recycling Amendment Bill 2017, s 99G; Explanatory notes, p 9.

39 Numerous submissions, including submissions 3-4, 6-9, 11-12, 14-19, 21, 23, 25-28, 30-31, 33-34, 36-45, 47-48, 50, 53 and 55-60.

40 Submission 9, p 1.

41 Submission 11, pp 1-2.

> *Queensland can now join a long list of countries and regions who have banned the bag (or introduced a levy on their use). These include jurisdictions in Europe, America, Asia and Africa*…[42]

The Local Government Association of Queensland (LGAQ) submitted that the proposed ban would assist councils to:

- reduce windblown litter at landfills and the costs of controlling this issue on site
- reduce plastic bag contamination in recycling bin collections, assisting councils to maintain lower levels of contamination and meet Material Recovery Facility (MRF) targets
- reduce lightweight plastic bag litter in public places and waterways, resulting in a small reduction in the cost of litter control but a significant gain in protecting the marine environment from plastic pollution, and
- manage stormwater network blockages, reducing the cost of repairs and maintenance.[43]

2.1.3 Implementation

2.1.3.1 Thickness of banned bags

Whilst generally supportive of the proposed ban, numerous submitters expressed concern that plastic bags would be either be included or excluded from the ban, depending on their thickness.

In expressing her strong support for the proposed ban, Maree Ziirsen stated:

> *It is absolutely time to begin the phasing out of these products that drape trees, blow through the air and float in the water, pollute, entangle and kill wildlife.*
>
> *Therefore, I am one hundred percent in favour of a statewide ban on single use lightweight plastic bags up to 35 microns, this should have happened years ago. I would also like to see this ban include heavier bags up to 70 microns and a gradually phasing out of all retail plastic shopping bags.*[44]

Mr Rolf Schlagloth and Dr Flavia Santamaria conveyed similar sentiments, submitting that the Bill should be extended to include bags up to 70 microns in thickness: 'The ban of thicker plastic bags should not be left to a voluntary scheme or postponed to a later amendment'.[45]

Whilst noting that the proposed ban of bags of up to 35 microns in thickness is consistent with other jurisdictions who have banned the bag, WPSQ identified a concern that retailers may seek to undermine the ban by:

> *…providing slightly thicker bags above 35 microns in thickness. This has occurred in a number of other jurisdictions. In this instance, the Government has included an additional* clause (1) the thickness as prescribed in regulation*. This device will allow the Government to alter the thickness of a banned bag, should a retailer seek to provide these.*
>
> *Wildlife QLD takes the view that plastic bags up to a 70-micron thickness are problematic and should, in reality all be banned. However, we accept this compromise as long as the Government makes clear that this clause exists and commits to acting in the eventuality that the ban is being undermined through the provision of thicker bags by retailers*.[46]

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42 Submission 11, p 2.

43 Submission 44, p 3.

44 Submission 34, p 1.

45 Submission 7, p 1.

46 Submission 11, p 2.

Sunshine Coast Environment Council (SCEC) recognised that the Bill allows a regulation to prescribe different thickness or types of plastic bag as a banned bag, potentially allowing for thicker single-use bags to be banned in the event that these thicker bags are provided as alternatives to single use lightweight bags or to accommodate changing technology.[47] Despite this, SCEC submitted:

> *…the definition be broadened to include thicker plastic bags in light of their large presence in the waste stream. SCEC recognises that the banning of plastic bags (35 microns and below) is consistent with existing bans (that excludes biodegradables) imposed by other jurisdictions (SA, NT, ACT and Tasmania).*
>
> *…this extended definition would fulfil the objects of the Bill in a more direct way and would prove to be more efficient at reducing significantly more plastic bags from the environment, which otherwise cause environmental devastation*.[48]

Additionally, SCEC contended:

> *More importantly, a ban of bags at 70 microns would likely encourage consumers and retailers to develop good practices by using alternative shopping bags, thus demonstrably supporting the objects of the Bill. It is envisioned that this would also assist in minimising confusion by retailers and consumers as to what constitutes a 'Banned Plastic Bag', and ultimately non-compliance. In this way, extending the Ban would support effective implementation through increased understanding and compliance as well as changing community behaviours and expectations. Consequently, this would improve Queensland's position towards becoming a leader in sustainability*.[49]

Ms Martina Finlay conveyed further support for the argument that the proposed ban should include plastic bags up to 70 microns in thickness, making the following points:

- the results of the Tasmanian lightweight plastic bag ban evidenced that classifying 'thicker' bags as 're-usable' was not an effective measure
- I want Queensland to be a national leader, rather than repeat measures that have been proven ineffective
- department store plastic bags (commonly LDPE) have been identified as representing up to 38% of plastic bag litter (National Litter Index)
- legislating for a 60 micron ban would make the use of alternative bags a more competitive and compelling option, and
- including all plastic bags in the ban would avoid confusion, which may otherwise result in noncompliance.[50]

SCEC strongly recommended the inclusion of department store plastic bags (commonly LDPE, that is, low density polyethylene):

> *…which have been identified as a representing up to 38% of plastic bag litter (National Litter Index). This critically high presence in the litter stream suggests that voluntary measures have been and continue to be vastly insufficient to alleviate this issue*.[51]

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47 Submission 39, pp 3-4.

48 Submission 39, p 4.

49 Submission 39, p 4.

50 Submission 21, p 3.

51 Submission 39, p 4.

WPSQ noted that the Queensland Government:

> *…has indicated it will take a lead in pursuing a Voluntary Code of Practice by Retailers to reduce thicker, supermarket style plastic bags. Wildlife Queensland believes that such a Code of Practice needs to be made public with clear and stated objectives on when these bags will be reduced and by what extent. This should be made publicly available prior to the proposed QLD bag ban*.[52]

In its response to submissions, the department acknowledged and appreciated the support for the plastic shopping bag ban, stating: 'The ban is consistent with the bans in four other states and territories in that it bans the supply of plastic shopping bags less than 35 microns in thickness'.[53] The department noted: 'The Bill provides the ability to regulate for the inclusion of thicker bags in the ban if there is a need'.[54]

2.1.3.2 Degradable and biodegradable bags

Submissions reflected considerable support for the inclusion of both degradable and biodegradable plastic bags in the ban.[55]

WPSQ commented on the decomposition of the bags and the general perception of them:

> *Degradable bags are designed to break into smaller pieces and resemble food for wildlife even more than standard plastic bags as a result. Biodegradable bags contain agents to slow down their decomposition when in contact with liquid-so that they can be useful as a carrier bag. This means that they decompose slowly in the marine environment. Some experts estimate it takes up to two years to decompose. By that time, they have already done the damage.*
>
> *Because they are 'biodegradable' they tend to be littered more as consumers think that they are okay to discard, because they are biodegradable![56]*

Various submitters supported the inclusion of biodegradable bags in the ban due to their evidenced detrimental environmental impact and their higher propensity to be littered.[57] Norman Creek Catchment Co-ordinating Committee (N4C) noted that '…if a better biodegradable bag was invented, it appears that the legislation will permit this to be used, which is good.'[58]

Ms Carla Clynick observed that the Bill's proposed definition of a banned plastic shopping bag includes a carry bag with handles that is made in whole *or part* from plastic, whether or not the plastic is degradable. She agreed that an acceptable bag should not have any plastic component at all:

> *Any acceptable bag should be made solely from a natural material which will readily break down without damaging the environment. Degradable plastic and even biodegradable plastic still causes problems in our environment. Marine life will still consume them, they still need time and the correct conditions to degrade effectively and meanwhile they are still a litter problem*.[59]

In its response to submissions, the department stated:

> *…unlike the bans in other states, the Queensland ban does not exempt biodegradable shopping bags. This is because these bags have been found to have a similar impact on the environment and wildlife as a 'traditional' plastic bag. The department considers that more work is needed*

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52 Submission 11, p 3.

53 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 10.

54 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 10.

55 For example, submissions 28, 41, 43, 45, 50, 53, 56

56 Submission 11, pp 2-3.

57 For example, submissions 21 and 55.

58 Submission 55, p 1.

59 Submission 25, p 1.

to better understand biodegradable/degradable plastics and the utility and application of these plastics.[60]

2.1.3.3 Alternative shopping bag

As mentioned earlier, the Bill provides that, on a date before 1 July 2018, retailers must supply an alternative shopping bag, if requested by a customer. The committee received submissions on what might be a suitable replacement to lightweight plastic shopping bags.

Mr Steve Dennis submitted that cotton or silk reusable shopping bags could be developed:

> *…by advertising agencies to have logos on them, like State of Origin… which could encourage some people to take pride in having their reusable shopping bags. The major sporting codes could be convinced to promote this process and hence help get the message to the end users*.[61]

2.1.4 Communication and awareness

Numerous submitters identified the importance of community and industry education and awareness for the successful implementation of the proposed ban.

For example, Mr Rolf Schlagloth and Dr Flavia Santamaria submitted:

> *We are very supportive of an imminent and wide-reaching public and retailer (all levels) education and awareness program to explain the reasons for the ban and for the inclusion of degradable and biodegradable bags. Such education program should also promote alternative practices and substitute materials, and should encourage retail outlets to providing alternative bags on request*.[62]

SCEC supported the Queensland Government's partnership with the National Retail Association (NRA) to undertake retailer engagement prior to introduction of the ban on 1 July 2018 and the community messaging to be undertaken by the department:

> *…such engagement and education initiatives are critical to the success of the Ban. …retailer and consumer education is vital to ensure community acceptance. This is critical to the success of the initiative as, without effective community and retailer acceptance, the Ban will not be able to provide the full environmental protection that needs to be achieved. The appropriate funding of education programmes for individuals, communities and retailers is necessary to achieve this. They should provide information regarding the core outcomes seeking to be achieved, why the ban has been initiated and the alternative practices to be followed*…[63]

SCEC highlighted the importance of providing retailers with knowledge regarding the requirements stipulated under the ban, especially their obligation not to supply a banned plastic shopping bag: 'Transparent and clear communication is important for retailer and consumer knowledge and compliance'.[64]

Additionally, SCEC considered that government collaboration and involvement with major plastic bag suppliers is critical:

> *…and should outline mechanisms for phasing out banned plastic bags, the likely impacts on business and alternative products. The dismantling of the supply chain of plastics must be done with vigour to ensure success and with understanding of the considerations affecting suppliers and retailers. We would also like to see the government work with businesses and suppliers to*

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60 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 10.

61 Submission 57, p 1.

62 Submission 7, p 1.

63 Submission 39, pp 2-3.

64 Submission 39, p 3.

> *source alternative products and innovative ways in reducing community expectation for supplied bags*.[65]

Various submitters commented that community and industry education should commence as soon as possible.[66]

In noting that the Queensland Government has indicated it will take a lead in pursuing a voluntary Code of Practice by retailers to reduce thicker, supermarket style plastic bags, WPSQ stated:

> *…such a Code of Practice needs to be made public with clear and stated objectives on when these bags will be reduced and by what extent. This should be made publicly available prior to the proposed QLD bag ban.*[67]

Although supportive of education and awareness in affecting change in consumer behaviour to achieve the purpose of the Bill, Chamber of Commerce and Industry Queensland (CCIQ) expressed a preference for an '…industry led scheme, with a gradual move to an all-out ban to allow for small businesses to adjust and for consumer attitudes to adjust'.[68]

Master Grocers Australia Limited (MGA) submitted that the introduction of a ban from an independent retailer's perspective will not be easy, noting there will be a heavy burden placed on retailers to communicate the proposed changes to the public:

> *There are also significant costs that will be suffered by small to medium independent business retailers who do not have the financial backing of a larger conglomerate to absorb such costs, which include but are not limited to:*
>
> - *removal and elimination of plastic bags from the retail store;*
> - *providing training to employees in relation to the ban and how to deal with consumer complaints or queries;*
> - *displaying notices explaining to consumers why the ban is in place;*
> - *identifying, acquiring and offering alternative permissible bags, boxes or other methods to carry or deliver purchases; and*
> - *implementing extra processes on an ongoing basis to ensure compliance with legislation.*
>
> *Therefore, the question is what assistance needs to be provided to retailers to implement the ban and educate consumers when they are busy operating their independent businesses? The Government should supply retailers with posters and flyers that will assist them to overcome some of the problems that they will undoubtedly encounter when they are no longer able to provide plastic bags to their customers. The Government should also consider initiatives to assist small businesses to reduce the cost of implementation.*[69]

The department provided the following response to issues raised in submissions:

> *The department understands the need for strong communication and awareness to ensure that both retailers and consumers are ready for the ban when it commences on 1 July 2018.*
>
> *The department is partnering with key environment and retail industry bodies to ensure a comprehensive communication strategy is delivered that supports the implementation and application of the ban.*

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65 Submission 39, p 3.

66 For example, submissions 28, 41, 43, 45, 53, 56.

67 Submission 11, p 3.

68 Submission 52, p 1.

69 Submission 35, p 2.

> *The department also recognises that the successful implementation of the ban will contribute to long-term behavioural change and positive action to help reduce other sources of litter and plastic pollution*.[70]

2.1.5 Penalties and compliance

Various submitters commented on the Bill's proposed penalties and compliance requirements.

Wide Bay Burnett Environment Council Inc (WBBEC) argued for severe penalties for breaching the proposed legislation, stating that the department '…should have sufficient compliance powers and resources'.[71]

Alternatively, MGA considered excessive the proposed penalty for when a retailer provides a banned plastic shopping bag to a person to carry goods:

> *MGA notes that the infringement value is 5 penalty units for an individual and 25 penalty units for a company, with the maximum penalty of 50 penalty units. An infringement notice of 25 penalty units can potentially be crippling to a small business, especially when the business is operating on small profit margins and to be penalised to such an extent to for relatively minor, one off transgression which would be of little harm is excessive and unreasonable*.[72]

LGAQ expressed concerns at the Bill's proposed penalties relating to a retailer giving a banned plastic shopping bag to a customer and a retailer giving false or misleading information about a banned shopping bag:

> *The explanatory notes indicate that any costs associated with the implementation of the plastic bag ban are expected to be minimal and that the costs to government are largely expected to be in the preparation and delivery of community and retailer awareness. The Bill and explanatory notes are silent on how these new provisions are to be enforced.*
>
> *The LGAQ rejects any additional compliance responsibilities and cost shift to local government to enforce these provisions.*[73]

In that regard, the LGAQ recommended the Queensland Government:

> *…clarifies that compliance and enforcement responsibilities are a State Government responsibility with no devolution and cost shift to local government*.[74]

Bulimba Electorate Youth Advisory Panel (BEYAP) observed that the Bill does not provide many enforcement mechanisms:

> *It does not provide for effective oversight of the ban, save for a review in 2020. Sections 99E and 99D propose penalties be imposed on retailers who fail to comply with those sections, but do not provide for the creation of an oversight body to monitor compliance. If it is the public who is expected to report retailers for non-compliance, to whom are they supposed to report and how are they to know the difference between a 35 micron bag or otherwise? To ensure compliance following the implementation of the ban, a monitoring and enforcement body should be created*.[75]

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70 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 10.

71 Submission 28, p 3.

72 Submission 35, p 2; Clause 4 of the Bill proposes to insert new s 99D 'Retailer not to give banned plastic shopping bag'.

73 Submission 44, pp 3-4.

74 Submission 44, p 4.

75 Submission 37, p 3; See for example, the *South Australian Plastic Shopping Bags (Waste Avoidance) Act 2008*. This Act is explicitly intended to be read in conjunction with the *Environment Protection Act 1993*,

BEYAP favoured the use of incentives to alleviate the demand for compliance audits and inspections:

> *Incentives are another tool that can promote reduced plastic usage. Examples of this could be Queensland Government publically acknowledging reductions in plastic usage or innovative solutions. This attaches a positive recognition system to people who go above and beyond expectations. Incentives can promotive intrinsic motivation to reduce plastics. This alleviates the demand for compliance audits and inspections. Furthermore, public acknowledgement creates a commercial advantage for companies. This form of incentive information regulation empowers the public to put pressure on poor performing companies*.[76]

In response to issues raised in submissions, the department commented:

> *The department recognises that the community also has high expectations that introduction of a lightweight plastic shopping bag ban will be successful and closely monitored for non-compliance.*
>
> *It is not intended that compliance activities in relation to the supply of banned plastic bags would be undertaken by local government*.[77]

2.1.6 Transitional arrangements

The department provided the following comments:

> *A transitional period is provided in the Bill. From this date (to be prescribed in regulation) retailers will still be able to provide a 'banned' plastic shopping bag but must make an alternative bag available if requested by the consumer.*
>
> *The transitional period allows retailers to use existing stocks of banned bags and to source appropriate alternatives ahead of the ban commencing.*
>
> *The timing for the transition period will be consulted on with the retail sector*.[78]

2.1.7 Support for expansion of proposed ban

This report has included consideration of issues relating to the thickness of banned shopping bags and issues as to biodegradability and degradability.

Additionally, numerous submissions asserted that the proposed lightweight plastic shopping bag ban was a good starting point, but should be expanded to capture other sources of plastic pollution.

As such suggestions are outside the scope of the committee's consideration of the Bill, this report will not provide detailed coverage of these suggestions. However, in summary, submissions received by the committee suggested the proposed ban be expanded to prohibit or regulate:

- barrier bags, including plastic and polystyrene wrapping on fresh food and vegetables and styrofoam/polystyrene packaging in which retailers place fresh food items[79]
- bait bags[80]

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which established the Environmental Protection Authority the authority responsible for compliance monitoring of the plastic bag ban).

76 Submission 37, p 3.

77 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 10.

78 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 11.

79 Various submissions, including 25, 27, 31 and 34.

80 Numerous submissions, including 11, 25, 27, 28, 31, 41, 43, 45, 50, 53, 56 and 60.

- balloons generally, but, specifically, helium balloons, including the mass release of helium balloons[81]
- 'doggie litter bags' or 'poo bags'[82]
- microplastic products like microbeads, including the use of plastic microbeads in cleansing products[83]
- plastic chip bags and disposable coffee cups,[84] and
- disposable plastic straws, knives, forks, spoons, cups and plates (to be replaced with biodegradable and worm friendly organic contents, such as potato starch and corn starch).[85]

Additionally, BEYAP observed that studies on the effects of plastic bag bans in other Australian jurisdictions have shown significant increases in the purchasing of bin liners following the bans:

> *The environmental impact of this can negate the success of a ban, and shows that the ban doesn't necessarily change the attitudes of consumers towards plastic products. Effort should be made to simultaneously change the attitude towards waste disposal behaviour, or possibly to implement industry regulations regarding the environmental impact of bin liners*.[86]

Further to proposals to expand the proposed ban, various submissions provided suggestions for the reviewing, elimination and/or phasing out of all plastic packaging, proposing:

- the implementation of plastic packaging waste reduction targets
- requirements for the conversion of packaging to re-usable or compostable products, and
- the introduction of government collaboration and involvement with business, including plastic bag suppliers, providers and manufacturers.[87]

Support for the potential expansion of the ban extended to suggestions for the establishment of a government or independent taskforce to:

- comprehensively monitor and review the ban and suggest improvements
- to identify other problematic, single use and disposable plastic items for future policy action, and
- consider options to reduce Queensland's plastic footprint.[88]

2.2 Beverage container refund scheme

The Bill proposes to introduce a legislative framework that ensures:

> …*all beverage manufacturers that manufacture a beverage product in a container covered by the scheme are taking a stewardship responsibility to managing the empty containers and paying for the costs of the scheme; and that consumers have reasonable access to a refund when they return eligible empty containers to a container refund point*.[89]

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81 With respect to helium balloons: numerous submissions, including 7, 11, 28, 34, 41, 43, 45, 50, 53, 56 and 60; With respect to all balloons: submission 31.

