Parliamentary Committees

Waste Reduction and Recycling (Waste Levy) and Other Legislation Amendment Bill 2018

Report No. 9, 56th Parliament
Innovation, Tourism Development and Environment Committee
October 2018

Innovation, Tourism Development and Environment Committee

Chair	Mr Duncan Pegg MP, Member for Stretton
Deputy Chair	Mr Jon Krause MP, Member for Scenic Rim
Members	Ms Sandy Bolton MP, Member for Noosa
	Mr Jason Costigan MP, Member for Whitsunday
	Ms Cynthia Lui MP, Member for Cook
	Mrs Charis Mullen MP, Member for Jordan

Committee Secretariat	
Telephone	+61 7 3553 6662
Fax	+61 7 3553 6699
Email	itdec@parliament.qld.gov.au
Technical Scrutiny Secretariat	+61 7 3553 6601
Committee webpage	www.parliament.qld.gov.au/itdec

Acknowledgements

The committee acknowledges the assistance provided by the Department of Environment and Science.

Contents

Abbreviations

ACOR	Australian Council of Recycling
Act	*Waste Reduction and Recycling Act 2011*
Bill	Waste Reduction and Recycling (Waste Levy) and Other Legislation Amendment Bill 2018
BSC	Burdekin Shire Council
CCIQ	Chamber of Commerce and Industry Queensland
CCTV	Closed Circuit Television
CTRC	Charters Towers Regional Council
DES/department	Department of Environment and Science
Directions Paper	'Transforming Queensland's Recycling and Waste Industry' directions paper
draft Amendment Regulation	Replacement Consultation draft of the Waste Reduction and Recycling (Waste Levy) Amendment Regulation 2018, tabled 17 September 2018
EA	Environmental Authority
ERA	Environmentally Relevant Activity
GCCC	Gold Coast City Council
HIA	Housing Industry Association Limited
IRC	Isaac Regional Council
LCC	Logan City Council
LGAQ	Local Government Association of Queensland
LSA	*Legislative Standards Act 1992*
Lyons Report	Final Report on the Transportation of Waste into Queensland
MBRC	Moreton Bay Regional Council
MICC	Mount Isa City Council
Minister	Hon Leanne Enoch, Minister for Environment and the Great Barrier Reef, Minister for Science and Minister for the Arts
MRC	Maranoa Regional Council
MRF	Material Recovery Facility

MSW	Municipal Solid Waste
OQPC	Office of the Queensland Parliamentary Counsel
QFF	Queensland Farmers' Federation
QRC	Queensland Resources Council
RRC	Rockhampton Regional Council
RRIDP	Resource Recovery Infrastructure Development Program
RWMSAG	Recycling and Waste Management Stakeholder Advisory Group
SBRC	South Burnett Regional Council
SEQ	South East Queensland
SCC	Sunshine Coast Council
WBBEC	Wide Bay Burnett Environment Council
WDRC	Western Downs Regional Council
WMAA	Waste Management Association of Australia
WRIQ	Waste Recycling Industry Association (Qld) Inc.
WRR Regulation	Waste Reduction and Recycling Regulation 2011

Chair's foreword

This report presents a summary of the Innovation, Tourism Development and Environment Committee's examination of the Waste Reduction and Recycling (Waste Levy) and Other Legislation Amendment Bill 2018.

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

The committee recommends that the Bill be passed.

On behalf of the committee, I thank those individuals and organisations who made written submissions and participated in the public hearings on the Bill. The committee appreciated the time taken by the Riverview Recycling and Refuse Centre and Boyne Smelters, Gladstone to host site visits by members of the committee.

I also thank our Parliamentary Service staff and the Department of Environment and Science.

I commend this report to the House.

Duncan Pegg MP

Chair

Recommendations

The committee recommends the Waste Reduction and Recycling (Waste Levy) and Other Legislation Amendment Bill 2018 be passed.

1 Introduction

1.1 Role of the committee

The Innovation, Tourism Development and Environment Committee (committee) is a portfolio committee of the Legislative Assembly which commenced on 15 February 2018 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 include:

- Innovation and Tourism Industry Development and the Commonwealth Games, and
- Environment and the Great Barrier Reef, Sciences and the Arts.

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.

1.2 Referral and inquiry process

The Waste Reduction and Recycling (Waste Levy) and Other Legislation Amendment Bill 2018 (Bill) was introduced into the Legislative Assembly by the Honourable Leanne Enoch, Minister for Environment and the Great Barrier Reef, Minister for Science and Minister for the Arts (Minister) and referred to the committee on 6 September 2018. The committee is to report to the Legislative Assembly by 22 October 2018.

The committee's inquiry process included:

- an invitation to stakeholders and committee subscribers to make written submissions on the Bill - thirty-seven submissions were received (see Appendix A for a list of submissions)
- public briefing by the Department of Environment and Science (DES/department) on 17 September 2018 (see Appendix B for a list of officials)
- public hearings on 4 October 2018 in Ipswich and in Rockhampton on 12 October 2018 (see Appendix C for a list of witnesses)
- site visit to Riverview Recycling and Refuse Centre on 4 October 2018
- site visit to Boyne Smelters, Gladstone on 12 October 2018 to discuss issues related to the processing of recycled cans, and
- reviewing advice provided by the department including answers to questions taken on notice at the departmental briefing and written advice in response to matters raised in submissions.

The submissions, correspondence from the department, answers to Questions taken on Notice, tabled papers and transcripts of the briefing and hearings are available on the committee's webpage.[2]

---

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

2 http://www.parliament.qld.gov.au/work-of-committees/committees/ITDEC/inquiries/current-inquiries/10WasteRedRec

1.3 Policy objectives of the Bill

The explanatory notes advised the objectives of the Bill are to amend the *Waste Reduction and Recycling Act 2011* (the Act) and make minor transitional amendments to *the City of Brisbane Act 2010* and the *Local Government Act 2009*. The primary purpose of the Bill is to introduce a waste levy that will:

- act as a price signal that encourages waste avoidance and resource recovery behaviours, and discourages disposal to landfill as the first option
- provide a source of funding for programs to assist local government, business and industry to establish better resource recovery practices, improve overall waste management performance and sustain Queensland's natural environment
- provide certainty and security of feedstocks for advanced resource recovery and recycling technologies and processing, and
- facilitate industry investment in resource recovery infrastructure.[3]

The Bill aims to achieve these objectives by:

- requiring operators of levyable waste disposal sites to remit to the State, a levy on waste delivered to the site and establishing a head of power for a regulation to prescribe the calculation method and rate of the levy on general and regulated (hazardous) waste
- establishing a head of power for a regulation to identify a levy zone covering the more populous local government areas of the State - the levy will be paid on waste (including from interstate) delivered to a levyable waste disposal site in this zone
- establishing the balance of Queensland as the 'non-levy zone' – levy is not payable on waste delivered to a levyable waste disposal site in this zone unless the waste was generated outside the zone (including interstate)
- exempting certain waste streams from levy payment by default, including:
  - waste from a declared natural disaster
  - asbestos-contaminated waste
  - dredge spoil
  - clean earth
- exempting certain waste streams from levy payment, on approval, including:
  - used goods that have been donated to a charitable recycling entity (e.g. members of the National Association of Charitable Recycling Organisations that cannot be re-used, recycled or sold
  - waste re-used in the operation of the landfill site (e.g. road base, capping landfill cells)
  - waste collected at community events such as "Clean Up Australia"
- allowing recycling facilities to apply for a discount levy rate for their residue waste if that will make a significant difference to those types of regulation being established in Queensland
- establishing transitional arrangements which allow the following categories of existing recycling facilities to apply for a levy exemption for their residue waste on the condition that their recovery efficiencies are maintained:
  - existing recyclers who would experience such hardship due to the levy that they would be forced to close – until 30 June 2022
  - Material Recovery Facilities – until 30 June 2022
  - Cairns' Bedminster facility – until 30 June 2026

[3] Explanatory notes, p 1.