82 Various submissions, including submissions 25, 41, 43 and 45.

83 Submissions 33 and 66.

84 Submission 25.

85 Submission 27, p 1.

86 Submission 37, p 3.

87 Various submitters, including submissions 28, 31, 39, 41, 43, 45, 53 and 56.

88 Various submissions, including submissions 11, 21, 28, 41, 43, 45, 50, 53 and 56.

89 Explanatory notes, p 1.

In advising the committee on the proposed administration and governance of the Container Refund Scheme (CRS), the department stated that the product stewardship approach:

> …*recognises that manufacturers of beverage products have a responsibility to manage and reduce the impact of their products on the natural environment*.[90]

The CRS is to commence on 1 July 2018.[91]

2.2.1 Key provisions in the Bill

The Bill proposes to insert Part 3B 'Beverage container refund scheme' into the *Waste Reduction and Recycling Act 2011* (Act), including provisions relating to:

- the functions of the Product Responsibility Organisation (PRO)
- the sale of beverages in containers, including restrictions on a manufacturer selling a beverage product
- refund amounts for empty containers, container refund points and obligations of container refund point operators
- recovery amounts for empty containers recycled by material recovery facilities, and
- approved containers for beverage products, including the relevant registers and applications for approvals.

Additionally, the Bill proposes to insert Part 5 'Product Responsibility Organisation' into the Act.

2.2.1.1 Scope of the scheme

The Bill defines various terms, which assist in determining what is included and excluded from the CRS.

According to the explanatory notes, a 'beverage' is defined as a liquid that is intended for human consumption by drinking:

> *…the beverage must start as a liquid. It is not intended to cover beverages where they may become a liquid – such as a powder that becomes a liquid when mixed with a liquid, or a frozen or semi-frozen beverage product…*
>
> *A beverage does not include a liquid that is excluded from the scheme by regulation.*[92]

A 'container' is a container that is made to contain a beverage and is made to be sealed for storage, transport and handling before being sold for the beverage to be consumed:

> *This means that containers such as take-away coffee cups, juice containers and other containers that may be sealed at the point of purchase for the consumer to take-away for consumption are not covered by the scheme, irrespective of whether the beverage in the container meets the definition under section 99L(1) as being a beverage for human consumption.*[93]

A container may be included or excluded from the scheme by regulation.[94]

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90 Department of Environment and Heritage Protection, correspondence dated 30 June 2017, attachment, p1.

91 Queensland Parliament, Record of Proceedings, 14 June 2017, p 1609; explanatory notes, p 2.

92 Explanatory notes, p 12; Clause 4 of the Bill includes proposed s 99L 'Meaning of *beverage*'.

93 Explanatory notes, p 12; Clause 4 of the Bill includes proposed s 99M 'Meaning of *container*'.

94 Explanatory notes, p 12 & 13.

A 'beverage product' is the combination of a particular beverage that is packaged in a container of a particular type.[95] The 'type' of container is the combination of the volume of beverage that the container is made to hold and the material that the container is made of:

> *This provides the ability to differentiate beverage products by the type of container that they are contained in. For example, beverages that would ordinarily meet the definition of a beverage… may be excluded if they are contained in a container that is of a volume or material that is excluded from the scheme – while allowing for that beverage to be included when it is contained in other container volumes or materials*.[96]

The 'manufacturer' of a beverage product is:

> *…a person who makes the beverage product by filling containers with a beverage or engaging another person under a contract to make the beverage product or fill containers with a beverage for that person. The manufacturer is also a person who imports the beverage product from another country.*
>
> *This definition covers a direct manufacturer, contract bottlers who don't supply direct to market but undertake a manufacturing process contracted exclusively to another entity or an importer who may not have a manufacturing facility in Australia*.[97]

2.2.1.2 Product Responsibility Organisation

The Bill provides for the Minister to invite an eligible company to make an application to be appointed as the PRO for the scheme:

> *The PRO is responsible for entering into agreements with beverage manufacturers regarding funding of the scheme and with container refund point and material recovery facility operators regarding the collection of containers*.[98]

Under the Bill, the eligible company that is appointed as the PRO must be a company that is registered under the *Corporations Act 2001* (Cth) and is a not-for-profit that has a constitution requiring the company to maintain a board of nine directors:

> *The board make up must consist of an independent chair (approved by the Minister), at least two directors with financial and legal qualifications, and at least one director with community interests (approved by the Minister). The remaining director positions are to be filled by the beverage industry, with at least one director representing small beverage manufacturers.*[99]

While the PRO will determine the fees associated with the scheme, including the handling and transport fees payable to container refund point operators, and the amounts contributed by beverage manufacturers, the Bill provides that the schedule of fees and the draft terms of agreements be provided with the application to establish the PRO, along with the applicant's constitution.[100]

The Bill requires the PRO to:

> *…submit detailed strategic and operational plans for operating and administering the scheme including proposed timeframes as part of the application process for appointment. These provisions ensure transparency and accountability before the scheme commences.*[101]

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95 Explanatory notes, p 13; Clause 4 of the Bill includes proposed s 99N 'Meaning of *beverage product* and *type* of container'.

96 Ibid.

97 Explanatory notes, p 13; Clause 4 of the Bill includes proposed s 99O 'Meaning of *manufacturer*'.

98 Department of Environment and Heritage Protection, correspondence dated 30 June 2017, attachment, p1.

99 Department of Environment and Heritage Protection, correspondence dated 30 June 2017, attachment, p1.

100 Ibid.

101 Department of Environment and Heritage Protection, correspondence dated 30 June 2017, attachment, p2.

2.2.1.3 Penalties and compliance

According to the department, the Bill provides for strong legislated reporting and auditing requirements with escalating penalties for non-performance:

> *Penalties include amendment to the appointment, suspension and cancellation of the appointment and appointment of an administrator to take on the functions of the PRO. The department may also issue show cause and compliance notices. Failure to comply with a compliance notice is a 300 penalty unit offence*.[102]

2.2.1.4 Performance targets

The PRO will be required to meet performance targets that will be set in regulation:

> *These include targets for container recovery, state-wide access to container refund points and social enterprise and innovation and technology (continuous improvement) outcomes*.[103]

The department advised that the model in the Bill:

> *…provides flexibility within the market to ensure the PRO delivers a network of container refund points across the state without restricting contracting arrangements to a particular region or with a particular operator. To ensure that the PRO can deliver on its statewide access targets, the PRO is required to operate a container refund point as a last resort in the absence of another operator. This will ensure reasonable accessibility and convenience for consumers*.[104]

2.2.1.5 Relationship with existing kerbside recycling services

According to the department, the scheme has been designed to complement existing kerbside household recycling services:

> *…with material recovery facility operators being able to access the refund amount for eligible containers that are received from kerbside collections. The scheme will also provide opportunities for communities who do not currently have access to kerbside services to be baled to recycle*.[105]

2.2.1.6 Regulation

The Minister identified a number of matters to be established by regulation:

> *For the independent board positions* [of the PRO]*, this includes criteria concerning satisfactory experience and knowledge of waste and resource recovery, local government and community interests. This is to ensure appropriate representation on the board and that the board has the knowledge and expertise it needs to make decisions. The performance targets for container recovery and statewide coverage and accessibility to container refund points will also be established in the regulation. The product responsibility organisation is required to act as the 'provider of last resort' in the absence of a suitable market based provider. In order to establish a scheme that recognises innovation and the use of technology such as reverse vending machines, the regulation will also establish an innovation target for the organisation. These targets will hold the organisation accountable for delivering an efficient, accessible and transparent scheme for all Queenslanders. Extensive consultation will be undertaken in the development of the regulation to ensure stakeholder views are fully considered*.[106]

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102 Ibid.

103 Ibid.

104 Ibid.

105 Ibid.

106 Queensland Parliament, Record of Proceedings, 14 June 2017, p 1608.

2.2.1.7 Transitional arrangements

The Bill provides a transition period for beverage manufacturers by allowing manufacturers a period of time by which to display the approved refund marking on their eligible containers: 'This period is at least one year following commencement of the regulation that prescribes the refund marking'.[107]

The Bill also provides a transition period of six months following the date by which the refund marking must be displayed during which operators of a container refund point may continue to receive a container that does not display the refund marking.[108]

2.2.2 General views on the proposed Container Refund Scheme

Submissions received by the committee indicated considerable support for the introduction of a CRS.[109]

Gecko Environment Council anticipated that the proposed scheme '…will reduce littering, enable more recycling, reduce volume and pollution in land fill and protect wildlife from injury from beverage containers'.[110]

Numerous submitters expressed similar sentiments. Citing the South Australian and Northern Territory schemes as evidence, Michael Williams conveyed similar views, submitting that the proposed scheme will enable '…improved recycling and less waste especially plastic runoff into waterways and oceans'.[111] Whilst Maree Ziirsen stated that '…this recovery, refund and recycle initiative is a great way to encourage involvement by community members and organisations to increase recycling and reduce littering'.[112]

Boomerang Alliance considered that the introduction of the CRS is a necessary and timely addition to government actions to reduce litter, particularly plastic litter:

> *The Government setting the rules, the targets and the performance requirements and directing a Producer Responsibility Organisation to deliver an effective, world class scheme, will make a significant difference.*[113]

In petitioning for the introduction of an Australia wide container deposit scheme, Coolum & North Shore Coast Care (CNSCC) made the following comments, based on its local observations of marine debris:

> *…hard plastic pieces (such as pieces from plastic bottles and lids) are common marine debris items on Australian beaches. The potential for these items to enter the ocean and break up into pieces (or take up space in landfill) could be substantially reduced by introducing a container deposit scheme to incentivise better disposal of these items and reduce littering. In turn this also provides sources of income for community groups and increases bottle and can recycling rates…*[114]

2.2.3 Scope of the scheme and harmonisation

Earlier in this report, the proposed definitions of 'manufacturer' and 'beverage product' were detailed (proposed sections 99N and 99O of the Act).

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107 Department of Environment and Heritage Protection, correspondence dated 30 June 2017, attachment, p2.

108 Ibid.

109 Numerous submissions, including submissions 3-4, 8-9, 11-12, 14-19, 21, 23, 25-28, 30-34, 36-45, 47, 50, 53 and 55-60.

110 Submission 30, p 1.

111 Submission 14, p 1.

112 Submission 34, p 1.

113 Submission 45, p 8.

114 Submission 32, p 4.

The Bill (proposed section 99P of the Act) provides that the 'manufacturer' of a 'beverage product' must not sell the beverage product to another person to use or consume in Queensland, or to sell for use or consumption, or further sale, in Queensland, unless particular requirements are met, including:

- *a container recovery agreement is in force for the type of container used for the beverage product*
- *the container is registered, and*
- *the container displays the refund marking and a barcode for the beverage product*.[115]

In its submission, Australian Beverages proposed that certain clauses of the Bill be amended so as to harmonise the Bill with anticipated New South Wales legislation.[116] The recommendation included the deletion and replacement of proposed sections 99O and 99P.

2.2.4 Containers

2.2.4.1 Types of containers

Boomerang Alliance observed that the CRS is proposed to include all beverage containers between 150ml and 3 litres, including all glass, aluminium, plastic and Liquid Paperboard containers.[117] It noted exceptions for milk, some fruit juices and health tonics and for wine and spirits, and suggested there be '…no exemptions as all beverage containers are present in litter, especially wine bottles. It is also important for there to be a level playing field between products'.[118]

Similarly, but with an exception, Mr Rolf Schlagloth and Dr. Flavia Santamaria proposed the inclusion of all types of alcoholic beverages containers between 150 ml and 3 litres '…apart [*from*] those containing milk, fruit juice and health tonics (for hygienic reasons)'.[119]

Various submitters noted the inclusion of beer bottles in the scheme, but questioned the exclusion of wine and spirits bottles.[120] Greenpeace stated: 'Wine bottles, in particular, are common in litter and their exclusion creates an unfair advantage over other alchoholic beverages'.[121] This particular view was shared by various submitters.

Several submitters petitioned for the inclusion of plastic milk containers up to 1L in volume.[122]

Gail Hamilton expressed concern at the exclusion of coffee cups from the scheme:

> *As highlighted in the recent ABC program "War on Waste" Australians are using, and disposing of millions of coffee cups each year, and most of these are not recyclable, creating a huge burden on our waste systems and our environment. While there are some coffee cups that are able to be recycled but there is no clear labelling, nor incentive to the consumer to recycle them.*
>
> *It is therefore a great pity that the introduction of the container deposit scheme does not include this growing waste problem. I urge you to reconsider the definitions of "container" and "manufacturer" to allow coffee cups to be captured by this legislation in the future.*[123]

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115 Explanatory notes, p 13; Clause 4 of the Bill includes proposed s 99P 'Restriction on manufacturer selling beverage product'.

116 Submission 46.

117 Submission 45, p 3.

118 Submission 45, p 3.

119 Submission 7, p 2.

120 Various submitters, including submissions 11, 28, 36, 41, 43, 50, 53, 56 and 60.

121 Submission 56, p 2.

122 Submissions 21 and 39.

123 Submission 47, p 1.

Carla Clynick expressed concern there could be a problem with containers unsuitable for recycling, arguing: 'These should not be allowed to be retailed in Queensland. Manufacturers should only make recyclable containers'.[124]

In response to submissions, the department stated:

> *In developing the list of eligible beverage containers the department took into consideration the beverage products and containers that were already included and excluded in schemes operating in other states and the soon to commence New South Wales scheme. The department also considered the types of containers that are most commonly found in the litter waste stream. This is why plain milk and wine are currently excluded from the scheme.*[125]

2.2.4.2 Verification of containers

Various submitters supported the use of barcodes as the primary means to verify refund containers on collection.[126] Although, WPSQ considered manual counting allowable, where automation is impractical, it submitted: 'We absolutely oppose the use of a weight formula to calculate container collections from public sources as it will inevitably be inaccurate and open to abuse'.[127]

Container Deposit System Operators (CDSO) supported the application of barcode verification/auditing across Queensland, except for Material Recovery Facilities (MRFs).[128] CDSO argued that such verification/auditing avoids the South Australian and Northern Territory problems of weight based audits and the continuous disputes (including legal action) between scheme coordinators (super collectors) and refund point operators that result:

> *With a tonne of PET for example, representing anything from 29,000 to 48,000 containers underpayment of refunds and handling fees results in ongoing legal disputes and extreme financial risk for container refund point operators.*
>
> *Regulated BC* [barcode] *verification and auditing protocols across QLD provides multiple cost reduction, efficiency, transparency and fraud reduction benefits. The significant reduction in transport costs resulting from compaction/destruction of the container – as close as possible to the point of collection – helps to ensure cost effective remote CRS participation*.[129]

In noting the Queensland Government's position that non-barcode verification (manual and weight based counts/ audits) will be the exception from the rule, CDSO stated:

> *However it is important to understand that most such sites would also not justify compaction equipment (e.g. balers) and that the containers collected at these manual centres can be sent to larger "hubs" where the material can then be scanned, sorted and compacted. So, even as some sites may use manual redemption, the system as a whole can apply barcode reading universally (with MRFs the only exception).*[130]

In summary, CDSO supported the stipulation of system-wide barcode reading in regulations.

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124 Submission 25, p 2.

125 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 6.

126 Various submitters, including submissions 11, 28, 41, 43, 45, 53, 56 and 60.

127 Submission 11, p 6.

128 Submission 49, pp 2-3.

129 Submission 49, p 3.

130 Submission 49, p 3.

The department stated:

> *The department recognises that the use of technology including barcodes will contribute to verification and accuracy of the containers entering and leaving the scheme to ensure industry and the community's confidence in the scheme*.[131]

2.2.5 Costs and financial matters

2.2.5.1 Concerns regarding increased costs

MGA opposed to introduction of the proposed scheme, stating that it would result in cost burdens on manufacturers and retailers, as well as forcing prices to the consumer to increase unnecessarily:

> *The Bill requires beverage manufacturers to contribute to the cost of refund amounts that are paid for containers and for the administration of the scheme, as well as to ensure that the containers that beverage products are packaged in are made of material that is suitable for recycling. In order to recover the required costs, manufacturers will inevitably increase the costs of their products, which will directly impact retailers' costs and profit margins. Retailers will then be forced to either increase retail prices and suffer customer backlash or maintain retail prices and suffer a loss in profit*.[132]

Queensland Hotels Association (QHA) expressed concern that hotels, especially small to medium operators, may be financially disadvantaged by beverage suppliers passing the 10 cent refund and additional handling costs directly on to retailers and theoretically consumers in the form of a price rise:

> *A disproportionate cost burden on small to medium hotel businesses may be exacerbated by their inability to absorb these increased costs and that there will be a limit to passing on increases and still remaining price competitive.*
>
> *Invariably there will be a direct cost and impact on the consumer, and the inconvenience of returning containers to a specified point instead of just placing in their existing domestic recycling bin.*
>
> *The QHA submits that economic modelling data be undertaken and provided regarding these potential business cost inequities… transition arrangements to lessen this burden to the companies should include some compensation*.[133]

The NRA submitted that the CRS will add a significant cost of living impact for some customers:

> *Therefore, it is important that the costs of the Scheme, including any administrative costs and handling fees are kept to a minimum to mitigate the impact on already stretched household budgets.*
>
> *The cost obviously has a flow-on effect for industry, with decreased demand for products because consumers can no longer afford them or they will purchase reduced quantities.*
>
> *A significant decrease in demand could damage the beverage industry with a lack of certainty for stakeholders to invest in the future and could even lead to an increase in unemployment. Additionally, business will be required to make a significant investment in systems to track and monitor products and comply with the Scheme*.[134]

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131 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 7.

132 Submission 35, p 3.

133 Submission 13, pp 1-2.

134 Submission 48, p 2.

The department responded to issues raised:

> *The intention of the Bill is that the scheme is a cost-effective and efficient in order to minimise the costs for both beverage manufacturers and the consumer.*
>
> *The Bill contains a provision that allows for limits on the amounts paid by small beverage manufacturers to be set in regulation. This has the potential to keep the costs to small beverage manufacturers stable and a known quantity to help reduce administrative costs in calculating monthly obligations.*[135]

2.2.5.2 Refund level and payment

The Bill provides for a refund of 10 cents per container.

According to CDSO, the refund helps drive consumer behaviour change:

> *The higher the deposit the higher the level of recycling, though importantly, the degree of convenience of the scheme is also vital*.[136]

Various submitters held the view there should be flexible options for payment of the refund.

SCEC supported flexible options for refund payments by cash, electronic funds transfer or voucher:

> *This accommodates differing community needs and expectations which may otherwise affect participation. Further, it allows for greater viability through reduced safety risks for staff at collection sites and increased viability of collection points*.[137]

LGAQ supported the range of payment options identified in the Bill.[138]

2.2.5.3 Handling fee

The handling fee is the fee paid to container refund points for their efforts in redeeming the refunds, and collecting, compacting and transporting used containers for shipment to reprocessors.[139]

CDSO stated that the size of the handling fee is one factor that drives the level of investment in public facing collection facilities:

> *This handling fee is fundamental to the success or otherwise of the QLD CRS. Too low and the private sector will simply not invest in RVM's [Reverse Vending Machines], High Speed Counting or any other facilities and certainly not placing these facilities in convenient locations. A lack of convenience for QLD consumers runs the risk of a significant consumer backlash on the government.*
>
> *CDSO is suggesting container refund points / recycling operators should be involved in the determination of the level of this handling fee, and that the QLD government has visibility of these fees and can intervene if the infrastructure investment is insufficient*.[140]

In principle, Exchange for Change considered that fees paid to scheme participants should be structured to reflect the functions that need to be efficiently performed to collect, process, transport and ultimately recycle containers:

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135 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 4.

136 Submission 49, p 2.

137 Submission 39, p 8.

138 Submission 44, p 5.

139 Submission 49, p 2.

140 Submission 49, p 2.

> *At this stage we suggest that Government does not seek to mandate a fee structure; rather, we suggest that the Government provides the PRO with the ability to develop an appropriate handling fee structure which will sustain the Container Refund Point network*.[141]

2.2.5.4 Local government concerns

Brisbane City Council (BCC) highlighted its concerns that there may be a potential financial impact on Council's existing kerbside recycling program without any significant improvement in recycling yield:

> *Council's extremely successful recycling program which is still required once the container refund scheme is implemented, is funded through the sale of recyclable commodities. A reduction in recyclable materials could have financial ramifications*.[142]

LGAQ stated that Queensland is faced with significant challenges to achieve an accessible state-wide scheme:

> *…including transport costs, tyranny of distance, markets for commodities, quarantine and waste infrastructure requirements. Storage and consolidation of eligible containers in regional and remote communities is critical to the success of establishing a truly state-wide scheme. The provision of waste infrastructure at key geographic locations and regional hubs would assist to address these challenges.*
>
> *Many councils are ideally placed to assist with these challenges, however the costs associated in setting up consolidation points would require significant investment including secure storage facilities and baling equipment*.[143]

Referring to page 2 of the explanatory notes, LGAQ noted the comment that small scale grants for the provision of infrastructure might be made available to assist local government and communities:

> *Even though councils must retain discretion in whether they proactively participate in the CRS, financial assistance is supported and welcomed as local governments are often considered the 'provider of last resort'*.[144]

Southern Downs Regional Council (SDRC) noted that Council and/or community organisations across the Southern Downs will incur capital costs associated with establishing infrastructure required to participate in the scheme.[145] As such, Council petitioned for the establishment of a financial assistance package prior to the commencement of the scheme to assist with these capital costs.[146]

The department advised:

> *A number of local governments provide kerbside recycling services. In some cases these services have been in place for thirty years.*
>
> *The department recognises the concern that some councils have in regard to a potential loss of material through the existing systems and the flow-through financial impact that this may have to the service.*
>
> *The scheme is designed to minimise the impact on existing collection and impact on existing recycling recycling activities. The Bill has the stated object of complementing existing collection*

141 Submission 51, p 6.

142 Submission 4, p 1.

143 Submission 44, p 4.

144 Submission 44, p 4.

145 Submission 12, p 1.

146 Submission 12, p 1.

and recycling activities in recognition of the fact that services are currently provided in some local government areas.[147]

2.2.6 Product Responsibility Organisation

2.2.6.1 Role of Product Responsibility Organisation

Exchange for Change supported the proposed role and responsibilities of the PRO, advising:

> *…we agree that the PRO should have overall responsibility for the operation of the scheme, including achieving state-wide access, coverage and recovery targets*.[148]

It observed that the establishment of the scheme will require:

> *…significant investment and working capital from the PRO to provide for the development of systems and infrastructure, payment of refunds, handling fees and the scheme operating costs. We therefore suggest that the Government does not seek to mandate through legislation how this working capital requirement will be satisfied to fund the scheme; we instead recommend that the Government allows the PRO to propose a solution through the PRO Application process*.[149]

Given the proposed PRO model will not obligate retailers to take back containers, CDSO identified the regulatory conditions under which the PRO operates as vital in determining the effectiveness of the CRS:

> *CDSO is concerned the regulations will be light, leaving the PRO itself to decide on important features of the scheme e.g. the recycling target, the method of auditing and verification and the handling fees etc.*[150]

In response to issues raised is submissions, the department stated:

> *The department views the CRS as a product stewardship arrangement whereby the producers of the product take responsibility for the end-of-life management - in this case for the empty containers*…
>
> *The Bill provides that the PRO is responsible for the operation of the scheme and for the delivery of a cost-effective and efficient state-wide scheme. The PRO is responsible for establishing a network of container collection points and must undertake the operation of the scheme in a transparent and auditable manner.*
>
> *The PRO is responsible for ensuring that certain performance targets for the scheme are met, including container recycling and scheme accessibility targets, and delivering social enterprise and innovation and technology outcomes*.[151]

2.2.6.2 Board and membership

Exchange for Change:

- believes the PRO must be operated by beverage manufactures
- supports requirements for the Minister to appoint an independent board chair and director representing the interests of the community, and

147 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 4.

148 Submission 51, p 3.

149 Submission 51, p 3.

150 Submission 49, p 1.

151 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 5.

- suggests that the composition of the PRO's board, beyond those two roles, should not be enshrined within legislation as this may hamper the PRO establishment process (including ability to access sufficient capital to fund the PRO mobilisation activities).[152]

Exchange for Change stated: 'The composition of the board should be a matter to be agreed between the entity making an Application to be the PRO and the Minister as part of the Application process'.[153]

The NRA considered:

> …*representation from the retail sector in the PRO essential, as retailers play a vital part in many facets of the scheme. Foremost, retailers have a good understanding of the expectations of their customers as they interact with them daily, and are well placed to understand their needs*.[154]

QHA observed the need for representation from the retail liquor industry, as '…hotels are the only sellers of retail liquor products for off-premise consumption'.[155] QHA also stated that '…the composition of the Board must ensure there are no conflicts of interest'.[156]

Boomerang Alliance contended that all manufacturers should be members of the PRO:

> *The PRO is proposed to be a Not-for-Profit Company. Membership would ensure that all parties-major manufacturers and smaller suppliers alike-share responsibility for the operations and performance of the company*.[157]

Cairns and Far North Environment Centre (CFNEC) stated that the PRO '…should accurately reflect all small, medium and large bottlers as voting members, so the big bottlers do not dominate'.[158]

The department stated:

> *The department acknowledges the importance of balanced representation on the PRO Board. This is why the Bill requires that the PRO Constitution requires that the Board have nine directors whose make up includes small and large beverage manufacturer representation, as well as an independent chair, Board members with legal and financial qualifications and Board member who represents the interests of the community.*
>
> *It should be noted that the Bill does not mandated where the beverage representation is nominated from - simply that at least one director represents large beverage manufacturers and one director represents small beverage manufacturers*.[159]

Committee Comment

The committee anticipates that the recycling industry will play an important role in the implementation and functioning of the proposed Container Refund Scheme. In the committee's view, the inclusion of a recycling industry representative on the PRO board will promote balanced representation.

152 Submission 51, p 3.

153 Submission 51, p 3.

154 Submission 48, p 2.

155 Submission 13, p 2.

156 Ibid.

157 Submission 45, p 4.

158 Submission 53, p 4.

159 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 5.

Recommendation 2

The committee recommends that the Bill be amended to mandate the inclusion of a recycling industry representative on the board of the Product Responsibility Organisation.

2.2.6.3 Payment to Product Responsibility Organisation

Various submitters considered that beverage suppliers should pay the Scheme Coordinator, that is, the PRO any required funds based on supply/sales (in advance), not on claims made by collectors, so that the scheme always has cash in the bank and is financially viable.[160]

Further, various submitters commented that any excess funds received by the Scheme Coordinator should be used to improve the scheme and community environment projects, rather than be returned to bottlers.[161]

Boomerang Alliance proposed that the Bill clarify that:

> *…the payment made to the PRO should be based upon total sales of containers into QLD and not based on claims made for returned containers, with funds being provided to the PRO in advance. Boomerang Alliance observed that Container Recovery Agreements should clarify this. This will ensure that the PRO is adequately funded and able to meet any claims from Network Operators and Collectors.*
>
> *Funds from any unclaimed refunds should remain with the PRO and be allocated to identified strategic investments in secondary resource market development, infrastructure, services or education. Spare funds could also be allocated to community litter clean ups*.[162]

The department responded as follows:

> *In relation to the issue of expenditure of excess funds, there are no legislated requirements that direct where funds will be spent. Fees paid by the beverage manufacturers under a container recovery agreement will cover the 10c refund; a handling fee for container refund point operators; a transport fee for transporting containers for recycling and a small operating fee for the PRO administration. In order to minimise costs to beverage manufacturers and the consumer these costs will realistically reflect cost recovery throughout the supply chain of the scheme*.[163]

2.2.6.4 Contracts

Submissions suggested that standardisation of agreement contracts would maximise efficiencies and reduce costs. The department advised:

> *Where possible agreements will be standardised. The Bill places certain obligations on the Product Responsibility Organisation (PRO) in relation to the inclusion of standard terms for container recovery (between the PRO and beverage manufacturers), container collection (between the PRO and container refund point operators) and material recovery agreements (between the PRO and a Material Recovery Facility operator).*[164]

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160 Submissions 11, 28, 41, 43, 53 and 56.

161 Submissions 11, 28, 41, 43, 53 and 56.

162 Submission 45, p 4.

163 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 6.

164 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 4.

2.2.7 Container refund points

Numerous submissions considered that collection points need to be located in convenient locations, such as retail outlets.[165]

Boomerang Alliance observed that the regulations will stipulate a population/distance ratio to ascertain convenient consumer access to collection points:

> *The government has provided a ratio that has estimated that 307 collection points will be required in QLD. This includes collection points in metro, major regional, regional and remote areas. Collection points are where consumers can return containers and receive a refund. Charity and NFP collection, largely donation points, are not included in this list*.[166]

With respect to this ratio that seeks to provide 1 collection point for a 20,000 population within 5kms (metro) or 1 collection point per town of 2000 within 30Kms (regional), Boomerang Alliance noted:

> *…the population's ratio in the best European systems are significantly better than in QLD. The ratio in these places is 1 collection point to service less than 10,000 people. These ratios are achieved through an emphasis on retail outlets providing collection points, something that the QLD scheme designers should be very mindful of. A good network of retail-based collection services will ensure a convenient and user-friendly collection network for Queensland. The legislation should create a power via regulation to require retail engagement for financial redemption (physical location of a collection point in the store is not essential)*.[167]

SCEC supported the establishment of container refund points in the aim that all communities have reasonable access:

> *SCEC highlights that equal access to container refund points is critical to ensure equal distribution of financial benefits between communities, retailers, councils and community organisations as well as compliance with the program. SCEC is particularly concerned with the equal distribution of funds between urban and rural communities. In this regard, the ongoing evaluation of engagement across all sectors groups, stakeholders and geographic location is vital. SCEC believes that a minimum of 90% accessibility (determined through public survey and geographic indicators (<20 minute commutes) should be achieved within 2-3 years from the scheme's implementation*.[168]

Several submitters, including CFNEC, argued that all communities should have reasonable access to collection points to redeem refunds as defined by regulation: 'Collection points include, reverse vending machines at retail outlets, council and community drop-off centres, kerbside recycling bins and donation points run by NFP organisations'.[169]

LGAQ considered that implementing a CRS that is accessible across Queensland will depend on the distribution of container refund points, container donation points and network operators:

> *The establishment of regional hubs will assist in these accessibility challenges.*
>
> *However, it has been highlighted through discussions with the department that an accessible Queensland scheme would require in excess of 300 container refund points. This does not take into account the number of community and social enterprises that will choose to enter the scheme and operate as container donation points. Councils have expressed concern that some locations may pose a challenge in relation to their impacts on local amenity and safety due to*

165 Submissions 21, 28, 41, 43 and 45.

166 Submission 45, p 7.

167 Ibid.

168 Submission 39, p 8.

169 Submission 53, p 3.

> *their size and scale and may potentially trigger planning processes in specific localities/precincts.*
>
> *The LGAQ supports a practical and pragmatic approach to these concerns and is currently working with the State Government to develop a range of solutions to these concerns.*[170]

LGAQ recommended that the department partners with it and councils to develop appropriate planning instruments to support the introduction of a state-wide CRS in 2018.[171]

QHA submitted that '…our hotel members would not generally consider their businesses to be an appropriate container collection/refund point'.[172]

Exchange for Change considered that members of the waste industry are likely to argue for the inclusion of a regional zone model, similar to the model proposed to deliver the New South Wales scheme.[173] It advised against the introduction of arbitrary zones or monopoly Container Refund Point Operator roles, arguing that these will result in:

- decreased competition and innovation
- reduced ability for community groups and local solutions to participate
- increased cost, and
- regional and rural coverage.[174]

Exchange for Change recommended that regional zones or monopolies not be included in the CRS legislation or regulations; rather that the PRO be required to deliver appropriate access and coverage.[175]

Whilst noting that the PRO will be responsible for the collection network, Boomerang Alliance contended that all Queensland communities should be ensured convenient access to refunds:

> *In the event, that there are insufficient collection points or collection points cease operations, the Regulations should require the PRO to provide services, in line with access and convenience requirements outlined by the Government*.[176]

The department advised:

> *The Bill provides the structural framework for the good operation and governance of the scheme while allowing flexibility in the delivery and operation of the scheme. The Bill provides the framework for what needs to be delivered and reported on but does not stipulate how the requirements and obligations for each party will be delivered. This provides flexibility within the scheme and allows for the delivery of local solutions, operating solutions to meet community needs.*[177]

Further, the department stated:

> *The department acknowledges that industry and the community expects the CRS to operate on a state-wide basis.*

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170 Submission 44, p 5.

171 Submission 44, p 5.

172 Submission 13, p 2.

173 Submission 51, p 3.

174 Ibid.

175 Ibid.

176 Submission 45, p 4.

177 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 5.

> *The scheme is a state-wide scheme and one of the performance measures for the Product Responsibility Organisation will be an accessibility target to ensure container refund point coverage across the state...*[178]

BCC expressed concerns that:

> *…appropriate planning provisions are made to control or license community group involvement (collection points) in the scheme to ensure odour, noise and public health are adequately controlled*.[179]

The department commented:

> *The department is currently working with the Local Government Association of Queensland to develop appropriate planning mechanism that will support the introduction of the CRS and allow for issues such as local amenity and safety to be managed appropriate to the size and scale of the container refund or container donation point*.[180]

2.2.8 Performance targets

2.2.8.1 Recovery rate

Regulations will specify a required recovery rate for containers.

Based on the South Australian scheme results, Martina Finlay proposed that a 75% return rate within the first year of operation be established as a minimum benchmark of success.[181]

WPSQ suggested a higher rate, stating: 'The scheme should be world's best practice with a recovery and recycling target trending up to > than 95% and set in regulation'.[182] Various submitters also supported this higher rate, including Boomerang Alliance, who stated its view that '…a World's Best Practice Scheme in QLD should have a mandated recovery target of 95% within five years'.[183]

Boomerang Alliance noted:

> *Many of the best schemes operating around the world, which have a reliance on automated technologies, predominantly available at or near retail outlets using Reverse Vending Machines, achieve recovery rates between 90%-98%.*
>
> *Boomerang Alliance has assessed the performance of deposit systems around the world and found an absolute correlation between schemes that require an obligation by the retailer to provide collection points (either in-store or in an adjacent shopping centre) and container collection rates.*
>
> *…10 of the 13 jurisdictions that have adopted a deposit system since 1997 require retailers to provide redemption points. These 10 average an 86.75% return rate compared to the 3 that don't, which average 62.5%.*[184]

CDSO supported a regulated 90% recycling target within two years of scheme commencement, accompanied by a doubling of the refund value, in the event of failure to achieve the target:

> *Low handling fees, inconvenient consumer collection facilities, blocking technology (as has occurred in SA), weight based audits and underpayment of refunds and handling fees to recyclers are some of the ways a PRO may limit the success of the QLD CRS. Strong regulated*

178 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 7.

179 Submission 4, p 1.

180 Ibid.

181 Submission 21, p 4.

182 Submission 11, p 6.

183 Submission 45, p 5.

184 Submission 45, pp 4-5.

> *recycling targets coupled with penalties commensurate with the benefits of underperformance, are a principle feature of successful schemes. The most expensive scheme for consumers is one with low (SA level, 76%) recycling rates, whereby refunds are deferred due to scheme inconvenience.*[185]

The department advised:

> *Key performance indicators for the scheme and the PRO will be established in regulation. Key targets include a container recycling target, and a convenience and accessibility target in relation to the availability of container refund points. Other targets include social enterprise and innovation and technology outcomes. The PRO will be responsible for ensuring these targets are met.*
>
> *The department will continue to work with key stakeholders through the Container Refund Scheme Implementation Advisory Group and the sectoral Technical Working Groups to determine the level of targets and the appropriate ramp-up timeframe in which to achieve these targets. This phase-in approach means that infrastructure needs can be identified and investment can be targeted to deliver the required container refund points and potentially allow for the development of local and regional markets and processing facilities to help achieve the stated recycling targets*.[186]

2.2.9 Communication and awareness

Various submitters commented on the importance of community education and awareness in relation to the proposed scheme.

Ms Martina Finlay observed that transparency, education and communication is vital to ensure widespread manufacturer, retailer and consumer understanding and will support increased compliance.[187]

The NRA emphasised the need to ensure a high level of awareness by the public and customers, including tourists, so there will be no confusion about what rules apply in Queensland:

> *It is vital that the Government provides a consumer awareness program prior to, and long after the implementation date to ensure consumers are aware of the legislated changes*.[188]

SDRC looked forward to receiving additional information on the roll out of the scheme, requesting that:

> *…this information is communicated in a timely manner so we, in consultation with community groups, can best determine the most appropriate way to implement the scheme across the Southern Downs*.[189]

In response to issues raised, the department advised:

> *The department is partnering with key environment and industry peak retail as point of contact, imposing bodies to ensure a comprehensive communication strategy supports the implementation of the CRS.*[190]

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185 Submission 49, p 2.

186 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, pp 7-8.

187 Submission 21, p 4.

188 Submission 48, pp 2-3.

189 Submission 12, p 1.

190 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 6.