- requiring persons delivering waste to a levyable waste disposal site to give the operator of the site sufficient information to later enable the correct levy to be charged
- requiring persons to give 24 hours' notice before delivering levyable waste generated in the levy zone or interstate to a levyable waste disposal site, waste transfer station or recycling facility in the non-levy zone
- requiring weighbridges to be used to measure waste at large sites initially and then at all sites in the levy zone within 5 years, except at very small, remote sites exempted from this requirement for up to 10 years under a transitional arrangement
- establishing a head of power for deeming a measurement of waste where there is no weighbridge or the weighbridge is unserviceable
- allowing operators to declare a resource recovery area at a waste disposal site where waste can be sorted and recyclables recovered without paying the levy
- requiring waste disposal site operators to provide the State with monthly data which is used to calculate the levy
- requiring commencement and annual volumetric surveys as a means to verify the accuracy of waste data used to calculate the levy
- requiring Closed Circuit Television (CCTV) (or another method) to monitor on-site movement of waste if there is a reasonable belief that the site operator has not been providing accurate data or is otherwise avoiding the levy payment
- allowing for payment plans and extensions of time to pay the levy in the event that a waste disposal site operator is unable to pay the levy on time, for example due to hardship
- providing for re-crediting of the levy paid by a landfill operator on waste delivered by a customer who goes insolvent within 12 months without paying the levy cost that was passed on to them
- imposing heavy penalties for levy evasion (up to two years imprisonment) and lesser penalties for a range of other offences
- providing for annual reporting by the chief executive on the operation of the levy
- providing for annual payments to local governments and requiring local governments to use the payments to mitigate any direct impact of the levy on households, and
- through transitional provisions, allowing local governments to amend their 2018-2019 waste management charges in order to pass the levy cost on to commercial waste management customers.[4]

At the public briefing the department advised that Queensland has the second-lowest recovery rate of the Australian states and territories with only the Northern Territory having a lower rate:

> *The bill has been introduced to provide a waste levy to provide an economic opportunity for Queensland. The absence of a levy has made Queensland an attractive place to dump interstate waste. Committee members will be aware that Queensland is somewhat limited in its options for dealing with interstate waste. The Australian Constitution prevents discriminatory restrictions on cross-border trade. Put simply, if we want to have a law that deals with cross-border trade we also need to have that apply equally within Queensland itself to inter and intra state movements.*

….

[4] Explanatory notes, pp 2-3.

The waste levy is an avoidable charge. It gives people and businesses incentive to reduce the waste they create and find more productive and job-creating alternatives to sending their waste to landfill. Experience in other states and internationally is that the introduction of a landfill disposal levy leads to better use of resources and the development of new industries. The levy also creates a funding source to create programs to assist local government, businesses and industry to establish better waste recovery practices and weather storms like the recent Chinese crackdown on the import of waste for recycling. The levy will bring Queensland into line with all other mainland states.[5]

1.3.1 Lyons Investigation into the Transport of Waste into Queensland

On 29 August 2017, the Honourable Dr Steven Miles MP, then Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef, appointed the Honourable Peter Lyons QC to lead an investigation into the transport of waste from other States into Queensland. On 17 November 2017, the Honourable Peter Lyons QC presented the Government with the final report for the investigation into the Transportation of Waste into Queensland (Lyons Report) in accordance with the Terms of Reference.

The Lyons Report advised that the re-imposition of a landfill levy would be likely to discourage the movement of interstate waste to Queensland and therefore recommended that the Government should consider implementing a general levy on all waste disposed of at landfill in Queensland.[6]

1.3.2 Development of a new resource recovery and waste strategy

On 20 March 2018, the Queensland Government announced it was developing a comprehensive new strategy underpinned by the waste disposal levy to increase recycling and recovery and create new jobs.[7]

The department's website advises:

A new strategy will provide the resource recovery and waste sector with the policy certainty that has been lacking, leading to significant underinvestment in new and expanded resource recovery infrastructure in Queensland. It will also prioritise waste types for action and identify key re-investment opportunities.[8]

To help develop the new strategy, the Recycling and Waste Management Stakeholder Advisory Group (RWMSAG) has been formed. The directions for a new strategy and initial details for the waste disposal levy are outlined in the Transforming Queensland's Recycling and Waste Industry Directions Paper (Directions Paper).

1.4 Government consultation on the Bill

As set out in the explanatory notes, the following consultation was undertaken on the proposed levy and the Bill:

- The Government invited the community (between 1 and 29 June 2018) to have their say on the direction of the new resource recovery, recycling and waste management strategy for the state, including the key features of the proposed waste levy, as outlined in the Directions Paper.

---

5 Public briefing transcript, 17 September 2018, pp 1-2.

6 17 Nov 2017, final report for the investigation into the Transportation of Waste into Queensland, p 2.

7 Government Media Statement, http://statements.qld.gov.au/Statement/2018/3/20/palaszczuk-government-announces-waste-strategy-for-queensland, (accessed 11 October 2018).

8 DES website, https://www.qld.gov.au/environment/pollution/management/waste/strategy (accessed 11 October 2019).

- The RWMSAG considered the key parameters of the levy at its meetings on 14 May 2018 and 6 June 2018. The RWMSAG was established to provide strategic advice to the government on the development of the strategy and design of the levy. The RWMSAG includes representatives from the Local Government Association of Queensland (LGAQ), Australian Council of Recycling, Waste Recycling Industry Association (Qld) Inc. (WRIQ), Waste Management Association of Australia (WMAA), Australian Industry Group, Chamber of Commerce and Industry Queensland (CCIQ), Sustainable Business Australia, Master Builders Queensland and Housing Industry Association (HIA).
- The RWMSAG agreed to the formation of a Legislation Technical Working Group to consider the development of the waste levy legislation in more detail. The working group consisted predominantly of nominees from the waste and recycling industries as well as representatives of LGAQ, CCIQ, HIA and Master Builders Queensland. The working group met twice, on 2 July 2018 and 19 July 2018, for detailed discussion of working drafts of the Bill and some aspects of a proposed regulation, particularly the potential for discounts on recycling residue waste.
- DES also met individually with peak bodies, industry members and local governments about the design of the legislation.[9]

The explanatory notes advised that 'peak waste industry bodies and industry members generally support the levy but raised a range of specific issues about the detailed design of the legislation through the various forums available'.[10]

The department advised that consultation on the draft of the Waste Reduction and Recycling (Waste Levy) Amendment Regulation 2018 (draft Amendment Regulation) will continue while the Bill is before the House.[11]

1.4.1 Stakeholder views

A number of stakeholders raised a concern about the consultation process on the Bill. For example, at the Ipswich public hearing, while the LGAQ acknowledged there had been consultation on the proposed waste levy over the last six months, it advised it did not have enough time with the Bill and the accompanying draft Amendment Regulation to understand how the actual levy will operate:

> *It is not until you see those finer details that you will know what costs will be incurred by council and how the levy will operate, because it is different to when the levy did operate for that short period of time a few years ago.*[12]

The CCIQ argued that the overarching legislative and policy framework has been a backward process with the announcement of a levy, followed by the development of a strategy, and finally the proposed implementation of a circular economy model:

> *This backwards policy making process has perpetuated the assumption that this government's first instinct is a tax reflex as opposed to responsive and consultative policy development with a view to ease the cost burden on industry.*

….

> *CCIQ strongly advocates for future policy development to first and foremost determine the objectives or societal goals. Through genuine stakeholder consultation and a transparent policy*

9 Explanatory notes, pp 8-9.

10 Explanatory notes, p 9.

11 Public briefing transcript, 17 Sep 2018, p 2.

12 Public hearing transcript, Ipswich, 4 October 2018, p 4.

development process, effective and efficient solutions should be proposed that will address the issue from a long-term perspective.[13]

Gary Duffy submitted that the Bill was biased in its formulation and construction as none of the consultancy panel members were from any Queensland university or from environment departments from any Commonwealth country or other Australian state that already charge a levy.[14]

1.4.2 Department response

The department responded to these concerns by advising that the development of the Bill was informed by submissions on the Directions Paper which was made available for public comment in June 2018. DES also advised that the department regularly engages with environmental agencies in other jurisdictions and the development of the Bill was informed by the experience in other jurisdictions.[15]

In response to a question from the committee at the departmental briefing the department further advised:

We have had quite detailed conversations and discussions with peak bodies. Clearly in that there was a bit of toing and froing. There were a number of things that they were seeking. It is important to mention a couple of things where they were pretty keen on simplifying the approach that Queensland took, taking the experience from other states. A lot of that was about seeking clarity in certain provisions. An example is that we provide exemptions for clean urban material where it is used for operational activities on a landfill. Clearly you want to cover your landfill fairly quickly, so material that is used for that is exempt or the operator can apply for exemption if they do not get enough clean earth. The provisions that we made for bad debts is one that they were asking for. We looked particularly to examples in the United Kingdom. Scotland and Wales have provisions for bad debts that we drew from to allow for that.