2.2.10 Compliance and penalties

The department noted the views expressed in submissions around the need for strong penalties for non-performance and for the need for a verifiable and auditable container collection system.[191] In response, it advised:

> *The Bill puts in place a number of penalties including for an individual making a false refund claim; refund point operators not paying valid refund claims and operating a container refund point without a valid container collection agreement in place.*
>
> *The Bill also provides that a beverage manufacturer may not sell product into Queensland unless they have a container recovery agreement with the PRO and are meeting their obligations under that agreement.*
>
> *The Bill provides for a range of penalties and sanctions for non-performance of the PRO, ranging from issuing show cause and compliance notices; amendment of the appointment conditions; suspension or cancellation of the appointment; to appointment of an administrator to undertake the functions of the PRO. The penalties are able to be escalated depending on the severity and potential benefit to the PRO for non-compliance or performance.*
>
> *The department understands the need for a strong audit and verification process through the system. The Bill provides the requirement for a barcode to be displayed on a container in order for the beverage manufacturer to be able to sell beverage product into Queensland. This allows the barcode to be used as a point of verification where necessary and appropriate*.[192]

2.2.11 Review of scheme

Various submitters stated that the scheme should be regularly reviewed with improvements introduced, including an increase in the refund if recovery targets are not met and penalties on bottlers.[193]

Ms Maree Ziirsen suggested:

> *Ongoing reviews of the Container Return Scheme should be conducted to evaluate the success/participation rate and adjustments and /or improvements made to achieve recovery targets, maximum participation and desired outcomes*.[194]

In SCEC's view, '…comprehensive, transparent and ongoing evaluation and review is imperative to the Scheme's success'.[195] Additionally, SCEC strongly supported the prescribed quarterly and annual reporting of the PRO and also commented:

> *If a lack of compliance is evidenced, SCEC recommends that a review of the deposit amount and other contributing factors should be conducted.*[196]

CCIQ encouraged the State Government to '…review the policy in three years to determine its effects on small businesses and the environment'. [197]

The department responded:

> *The Bill requires the PRO to provide quarterly and annual reports as a means of monitoring PRO performance and activities and the performance of the scheme as a whole in meeting the*

191 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 8.

192 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 8.

193 Various submitters, including submissions 11, 28, 41, 43, 53 and 56.

194 Submission 34, p 2.

195 Submission 39, p 7.

196 Submission 39, p 7 and 8.

197 Submission 52, p 2.

objects of the Bill. Each agreement between the PRO and a scheme participant also has in-built review requirements to allow these agreements to maintain currency.

The PRO is also required to provide the Minister with an annual budget and strategic and operational plan. The PRO is also required to immediately inform the Minister if there are matters that may prevent the PRO from achieving the objectives in the strategic and operational plans or any other outcomes that are prescribed in regulation, as well as any issues that significantly impact on the PRO's ability to perform its function or that will impact on public confidence in the integrity of the scheme.

The department will consider… whether a legislated scheme review mechanism is required. The department notes that the NSW Waste Avoidance and Resource Recovery Amendment (Container Deposit Scheme) Act 2016 *provides for a review to be undertaken as soon as possible four years after the date of assent to determine whether the policy objectives of the Part remain valid.*[198]

Committee Comment

The committee notes stakeholder suggestions that the Container Refund Scheme be reviewed after its commencement, particularly in relation to progress towards certain performance targets. The committee sees merit in monitoring the performance of the scheme, including that of the Product Responsibility Organisation, after a reasonable amount of time has elapsed after its commencement.

Recommendation 3

The committee recommends that the Minister report to the committee on progress in reaching relevant benchmarks within two years of commencement of the Container Refund Scheme.

The benchmarks should include:

- key performance indicators for the Container Refund Scheme and Product Responsibility Organisation, including a container recycling target, a convenience and accessibility target in relation to the availability of container refund points, and targets relating to social enterprise and innovation and technology outcomes, and
- the appropriate timeframe in which those targets are required to be achieved.

Recommendation 4

The committee recommends that the Minister specify in regulation those benchmarks referred to in Recommendation 3.

2.2.12 Transitional arrangements

2.2.12.1 Refund mark

Due to the lengthy supply chains for some imported products, Exchange for Change suggested that industry will require a period of two years to fully meet the requirement for the refund mark:

A shorter transition period will be operationally difficult and will result in significant additional cost to industry. We strongly request that the refund mark is consistent across all jurisdictions

198 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 7.

> *that have implemented or are planning to implement a container deposit scheme. At the current time this will need intergovernmental agreement between QLD, NSW, ACT, SA, NT, and WA. To alleviate the risk of needing to change the refund mark multiple times as additional jurisdictions implement CRSs, the best solution for a refund mark would be a logo*.[199]

Exchange for Change also proposed the following alternative:

> *…a generic refund mark such as "10 cent refund at collection depots in participating state/territory of purchase" with an accompanying website that provides information on participating states and territories and potentially eligible containers and depot locations. To the extent this harmonisation is achieved the transition period could be reduced.*[200]

The department commented:

> *The department recognises the importance of transitional arrangements to provide time for beverage manufacturers and consumers to adjust.*
>
> *The Bill provides for a transition period for the refund marking to be displayed on the container to be stated in regulation. This period will be consistent with that in NSW, giving beverage manufacturers 24 months to make labelling and other adjustments to be able to display the refund marking on all eligible containers.*[201]

2.2.12.2 Local government contracts

LGAQ recommended:

> *…the department investigate the inclusion of statutory transitional provisions that indemnify existing contractual arrangements and remove the potential of litigation and associated financial impacts on councils caused by the loss of volumes from Material Recovery Facility (MRF) operations*.[202]

The department commented:

> *The department understands the concerns of local government in regard to existing contracts and the potential for loss of commodities to impact on the financial viability of kerbside services.*
>
> *The department will undertake to look more closely at this issue and work with local governments to investigate options to minimise impacts on existing contractual arrangements*.[203]

2.3 Amending End of Waste Codes

The intention of the existing end of waste (EOW) framework is for a waste to be approved for use as a resource, provided it meets very strict quality criteria that minimise the potential for environmental harm when it was used as designated:

> *However, in certain cases (e.g. using biosolids from sewage treatment plants as a soil fertiliser), stipulating strict quality criteria could increase the treatment costs in order to meet the quality criteria, which could be detrimental to the overall use of the resource.*
>
> *This may lead to unintended outcomes, including the increased disposal of the waste to landfill. The amendments introduced by the Bill seek to enable better control of the end use of resources*

199 Submission 51, p 7.

200 Submission 51, p 8.

201 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 8.

202 Submission 44, p 7.

203 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, pp 8-9.

when necessary, to reduce the potential for environmental harm, whilst encouraging appropriate and acceptable uses of waste materials.[204]

2.3.1 Support for proposed amendments

Various submitters conveyed general support for the proposed EOW Code provisions.[205]

BCC considered the proposed amendments would '…streamline and clarify administrative arrangements'.[206]

SCEC supported the amendments, stating that they provide that an EOW code determines the point at which a particular waste stops being a waste and becomes a resource:

> *Further, SCEC supports the changes to a 'resource user' that create stricter liability for non-compliant individuals for waste-related offences and seek to reduce the intentional misuse of waste codes or approvals. SCEC further supports the increased liability of registered resource producers in the event of failure to comply with end of waste codes, regardless of how the resource is subsequently handled. The introduction of end of waste approval application provides opportunity for approval classification if that resource can be used without environmental harm. SCEC believes these provisions will likely improve the chance that appropriate waste items are used as a resource, and that improper use of waste will be reduced through exposure to harsh penalties for non-compliance with waste codes*.[207]

2.3.2 Issues raised about proposed amendments

Overall, Queensland Resources Council (QRC) did not oppose the Bill, however, expressed its view that the intent of the amendments should be more clearly specified in the Bill, the explanatory notes or other form, including:

- *The intent for extension provisions in the Bill to apply to EOW Approvals, including former Specific Beneficial Use Approvals transitioned to EOW Approvals;*
- *Provisioning to allow EOW Approval holders that have transitioned from a Specific Beneficial Use Approval, to continue operations without the requirement to conduct a trial;*
- *Clarification of the scope for minor amendments that 'relate to the use of the resource'; and*
- *Consideration of environmental harm (as opposed to nuisance) at a sensitive place or receptor in deciding whether to grant an EOW Approval*.[208]

Additionally, QRC submitted:

> *…in order to encourage the development and ongoing use of innovative practices that can reduce waste disposal and costs, facilitate new market opportunities and minimise environmental impacts under the new legislation, the resources sector and others should be afforded incentives, such as grants or waiving EOW Approval application fees*.[209]

SCEC conveyed concern for:

> *…potential reduction in oversight as the chief executive officer will be able to develop draft end of waste codes without first launching the public nomination process. However, it is recognised*

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204 Explanatory notes, pp 1-2; Department of Environment and Heritage Protection, correspondence dated 30 June 2017, attachment, p 4.

205 Submissions 4, 8, 23, 42 and 55.

206 Submission 4, p 1.

207 Submission 39, p 9.

208 Submission 10, pp 1-2.

209 Submission 10, p 2.

that these concerns may be alleviated by the ability of stakeholders to provide submissions in relation to the end of waste codes when they are at a draft stage.[210]

2.3.3 Departmental responses

The department made the following statements in relation to EOW approvals:

An EoW approval is intended to be used as a trial to demonstrate the use of a waste as a resource and whether it is suitability for an EoW code. Additional provisions are not recommended. Operating under an EoW approval that was a specific BUA constitutes a demonstration of using the waste as a resource. There will be no requirement to undergo another trial.

The suitability of making an EoW code to replace an approval will be determined on a case-by-case basis. The codes to be developed will be published in a schedule required under section 159B of the Bill. Extension of an EoW approval may be required to allow operations to continue until a code is made.

The department will look at whether the explanatory notes should be amended to make it clear that sections 173L and 173Z apply to all EoW approvals including those that were formerly specific BUAs.

Fees are prescribed for an EoW approval application ($2,535 - $59,002) and an application to amend an EoW approval (50% of the approval application fee). Application fees were established in 2011 based on cost recovery principles as required under the Financial and Performance Management Standard 2009*. It is intended that the fee structure will be revised during the development of the supporting regulations.*

In relation to would still need to undertake its own assessment of the application to verify an applicant's claims about environmental harm. The complexity of the assessment will vary from case to case depending on the characteristics of the waste, end use, and site involved, and is therefore not a suitable criterion to be specified in the Bill. Operationally, DEHP can provide an applicant with guidance on whether a proposed amendment would be considered minor through a pre-lodgement meeting.

In deciding on an EOW approval, the chief executive must consider whether the resource is likely to cause serious or material environmental harm or environmental nuisance. Section 173V(2) does not limit the matters the chief executive may consider. DEHP has an obligation to ensure that there are negligible risks of environmental harm associated with the use of resource and should not be restricted in the matters it may consider.[211]

The department made the following comments in relation to EOW codes, specifically concerns that allowing the chief executive to develop a draft code without first launching a public nomination process could reduce oversight:

The Bill provides the chief executive with the discretion to prepare a draft EoW code, for example, to replace an expiring general or specific BUA. Stakeholders would be able to make submissions on draft codes. A list of codes being developed would also be published in the schedule required under section 159B of the Bill.[212]

The department made the following comments in relation to suggestions that appropriate identification and classification of a waste into a resource must be ensured:

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210 Submission 39, p 19.

211 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 12.

212 Department of Environment and Heritage Protection, correspondence dated 6 July 2017, attachment, p 13.

> *The department supports this comment. Measures to improve rigour include the ability to establish a technical advisory panel to prepare a draft code, and the requirement for a suitably qualified person to review an EoW approval application*.[213]

The department made the following comments in relation to transitional arrangements:

> *The department considers that additional provisions are not required at this time. Holders of EoW approvals that were formerly 'specific BUAs' are already authorised through their EoW approvals to continue their operations. These operations effectively constitute the trial and there will be no requirement to undergo another trial.*
>
> *One of the aims of the EoW framework is to streamline resource use under EoW codes. This means that EoW approvals will be replaced by EoW codes if deemed appropriate. This is indicated in the Explanatory Notes to section 1732 of the Bill.*
>
> *Also, under section 159B of the Bill, EHP would be required to publish and maintain a public schedule of EoW codes under development*.[214]

The department provided responses to committee questions relating to the Bill (reproduced in **Appendix I**).

213 Ibid.

214 Ibid.

3 Compliance with the *Legislative Standards Act 1992*

3.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that 'fundamental legislative principles' are the 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. The principles include that legislation has sufficient regard to:

- The rights and liberties of individuals, and
- The institution of Parliament.

The committee has examined the application of the fundamental legislative principles (FLPs) to the Bill. The committee brings the following to the attention of the House.

3.1.1 Rights and liberties of individuals

Section 4(2)(a) of the *Legislative Standards Act 1992* requires that legislation has sufficient regard to the rights and liberties of individuals.

3.1.1.1 Rights and liberties of individuals

Clause 5 of the Bill inserts new section 102A into the *Waste Reduction and Recycling Act 2011* (the Act). Section 102A provides that the Minister may appoint an eligible company as the Product Responsibility Organisation for the container refund scheme.

Section 102F specifies the requirements for an application as a Product Responsibility Organisation.[215] Section 102F(g) requires that an application must contain the signed consent of each person who the applicant considers is an executive officer or business associate of the applicant in order to collect the personal or background information about the person by the chief executive; and a criminal history check.

Clause 5 inserts section 102ZQ (Obtaining the criminal history of an individual).

Section 102ZQ(1) provides that the section applies in relation to an individual who:

(a) is an executive officer or business associate of the Product Responsibility Organisation or an applicant under division 2; and
(b) has given written consent to the chief executive obtaining the individual's criminal history.

Pursuant to section 102ZQ(2), the chief executive may ask the commissioner of the police service for a written report about the individual's criminal history, including a brief description of the circumstances of any conviction mentioned in the individual's criminal history. Section 102ZQ(3) provides that after receiving the request, the police commissioner must give the report about the individual's criminal history to the chief executive.

Potential FLP issues

Clause 5 will allow the chief executive to make a request to the police commissioner for a criminal history check with respect to an executive officer or business associate of a Product Responsibility Organisation. The ability of the chief executive to request a criminal history report potentially breaches an individual's right to privacy pursuant to section 4(2)(a) of the *Legislative Standards Act 1992*.

[215] A Product Responsibility Organisation (PRO) will be responsible for running and administering the recycling scheme.

Committee Comment

The committee notes that the ability of the chief executive to carry out a criminal history check on an executive officer or business associate of a Product Responsibility Organisation.

A criminal history check will allow the Minister to ascertain whether the senior persons of the company applying to become a Product Responsibility Organisation, and their associates, are fit and proper persons. There is a safeguard provided in that a person must give their written consent before the criminal history check is carried out.

The committee is aware that it is becoming more common that criminal history checks are enshrined in Queensland legislation. For example, recent legislation before the Legislative Assembly, such as the Court and Civil Legislation Amendment Bill 2017 and Healthy Futures Commission Queensland Bill 2017, have both contained provisions requiring criminal history checks.

However, the committee notes that the Bill does not include provisions which require the criminal history check to be destroyed as soon as practicable or make it an offence to disclose the contents of the criminal history check to an unauthorised person. Both of these safeguards were contained in the Healthy Futures Commission Queensland Bill 2017.

The committee considers that on balance, the provisions have sufficient regard to fundamental legislative principles.

3.1.1.2 Natural justice

Clause 24 inserts new section 173U (Deciding application) into the Act.

Section 173U(1) provides that the chief executive must decide to grant or refuse to grant an application within the required decision-making period for the application. Pursuant to section 173U(2), the chief executive may extend, on one occasion, the required decision-making period for deciding the application. Section 173U(3)(b) provides that the period can be extended for another ten days by giving notice to the applicant.

However, pursuant to section 173U(4), the chief executive's failure to make a decision under this section is taken to be a decision to refuse to grant the application.

Potential FLP issues

Section 173U(4) provides that the failure by the chief executive to make a decision will be taken as a decision to refuse an application. This potentially means that a decision with respect to an application may be made as a result of inaction by the chief executive.

It may be argued that pursuant to the principles of natural justice a party should have their application properly considered and their matter progressed and determined within the appropriate timeframe. Allowing for a decision to be confirmed because of the chief executive's failure to determine an application may be considered unjust and unfair and a breach of section 4(3)(b) *Legislative Standards Act 1992* which provides that a Bill should be consistent with the principles of natural justice.

The explanatory notes do not address the potential FLP issue, but do provide the following commentary on the section:

> *There are no existing timeframes prescribed for deciding on an extension application. Therefore, section 173U introduces a new requirement for the chief executive to decide on an application to extend an end of waste approval within 20 business days of receiving the application or any additional information requested, whichever is later. This period may be extended for a further 10 business days, by giving the applicant a notice of the extension. If a*

decision is not made by the chief executive, it is taken to be a refusal of the application. Prior to this amendment, no timeframes were prescribed for deciding on an extension application.[216]

Committee Comment

The committee notes that an application may be refused because of the chief executive's failure to make a decision. The committee notes that there is potential that such a scenario may impact on whether an applicant is afforded sufficient procedural fairness.

However the committee observes that, because a failure to make a decision is taken to be a decision to refuse, proposed section 173Y of the Bill will apply. This proposed section provides that if the chief executive decides to refuse to grant the application, the chief executive must, within 10 business days of making the decision, give the applicant an information notice for the decision.

In this regard, the committee understands that the applicant may apply to the Queensland Civil and Administrative Tribunal for a review of the decision. On this basis, the committee considers that, on balance, the provisions in the Bill have sufficient regard to fundamental legislative principles.

3.1.1.3 Onus of proof

Current section 268(1) of the Act provides that if a corporation commits an offence against a deemed executive liability provision, each executive officer of the corporation is taken to have also committed the offence if the officer authorised or permitted the corporation's conduct constituting the offence or the officer was, directly or indirectly, knowingly concerned in the corporation's conduct.

Pursuant to section 268(2), the executive officer may be proceeded against for, and convicted of, the offence against the deemed executive liability provision whether or not the corporation has been proceeded against for, or convicted of, the offence.

Section 268(4) provides that the deemed executive liability provision means either of the following provisions; section 104(1) (Illegal dumping of waste provision); section 158 (Compliance with end of waste code); section 173P (Compliance with condition of end of waste approval).

New section 158(1) (Compliance with end of waste code) provides that a registered resource producer for an end of waste code for a resource must not produce the resource or use, sell or give away the resource, unless the producer is complying with the requirements of the code.

Section 158(2) provides that a person, other than a registered resource producer, must not use a resource in a way, or for a purpose, that does not comply with an end of waste code for the resource.

The maximum penalty for contravening sections 158(1) and 158(2) is 1,665 penalty units.

New section 173K (Conditions of end of waste approval) provides the scope of conditions that may be imposed on an end of waste approval, and prescribes a penalty for non-compliance with the conditions. Pursuant to section 173K(2), the holder of, or a resource user or other person acting under an end of waste approval, must comply with the conditions of the approval. Section 173K(2) further provides that if a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 268, to have also committed the offence.

Clause 31 amends the deemed executive liability provisions to include the aforementioned new sections 158(1), 158(2) and section 173K(2) and removes current sections 158 and 173P.

Potential FLP issues

Clause 31 amends section 268 to provide that sections 158(1), 158(2) and 173K(2) are deemed executive liability provisions. This will mean that executive officers of a corporation will be taken to be guilty of an offence, should the corporation contravene these sections.