….

An example of some of the small things is that waste disposal site operators advised us that generally they invoice their large customers after 30 days and then those payments are required after a further 30 days. We had proposed initially a slightly different due date for the levy. They indicated that they would leave them with about a 10-day cash-flow problem. We are talking about quite large sums of money. We adjusted the due date for the levy, for example, to be as close as we could to ensure they did not have cash-flow problems. There are a number of quite small issues, but significant for the operators.

It might be worth mentioning that one area that attracted a lot of discussion was about recycling residue waste. Opinions on that were divergent. What we have put in place, we believe, is the best outcome, obviously. However, there was not universal support for that approach.[16]

---

13 Submission 19, p 4.

14 Submission 9, p 1.

15 Correspondence dated 28 September 2018, attachment, p 3.

16 Public briefing transcript, 17 Sep 2018, p 6.

1.5 Should the Bill be passed?

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

After examination of the Bill, including consideration of the policy objectives to be implemented, stakeholders' views and information provided by the department, the committee recommends that the Bill be passed.

Recommendation 1

The committee recommends the Waste Reduction and Recycling (Waste Levy) and Other Legislation Amendment Bill 2018 be passed.

2 Examination of the Bill

This section discusses issues raised during the committee's examination of the Bill and includes issues raised about the draft Amendment Regulation which was tabled on 17 September 2018.

2.1 Waste levy

The Bill proposes to introduce a waste disposal levy 'requiring operators of levyable waste disposal sites to remit to the State, a levy on waste delivered to the site'.[17]

Part 2 of the Bill proposes to amend the Act with Clause 6 of the Bill proposing to replace existing Chapter 3 'Obligations of operator of waste disposal site' to insert a new Chapter 3 'Waste levy'.

Proposed Chapter 3, Part 3 'Operation of waste levy' includes section 36 'Imposition of waste levy' which provides that the operator of a levyable waste disposal site is liable to pay the State a levy (the waste levy) on all levyable waste that is delivered to the site if:

(a) the levyable waste disposal site is in the waste levy zone, or

(b) the levyable waste disposal site is in the non-levy zone and the waste was generated outside the non-levy zone.

The draft Amendment Regulation proposes to amend the Waste Reduction and Recycling Regulation 2011 (WRR Regulation). Clause 5 of the draft Amendment Regulation replaces existing Part 3 of the WRR Regulation 'Obligations of operators of waste disposal sites' with a new Part 3 'Waste levy'.

2.1.1 Stakeholder views

The LGAQ considered that the Bill '…will herald the biggest change in the governance of waste management in Queensland in decades'.[18]

A number of submitters supported the proposed introduction of the waste levy.[19] For example, the WMAA advised that the waste, recycling and remanufacturing industry in Australia currently contributes $15 billion annually to the economy, as well as employs 50,000 people:

> *At present, Queensland continues to be one of the largest generators of waste, however one of the poorest diverters of waste from landfill. The absence of a comprehensive waste and resource recovery strategy, underpinned by a landfill levy, has unfortunately resulted in Queensland maintaining a "take, make and dispose" approach to waste and resource recovery, when the remainder of Australia (and the developed world) has moved further towards a circular economy*.[20]

The WMAA submission noted that the introduction of the Bill is a positive step by Queensland Government to make genuine gains that will assist in the investment and development of the resource recovery industry within Queensland:

> *The current linear approach has adversely impacted Queensland in many ways, not the least of which is making it difficult for resource recovery industries to invest, depriving Queensland of the opportunity to create new jobs. For every one job involved in landfilling 10,000 tonnes of waste, over four (4) can be created by recycling the same material.*
>
> *It is the role of Government to determine where it wishes to be placed on the spectrum of diversion, and then implement the policies that support this policy objective. A landfill levy is the economic tool that supports the diversion targets, with the overarching objective being to*

---

17 Explanatory notes, p 2.

18 Submission 36, p 2.

19 For example, see Wide Bay Burnett Environment Council Inc., submission 3, p 1.

20 Submission 28, p 1.

> *achieve the socially optimal level of waste going to landfill versus alternatives, such that the overall economic welfare of society is maximised. In short, this is achieved at the point where the landfill gate price reflects the full social costs of landfill.* [21]

The WMAA did however raise some specific concerns with the Bill which are discussed in the relevant sections of this report.

Other submitters also supported the levy proposal while raising concerns with some of the specific provisions in the Bill.

For example, the Noosa Council submitted that it recognises that most other states in Australia already have a waste levy that has been in existence for many years and that it:

> *… agrees that Queensland has fallen behind in terms of its ability to divert waste from landfill due to the lack of a suitable financial incentive and one of the methods of achieving improved waste diversion is through the imposition of a waste levy. Council appreciates that the Government has listened to some of the concerns presented by Noosa Council and other local governments and addressed some of those concerns in the draft legislation.*[22]

However, the Noosa Council indicated that it still had some areas of concern and sought a review of a number of issues. These issues are discussed in the relevant sections of this report. [23]

North Burnett Shire Council advised the committee at the Rockhampton public hearing that it agreed with the intent of the proposed legislation and that its current waste strategy involves investigating regionalisation of their landfills and aligns with the requirements of the bill:

> *However, we are working on a draft strategy that we will see actioned over a period of the next five to 10 years. Therefore, our first concern is the time frame to comply with this bill and our financial capacity to do so within the said time frame.*
>
> *We currently have two EPA licences over 10,000 tonnes, which means we should have a weighbridge on both by—according to the legislation—1 March. As our strategy involves only one weighbridge, our intention is to renegotiate one to be in the 5,000 to 10,000 tonne bracket. The issue that you should be aware of at this point is that North Burnett's entire levyable waste generation for the region is only 6,000 tonnes.*

….

> *As an outer regional council of 10,340 people and a population density of 0.5 people per square kilometre, waste is certainly still very much an issue. However, due to our location being low risk to receiving interstate waste, due to our low volume of waste and due to our inability to not pass on these additional costs to our ratepayers, we would like to suggest to the committee that you consider more time to implement a staged approach with a higher level of funding and the ability to perhaps keep using our volumetric assessment method to offset the need for a weighbridge or give us an extension of time for that. We also ask the state to consider using our actual waste data rather than our EPA licensing data. Finally, it is our belief that we need to have a close working relationship with the state to identify how we can achieve the outcomes that we all collectively seek and strive for a way forward that will not detrimentally affect our ratepayers or our community.*[24]

---

21 Submission 28, p 1.

22 Submission 33, p 1.

23 Submission 33, p 1.

24 Public hearing transcript, Rockhampton, 12 October 2018, p 2.

The ACOR also generally supported waste levies as appropriate for incentivising resource recovery and welcomed the fact that residuals from recycling will have a dedicated treatment under the new legislation.[25]

Other submitters expressed views that the proposed waste levy will increase business costs and risks and would ultimately be passed on to Queenslanders.