[216] Waste Reduction and Recycling Amendment Bill 2017, Explanatory notes, p 49.

The former Scrutiny of Legislation Committee held the view that individuals should not usually be made criminally liable for misconduct by a corporation except where it could be shown they had personally helped in or been privy to the relevant misconduct. It further noted that such inherent reversal of the onus of proof embedded in these derivative liability provisions was contrary to the general presumption of innocence in criminal law.

Clause 31 may therefore potentially breach section 4(3)(d) of the *Legislative Standards Act 1992* which provides that legislation should not reverse the onus of proof in criminal matters, and it should not stipulate that it is the responsibility of an alleged offender in court proceedings to prove their innocence.

In relation to new section 158, the explanatory notes advise:

> *Prior to this amendment, registered resource producers who used a resource themselves, without complying with the code, were not liable for the offence. This amendment ensures that all registered resource producers are liable for the offence, regardless of how the resource is subsequently handled (i.e. whether it is sold, given away, or used directly by the person producing it).*
>
> *This amendment is necessary to ensure adherence to the requirements stipulated in an end of waste code. Making an end of waste code involves the assessment of a particular waste and one or more specific end uses. This informs the quality criteria for the waste and other requirements to be met under the code. If the resource is used in an unauthorised manner that has not been considered in the assessment process, environmental harm may occur.* [217]

In relation to new section 173K, the explanatory notes advise:

> *An end of waste approval for a particular waste would have been granted based on a consideration of the risks of environmental harm associated with using the waste for one or more specific end uses. If the resource is used in a manner that has not been considered in the approval it may cause environmental harm. It is therefore necessary to restrict the use of a resource to those designated in the approval. This can only be done with some certainty by placing an obligation on the resource user to use the resource in the manner designated in the end of waste approval.*
>
> *Additionally, an end of waste approval is intended to be used to prove the practical application of using a particular waste as a resource and to determine if an end of waste code could be developed for the waste. In some cases, there may be risks of environmental harm that have not been considered previously that will only be exposed during the use of the resource. In these cases, it would be necessary, for example, to control the manner in which the resource is used and to monitor for environmental impacts in order to determine the potential for environmental harm. This can only be done by placing certain conditions on the resource user.* [218]

Committee Comment

The committee notes that section 268 of the Act already allows for executive liability in relation to compliance with an end of waste code and compliance with a condition of end of waste approval.

The committee notes that the explanatory notes advise that the new deemed executive liability provisions seek to broaden the scope of the existing sections by capturing all parties currently

[217] Waste Reduction and Recycling Amendment Bill 2017, Explanatory notes, p 40.

[218] Waste Reduction and Recycling Amendment Bill 2017, Explanatory notes, p 46.

involved in waste compliance and making them liable, particularly in relation to environmental harm.

The committee considers that, on balance, the provisions in the Bill have sufficient regard to fundamental legislative principles.

3.1.1.4 Rights and liberties of individuals

Current section 159(2) of the Act provides that the chief executive may grant an approval (an end of waste approval) to a person that states when a particular waste stops being waste and becomes a resource.

Clause 24 inserts new section 173ZF (Request for information about approval) into the Act.

Section 173ZF(1) provides that the chief executive may, by notice, require any of the following persons to give the chief executive information about an approval:

(a) the holder of the approval;

(b) if the approval was transferred to another person in the 5 years before the notice was given—a previous holder of the approval;

(c) if the approval was cancelled, surrendered or otherwise ended in the 5 years before the notice was given—a person who was the holder of the approval.

Potential FLP issues

Clause 24 will impose an obligation on individuals who were previous holders of an approval to provide information about the approval's transfer, cancellation or expiration, within the last 5 years. This potentially breaches section 4(3)(g) of the *Legislative Standards Act 1992* which provides that legislation should not adversely affect rights and liberties, or impose obligations retrospectively.

The explanatory notes acknowledge the potential FLP breach and provide the following justification:

> *The limit of 5 years is consistent with other sections of the Waste Reduction and Recycling Act 2011 not related to end of waste and other environmental legislation, such as the Environmental Protection Act 1994 and the Environmental Protection Regulation 2008, that require persons to retain records for at least 5 years.*
>
> *Additionally, clause 23 of the Bill, which inserts section 173K, enables conditions to be placed on the holder of an end of waste approval, which may include a requirement to keep records related to the approval for up to 5 years. A person would therefore be made aware of their obligation in the end of waste approval. Therefore the amendments will not impose an unreasonable obligation on the holder of an end of waste approval.*[219]

Committee Comment

The committee notes the justification provided in the explanatory notes which advise that the limit of 5 years is consistent with other provisions of the Act and an affected person will likely be aware of the need to keep the applicable records for 5 years.

The committee considers that, on balance, the provisions in the Bill have sufficient regard to fundamental legislative principles.

3.1.2 Institution of Parliament

Section 4(2)(b) of the *Legislative Standards Act 1992* requires legislation to have sufficient regard to the institution of Parliament.

[219] Waste Reduction and Recycling Amendment Bill 2017, Explanatory notes, p 3.

3.1.2.1 Delegation of legislative power

Several sections of the Bill allow for matters to be prescribed by regulation in broad terms.

Clause 4 amends Chapter 4 (Priority wastes and resources) of the Act.

Section 99Q(4) provides that a container recovery agreement must include provisions about certain matters. Section 99Q(4)(f) provides that this can include 'other matters prescribed by regulation'.

Pursuant to section 99ZA(1)(a)-(h), a container collection agreement is a written agreement between the Product Responsibility Organisation and the operator of a container refund point that includes provisions about certain matters. Section 99ZA(i) provides that this can include 'other matters prescribed by regulation'.

Section 99ZF(1) provides that a material recovery agreement is a written agreement between the Product Responsibility Organisation and the operator of a material recovery facility about the payment of recovery amounts to the operator for containers the operator sorts and prepares for recycling. Section 99ZF(2)(a)-(g) provides that a material recovery agreement must contain certain matters. Section 99ZF(2)(h) provides that this may include 'other matters prescribed by regulation'.

Section 102B(1) provides that an eligible company should have a constitution that contains provisions about certain matters. Section 102B(1)(E) provides that this may include 'another matter prescribed by regulation'.

Clause 10 inserts new sections 159A and 159B into the Act.

Clause 10 inserts section 159B(1) which provides that the chief executive must keep an up to date schedule of draft end of waste codes. The schedule must state certain matters or 'other information prescribed by regulation' pursuant to section 159B(3)(b).

Section 173ZC(4) sets out matters the chief executive must take into account in relation to a show cause notice. Section 173ZC(4)(e) provides that this may include 'another matter prescribed by regulation'.

Clause 14 amends section 165 of the Act to allow a regulation to prescribe additional matters that must be included in the notice that accompanies the publication of a draft end of waste code for consultation.

Potential FLP issues

The aforementioned sections potentially allow a wide variety of significant matters to be prescribed by regulation, as opposed to having the matters set out in the primary Act. This potentially breaches section 4(4)(a) of the *Legislative Standards Act 1992* which provides that a Bill should allow the delegation of legislative power only in appropriate cases and to appropriate persons. Section 4(5)(c) of the *Legislative Standards Act 1992* provides that subordinate legislation should contain only matters appropriate to that level of legislation.

Committee Comment

The committee notes that the Bill allows a wide a variety of potentially significant matters to be prescribed by regulation. The explanatory notes do not address the extensive use of regulations however, the committee notes that all regulations are subject to disallowance and will come before the committee for its consideration.

In this regard, the committee considers that, on balance, there has been sufficient regard to fundamental legislative principles.

3.2 Proposed new or amended offence provisions

Clause	Offence
4	**Amendment of *Waste Reduction and Recycling Act 2011*** **Insertion of new s99D Retailer not to give banned plastic shopping bag** (1) A retailer must not give a banned plastic shopping bag to a person to use to carry goods the retailer sells from the retailer's premises. (2) This section applies whether or not a price is charged for the banned plastic shopping bag.
4	**Insertion of new s99E Giving false or misleading information about banned plastic shopping bag** A person must not give information that the person knows is false or misleading to another person about— (a) the composition of a banned plastic shopping bag; or (b) whether or not a plastic bag is a banned plastic shopping bag.
4	**Insertion of new s99P Restriction on manufacturer selling beverage product** (1) This section applies to the manufacturer of a beverage product that is made or imported for sale in Queensland. (2) The manufacturer must not sell the beverage product to another person to use or consume in Queensland, or to sell for use, consumption or further sale in Queensland, unless— (a) a container recovery agreement is in force for the type of container used for the beverage product; and (b) the container is registered; and (c) the container displays— (i) the refund marking; and (ii) a barcode for the beverage product. (3) For this section, it does not matter— (a) whether the beverage product is made in, or imported into, Queensland or somewhere else; and (b) whether the beverage manufacturer sells the beverage product in Queensland or somewhere else.
4	**Insertion of new s99S Claiming refund amount from container refund point** (1) A person may claim a refund amount for an empty container by presenting the container at a container refund point. (2) The operator of the container refund point must accept the container and pay the person the refund amount for the container. (3) However, subsection (2) does not apply if— (a) the container is not registered; or

	(b) the refund marking is not displayed on the container; or (c) the operator of the container refund point reasonably believes a refund amount has already been paid for the container; or (d) if the person is required to give the operator a refund declaration under section 99T—the person does not comply with the requirement; or (e) if a sign at the container refund point states that the operator of the container refund point pays refund amounts in a way other than in cash—the person refuses to accept the refund amount paid in the other way. *Note—* See section 99V for provisions about the ways the operator of a container refund point may pay refund amounts. (4) This section does not apply to a container refund point that is a reverse vending machine.
4	**Insertion of new s99T Refund declaration and proof of identity** (1) A person who claims a refund amount at a container refund point under section 99S must give the operator of the container refund point a refund declaration if— (a) the claim is for a bulk quantity of empty containers and the person has not entered into a bulk claim arrangement with the operator; or (b) the operator asks the person for a refund declaration. (2) A ***refund declaration*** is a notice in which a person declares, for the containers for which the person is claiming a refund amount— (a) the containers were collected in Queensland or a corresponding jurisdiction for the purpose of claiming the refund amount under the scheme or a corresponding scheme; and (b) that the person reasonably believes— (i) all the containers display the refund marking; and (ii) all the containers are registered; and (iii) a refund amount has not previously been paid for the containers. (3) A refund declaration must be— (a) in the approved form; and (b) signed by the person making the declaration; and (c) accompanied by an official document containing the person's photograph (for example, a passport or driver licence) as proof of the person's identity. (4) In this section— ***bulk claim arrangement***, between a person and the operator of a container refund point, is an arrangement in writing— (a) under which the operator agrees to accept claims for refund amounts for bulk quantities of empty containers from the person; and (b) that states the person's obligations under the arrangement in relation to claiming the refund amounts and delivering empty containers to the container refund point.

	bulk quantity, of empty containers, means the quantity of containers prescribed by regulation.
4	**Insertion of new s99W When refund amount must not be claimed** A person must not claim a refund amount for an empty container at a container refund point if the person knows, or ought reasonably to know— (a) a refund amount has already been paid for the container; or (b) a recovery amount has been paid to the operator of a material recovery facility for the container.
4	**Insertion of new s99X Obligations of operator of reverse vending machine** (1) This section applies to the operator of a container refund point that is a reverse vending machine. (2) The operator must ensure, as far as is reasonably practicable— (a) the reverse vending machine is working properly; and (b) if the machine is not working properly— (i) the machine is turned off; or (ii) a sign or other method is used to indicate to users the machine is not working properly; and (c) the machine does not accept an empty container if the machine is not able to dispense a refund amount for the container; and (d) the machine does not dispense a refund amount for a container if— (i) the container is not registered; or (ii) the container does not display the refund marking and a barcode for a beverage product; and (e) the following information is clearly displayed on or near the machine— (i) the types of container that can be accepted by the machine; (ii) if the machine dispenses the refund amount for a container other than in cash—the way the refund amount is dispensed; *Examples of ways other than cash in which a refund amount may be dispensed—* • issuing a voucher or card redeemable for cash, goods or services • crediting the amount to a bank account or credit card account using electronic funds transfer (iii) if the refund amount for an empty container is dispensed by being paid to an entity other than the person who claims the refund amount—the entity to whom the refund amount is paid. *Example of an entity to whom a refund amount may be paid—* A reverse vending machine raises money for a charity by paying refund amounts to the charity.

4	**Insertion of new s99Y Container refund point operator must keep refund declarations** (1) The operator of a container refund point must— (a) keep each refund declaration given to the operator for at least 5 years after the declaration was given; and (b) for the proof of identity document mentioned in section 99T(3)(c) that accompanied the declaration— (i) make a copy of the proof of identity document; and (ii) keep the copy with the declaration for the period mentioned in paragraph (a); and (c) if asked by an authorised person—produce the declaration and copy of the proof of identity document for inspection by the authorised person. (2) For this section, a document may be made, kept or produced for inspection— (a) electronically; or (b) by making, keeping or producing for inspection a copy of the document.
4	**s99Z Container collection agreement required to operate container refund point** A person must not operate a container refund point unless a container collection agreement is in force for the container refund point.
4	**s99ZC When container refund point operator must not claim payment** (1) The operator of a container refund point must not claim payment of an amount from the Organisation under a container collection agreement if the payment relates to a container and any of the following apply— (a) the operator has not paid a refund amount for the container; (b) the container is not registered; (c) the operator knows, or ought reasonably to know, the container has been disposed of to landfill, whether or not the operator has paid a refund amount for the container. (2) Subsection (1)(c) does not apply to a container that is the subject of an extraordinary circumstances exemption.
4	**Insertion of s99ZD Operator must ensure containers sent for recycling** (1) This section applies if— (a) the operator of a container refund point has paid a refund amount for a container; and (b) the container is not the subject of an extraordinary circumstances exemption. (2) The operator must not allow the container to be disposed of to landfill.
4	**Insertion of s99ZI When material recovery facility operator must not claim recovery amount**

	(1) The operator of a material recovery facility must not claim the recovery amount for a container if— (a) a refund amount has been paid for the container at a container refund point; or (b) the container is not registered; or (c) the operator has allowed the container to be, or knows the container has been, disposed of to landfill. *Note—* See section 99ZX for deciding if an operator has allowed a container to be disposed of to landfill. (2) Subsection (1)(c) does not apply to a container that is the subject of an extraordinary circumstances exemption.
4	**Insertion of s99ZJ Operator must not allow containers to become landfill** (1) The operator of a material recovery facility must not allow a container to be disposed of to landfill if the operator has received a recovery amount for the container. *Note—* See section 99ZX for deciding if an operator has allowed a container to be disposed of to landfill. (2) This section does not apply to a container that is the subject of an extraordinary circumstances exemption.
4	**Insertion of s99ZL Operator of material recovery facility must comply with protocol** (1) This section applies if a material recovery agreement provides for the recovery amounts for quantities of containers claimed by the operator of a material recovery facility to be worked out under the recovery amount protocol. (2) The operator of the material recovery facility must comply with the recovery amount protocol.
4	**s99ZQ Conditions of container approval** (1) It is a condition of a container approval that the holder must give the Organisation notice about any changes to the beverage product the subject of the approval, including, for example— (a) the type of beverage in the product; or (b) the volume of beverage in the product; or (c) the material the container, including its label, is made of. *Note—* See section 173X for the chief executive's general power to impose conditions on a container approval. (2) The holder of a container approval must comply with the conditions of the approval.
5	**s102ZB Providing assistance** (1) An administrator appointed under section 102Z may, for performing the administrator's functions, by a notice given to an officer or employee or former officer or employee of the company, require the person to—

	(a) produce documents in the person's possession that the administrator reasonably requires to perform the functions; or (b) provide the other information or assistance the administrator reasonably requires to perform the functions. (2) A person of whom a requirement has been made under subsection (1) must comply with it unless the person has a reasonable excuse. (3) It is a reasonable excuse for an individual not to comply with the requirement if doing so might tend to incriminate the individual. (4) In this section— ***the company*** means— (a) if the administrator is appointed under section 102Z(1)(a)—the company whose appointment as the Organisation is suspended; or (b) if the administrator is appointed under section 102Z(1)(b)—the company that was appointed as the Organisation most recently before the administrator was appointed.
9	**Replacement of s158 Compliance with end of waste code** (1) A registered resource producer for an end of waste code for a resource must not do any of the following unless the producer complies with the requirements of the code— (a) produce the resource; (b) use, sell or give away the resource.
9	(2) A person, other than a registered resource producer, must not use a resource in a way, or for a purpose, that does not comply with an end of waste code for the resource.
23	**s173K Conditions of end of waste approval** (1) A condition imposed on an end of waste approval under section 173X may impose an obligation on— (a) the holder of the approval; or (b) a resource user of a resource under the approval. (2) The holder of, or a resource user or other person acting under, an end of waste approval must comply with the conditions of the approval.
34	**Insertion of new s307 Retailer must offer alternative shopping bag during phase out period** (1) This section applies if, during the phase out period, a person asks a retailer for an alternative shopping bag to use to carry goods that the retailer sells from the retailer's premises. (2) The retailer must offer to give or sell the person an alternative shopping bag. (3) In this section— ***phase out period*** means the period that starts on the commencement and ends on 30 June 2018.

3.3 Explanatory notes

Part 4 of the *Legislative Standards Act 1992* relates to explanatory notes. It requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly, and sets out the information an explanatory note should contain.

Explanatory notes were tabled with the introduction of the Bill. The notes are fairly detailed and contain the information required by Part 4 and a reasonable level of background information and commentary to facilitate understanding of the Bill's aims and origins.