The WRIQ contended that the introduction of the waste levy in Queensland will increase landfill disposal costs by an average of more than 65 per cent, stating that these new additional business costs incurred by all waste generators across the levy zones will ultimately be passed to all Queenslanders.[26]

The CCIQ submitted that the proposed levy '…only serves to increase the financial and regulatory pressures…' placed on businesses, claiming that '…small and medium enterprises will be forced to absorb the costs of the levy, adding even more pressure to already tight profit margins'.[27]

In the view of the HIA, the Bill is primarily focused on the operation of the waste recycling industry and seemingly fails to acknowledge the impact of the levy on small business:

> *For small family owned businesses, waste management is a genuine problem with significant barriers existing for recycling materials. Individual building companies are frustrated as they feel they cannot make a difference due to the lack of economies of scale for the disposal of relatively small amounts of waste generated. HIA notes the apparent absence of any economic modelling concerning potential adverse impacts of a levy being first introduced at such a high dollar value level.*[28]

The HIA and Master Builders Queensland did not support the levy on the basis that there are 'no practical solutions for recycling or a mature recycling industry in Queensland, particularly outside South-East Queensland'.[29]

The HIA, along with a number of other submitters, argued that the levy will impact on housing affordability:

> *Alarmingly, the government continues to claim that the waste levy will not directly impact on households, yet this is clearly not the case if you are building a house, or renovating a house. For your typical two-storey detached house, you will pay an additional $1,500 as a result of this levy. Disposing of waste when you are building a house is not a cheap solution or option under the current circumstances. Already, it costs you about $2,500 when you build a two-storey house to dispose of waste. As a result this levy will have an impact on housing affordability. The price will go up by the cost of the levy.*[30]

The Property Council of Australia estimated that the introduction of the levy will add a $1400 to the cost of a new home, arguing that '…further measures need to be implemented to offset the construction costs and help maintain housing affordability…'[31]

---

25 Submission 20, p 1.

26 Submission 1, p 1. This submission annexes an appendix comparing current and future landfill waste disposal charges.

27 Submission 19, p 2.

28 Submission 15, p 1.

29 Public hearing transcript, Ipswich, 4 October 2018, p 18.

30 Public hearing transcript, Ipswich, 4 October 2018, p 18.

31 Submission 30, p 2.

A number of stakeholders raised a concern about a lack of economic modelling on the potential adverse impacts of a levy being introduced at the proposed rate of $70 per tonne. For example, the WRIQ submitted:

> *… "A Cost Benefit Regulatory Impact Statement' should have been produced for the committee to fully appreciate the economic and social changes that will result from enacting this significant market change. That important work would then support the design of the future legislation and inform the structure of its sub-ordinate regulatory framework.*[32]

At the Ipswich public hearing the LGAQ advised that it had undertaken consultancy work through the AEC GROUP and it has deemed that the gross impact on councils in a best case scenario would be $10 million to $12 million.[33] In response to a Question taken on Notice at the hearing, the LGAQ acknowledged that the government has gone some way in offsetting the direct impacts to councils such as street and park bins, park waste and street sweeping, however ultimately this is much less than what potentially remains at risk.[34] The LGAQ also confirmed that it estimates the very best-case scenario when factoring in exemptions and the 105 per cent advance payment for municipal solid waste, is a gross impact of $12 million or $10 per household.[35]

The LGAQ submission called on the committee to recommend that the advance payment provision, set at 105 per cent, is at least enshrined in the Bill and not in the regulation to provide councils and the community confidence it will not be removed readily in the future.[36]

2.1.2 Department's response

In response to issues raised, the department stated that:

> *Businesses are encouraged to reduce waste and utilise resource recovery opportunities in order to minimise exposure to levy costs. The Government is currently considering a number of programs which will support Queensland businesses to avoid and reduce waste and develop the recycling and resource recovery industry and markets in Queensland. The Government is also already funding programs such as Ecobiz which support small business to save money across their energy, water and waste bills.*[37]

In response to the issue raised about the impact on housing affordability the department responded:

> *Every other mainland state has a levy and the housing and construction industry has accommodated it. For the levy to add an additional $1000 to the price of a new home, every new house construction would have to produce almost 15 tonnes of waste, that waste would need to go to landfill and none of it would be levy exempt (e.g. clean earth). It is estimated that at least 75% of current construction and demolition waste, including clean fill from excavation, can be recovered if the facilities to do this are available. Natural materials, such as soil and rock, are exempt from the levy if delivered separately to a landfill. The $100 million Resource Recovery Infrastructure Development Program (RRIDP) is designed for local governments, established businesses, not for- profits and consortia looking to employ proven technologies for resource recovery to improve existing operations or bring significant new facilities to Queensland.*[38]

---

32 Submission 1, p 2.

33 Public hearing transcript, Ipswich, 4 October 2018, p 4.

34 Response to Question taken on Notice at the Ipswich public hearing, p 1.

35 Response to Question taken on Notice at the Ipswich public hearing, p 1.

36 Submission 36, p 12.

37 Correspondence dated 28 September 2018, attachment, p 6.

38 Correspondence dated 28 September 2018, attachment, p 9.

Responding to concerns raised by various submitters about a perceived lack of economic modelling in relation to the impacts of the Bill, the department advised that:

> *A Regulatory Impact Statement was not prepared as there have been extensive reviews and assessments of the implementation of waste levies in other Australian States and previously in Queensland in 2011.*
>
> *A Regulatory Assessment Statement, and associated cost-benefit analysis, was prepared in 2010 ahead of the introduction of a waste levy in the 2011. The cost-benefit analysis was undertaken by Synergies Economic Consulting to assess the overall impacts of a waste levy on business, government and the community over a 10-year period (2011- 2021). The analysis considered applying a levy to all waste streams (as in the proposed Bill). It found that the cost-benefit ratio was positive.*
>
> *Queensland Treasury Corporation's Interim report, Economic Opportunities for Queensland's waste industry (2018), found that a foundational element in any jurisdiction with a high recovery rate is a landfill levy and that a waste levy is a 'key policy tool for driving waste diversion from landfill'.*[39]

2.1.3 Committee comment

The committee notes the opportunities the levy will provide to develop the recycling and resource recovery industry and markets in Queensland, as supported by the WMAA.

2.2 Commencement and implementation

In the Introductory Speech on the Bill the Minister advised that the waste levy would come into effect on 4 March 2019.[40]

The explanatory notes stated:

> *Clause 2 provides that Part 2 commences on 4 March 2019, except for section 3, new chapter 16, part 3 heading and sections 323 and 324 which commence on 4 February 2019. The remaining parts of the Bill, Parts 3 and 4, which amend the City of Brisbane Act 2010 and the Local Government Act 2009, are not mentioned because they will commence on assent.*[41]

Clause 2 of the draft Amendment Regulation provides that the Amendment Regulation will commence on 4 March 2019.

2.2.1 Stakeholder views

Various submitters objected to the proposed commencement date, citing implementation and financial factors.[42]

The LGAQ identified implementation challenges that would prove difficult for councils to address within the timeframes, including:

> *…upgrades to waste infrastructure, limited funding availability via the LGLRGP (i.e. 70/30 split), information technology requirements, introduction of fees and charges mid-year, training of waste operations teams; and community education and awareness campaigns.*[43]

---

39 Correspondence dated 28 September 2018, attachment, p 3.

40 Queensland Parliament, Record of Proceedings, 6 September 2018, p 2379.

41 Explanatory notes, p 10.

42 See for example, Rockhampton Regional Council and Livingstone Shire Council (Public hearing transcript, Rockhampton, 12 October 2018, pp 10 & 15; and the Noosa Council, submission 33, p 2.

43 Submission 36, p 7.

The Sunshine Coast Council (SCC) argued that the proposed commencement date does not recognise that:

- councils and private sector landfill operators need to be provided with sufficient time to plan for and to implement necessary changes to operational and administrative practices that will be required
- councils need time to plan for and apply changes to operational budgets, utility charges and gate fees that will all significantly change when the levy is introduced, and
- council budgets are adopted in June each year and whilst the State Government also proposes to amend legislation to allow governments to amend by resolution, charges for commercial waste management in the 2018-19 financial year, second-half SCC rates notices are issued in January leaving insufficient time to properly and accurately introduce the necessary revisions to commercial utility charge rates notices.[44]

For these reasons, the SCC strongly advocated that the commencement date for the levy be deferred to 1 July 2019:

> *Not only will this provide a clearer and more achievable implementation timeframe for councils, but it also coincides with the commencement of the financial year and enables councils to appropriately reflect the levy impacts in its financial statements adopted as part of their 2019-2020 budgets.*[45]

Other councils also recommended deferment to 1 July 2019[46] with the LGAQ submitting that this date would '…align with financial years and ensure implementation challenges are adequately addressed, particularly in regional and rural councils'.[47] Others expressed a view on premature commencement generally, without specifying a preferred commencement date, or argued for alignment with the financial year, as opposed to the calendar year.[48]

2.2.2 Department's response

The department responded to concerns raised about commencement, advising that:

> *The 1 January levy increase was chosen to ensure local governments, businesses and community will not experience an increase in the rate for the first nine months after the levy commenced.*[49]

2.3 Levy rates

The Bill proposes to establish 'a head of power for a regulation to prescribe the calculation method and rate of the levy on general and regulated (hazardous) waste'.[50]

Proposed section 37 of the Act 'Calculating waste levy amount' provides that:

- the rate of the waste levy for each type of waste is the rate prescribed by regulation for that type (s37(1)), and
- the amount of waste levy imposed on waste is calculated in compliance with the requirements prescribed by regulation (s 37(2)).

---

44 Submission 5, p 3.

45 Submission 5, p 3.

46 Including submissions 4, 11, 14, 22, 29, 33, 34 and 37.

47 Submission 36, p 7.

48 Including submissions 13, 21 and 28.

49 Correspondence dated 28 September 2018, attachment, p 4.

50 Explanatory notes, p 2.

Part 3, Division 2 of the draft Amendment Regulation provides for amendments to the WRR Regulation which relate to the waste levy, including proposed section 11, which provides that, for section 37(1) of the Act:

> *…the rate of the waste levy for a type of waste is the rate mentioned in schedule 1 opposite the type of waste for the year for which the levy applies.*

Clause 8 of the draft Amendment Regulation proposes to insert new schedules 1-4 into the WRR Regulation, including schedule 1 'Waste levy rates', which lists types of waste and the applicable waste levy rate for each year from 2019 – 2022, inclusive. The schedule provides that the waste levy rate for 2019, applicable to 'other levyable waste' is $70 each tonne.[51] The schedule provides for higher rates for regulated waste, including $150 each tonne for certain category 1 regulated waste and $100 each tonne for certain category 2 regulated waste.

Proposed section 12(1) of the WRR Regulation provides that, for section 37(2) of the Act the total amount of waste levy imposed on all levyable waste during a levy period is the sum of the individual amounts of waste levy imposed on each type of levyable waste.

Subsection (2) provides the formula L = A x B for the calculation of the individual amount of waste levy imposed on each type of levyable waste, where:

- L is the individual amount of waste levy imposed on a type of levyable waste in a levy period
- A is the total weight, in tonnes, of the type of levyable waste delivered to a levyable waste disposal site in the levy period
- B is the applicable rate of waste levy imposed on the type of levyable waste for the year for which the waste levy is worked out.

At the public briefing the department advised:

> *The levy rate was determined by looking at other states and taking a middle ground. You will recall from the figures that I quoted earlier that the levy rates range from $141 in Sydney through to lower rates in places like regional South Australia. The decision was taken on the basis that it was about the middle.*[52]

2.3.1 Stakeholder views

A number of stakeholders raised concerns about the rate of the levy being too high, particularly for rural and regional areas.[53]

The Isaac Regional Council (IRC) submitted that the levies included in schedule 1 of the draft Amendment Regulation were too high for regional councils for the following reasons:

- The current rates in New South Wales and Victoria have been arrived at over many years, with substantial escalation. The starting rates were considerably lower. This was to allow time and certainty to industry to develop and invest into alternative waste management systems.
- Both New South Wales and Victoria have rates for the Metropolitan and regional areas that are substantially different. This is to recognise the challenge of transportation in regional communities. Capital investment will more likely occur in the larger population centres first, as there will be a faster return for the investment. Regional communities will require support to work towards the new strategy and the commencing $70 per tonne levy, will have detrimental impacts on regional communities compared to SEQ.

---

51 Clause 8, schedule 1 of Waste Reduction and Recycling (Waste Levy) Amendment Regulation 2018, p 13.

52 Public briefing transcript, 17 Sep 2018, p 5.

53 See for example, Rockhampton Regional Council and Livingstone Shire Council (Public hearing transcript, Rockhampton, 12 October 2018, pp 9 & 10).

- With the absence of alternative waste treatment processes to enable waste generators, they have no ability to avoid the $70 per tonne levy. This is particularly acute in regional Queensland. For Commercial and Industrial waste, the choice will be to either pay the levy or potentially use illegal means to dispose, as there are little alternative processes available. Council is very concerned about the potential for significant increased illegal landfilling and dumping activities.
- There is generally insufficient waste in regional towns to enable the development of multiple processing facilities in all the major regional towns. Therefore, if a processing facility was set up in a particular regional location, all Councils that transport their waste to that facility, would need to bear the additional transport costs to access any new regional infrastructure or processes.
- The levy, at $70 per tonne, is to provide a disincentive for interstate transportation of waste. However, the likelihood that material will be transported further north of South East Queensland (SEQ) is very low. The reason is in addition to the transportation costs and most regional Local Government landfills already have a high gate fees, compared to SEQ, due to the lower tonnes being managed for the similar capital outlay.[54]

The IRC recommended that the Queensland Government consider:

- introducing a two-band levy system in line with New South Wales and Victoria, with differential rates between metropolitan and regional areas
- $35 per tonne to be the initial waste levy price for regional Queensland, and
- a regionalised levy structure, whereby regional centres within the levy zone have subsidies applied to offset the additional costs involved with recycling and resource recovery when compared with SEQ.[55]

The WRIQ argued that a starting point of $70 per tonne, and more for regulated waste, will result in major market disruptors occurring until the normal operating environment stabilises:

> *Starting at a lower rate would result in a more orderly change and be far more effective giving a clear steer for increases. As example in NSW the current rate of $144 tonne started at a low $0.50 cents a tonne when the levy was introduced more than 30 years ago, and in Victoria it was less than $10.00, with similar amounts in Western and South Australia.*[56]

The WRIQ also submitted that the Bill provides no details or structure to how the rate applied to regulated waste has been calculated:

> *The application of $150.00 per tonne will have a profound impact on wastes that are liquid in nature and their disposal is only to landfill. In these instances, as example; galvanic acids generated in manufacturing processes these require fixation before disposal. Typically, a mix of 4.5-5.0 to one of fly ash and cement is applied. For some generators the cost of disposal for these complex wastes will rise to more than $600 a tonne…*
>
> *WRIQ advocates regulated waste fee schedules must be revised and the levy applied be based on environmental risk and that a full impact statement should have been conducted. Arbitrarily applying a rate of $150 and $100 without any assessment or structure as to the rationale for calculating these amounts is not supported and should be reviewed before legislating.*[57]

---

54 Submission 39, p 6.

55 Submission 39, p 6.

56 Submission 1, p 2.

57 Submission 1, p 4.

2.3.2 Department's response

The department responded to the concerns raised as follows:

> *The initial rate sends an appropriate price signal to the market and acts as an immediate incentive to divert materials from landfill. The levy is proposed to increase by $5 on 1 January in each of the following three years. Clause 5, Section 73E of the Bill requires the Chief Executive to review the efficacy of the levy within three years.*[58]

In response to queries about how the rates for regulated waste had been calculated, the department advised that:

> *Higher levy rates for regulated waste reflects the environmental risks associated with those wastes - regulated wastes have hazardous properties. The higher initial levy rates for regulated wastes will help to address some of the cost imbalance between disposal and recovery options where these are available.*
>
> *The levy will create a price signal that should encourage considering options for recovery, recycling and better management of waste to minimise the amount of waste being disposed to landfill and thus reducing their levy liabilities.*[59]

2.3.3 Stakeholder views – regulated waste categories

The Queensland Resources Council (QRC) observed that definitions for the regulated waste categories, on which the levy rates are calculated, is unclear:

> *The Amendment Regulation refers to Category 1 and Category 2 regulated waste as the meaning given by the EP Regulation* [Environmental Protection Regulation 2018]*, however these definitions do not currently exist in the Regulation.*[60]