Appendix A – List of submissions

Sub #	Submitter
001	Anthony Scholes
002	Sequence number not utilised
003	Jason Carroll
004	Brisbane City Council
005	Cameron Milne
006	Reg Lawler
007	Rolf Schlagloth and Dr Flavia Santamaria
008	Fraser Island Defenders Organisation
009	Environment Council of Central Queensland
010	Queensland Resources Council
011	Wildlife Preservation Society of Queensland
012	Southern Downs Regional Council
013	Queensland Hotels Association
014	Michael Williams
015	Brooke McReynolds
016	Alison Friswell
017	Paul Sayles
018	Jonathan Peter
019	Alison Mason
020	Jacki Wirth
021	Martina Findlay
022	Sequence Number Not Utilised
023	Margaret Lane
024	Marilyn Wright
025	Carla Clynick
026	Elinor Drake

Sub #	Submitter
027	Sunshine Coast Surfrider Foundation
028	Wide Bay Burnett Environment Council Inc
029	Sequence Number Not Utilised
030	Gecko Environmental Council
031	Ken Mewburn
032	Coolum North and Shore Coast Care
033	Carolyn Bussey
034	Maree Ziirsen
035	MGA Independent Retailers
036	Birds Queensland
037	Bulimba Electorate Youth Advisory Panel
038	Healthy Land and Water
039	Sunshine Coast Environmental Council
040	Wildlife Preservation Society of Queensland - Upper Dawson Branch
041	Plastic Bag Free Livingstone
042	Noosa Integrated Catchment Association Inc
043	Jo Stoyel
044	Local Government Association of Queensland
045	Boomerang Alliance
046	Australian Beverages
047	NQ Conservation
048	National Retail Association
049	Container Deposit System Operators
050	Dr Jan Aldenhoven
051	Exchange for Change
052	Chamber of Commerce and Industry Queensland
053	Cairns and Far North Environment Centre

Sub #	Submitter
054	Shopping Centre Council of Australia
055	Norman Creek Catchment Co-ordinating Committee
056	Greenpeace
057	Steve Dennis
058	Brittany Lauga MP
059	Kathleen Dennis
060	Alliance to Save Hinchinbrook Inc
061	Kurtis Linsday
062	Queensland Conservation Council
063	Julie Jackson
064	Central Highlands Regional Council
065	Australian Veterinary Association
066	Householder's Options to Protect the Environment Inc (HOPE)

Appendix B – List of witnesses at public hearing and public briefing

Southern Downs Regional Council

- Mr Darryl Brooks, Environmental Coordinator
- Mr Tim O'Brien, Manager, Environmental Services

Local Government Association of Queensland

- Mr Robert Ferguson, Senior Advisor, Environmental and Public Health
- Mr Luke Hannan, Manager, Planning, Development and Environment

Brisbane City Council

- Mr Lee Arron, Manager, Waste and Resource Recovery Services

Association of Container Deposit System Operators

- Mr Rob Kelman, Executive Officer

Waste Recycling Industry Association of Queensland

- Mr Rick Ralph, Chief Executive Officer

Coca-Cola Amatil, Exchange for Change

- Mr Jeff Maguire, CDS Implementation

National Retail Association

- Mr David Stout, Manager Policy

Australian Beverages Council

- Mr Alby Taylor, General Manager

Norman Creek Catchment Coordinating Committee

- Mr Ray Ison, Member

Coolum and North Shore Coast Care

- Ms Susan Richards, Volunteer

Bulimba Electorate Youth Advisory Panel

- Mr Hayden Woodall, Group Submission Coordinator

Wildlife Preservation Society of Queensland

- Mr Des Boyland, Policies and Campaigns Manager

Boomerang Alliance

- Mr Toby Hutcheon, Queensland Manager

Sunshine Coast environmental Council

- Ms Narelle McCarthy, Liaison and Advocacy
- Ms Liliaana Moran, Project Officer (Volunteer)

Department of Environment and Heritage Protection

- Ms Kylie Hughes, Director, Waste Policy and Legislation
- Mr Geoff Robson, Executive Director, Strategic Environment and Waste Policy

Appendix C – Results of consultation on the plastic bag ban discussion paper

ATTACHMENT 3

IMPLEMENTING A LIGHTWEIGHT PLASTIC SHOPPING BAG BAN IN QUEENSLAND

Results of consultation

Consultation on the *Implementing a lightweight plastic shopping bag ban in Queensland* discussion paper ran for three months from 25 November 2016 to 27 February 2017.

Released following the government's decision to introduce a lightweight plastic shopping bag ban, the discussion paper sought feedback on various aspects of the ban, including the commencement date and the inclusion of biodegradable shopping bags. The paper also sought feedback on working with other jurisdictions to develop options for voluntary action to reduce the use of heavier-weight department store-style plastic bags.

The discussion paper asked four questions:

1. Do you think that 1 July 2018 allows enough time for consumers and retailers to transition to plastic bag alternatives? Why/why not?
2. Do you agree that biodegradable bags should be included in a ban? Why/why not?
3. Do you support the Queensland Government working with other states and territories to encourage industry to reduce the number of heavier-weight plastic department store bags? Why/why not?
4. What else can be done by the Queensland Government to address plastic pollution?

Number of submissions

Just over 26,000 submissions were received. Thirty submissions were received from local governments, companies and organisations, with the remainder from individuals (Table 1).

20,930 submissions were received through the Queensland Government Get Involved website, with the remainder received by email or letter.

Source	Number
Individuals	26,124
Organisations	30
Total	26,154

Table 1: Summary of submissions received

Submissions from individuals

The responses from individuals to questions 1, 2 and 3 are summarised in Table 2 (note that not all submissions addressed all questions in the discussion paper).

Question	Yes	No	Unsure
Question 1–Do you think that 1 July 2018 allows enough time for consumers and retailers to transition to plastic bag alternatives?	25,106 (96.3%)	682 (2.6%)	272 (1%)
Question 2–Do you agree that biodegradable bags should be included in a ban?	16,390 (63.1%)	5008 (19.3%)	4575 (17.6%)
Question 3–Do you support the Queensland Government working with other states and territories to encourage industry to reduce the number of heavier-weight plastic department store bags?	24,936 (96.1%)	631 (2.4%)	377 (1.5%)

Table 2: Summary of responses from individuals

1

In response to ***Question 1***, 96.3% of individuals agreed that 1 July 2018 allows enough time for consumers and retailers to transition to plastic bag alternatives. A large percentage of respondents also used this question to express support for the introduction of a ban not just to support the commencement date.

Common comments provided include:

- A ban is necessary to reduce plastic litter and protect the environment and wildlife.
- There is plenty of time to transition.
- Bans are successful in other states and nations.
- Many consumers are already using reusable bags and refusing to use plastic bags.
- Frustration that a ban has not been introduced sooner.
- Many other measures should also be taken to reduce plastic litter.

3.6% of individuals did not agree or were unsure. Common comments provided include:

- Plastic shopping bags are not 'single use' as they are often re-used as rubbish bags or bin liners.
- There will be extra expense to purchase reusable shopping bags or bin liners.
- Reusable bags are considered to be unhygienic.
- Banning plastic bags is too drastic and a small fee should be charged instead.
- Bans have not worked effectively in other states.
- People should not be littering.
- The government should not interfere.

In response to ***Question 2***, 63.1% of individuals agreed that biodegradable bags should be included in a ban, while 37% disagreed or were unsure.

Common comments provided for supporting the inclusion of biodegradable bags in the ban include:

- As it takes extensive time for the bags to break down in nature, they can still be consumed by wildlife.
- Due to the consumer's belief that the biodegradable bags decompose harmlessly in nature, large amounts of these types of bags may still be littered.
- People cannot tell the difference between biodegradable bags and traditional bags.
- Eventually the bags will end up in waterways.
- All disposable plastic items are bad.

Common comments provided for not supporting, or being unsure about, the inclusion of biodegradable bags in the ban include:

- Biodegradable bags are better for the environment so are a smarter alternative.
- There is no need to ban them as they will easily breakdown when in contact with nature.
- There will be a public backlash if all plastic bags are banned.
- There still needs to be an alternative if you accidentally leave your reusable bag at home.
- The biodegradable bags would be reused, for example as bin liners or for cat/dog waste.

In response to ***Question 3***, 96.1% of individuals support the government working with other states and territories to encourage industry to reduce the number of heavier-weight plastic department store bags, while 3.9% disagreed or were unsure. The reasons given were similar to those for question 1.

In response to ***Question 4***, over 11,000 individuals also provided ideas for other actions that could be undertaken to reduce plastic pollution generally.

Submissions from organisations

A total of 30 submissions were received from organisations (Table 3). A list of organisations is provided at Appendix 1.

Sector	Number
Retail sector	5
Local government	7
Environment	13
Waste industry	1
Other	4
Total	30

Table 3: Submissions received from organisations

Retail sector

Five submissions were provided by the retail sector.

One submission expressed reservations over the timing and other implementation issues.

The main positive aspects identified were:

- Increase in bin liner sales;
- Increase in reusable bag sales;
- Savings in not supplying plastic bag to consumer; and
- Better environmental outcomes.

The comments provided were:

- Government needs to work with retailers to implement the ban, to minimise impacts to staff and customers;
- Ban must not inconvenience customers;
- Potential decreased customer satisfaction due to longer checkout wait times;
- Cost to consumer if reusable bags are expensive (if consumers keep forgetting to bring them in);
- Cost to productivity at checkout – for example claims that a ban adds 1.5hrs work for every 1000 customers;
- Checkout refurbishments costs;
- Health and safety (reusable bags have bigger volume and are therefore heavier);
- Needs to be nationally consistent to reduce complexity;
- Need reasonable transition period (18 months) due to contracts retailers have with bag suppliers and stockpiles which need to be depleted; also, reusable bags need to be sourced and more produced; and
- Government should be responsible for community awareness, and highlight that the ban is a government decision not the choice of retailers.

One of the retail sector submissions said that 1 July 2018 is not sufficient time for the transition, especially with the upcoming Commonwealth Games in April.

One of the retail sector submissions believed banning biodegradable bags is unnecessary as they can be beneficial.

Local government

Six individual councils and one representative organisation provided submissions.

All the local government submissions were supportive of the ban. The main reasons given were that the ban would help to:

- reduce windblown litter at landfill
- reduce plastic bag contamination in recycling

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- reduce cost of litter control
- reduce stormwater network blockages.

Local governments believed that a start date of 1 July 2018 for the ban does allow sufficient time, but stressed that education and communication campaigns are critical for implementation of the transition.

All except one council agreed that biodegradable bags should be included in the ban. This is because biodegradable bags:

- Still cause litter
- Contaminate plastic intended for recycling
- Contribute to severity of flooding (by blocking the stormwater network)
- Encourage disposable or 'convenience' thinking and behaviour.

One council recommended that the quality of biodegradable bags should be standardised, instead of banning them.

Local governments all agreed that voluntary measures should be taken to reduce the number of heavier-weight department store bags should be included in voluntary meas. The need for a coordinated approach with other states was noted.

Environment organisations

Thirteen submissions were received from environment organisations.

All of these submissions strongly supported the ban on lightweight plastic shopping bags and believed there was enough time for the transition. At the same time, education program for retailers and consumers would be required.

Submissions from this sector agreed that biodegradable bags should be included in the ban, due to their impact on wildlife and the environment if littered.

These submissions also supported measures to restrict heavier-weight department store bags, with some preferring a ban over voluntary measures.

The environment sector also called for strong government action on other prominent sources of plastic litter such as balloons and fishing litter.

Waste industry

The waste industry submission was supportive of the plastic shopping bag ban and believed the program for implementation was sufficient.

Appendix 1 - Organisations that made submissions

Local government

- Local Government Association of Queensland
- Mareeba Shire Council
- Logan City Council
- Moreton Bay Regional Council
- Southern Downs Regional Council
- Noosa Council
- Douglas Shire Council

Retail sector

- National Retail Association
- Retail Council
- Woolworths
- Master Grocers Australia
- Tanby Garden Centre

Industry – other

- Australasian Bioplastics Association
- Stanthorpe-Wallangarra Branch of Qld ALP
- Australian Association for Environmental Education Queensland Branch Inc.
- Consider This Pty Ltd

Waste Industry

- Waste Management Association of Australia (Queensland)

Environment

- Southern Moreton Bay Islands Coastcare
- Birds Queensland
- Plastic Bag Free Livingstone
- Sunshine Coast Environment Council
- Wildlife Preservation Society of Queensland
- Australian Marine Conservation Society
- Bribie Island Environmental Protection Association Inc
- Boomerang Alliance
- Douglas Shire Sustainability Group
- Tangaroa Blue Foundation
- Environmental Defenders Office
- Capricorn Coast Landcare Group Inc
- Healthy Waterways and Catchments

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Appendix D – Results of consultation on Container Refund Scheme discussion paper

ATTACHMENT 1

IMPLEMENTING THE CONTAINER REFUND SCHEME IN QUEENSLAND

Results of consultation

Consultation on the *Implementing the Queensland Container Refund Scheme in Queensland* discussion paper ran for four weeks from 17 February 2017 to 20 March 2017.

The discussion paper sought feedback on the implementation of a state-wide Container Refund Scheme (CRS) particularly around the structure and operating arrangements of the Scheme.

The discussion paper asked 13 questions structured around five different themes:

Refund Payments
1. Please provide your views on the various refund options (i.e. cash, voucher, direct bank credit, etc.) that may be available to a person returning containers to a container refund point.

Refund Marking
2. Do you think a logo or picture to represent the refund marking is easier to understand than the text, similar to that used in South Australia and Northern Territory?
3. Do you agree with broadening the eligibility to receive a refund to 'participating jurisdictions' rather than only in the 'state of purchase'?
4. Do you support providing flexibility in the Scheme to allow for the use of more than one way to identify an eligible container (i.e. barcode technology, container shape, manual identification)?

Accessibility and Infrastructure
5. What is the best way to provide fair and reasonable access to a container refund point?
6. What options might be available to the retail sector to participate in the Scheme?
7. How far would you be willing to travel and where would be a convenient location (i.e. public places and buildings, supermarkets, transfer stations, material recovery facilities) to redeem your containers?
8. How can convenience for redemption of containers and equitable access to all in the community be enhanced (i.e. co-locating container refund points with other collections such as e-waste, establishing new infrastructure)?
9. Do you think that the provision of a specific number of refund points to a certain area should be legislated?

Scheme Administration
10. Do you think it is appropriate for the Queensland Government to be responsible for setting the handling fee and deciding how this is allocated among Scheme participants?
11. Do you think the Queensland Scheme should have a single Scheme coordinator or multiple Scheme Coordinators?

Implementation and Review
12. What do you think might be a reasonable period for the Scheme, from time of introduction, to achieve a targeted level of access?
13. How long do you think the Scheme should operate before being reviewed?

Number of submissions

Just over 2,600 submissions were received, of which 34 were from companies or organisations, and the remainder from individuals (Table 1).

Except for one submission received through the Get Involved Website, all submissions were received by email.

Source	Number
Individuals	2,600
Organisations	34
Total	2,634

Table 1: Summary of submissions received

1

Submissions from individuals

Petition from Australian Marine Conservation Society submitted by individuals amounted to 1,724 submissions. 858 submissions were received from members of the Boomerang Alliance. Responses from both these campaigns were consistent and expressed the following:

All individual responses (except one) are in favour of a Container Refund Scheme.

Common comments provided include:

- 10c refund should provide the right incentive.
- Wine bottles should be included in the scheme.
- Reasonable access to convenient locations to redeem refunds is essential.
- Councils and community organisations must have fair access to container refunds and/or handling fees from containers they have collected.
- Barcode marking on eligible containers should be mandatory to prevent fraud and monitor the scheme's progress.
- Remote and community run collectors should have access to regional redemption points.
- A scheme coordinator should comprise of a number of stakeholders. The scheme coordinator should be an independent, not-for-profit organisation.
- The scheme coordinator should report on the scheme every four years.
- The scheme should be self-financing with the beverage industry covering the costs of the scheme
- All containers collected must be recycled
- Targets should be enforced and consistent with international standards.
- Severe penalties should apply for breaching scheme conditions and contracts.

Submissions from organisations

A total of 34 submissions were received from organisations (Table 2). A list of organisations is provided at Appendix 1.

Sector	Number
Waste industry	5
Local government	9
Environment	7
Beverage and retail industry	7
Other	6
Total	34

Table 2: Submissions received from organisations

Beverage and Retail sector

Seven submissions were provided by the beverage and retail sector.

The main aspects identified were:

- The refund marking must be generic and consistent across all schemes and need not be text or be part of the label. Instead the refund mark could be incorporated into the container and be located on a part of the container that is least likely to be damaged.
- Flexibility in the scheme operation will ensure that costs are minimised
- Refund points need to be located in reasonable proximity to consumers and returning eligible containers needs to be convenient.

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- Harmonisation between the Queensland and NSW schemes will reduce costs and logistical imposts on beverage manufacturers such as the labelling, container approval, refund mark and refund amounts.
- Government should set the handling fee in consultation with the Product Responsibility Organisation.
- The beverage industry sees no disadvantage in having a single coordinator for the scheme. The benefits of this approach include a potential reduction in scheme establishment, management and operating costs.
- The beverage industry believes that it is best placed to operate and administer the scheme.
- The scheme should be reviewed within two years of operation with a further review of the functionality and success of collection points after five years of operation.
- Legislation is critical for the good governance of the scheme and in ensuring that the operations of the scheme are transparent and subject to proper audit and review.
- Appropriate penalties and sanctions are critical to deter fraud.
- Consideration should be given to potential adverse effects on the operation of existing kerbside systems.
- The retail sector supports non-mandatory participation in providing container take-back or collection points.

Local government

Eight individual councils and one representative organisation provided submissions.

The main aspects identified include:

- The potential impact on kerbside services due to some loss of material as a result of the scheme.
- Councils with kerbside stated that the introduction of the scheme should have no negative financial impact on existing kerbside recycling services.
- A mix of standalone and mobile refund points is appropriate.
- Local government sees a role and a benefit for local government participation in regional and remote areas.
- The scheme needs to cognisant of vast distances in Queensland and that access points will need to be convenient for people.
- A review of the scheme should occur within six months and then every two years.

Environment organisations

Seven submissions were received from environment organisations. Environment organisations are supportive of the scheme.

The main aspects identified were:

- The scheme must be convenient for consumers
- The scheme must be transparent and have an efficient system of cash flow and refund return
- Must be complementary to kerbside services where present
- Clear targets and penalties must be established
- Coordination should be through a not-for-profit entity to ensure accountability of the whole system
- There must be accessibility across the state.

Waste industry

Five submissions were received from the waste industry.

The main aspects identified were:

- The scheme should be consistent with New South Wales
- The scheme should allow for more than one way to identify eligible containers. Logos were preferable to text.
- There should be a single scheme coordinator
- Preference was given to a cashless refund system to reduce possible fraud
- Consumer convenience for return and refund is critical to the success of the scheme
- Consumer behaviour change is likely to take longer in QLD compared to SA where a culture and habit for refillable containers already existed prior to the introduction of the CRS.
- Preference for Queensland Government to legislate retailer participation
- A review of the scheme should occur after five years

Other organisations

Submissions were received from the scouting and guiding movement as well as charities and not for profits. Whist all the submissions from these organisations supported a container refund scheme, concern was raised about the extent to which charities and not-for-profits would actually benefit.

Common issues identified were:

- Organisations suggested a scheme that would allow charities and not for profits to accept containers and collect refunds and/ or handling fees
- Legislation to ensure community organisations and charities benefit from the scheme and are not sidelined by large corporate entities
- 10c refund should provide the right incentive
- Beverage manufacturers should wear the cost
- Legislate the number of collection sites

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Appendix 1 - Organisations that made submissions

Local government

- Local Government Association of Queensland
- Mareeba Shire Council
- Logan City Council
- Moreton Bay Regional Council
- Douglas Shire Council
- Cairns Regional Council
- McKinleyShire Council
- Mackay Regional Council
- Cloncurry Shire Council

Retail and Beverage Industry

- Austalasian Association of Convenience Stores
- Australian Beverage Council Queensland
- Craft Beer Industry Association
- Container Deposit System Operators
- Diageo Australia
- Exchange for Change
- Shopping Centre Council of Australia
- Winemaker's Federation
- Woolworths

Other Organisations

- Guides Queensland
- Scouts Queensland
- Lutheran Youth of Queensland
- Queensland Outdoor Recreation Federation
- St Vincent de Paul

Waste Industry

- Australia and New Zealand Recycling Platform Limited
- Cleanaway Recycling
- Closed Loop
- Container Deposit Systems Australia
- Ecobox Solutions
- Impact Recycling
- Tomra Collection Solutions

Environment

- Sunshine Coast Environment Council
- Australian Marine Conservation Society
- Boomerang Alliance
- Tangaroa Blue Foundation
- Greenpeace
- Positive Change for Marine Life
- Wide Bay Burnett Environment Council

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Appendix E – Stakeholder feedback received from the Container Refund Scheme Implementation Advisory Group and department's response

Department of Environment and Heritage Protection

Attachment 2

Summary of stakeholder comments – Waste Reduction and Recycling Amendment Bill 2017

Background

The following information summarises the feedback received from the Implementation Advisory Group, along with the department's response to the feedback.