The QRC conveyed its understanding that the department is undertaking a review of the Regulated Waste Classification and Waste-Related environmentally relevant activity (ERA) frameworks, which is to support the introduction of the waste levy, commenting that:

> *Although the Decision Regulatory Impact Statement (July 2018) for this work provides the two risk-based regulated waste categories, as proposed in the Amendment Regulation, the definitions are not yet reflected in any consultation draft for the EP Regulation leaving a disconnect when assessing the impact of the Bill.*
>
> *Businesses require accurate information, in a timely manner, to prepare for the future of waste levy costs. As drafted, and in the absence of any related regulation being made available, the Bill and Amendment Regulation do not provide a basis for Category 1 and Category 2 regulated waste types to enable calculation of a waste levy.*
>
> *QRC suggests that the Committee recommend any related regulation underpinning the Category 1 and Category 2 regulated waste definitions be made publicly available, or further works be undertaken to define these categories prior to the introduction of the levy.*[61]

---

58 Correspondence dated 28 September 2018, attachment, p 4.

59 Correspondence dated 28 September 2018, attachment, p 4.

60 Submission 10, p 6.

61 Submission 10, p 6.

2.3.4 Department's response – regulated waste categories

The department responded as follows:

> *The rate of the waste levy for regulated (hazardous) waste will depend on the categorisation of the waste under a framework to be established by amendments to the Environmental Protection Regulation 2008 following extensive consultation.*
>
> *The department anticipates that the amendments will be publicly available before the Committee is required to table its report into the Bill.*
>
> *Meanwhile, a Decision Regulatory Impact Statement is available on the department's website that details the consultation, issues raised and how these will be addressed.*[62]

The department subsequently advised that the Environmental Protection (Regulated Waste) Amendment Regulation 2018 which was notified on 5 October 2018 establishes category 1 and category 2 regulated waste. This Amendment Regulation will commence on 4 February 2019 and can be viewed at https://www.legislation.qld.gov.au/view/html/asmade/sl-2018-0154.

2.3.5 Mining waste and the levy

At the public departmental briefing the committee asked about how much the mining industry would contribute to the levy in the Mount Isa local government area. In response the departments advised that it did not have any particular figures but that while the mining industry generates significant amounts of waste in many cases this will not attract the levy as:

> *The levy is not payable until waste is delivered to a site. If, for example, you are generating the waste on site and disposing of it on site, as would happen at many sites, no levy is payable.*
>
> *There is also another reason. A levyable waste disposal site is a type of waste facility. The definition of a 'waste facility' in the existing act—and this is an amendment bill—has a carve-out for where the disposal is occurring under an environmental authority that is not a waste environmental authority. To give you a rough example, let us say that you had an environmental approval for a power station and, as part of that environmental approval, you had to deal with how you were going to dispose of your waste. You set up a site that was dedicated to disposing your fly-ash from that power plant and that is the only waste that ever went to that site. It would be excluded from the definition of 'waste facility'. It would not be a levyable waste disposal site and no levy would be paid on the disposal of that fly-ash. It is quite a technical area but, in general terms, mining activities would not usually be incurring the levy for their on-site disposal or if they had a disposal site set up specifically for receiving the waste.*[63]

In response to a Question taken on Notice at the briefing regarding the dollar value contribution of the mining industry to the levy collected in Mount Isa's local government area, the department advised:

> *The Department of Environment and Science does not collect data on the amount of waste that mining companies dispose to landfill at sites that will be levyable waste disposal sites.*
>
> *Mining companies which dispose of waste on-site will generally not incur a levy liability for that waste.*[64]

---

62 Correspondence dated 28 September 2018, attachment, p 5.

63 Public hearing transcript, 17 September 2018, p 9.

64 Correspondence dated 19 September 2018, Answer to Question taken on Notice, No. 5.

2.4 Definitions

Clause 6 includes proposed section 26 'Definitions for chapter', which includes the following definitions:

- ***Exempt waste*** includes lawfully managed and transported asbestos-containing waste in specified circumstances and soil and other natural materials defined as 'clean earth'. Types of exempt waste may also be prescribed by regulation or approved or declared by the chief executive under Chapter 3.[65]
- ***Levyable waste*** means waste, other than exempt waste, that is delivered to a levyable waste disposal site.
- ***Levyable waste disposal site***—
  (a) means a waste disposal site, whether under the ownership or control of the State, a local government or otherwise; but
  (b) does not include a part of the waste disposal site that is a resource recovery area.
- ***Residue waste*** is the waste from a recycling activity that is commonly disposed of to landfill after the recoverable components have been removed from material. An example is the residue waste, commonly called 'floc', which is the mainly non-metal component that results from shredding and recovering metal from waste such as motor vehicles and whitegoods that have reached the end of their useful life.[66]

The Act defines ***waste disposal site*** as:

> *…a waste facility to which both of the following apply—*
>
> *(a) the operator of the facility is required to hold an environmental authority for the disposal of waste at the facility;*
>
> (b) *waste delivered to the facility commonly includes waste that is subsequently disposed of to landfill at the facility*.[67]

The 'Dictionary' schedule in the Act defines ***waste facility*** as: '…a facility for the recycling, reprocessing, treatment, storage, incineration, conversion to energy, sorting, consolidation or disposal (including by disposal to landfill) of waste'.

However, a *waste facility* does not include:

> *…a facility that is lawfully operated for the sole purpose of disposing of waste generated by an environmentally relevant activity carried out under the Environmental Protection Act (the **relevant activity**), if—*
>
> *(a) the waste is generated only by, and its generation is ancillary to, the operation of the relevant activity; and*
>
> *(b) the relevant activity is not a waste management ERA; and*
>
> (c) *the facility is operated by, for, or in direct association with, the entity carrying out the relevant activity*.

---

65 Explanatory notes, p 11.

66 Explanatory notes, p 11.

67 Section 8A of the Waste Reduction and Recycling Act 2011. Clause 5 of the Bill proposes to amend section 8A(b) of the Act to delete the word 'commonly' and replace it with 'sometimes'.

Clause 20 of the Bill proposes to amend the Act's 'Dictionary' schedule to omit (c) above and replace it with:

(c) the facility is operated by or for the entity carrying out the relevant activity; and

(d) the facility is authorised under the same environmental authority as the relevant activity.

The 'Dictionary' schedule of the Act defines ***waste management ERA*** to mean:

…any of the following activities to the extent the activity is prescribed under the Environmental Protection Act as an environmentally relevant activity—

(a) metal recovery;

(b) crushing, milling, grinding or screening of materials;

(c) battery recycling;

(d) composting and soil conditioner manufacturing;

(e) drum and container reconditioning;

(f) regulated waste recycling or reprocessing;

(g) regulated waste storage;

(h) regulated waste transport;

(i) regulated waste treatment;

(j) tyre recycling;

(k) waste disposal;

(l) waste incineration and thermal treatment;

(m) *operation of a waste transfer station*.

Clause 11 of the draft Amendment Regulation seeks to amend schedule 9 'Dictionary' of the Act to insert the following definition of ***municipal solid waste***:

1 Municipal solid waste is—

(a) waste generated by a household if—

(i) the waste is collected from domestic premises—

(A) by or for an occupant of the premises, unless the waste is collected under a commercial arrangement; or

Example of waste collected under a commercial arrangement— waste collected by a skip bin collection service

(B) by or for a local government; and

(ii) the waste is not waste generated from an activity carried out at domestic premises under a commercial arrangement; or

(b) the following waste collected by or for a local government—

(i) waste generated from street sweeping;

(ii) waste collected from public rubbish bins;

(iii) waste generated from maintaining a public space, including, for example, a public garden and public park;

(iv) large items collected from domestic premises by a kerbside collection service.