Issue No	Issue description	Response/Comments
1.	Amendment to definition of small beverage manufacturer	The previous definition of ***small beverage manufacturer*** (s99H) was based on the volume of beverage products in registered containers. The volume was to be prescribed in regulation. The definition of ***small beverage manufacturer*** has been simplified for the introduced Bill (s99R). The definition refers to a manufacturer of a beverage product who is prescribed by regulation to be a small beverage manufacturer. This provides greater flexibility in defining a small beverage manufacturer by allowing for measures other than volume to be used. This also links to the limits on the amounts that are paid by small beverage manufacturers under the scheme. The amount to be paid by a small beverage manufacturer will be set in regulation. **ACTION**: It is anticipated that a working group will be established to provide specific advice for the regulation in relation to small beverage manufacturer issues.
2.	Amendment to definition of manufacturer	The previous definition of ***manufacturer*** (s99L) defined a manufacturer as a person who makes the beverage product, including by filling containers with a beverage or importing the product from a foreign country. The definition contained in the Bill (s99O) includes reference to the ***manufacturer*** making the beverage product by either filling containers with a beverage or engaging another person under a contract to make the beverage product or fill containers for that person. This covers contract bottlers who don't supply direct to market but undertake a manufacturing process.
3.	Restriction on manufacturer selling beverage product	The comment was made regarding the requirements in this section (s99M) in relation to the criteria that the container display the refund marking and a product bar code. Feedback was provided regarding the need for a 24 month moratorium from these requirements to be provided to manufacturers by government to allow manufacturers to make the necessary adjustments and take actions such as using existing container and label stock and redesigning containers and labels to accommodate the new refund marking. Section 308 of the Bill provides a transition period for displaying the refund marking on beverage containers. This transition period states that a manufacturer does not a commit

Queensland Government

		an offence against s99P(2) if the refund marking is not on the containers during this period. The ***manufacturer transition day*** will be prescribed in regulation as the day at least one year after the day prescribed in regulation the requirements for the refund marking. The intent is provide a two-year period transition period to be consistent with NSW.
4.	Container recovery agreement	Concern was raised around the requirement stating that the Organisation must not enter into a container recovery agreement unless the Organisation is satisfied ongoing, effective and appropriate recycling arrangements are available. This comment particularly pertains to glass recycling issues in Australia. It is recognised that glass recycling is an issue. A number of potentially acceptable glass recycling and use practices have been identified, including use in road base and asphalt right up to bottle-to-bottle processing. Extraordinary circumstances exemption provisions in the Bill provide for a container refund point or material recovery facility operator to apply for an exemption from the requirements to recycle the container or not allow the container to be sent to landfill. This exemption must be applied for and approved by the chief executive. **ACTION**: The department will continue to work on market development opportunities for glass, including investigating government procurement arrangements.
5.	Ways refund amount may paid	Comment was made that consideration be given to a cap or upper limit on the provision of cash or voucher refund, defining a maximum amount that can be given in any one transaction – or a series of accumulated transactions. Consideration should be given in the Bill or regulation. The Bill (s99V) currently allows the container refund point operator to pay the refund amount in different ways. Section 99S allows the container refund operator to establish that a refund amount does not have to be paid if the person refuses to accept the refund in the way the container refund point operator pays the refund (and this is clearly stated on signage at the site). Section 99T allows the container refund point operator to request a refund declaration and proof of identity from a person returning empty containers for a refund. This may be requested when a person brings bulk quantities (to be prescribed in regulation) of containers to the operator. The operator may also request a refund declaration at any other time. The operator also has discretion to enter into a bulk claim arrangement to account for regular customers with bulk quantities – such as a community group or person collecting from commercial premises. These provisions will minimise the risk of containers that have been collected in a non-scheme state being brought into Queensland in large number to claim the refund. Section 308 also provides a transitional arrangement whereby the container refund point operator may only accept containers that do not display the refund marking for a further six months after the refund marking must be displayed on the container.

		ACTION: It is anticipated that a working group will be established to provide specific advice for the regulation in relation to cash/non-cash issues.
6.	Suggest need a definition of 'recycling facility'	The definition of ***recycling facility*** is contained in the *Waste Reduction and Recycling Act 2011*. The Amendment Bill also provides a specific definition for a material recovery facility **s99ZE Meaning of material recovery facility** (1) A material recovery facility is a facility or other place— (a) at which recyclable waste is sorted and prepared for recycling, whether or not the waste is also recycled at the facility or place or (b) of another type prescribed by regulation as a material recovery facility; (2) However, a material recovery facility does not include a facility or other place prescribed by regulation to not be a material recovery facility.
7.	Possible stockpiling of container for which a refund has been paid	Specific provisions in the Bill ensure that a refund or recovery amount claim cannot be made if the containers have not been recycled. Section 99ZD also specifically prohibits a container refund point operator from allowing containers on which a refund has been paid to be disposed of to landfill. However, several sections in relation to refund payments specifically allow for an extraordinary circumstances exemption to be in effect for specific container types. This allows for a container refund point or material recovery facility operator to apply for an exemption from the requirements to recycle the container or not allow the container to be sent to landfill. This exemption must be applied for and approved by the chief executive. It is possible that the exemption could cover potential stockpiling issues, with conditions placed on the exemption in respect of a timeframe for allowing the stockpiling of material without it being recycled. *Note: criteria for considering, conditioning and deciding the exemption need to be worked through in detail.*
8.	Need to ensure there are container recovery targets	Provisions inserted into the Bill: • 102D Minister may invite application for appointment This section allows the Minister to include in the invitation of appointment specific outcomes that are to be met by the Organisation, including outcomes that relate to the Organisation's functions and relating to the administration of the scheme (such as opportunities for social enterprise, innovation and the development of technology). • 102ZF Regulation may prescribe outcomes to be achieved A regulation may prescribe outcomes that the Organisation must achieve, including container recovery and recycling targets and container refund point accessibility targets. • 102ZM Requirement to implement plans in application

		This section requires the Organisation to implement plans for certain matters as stated in their application – including achieving any outcomes stated in the Minister's invitation
9.	Dispute resolution	Dispute resolutions requirements are inserted in the following provisions: • 99ZA Container collection agreement • 99ZF Material recovery agreement • 102F Requirements for application Dispute resolution provisions are required in: • container recovery agreements (99Q) between the beverage manufacturer and the Organisation to demonstrate how disputes between the Organisation and the beverage manufacturer will be settled • the container collection agreement (s99ZA) between the container refund point operator and the Organisation to demonstrate the process for settling disputes between the Organisation and the container refund point operator • material recovery agreement (99ZF) between the material recovery facility operator and the Organisation to demonstrate the process for settling disputes between the Organisation and the MRF operator • the application from the eligible company in response to the Minister's invitation to form a PRO.
10.	Composition and remuneration of board and staff of PRO	New provision inserted: • 102B(1)(c)(iv)(C) Meaning of eligible company This section obliges the Organisation to maintain a Constitution that at all times contains particular matters, including a Board of nine directors, the representative nature of the Board, appointment and removal of Board directors, remuneration or the Chair and directors. Eligibility criteria for Board members will be established in regulation. This may include requirements to have waste and resource recovery, local government and company operation knowledge and experience. This prevents the Organisation from changing essential elements of the Constitution and operation of the Organisation after appointment as the PRO. **ACTION**: It is anticipated that a working group will be established to provide specific advice for the regulation in relation to the Board nomination criteria. For example, to look at the attributes that a person may need to be suitable for nomination and appointment to the Board, or as the independent chair.

Appendix F – Summary of plastic bag bans in other jurisdictions

ATTACHMENT 4

Summary of plastic bag bans in other jurisdictions

Jurisdiction	Legislation
Tasmania	*Plastic Shopping Bags Ban Act 2013* • Commenced 1 November 2013 after a five month transition period. • The primary aim of the Act is to reduce the number of lightweight plastic shopping bags in Tasmania by encouraging the use of clean reusable bags. • Supports the Tasmanian Waste & Resource Management Strategy and builds on initiatives undertaken by many retailers in Tasmania. • Prohibits retailers in Tasmania from supplying shoppers with a plastic shopping bag for the purpose of enabling goods sold, or to be sold, by the retailer, to be carried from the retailer's premises. • The supply of other plastic bags is not restricted. These include compostable biodegradable plastic bags consistent with Australian Standard 4736, re-sealable zipper storage bags, heavier plastic bags (typically used by clothing and department stores) and plastic bags that are an integral part of the packaging (such as bread, frozen foods or ice bags and fruit and vegetable 'barrier' bags). • The offences include a retailer providing a lightweight plastic shopping bag to a customer for the purposes of carry goods bought there, and also the providing of false information. • A retailer is any person selling goods in trade or commerce. This includes, but is not limited to, wholesalers, large scale businesses, market stall holders, road side vendors and online businesses selling products from Tasmania. • A plastic shopping bag means a bag that: 1. has handles, 2. is, in whole or in part, made of polyethylene, and 3. is, in whole or in part, of a thickness of less than 35 microns. • Retailers are not required to charge for any bags they supply.
Northern Territory	*Environment Protection (Beverage Containers and Plastic Bags) Act 2011* • Commenced on 1 September 2011, following a four month phase-out period • Territory retailers can no longer supply lightweight, single use, non-biodegradable plastic bags. • This ban prohibits retailers from selling or giving away plastic bags with handles and made entirely or partly of polyethylene polymer less than 35 microns thick, including those marked degradable.
Australian Capital Territory	*Plastic Shopping Bags Ban Act 2010* • Came into effect on 1 November 2011 after a nine month transition. • The aim of the ban is to reduce the use of plastic bags by restricting the supply of plastic bags at the point of sale where the bag is provided to carry goods. • The objectives are to: o reduce unnecessary consumption; o reduce waste to landfill; and

	○ reduce litter and other environmental impacts of plastic bags. • Overall the ban is estimated to have reduced the volume of plastic bag waste going to landfill by around one third. • The ban applies to bags that are made in whole, or in part, of polyethylene with a thickness of less than 35 microns. These are generally the type of bag distributed through supermarkets, grocery stores and takeaway food outlets. • The ban does not affect: ○ Barrier bags – the type dispensed from a roll to hold items such as loose fruit and vegetables. ○ Heavier reusable plastic bags – the type used by clothing and department stores and now sold at many supermarket checkouts in the ACT. ○ Woven cotton or sturdy bags such as 'green bags' designed for multiple use. ○ Compostable biodegradable bags that have been certified to Australian Standard AS 4736-2006. ○ Paper bags. ○ Bags that are prescribed by regulation not to be a plastic shopping bag. • Applies to all retailers in the ACT. • Retailers are protected from unknowingly buying banned bags and supplying them to customers. If a supplier provides bags they know are banned, they are guilty of an offence under the *Plastic Shopping Bags Ban Act 2010*. • The ban was reviewed in 2012 and 2014.
South Australia	*Plastic Shopping Bags (Waste Avoidance) Act 2008* • Commenced 4 May 2009, phase out commenced on 1 January 2009. • During the transition, retailers were required by legislation to have alternative shopping bags available for customers and to display signage at every cash register. • Legislation provides for minimum sizing of signs for customers. • Legislation does not include: ○ Compostable bags that state they meet the Australian Standard AS 4736-2006 for biodegradable plastics; ○ Barrier bags (no handles), the type dispensed from a roll, typically for items such as loose fruit and vegetables; ○ Paper bags; ○ Heavier retail (or boutique) bags, typically used by clothing and department stores; and ○ Sturdy bags designed for multiple use such as the 'green' bags.

Appendix G – Comparison of key elements of container refund schemes in other Australian jurisdictions

Comparison of key elements of container schemes in other Australian jurisdictions

	Scheme elements						
Jurisdiction	**Commenced**	**Legislation**	**Containers included**	**Containers excluded**	**Refund amount**	**Refund marking**	**Governance**
South Australia	Y – 1977	*Environment Protection Act 1993*	All containers less than 3L (some exclusions)	See Attachment A	10c	Section 68(3)(a) of the Act states that containers of the class to which the approval relates must bear the refund marking specified by the Authority for containers of that class – the Authority specifies the following refund markings for Category B Containers: • a '10c refund at collection depots when sold in SA'; and • '10c refund at SA/NT collection depots in State/Territory of purchase'.	• Two super collectors operated by beverage companies • Has evolved over time ***Legislated arrangements*** • Beverage manufacturer waste management arrangement • Contracts with container collection depots • SA government container approvals
Northern Territory	Y – 2011	*Environment Protection (Beverage Containers and Plastic Bags) Act 2011*	All containers less than 3L (some exclusions)	Consistent with SA (Attachment A)	10c	Environment Protection (Beverage Containers and Plastic Bags) Regulations ***approved refund marking***: an approved refund marking for a regulated container is a mark or label that clearly and legibly states: • "10c refund at collection depots when sold in NT"; or • "10c refund at SA/NT collection depots in State/Territory of purchase".	• Four scheme coordinators approved by NT government ***Legislated arrangements*** • NT government approves Coordinator and collection depots • Coordinator arrangement between each coordinator • Waste management arrangements between CDS participants • NT government container approvals
New South Wales	N – to commence 1 December 2017	*Waste Avoidance and Resource Recovery*	All containers between 150ml and	Consistent with SA and NT	10c	To be approved – likely to be a logo marking	• One Scheme Coordinator (chosen

		Amendment (Container Deposit Scheme) Act 2016	3L	schemes around broad exclusions. Specific exclusion of containers less than 150ml is different				• through open tender) • up to seven Network Operators based on a zonal arrangement (chosen through open tender) • Container Collection Points (commercial arrangement between with Network Operator ***Legislated arrangements*** • Contractual arrangements between: • the NSW Environment Minister and the Scheme Coordinator; • the NSW Environment Minister and each Network operator and • the Scheme Coordinator and each Network operator • Beverage manufacturer supply agreement with Scheme Coordinator • NSW government container approvals • NSW government Container Collection point approvals
						10c	Consistent with approved NSW refund marking	• Product Responsibility Organisation – functions and obligations established in legislation • Eligible company
Queensland	N – to commence 1 July 2018	Waste Reduction and Recycling Amendment Bill 2017 (amends the *Waste Reduction and Recycling Act 2011*)	All containers between 150ml and 3L	See Attachment B Consistent with NSW in respect of 150ml container				

				exclusion				invited by Minister to form PRO and is appointed ***Legislated arrangements*** • Beverage manufacturer container recovery agreement with PRO • Container refund Point operator container collection agreement with PRO • Material recovery Facility agreement with PRO • Qld government container approvals (for containers not already approved elsewhere under another scheme)
Western Australia	N – to commence nominally early/mid 2018		Expected to be consistent with NSW/Qld		10c		Unknown	
Tasmania	N – announced investigation of a model in May 2017			Unknown				
Australian Capital Territory	N – to commence nominally early 2018		All containers between 150ml and 3L	As for NSW	10c	Consistent with approved NSW refund marking	Similar governance structure to NSW	
Victoria	N – no announcement regarding the introduction of a scheme							

Attachment A

List of beverages covered by the Environment Protection Act 1993

The following chart should be used only as a guide to assist you in determining which beverages and containers are covered by the Beverage Containers Provisions of the Act (CDL). If in doubt, please contact the CDL Unit on telephone (08) 8204 1180 or email: epainfo@sa.gov.au .

In the chart below 'INCLUDED' means the beverage is one which CDL applies to and EPA approval is required before the beverage container is sold in South Australia. 'EXEMPTED' means the beverage container is not covered by CDL.

NON-ALCOHOLIC BEVERAGES			
BEVERAGE TYPE	**CONTAINER MATERIAL**	**CONTAINER SIZE**	
		INCLUDED	**EXEMPTED**
Carbonated soft drinks	All	3 litres or less	Greater than 3 litres
Non-carbonated, soft drinks including (but not limited to) fruit juice based drinks (containing less than 90% juice), 'sports' drinks, 'vitamin' drinks, 'energy' drinks, ready to drink cordials	All	3 litres or less	Greater than 3 litres
Water—plain, still or carbonated spring water, mineral water and any other water intended for human consumption	Aseptic packs/casks (made from cardboard and/or plastic and/or foil)	Less than 1 litre	1 litre or more
	All other materials	3 litres or less	Greater than 3 litres
Pure fruit/vegetable juice – means a liquid containing at least 90% fruit juice and/or vegetable juice.	ALL	Less than 1 litre	1 litre or more
Flavoured milk– milk to which flavour has been added (milk being cow's milk or the milk of any other animal, soy milk, ultra heat-treated milk, low fat milk, etc)	ALL	Less than 1 Litre	1 litre or more
• Plain, unflavoured milk • Concentrated fruit and/or vegetable juice intended to be diluted before consumption • Health tonic included on the Australian Register of Therapeutic Goods • Cordial (undiluted)	ALL	NIL	ALL

Environment Protection Authority

EPA South Australia

List of beverage containers

ALCOHOLIC BEVERAGES			
BEVERAGE TYPE	**CONTAINER MATERIAL**	**CONTAINER SIZE**	
		INCLUDED	**EXEMPTED**
Beers/ales/stout	ALL	3 litres or less	Greater than 3 litres
Spirituous liquor – a liqueur or other alcoholic beverage produced by distillation (eg: brandy, gin, rum, vodka, whisky)	Glass	NIL	ALL
	All other materials	3 litres or less	Greater than 3 litres
Wine (straight wine) – a beverage produced by the fermentation of grapes that contains only grapes and no other beverages. Includes de-alcoholised wine (alcohol has been removed from the wine) but does not include non-alcoholic grape juice which has not undergone fermentation process.	Glass	NIL	ALL
	Plastic	Less than 250 ml	250 ml or greater
	Sachets (plastic and/or foil)	Less than 250 ml	250 ml or greater
	Aseptic packs/casks (cardboard and/or plastic and/or foil)	Less than 1 litre	1 litre or more
Flavoured alcoholic beverages with a wine base — any beverage that contains wine plus additional beverages, ingredients or flavours. This can include (but is not limited to) fruit-flavoured wine, wine coolers, ready to drink alcoholic beverages (RTDs)	Aseptic packs/casks (cardboard and/or plastic and/or foil)	Less than 1 litre	1 litre or more
	All other materials	3 litres or less	Greater than 3 litres
Alcoholic beverages — derived from fruit or other substances (cider, alcoholic lemonade, plum wine, sake etc)	ALL	Up to and including 3 litres	Greater than 3 litres
Flavoured alcoholic beverages with a spirit base — any beverage that contains spirituous liquor plus additional beverages, ingredients or flavours. This can include (but is not limited to) 'alcopops', ready to drink alcoholic beverages (RTDs) and spirit-based beverages sold in casks	ALL	3 litres or less	Greater than 3 litres

Attachment B

List of eligible beverages for the Queensland Container Refund Scheme (as at 30 June 2017)

ELIGIBLE CONTAINERS*			
Beverage	**Container type**	**Container size**	
Non-alcoholic		**Eligible*(exclusions apply)**	**Excluded**
fruit juice – pure	all materials	• Less than 1L	• 150 ml or less • 1L or greater
milk – flavoured: – cow's or other animal milk – soy or other plant-based milk – low fat milk – ultra heat-treated (UHT) milk, etc.	all materials	• Less than 1L	• 150 ml or less • 1L or greater
soft drinks, carbonated	all materials	• 3L or less	• 150ml or less • greater than 3L
soft drinks, non-carbonated: – energy drinks – fruit drinks – ready to drink cordials – sports drinks – vitamin drinks	all materials	• 3L or less	• 150ml or less • greater than 3L
vegetable juice - pure	all materials	• Less than 1L	• 150 ml or less • 1L or greater
water, intended for human consumption – plain – still or carbonated spring water – mineral water	aseptic packs/casks (made from cardboard, plastic or foil)	• Less than 1L	• 150 ml or less • 1L or greater
	all **other** materials	• 3L or less	• 150 ml or less • greater than 3L
Alcoholic		**Eligible *(exclusions apply)**	**Excluded**
alcoholic beverages: – derived from fruit or other substances such as: ○ cider ○ alcoholic lemonade ○ plum wine ○ sake etc.	all materials	• 3L or less	• 150 ml or less • greater than 3L
beer/ale/stout	all materials	• 3L or less	• 150 ml or less • greater than 3L
pure spirits/liquor, distilled alcoholic beverage: – brandy – gin – rum – vodka – whisky	glass	NIL	• all containers
	all **other** materials	• 3L or less	• 150 ml or less • greater than 3L
wine, alcoholic and non-alcoholic – beverage produced by the fermentation of grapes only – does not include grape juice	glass	NIL	• all containers
	plastic	• Less than 250ml	• 150ml or less • 250ml or greater

Attachment B

which has not undergone fermentation process	sachets (plastic or foil)	• Less than 250ml	• 150ml or less • 250ml or greater
	aseptic packs/casks (cardboard, plastic or foil)	• Less than 1L	• 150ml or less • 1L or greater
Spirit-based, flavoured alcoholic beverage: – any beverage that contains spirituous liquor plus additional beverages, ingredients or flavours: ○ alcopops ○ ready to drink alcoholic beverages (RTDs) ○ spirit-based beverages sold in casks	all materials	• 3L or less	• 150 ml or less • greater than 3L
wine-based, flavoured alcoholic beverage: – any beverage that contains wine plus additional beverages, ingredients or flavours such as: ○ fruit flavoured wine ○ wine coolers ○ ready to drink alcoholic beverages (RTDs)	aseptic packs/casks (cardboard, plastic or foil)	• Less than 1L	• 150 ml or less • 1L or greater
	all **other** materials	• 3L or less	• 150 ml or less • greater than 3L

Most aluminium, glass, PET, HDPE, steel and paperboard drink containers between 150ml and 3L will be eligible.

EXCLUDED CONTAINERS	
Beverage	**Container type**
any beverage	• all containers less than 150ml • all containers more than 3L
cordial – concentrated/undiluted	• all containers
fruit juice – concentrated, intended to be diluted	• all containers
fruit juice – pure	• all containers more than 1L
health tonics – registered	• all containers
milk – plain unflavoured	• all containers
milk – flavoured	• all containers more than 1L
vegetable juice – concentrated, intended to be diluted	• all containers
vegetable juice – pure	• all containers more than 1L
water – cask	• all containers more than 1L
wine – cask	• all containers more than 1L
wine – sachets	• all sachets more than 250ml or less than 150ml

Appendix H – Jurisdictional analysis and comparison of Australian waste-to-resource frameworks

Attachment 5

Jurisdictional analysis of Australian waste-to-resource frameworks

Purpose

This document compares waste-to-resource (or beneficial reuse) frameworks across four Australian jurisdictions: Queensland (QLD), New South Wales (NSW), South Australia (SA), and Victoria (VIC).

Overview of waste-to-resource frameworks

Waste-to-resource frameworks generally provide the basis for assessing the suitability of using a particular waste for another purpose. These frameworks recognise that the waste from one process or activity may be safely and beneficially used in another process or activity. A brief overview of each jurisdiction's framework is provided below, followed by a summary of the key commonalities and variations between the frameworks. Additional details regarding the key features of the framework in each jurisdiction are provided in Table 1.

Queensland

QLD's end of waste (EoW) framework is administered under Chapter 8 of the *Waste Reduction and Recycling Act 2011*. A waste is approved for use as a resource through an EoW code or EoW approval, which may be issued based on whether the use of the waste is well-proven and established (EoW code), or whether the use of the waste needs to be demonstrated and proven through a time-limited trial (EoW approval). An EoW code is available to the public, whilst an EoW approval is specific to the holder of the approval. Once a waste meets the conditions under an EoW code or EoW approval it is considered a resource and is no longer subject to waste management controls; however the resource may be required to comply with other legislation.

New South Wales

The NSW waste-to-resource framework is administered under the Protection of the Environment Operations (Waste) Regulation 2014 and is based on resource recovery orders (RROs) and resource recovery exemptions (RRE). RROs apply to the supplier or processor of a waste, whereas RREs apply to the receiver or user of the waste. RROs/RREs may be available to the public to use, or may be granted to a specific person (Specific RRO/RRE). Once a waste material meets the relevant conditions in the RRO/RRE, the material may be exempt from waste management regulatory requirements, such as the need to hold an environmental protection licence.

South Australia

The Environment Protection (Waste to Resources) Policy 2010 provides the legislative head of power for SA's waste-to-resource framework. It provides for a waste to be deemed a product if it meets the specifications or standards published by the Environment Protection Authority South Australia (EPA SA). In the absence of a standard, the waste is deemed a product if it constitutes a product that is ready to be used without requiring further treatment to prevent environmental harm that might result from its use. Standards are in the public domain and typically stipulate the conditions that must be met by the producer, transporter and user of the waste.

Victoria

The Victorian waste-to-resource framework is administered under the Environment Protection (Industrial Waste Resource) Regulations 2009. The framework is based on whether a waste is intended for direct beneficial reuse (DBR), or secondary beneficial reuse (SBR). DBR involves direct reuse of a waste without further treatment and requires that the waste be consigned directly from the waste producer to the end-user. SBR involves the use of a waste following a treatment or reprocessing activity, and requires prior authorisation from the Environment Protection Agency Victoria (EPA VIC).

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Commonalities and variations

Waste types: The frameworks in QLD and SA cover all waste types. In NSW, the framework is limited to wastes intended to be applied to land, used as fuel or used in connection with a thermal treatment process; whereas in VIC, the framework applies only to hazardous wastes which are known as prescribed industrial wastes (PIW).

General exceptions: In QLD, the EoW framework is not intended to apply to wastes which are part of a waste management process or activity that would otherwise require an environmental authority (e.g. hazardous waste treatment). Therefore EoW does not provide exemptions from the requirement to hold a licence for a waste management process or activity such as composting or waste treatment.

In NSW, exemptions from waste regulations are not provided for premises where the use of the waste is covered by an environmental licence. These premises are not eligible for an RRE and must continue to use the waste under their environmental licence.

In Victoria, SBR does not cover hazardous waste treatment such as composting, energy recovery or application to land. These activities must continue to be managed under the relevant environmental licences. Additionally, Victoria's SBR is designed for a nominated waste going to a nominated location and does not cover multiple waste producers, receivers, or waste streams.

Prior authorisation needed: All jurisdictions require varying degrees of prior authorisation or other notification under their respective frameworks:

- In QLD, a person must notify EHP when operating under an EoW, and must apply to EHP for the grant of an EoW approval.
- In NSW, prior approval is only required for a Specific RRO/RRE. Supply and use of a waste under a publicly available RRO/RRE does not require EPA authorisation.
- In SA, the requirement to notify the EPA SA varies according to the waste and, if required, is specified in individual product standards.
- In Victoria, a person must lodge a notification and receive authorisation from EPA VIC for SBR of a particular waste. DBR of a waste does not require any authorisation or involvement of EPA VIC.

Ability to impose conditions: All jurisdictions have the ability to impose conditions on the supplier of a waste intended to be used as a resource. However, QLD is the only jurisdiction that lacks the ability to impose conditions on the receiver or user of the waste.

Non-compliance with conditions: Penalties for non-compliance with conditions imposed under the respective frameworks vary by jurisdiction and are summarised in Table 1.

Third party involvement: QLD and Victoria are the only jurisdictions employing the use of a third party review system. In QLD, a suitably qualified person must review and prepare a report about an application for an EoW approval. In Victoria, the notification of an SBR must include a declaration by a qualified environmental consultant or an EPA VIC-appointed environmental auditor depending on the classification of the PIW in question.

Table 1: Comparison of waste-to-resources frameworks in several Australian jurisdictions

	Queensland	New South Wales	South Australia	Victoria
Legislative source	*Waste Reduction and Recycling Act 2011*, Chapter 8	Protection of the Environment Operations (Waste) Regulation 2014 (PEO Reg), sections 91-93	Environment Protection (Waste to Resources) Policy 2010 (clause 4)	Environment Protection (Industrial Waste Resource) Regulations 2009 (IWR Reg), Part 5
Administered by	Department of Environment and Heritage Protection (EHP)	NSW Environmental Protection Authority (NSW EPA)	Environmental Protection Authority South Australia (EPA SA)	Environmental Protection Authority Victoria (EPA VIC)
Overview	A waste is deemed a resource for a specific use if it meets the criteria and conditions stipulated in an end of waste code (EoW code) or an end of waste approval (EoW approval). An EoW code is intended for commonly recovered, well-characterised waste materials. An EoW code for a particular waste applies to any person who intends to supply the waste as a resource. An EoW approval is to be used as a trial to demonstrate that a particular waste can be used as a resource. An EoW approval for a particular waste applies to the holder of the approval.	A waste is exempted from waste management requirements if it is approved for a specific use under a resource recovery order (RRO) and a resource recovery exemption (RRE). An RRO for a particular waste applies to any person who intends to supply the waste that they have generated, processed or recovered. An RRE applies to a receiver of the waste who uses it as designated. An RRE may be: • a General RRE, which is relevant to commonly recovered, high-volume and well characterised waste materials; or • a Specific RRE which may be issued to a person in recognition of intellectual property rights such as unique sampling and testing regimes, or where it is necessary to impose specific conditions on the use or application of a waste material.	In SA, a waste continues to be a waste unless: • it constitutes a product that meets a specification or standard published by the administering authority; or • in the absence of a standard or specification, it constitutes a product that is ready for imminent use without the need for further treatment to prevent any environmental harm that might result from its use. Standards have been published for the use of waste derived fill (blast furnace slag) and for the production and use of waste derived fill, refuse derived fuel, waste derived soil enhancer, and for the use of waste derived fill (blast furnace slag).	A prescribed industrial waste (PIW, or hazardous waste) used for a specific purpose is exempt from relevant waste management requirements if it meets the criteria for direct beneficial reuse (DBR) or secondary beneficial reuse (SBR). DBR involves direct reuse of untreated waste, and requires that the waste be consigned for use. A waste is considered consigned for use when the waste producer and the waste receiver reach an agreement in advance on the reuse application. SBR applies when the waste requires treatment or reprocessing to enable reuse and the treatment or reprocessing does not destroy the hazard properties of the waste.
Wastes covered	All wastes.	Any waste to be applied to land, used as fuel, or used in connection with a thermal treatment process.	All wastes.	Hazardous wastes which are known as prescribed industrial wastes in Victoria.

	Queensland	New South Wales	South Australia	Victoria
General exceptions	An EoW code or EoW approval is not intended to apply to wastes which are part of a waste management process or activity that would otherwise require an environmental authority (e.g. hazardous waste treatment). Therefore EoW does not provide exemptions from the requirement to hold a licence for a waste management process or activity such as composting or waste treatment.	Exemptions from waste regulations are not provided for premises where the use of the waste is covered by an environmental licence. These premises are not eligible for an RRE and must continue to use the waste under their environmental licence.	None specified.	Does not apply to non-PIW (i.e. non-hazardous wastes). An SBR does not cover hazardous waste treatment including composting, energy recovery or application to land. These activities must continue to be managed under the relevant environmental licences SBR is designed for a nominated waste going to a nominated location. Use of a waste involving multiple waste producers, receivers, or waste streams must be managed under a works approval or environmental licence.
Prior authorisation or notification required	EoW code: A person must register in order to use an EoW code, otherwise the waste remains a waste. EoW approval: A person must apply to EHP for the grant of an EoW approval.	RRO: A person does not need to notify or seek authorisation from NSW EPA to use an RRO. General RRE: A person is not required to notify or seek authorisation from NSW EPA to use a publicly available RRE. Specific RRE: A person must apply to NSW EPA for a Specific RRE.	Varies according to the individual standard. For example, the standard for waste derived fill (blast furnace slag) does not stipulate any requirement for EPA SA approval, whereas all production and use of refuse derived fuel requires EPA SA approval.	DBR: A person does not need to notify or seek authorisation from EPA VIC to operate under a DBR. SBR: A person must lodge a notification and receive authorisation from EPA VIC for SBR of a particular waste.
Can conditions be imposed on suppliers of a waste?	Yes, EHP may impose conditions on the supplier of a resource under an EoW code or EoW approval, which it considers necessary and desirable.	Yes, NSW EPA may impose conditions on the supplier of a waste.	Yes, each standard stipulates the conditions to be met by the producer and transporter of the product.	Yes, EPA VIC may impose conditions on an SBR that apply to the producer, transporter, or receiver of the waste.
Penalty for non-compliance by supplier (as at June 2017)	1665 penalty units ($202,963.50) for contravening the condition of an EoW code or EoW approval.	Contravening a condition of an RRO incurs a penalty of 200 penalty units ($22,000) for an individual and 400 penalty units ($44,000) for a corporation. Additionally, separate offences related to record-keeping, and supply of information about test results for the	The material may be considered by EPA SA to remain a waste and be subject to applicable waste regulation and offences.	20 penalty units ($3,109.20) for contravening the condition of an SBR. Additionally, the material reverts to a PIW and penalties for its mismanagement may apply.

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	Queensland	New South Wales	South Australia	Victoria
		waste are prescribed in the legislation. Non-compliance in each instance carries a penalty of 100 penalty units for an individual and 200 penalty units for a corporation.		
Can conditions be imposed on the receiver or user of a waste?	No, EHP cannot impose an obligation on the user of a resource under an EoW code or EoW approval.	Yes, NSW EPA may impose conditions on the users of a waste under an RRE.	Yes, each standard may stipulate conditions that users of a product must comply with.	Yes, EPA VIC may attach conditions on an SBR.
Penalty for non-compliance by user or receiver (as at June 2017)	N/A	Separate offence related to record-keeping, and supply of information about test results for the waste are prescribed in the legislation. Non-compliance in each instance carries a penalty of 100 penalty units for an individual and 200 penalty units for a corporation.	If the conditions are not complied with, the material reverts to being considered a waste which is subject to applicable waste regulation and offences.	20 penalty units ($3,109.20) for contravening the condition of an SBR. Additionally, the material reverts to a PIW and penalties for mismanagement may apply.
Third party involvement	EoW code: EHP may establish a technical advisory panel to prepare a draft code. EoW approval: Each application to grant an EoW approval must include a report about the application prepared by a suitably qualified person.	None specified.	None specified.	SBR: The notification of an SBR must include a declaration by an independent third party review. The reviewer must be a qualified environmental consultant for Category C PIW (least hazardous), or an EPA VIC-appointed environmental auditor for Category A and B PIW (most hazardous).
Additional sources of information			Waste derived fill (blast furnace slag) specification 2015 Standard for the production and use of refuse derived fuel	EPA Victoria 2016, *Reuse of PIW – direct and secondary beneficial reuse*, EPA Victoria, Melbourne.

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Appendix I – Departmental responses to committee questions about the proposed End of Waste Code amendments

Attachment 6

Answers to Committee Questions

Can you explain what additional conditions are proposed in the Bill on the use of human waste as fertiliser in Queensland?

The Bill does not propose specific conditions for the use of human waste (biosolids) as fertiliser. Rather, the Bill will provide the department with the general ability to impose conditions or requirements on the use of wastes (including biosolids) which are considered necessary or desirable. The specific conditions for using biosolids (e.g. storage, rate of application to land) will be described in the relevant end of waste code or end of waste approval when it is developed.

The Bill will effectively allow existing conditions on the use of biosolids as fertiliser to continue. These user conditions are currently described in approvals which were granted under the former beneficial use approval framework, and which are due to expire on 31 December 2018. These approvals are the General Beneficial Use Approval for Biosolids under which anyone can operate, and specific beneficial use approvals granted to specific persons. As of June 2017, one person had registered under the General beneficial use approval, and a further 10 were operating under specific beneficial use approvals.

Without the proposed amendments in the Bill, the end of waste code for biosolids that will be developed to replace the expiring approvals will not stipulate conditions for the use of the biosolids, since this is not the intent of the current *Waste Reduction and Recycling Act 2011.* To compensate for this lack of control on the use of the waste, the waste would have to meet more stringent quality requirements before it can be supplied as a resource. Meeting the stringent quality requirements may necessitate additional processing or pre-treatment of the waste, which may deter resource recovery and lead to greater landfill disposal of an otherwise useful resource.

How will the changes to the administration of end of waste codes proposed in the Bill impact on the use of trash products from agricultural processing, such as the waste products from cotton processing as fertiliser and stock feed by primary producers? Will the changes add additional restrictions and impose additional costs for primary producers?

The changes proposed in the Bill will enable the department to impose conditions on the users of agricultural processing wastes under an end of waste code or an end of waste approval. Specific user conditions will be described in the relevant end of waste Code or end waste approved when they are developed.

It is expected that user conditions, where imposed, would be based on cost-effective best practice environmental management measures which minimise the environmental harm that might result from using the waste. Further, in keeping with the department's regulatory strategy, it is envisioned that user conditions, where imposed, would be outcomes focused rather than prescriptive, thus allowing the user to adopt the most cost-effective method to achieve the outcomes.

Several approvals were issued under the beneficial use approval framework and are currently in force for agricultural processing waste, including sugar mill by-products, paunch, and biodunder (the fermentation residue of producing ethanol from molasses). The user conditions on these approvals include requirements to:

- transport the resource in a way that prevents any release during transport;
- store the resource properly to prevent releases of the resource to land, air or waters;
- limit the amount or resource stored to the amount needed to meet operational demand;
- manage stormwater or runoff that has come into contact with the resource; and
- maintain records concerning the details of the resource application to land, such as the application rate, date and method.