2 However, municipal solid waste *does not include feedstock used for a recycling activity carried out under a commercial arrangement.*

2.4.1 Stakeholder views - definition of 'levyable waste disposal site'

The IRC submitted that:

The definition of "levyable waste disposal site" therefore captures any facility for which an environmental authority is held for the disposal of waste which is not a resource recovery area. It is suggested that this definition needs to include a reference that a levyable waste disposal site is a waste disposal site within the levy zone, otherwise there is a risk that the definition could also apply to the non-levy zone. An alternative means of addressing the disparate impact of the levy on regional centres is to exclude from the definition of levyable waste disposal site facilities for which the environmental authority is for less than 5,000 tonnes per year…[68]

2.4.2 Department's response - definition of 'levyable waste disposal site'

The department made the following comment concerning this issue:

Any waste facility in the non-levy zone may be a levyable waste disposal site if it receives waste from the levy zone or another state. If smaller sites in the levy zone were excluded from being levyable waste disposal sites, then it is likely that waste would be transported to these sites for disposal to avoid the levy. Transport to these sites could rapidly exhaust the acceptance capacity of these sites and increase costs for the operators.[69]

2.4.3 Stakeholder views - definition of 'waste facility'

Although Glencore appreciated that onsite waste disposal and management activities ancillary to operations approved under the same Environmental Authority (EA) will be exempt from the waste levy, it expressed concern about the proposed removal of the existing reference to 'direct association':

…the proposed amendment to the definition of a waste facility has the potential for significant unintended impacts beyond what is understood to be the intent of the amendment.

In some situations, it is highly desirable for a common enterprise to manage waste streams across different sites under separate Environmental Authorities utilising a common facility. This not only has a cost benefit for the enterprise, related to the operation of fewer facilities, but is also highly desirable from an environmental risk management and product stewardship perspective.

The removal of the wording "or in direct association with" from 2(c) of the waste facility definition means that an enterprise utilising a single facility for the disposal (or recycling) of waste generated by one or more sites, operated by the same entity, will no longer be able to do so without being classified as a waste facility (for the purposes of the Bill), and thereby becoming a 'waste disposal site' and being subject to the waste levy. In this regard, the proposed amendment to the definition of 'waste facility' has the potential to be retrospective and consequently have substantive cost implications.

Whilst we understand that an amendment to the current definition is required to prevent abuse of the system to avoid levy payment, there are a number of legitimate scenarios where it is desirable for a facility to accept waste from an entity in direct association with the entity carrying out the relevant activity, or its associated entities…[70]

---

68 Submission 29, p 5.

69 Correspondence dated 28 September 2018, attachment, p 6.

70 Submission 21, p 2. Two scenarios are provided.

Glencore provided two examples, stating that it would seem the proposed amendments of the 'waste facility' definition would undermine the objectives of the Bill and limit opportunities for streamlining waste management within a common enterprise:

> *We consider that the proposed alternative wording below recognises that limitations must be placed on entities in direct association, whilst retaining some flexibility for an entity to streamline waste management, with regulatory approval, where there are clear benefits...*
>
> *Suggested amendment to the definition of a 'waste facility':*
>
> (4) Schedule, definition waste facility, item 2, paragraph (c)— omit, insert—
>
> (c) the facility is operated by or for, or in direct association with, the entity carrying out the relevant activity; and
>
> (d) either:
>
> (i) the facility is authorised under the same environmental authority as the relevant activity; or
>
> (ii) the facility is authorised under an environmental authority to receive waste from the entity carrying out the relevant activity.[71]

Additionally, Glencore observed that an operational entity may have multiple facilities for the purpose of handling waste under the same EA:

> *For example, on a single operational site, wastes may be handled independently at a landfill, tailings storage facility and a processing facility in which a waste product is reprocessed. It is currently unclear as to whether each of these facilities is considered a 'facility', or whether the whole of the operational site is considered to be a single facility for the purpose of its classification.*[72]

Glencore saw significant environmental and economic benefits in enabling an operational entity to establish multiple distinct facilities, classified independently, under the same EA:

> *This would support the intent of the Bill by ensuring entities may leverage opportunities for recycling/reprocessing of wastes produced under a separate Environmental Authority without triggering classification as a waste facility and payment of the Levy, which would act as a disincentive to recycle or reprocess wastes.*[73]

The QRC also expressed concern about the Bill's proposed amendment to the definition of 'waste facility', anticipating unintended consequences for some operations of the resources sector and proposing its own new definition.[74]

2.4.4 Department's response - definition of 'waste facility'

The department responded by advising:

> *On further investigation of the issues raised in these submissions, the department has become aware of several circumstances, including some not detailed in the submissions, where the levy could be a disincentive to appropriate disposal of waste from resource activities.*
>
> *The proposed drafting of Clause 20(4) of the Bill was intended to ensure that where an environmentally relevant activity (ERA), including, for example a resource activity, also*

---

71 Submission 21, p 3. This excerpt from the submission includes Glencore's proposed amendment to the Bill's proposed amendment to the Act's existing definition of 'waste facility'.

72 Submission 21, p 4.

73 Submission 21, p 4.

74 Submission 10, pp 3-4.

authorises the disposal of waste generated by the activity at a facility, the receiving facility was not considered a waste facility (and hence not a levyable waste disposal site) provided that was the only waste it received.

Where a waste management ERA is authorised under a resource activity ERA, the waste management ERA is an ancillary activity. Under section 19A of the Environmental Protection Act 1994, ancillary activities are taken to be resource activities for the purpose of Environmental Authorities. In this case, they would fall outside the definition of a waste facility.

The department agrees with the intent of the amendments proposed by submitters. However, it believes further amendments may be required to address the additional issues the department has identified since the Bill was introduced. It suggests amendments to accommodate:

- *disposal of waste from several resource activities to a common facility.*
- *return of residue from mineral processing to the originating resource activity site for disposal.*[75]

2.4.5 Committee comment

The committee notes the issues raised by Glencore and the QRC in relation to the definition of 'waste facility'. The committee also notes the department's advice that it agrees with the intent of the amendments proposed by submitters and that it will consider these amendments, as well as others that will accommodate the disposal of waste from several resource activities to a common facility and the return of residue from mineral processing to the originating resource activity site for disposal.

2.4.6 Stakeholder views - definition of 'waste management ERA'

The QRC noted that, as described in the Review of the Regulated Waste Classification and Waste-Related Environmentally Relevant Activity (ERA) frameworks Decision Regulatory Impact Statement, the department is currently progressing related reform to the Bill:

…to streamline and update Prescribed Waste Management… ERAs under the EP Act [Environmental Protection Act 1994] and EP Regulation [Environmental Protection Regulation 2008]. The activities associated with the revised listing of ERAs is marginally different to that currently provided under the existing definition of 'waste management ERA' under the WRR Act. By way of consistency, QRC recommends that this definition be amended to reflect the revised listing of Prescribed Waste Management ERAs as it is soon to be amended in the EP Regulation.[76]

2.4.7 Department's response - definition of 'waste management ERA'

The department responded:

Reforms are currently being finalised to the waste licensing framework under the Environmental Protection Act 1994 following an extensive consultation process. A Decision Regulatory Impact Statement is available on the department's website that details the consultation, issues raised and how these will be addressed. The Bill does not pre-empt the finalisation of the reforms by amending the wording of the definition of 'waste management ERA' in the schedule (Dictionary) of the Waste Reduction and Recycling Act 2011. The definition is worded in such a way that it will still have an appropriate meaning if the names of waste-related ERAs change as is proposed.[77]

---

75 Correspondence dated 28 September 2018, attachment, p 7.

76 Submission 10, p 4.

77 Correspondence dated 28 September 2018, attachment, p 7.

2.4.8 Stakeholder views - definition of 'municipal solid waste'

The South Burnett Regional Council (SBRC) sought clarification over the:

> *…interpretation and application of (a)(ii) of the municipal solid waste definition or the specific definition of the term, "public rubbish bins" in the municipal solid waste definition (b)(ii). This is because if the… Council… is going to have any hope of avoiding direct costs to households then waste generated by a household, which is not waste generated from an activity carried out at domestic premises under a commercial arrangement and that is self-hauled to a public waste transfer station and placed in the skip bins provided and subsequently taken to a waste disposal facility by Council or its contractor will need to be included in the definition of municipal solid waste.*
>
> *Alternatively, the term "public rubbish bins" needs to include skip bins from a public waste transfer station, which is only to receive domestic waste/rubbish.*[78]

2.4.9 Department's response - definition of 'municipal solid waste'

In response, the department advised that municipal solid waste includes waste self-hauled by householders to a public waste transfer station:

> *Care will need to be taken by local governments that transfer station bins segregate municipal solid waste from other waste streams or another system is put in place in order to reasonably record the municipal solid waste tonnage for future advance payment calculations.*[79]

2.5 Levy zones

The Bill proposes to establish:

> *…a head of power for a regulation to identify a levy zone covering the more populous local government areas of the State - the levy will be paid on waste (including from interstate) delivered to a levyable waste disposal site in this zone.*[80]

Clause 6 proposes to amend the Act to include new section 43 'Regulation identifying waste levy zone', which provides that a regulation may identify local government areas that make up the waste levy zone. The provision declares that it is not necessary for the waste levy zone to be made up of only local government areas that are contiguous with other local government areas.

Clause 6 also includes section 26 'Definitions for chapter', which provides that a ***waste levy zone*** means the part of the State made up of the local government areas prescribed by regulation as provided for in this chapter.

Section 13 of the draft Amendment Regulation provides that: 'For section 43(1) of the Act, the local government area of each local government mentioned in schedule 2 make up the waste levy zone'. The schedule lists 38 waste levy zones.

The Bill proposes to establish:

> *…the balance of Queensland as the 'non-levy zone' – levy is not payable on waste delivered to a levyable waste disposal site in this zone unless the waste was generated outside the zone (including interstate)'.*

Clause 6 includes the following definition: a ***non-levy zone*** means the part of the State outside the waste levy zone.[81]

---

78 Submission 27, pp 2-3.

79 Correspondence dated 28 September 2018, attachment, p 9.

80 Explanatory notes, p 2.

81 Explanatory notes, p 2.

At the public briefing on the Bill the department advised:

> *The bill provides for the levy to be paid on waste delivered to landfills in a levy zone covering local government areas prescribed in the draft regulation. It lists local government areas that cover 90 per cent of Queensland's population, which is where the majority of Queensland's waste is generated. Please note that when you look at the map of the areas we have provided, Indigenous councils such as Cherbourg, Woorabinda, Palm Island and Yarrabah are not part of the levy zone. The rest of the state, including these Indigenous council areas, will comprise the non-levy zone. The levy is not payable on waste generated in the non-levy zone if it is disposed in the non-levy zone; however, the levy must be paid if waste from the levy zone or from interstate is disposed in the non-levy zone. This is to ensure there is no incentive to transport waste to avoid the levy.*[82]

2.5.1 Stakeholder views – population threshold and single levy system

The LGAQ contended that 'one size does not fit all' and the proposed arbitrary 10,000 population threshold does not consider other equally important criteria, including:

> *…local economic conditions, population density, waste volumes, councils' financial sustainability, existing infrastructure, access to viable markets and proximity of townships in regional areas. The demarcation of levy zone must consider other weighted criteria and not simply population, where many councils triggered using this crude threshold are declining in population...*
>
> *Fundamentally, the inclusion of Mount Isa City and Maranoa Regional Councils, in terms of waste tonnage, is of little to no consequence to the proposed waste levy zone, particularly when weighted against the potential impacts on both the councils and their respective communities*.[83]

By way of analogy, the LGAQ identified precedent where government uses varied criteria on other key waste initiatives, including the accessibility of refund collection points for the Container Refund Scheme:

> *In this example, varied threshold criteria were introduced considering not only the size of communities but distance and travel times for refund points operating in the SEQ, regional, indigenous, rural and remote communities*.[84]

The LGAQ claimed that the application of a single waste levy rate across Queensland will compound existing cost impacts and will be most acutely felt outside of SEQ:

> *For example Mount Isa City Council is 977kms away from Townsville, the nearest viable major market. It is not economically viable for Mount Isa to either transport the waste to Townsville, or process and recover all waste streams locally given the limited scale and investment costs.*[85]

Mount Isa City Council (MICC) echoed the sentiment expressed by the LGAQ, petitioning for the removal of its local government area as a waste levy zone, and submitting that:

> *The inclusion of Mount Isa City Council Local Government Area in the Waste Levy Zone is based solely on population level – a highly arbitrary policy basis – and ignores and gives no consideration to multiple other relevant factors such as remoteness, high transport costs for waste, already high living costs, and the almost certain inability (due to low volumes and high*

---

82 Public hearing transcript, 17 Sep 2018, p 2.

83 Submission 36, p 9.

84 Submission 36, p 9.

85 Submission 36, p 10.

transport costs) of Mount Isa to successfully bid for funding under the Queensland Government's announced $100m Resource Recovery Industry Development Program.[86]

The MICC fully recognised the social and environmental value in reducing landfill and recovering waste resources, noting that it has nominated to be a refund point operator for the Container Refund Scheme, however:

…the remoteness of Mount Isa requires that it be excluded from Waste Zone Levy, and this is borne out by the existing exclusion of Goondiwindi, a less remote local government area, despite it also having a population over 10,000 and having been included in the previous 2011 levy zone.[87]

In addition to the LGAQ and the MICC, various other submitters argued that MICC should not be included in the levy zone or identified the disadvantages MICC would face, if it were included.[88]

For example, the Queensland Local Government Reform Alliance claimed the levy was a levy for transport of waste, which would disadvantage some councils:

Councils such as Mt Isa have to transport waste longer distances and it was revealed that this levy would cost Mt Isa council $2.5 million a year. The North West Star published that Mount Isa is likely to be slapped with a new waste levy forcing council to fork out millions of dollars more each year.[89]

The QRC suggested Government has failed to appreciate that '…Mount Isa is at a disadvantage over all other areas within the levy zone due to its remoteness and limited waste infrastructure'.[90]

Glencore argued that:

Mount Isa does not have the infrastructure, market, nor does it produce the volumes of waste required to make the construction of recycling infrastructure economically feasible for any operator.[91]

Other local councils sought to have their local government areas excluded from the waste levy zone, including Maranoa Regional Council (MRC), Western Downs Regional Council (WDRC) and Banana Shire Council.

The MRC petitioned to have its local government area excluded as a waste levy zone, asserting that its request is due to:

…the distances between the urban areas within Maranoa, the low volumes of waste received (less than 5 000 tonne to landfill), and convey the revenue raised will be 'little' in comparison to the administrative and development costs associated with new infrastructure required, placing a burden on this Council and its rate payers.[92]

If the MRC's local government area is to remain in the waste levy zone, the MRC sought considerable funding, and submitting that '…other resources must be made available to enable Council to prepare for the implementation of administering… [its] inclusion…'[93]

---

86 Submission 35, p 3.

87 Submission 35, pp 3 and 6.

88 Including submissions 7, 8, 10, 21 and 32.

89 Submission 8, p 4.

90 Submission 10, p 6.

91 Submission 21, p 2.

92 Submission 37, p 1.

93 Submission 37, p 2.

The WDRC objected to being included in the waste levy area and sought removal:

> *The waste levy will be difficult, expensive for our Council to administer and substantially increase our exposure to risks. Given the regional location of the Western Downs and significant travel distances, it will raise relatively little revenue, increase ongoing administration costs for Council and do little to resolve any of the fundamental challenges that we acknowledge are being faced by the waste sector in metropolitan areas.*[94]

Banana Shire Council challenged the rationale of the council being included in the levy zone for the following reasons:

- the large area of the shire (27,000 square metres)
- the generally rural nature of the shire
- the relatively sparse population distribution
- the distance between towns and facilities within the shire
- the logistics involved in providing services
- the low waste volumes generated (currently 0.3 per cent of the state's total waste generation)
- the distance from major population centres
- the additional costs to shire ratepayers
- council's ability to financially comply with the requirements of the Act
- council has very minimal leakage from neighbouring council areas into its waste facilities, and
- council is at low risk for interstate dumping due to the distances involved.[95]

Various submitters argued that the levy rate was excessive for rural areas and that there should be a two-tiered levy, being a higher levy in SEQ than in regional areas.[96]

For example, the Mackay Regional Council urged for the consideration of a two-band levy system consistent with New South Wales and Victoria, with a differential between metropolitan and regional areas:

> *Both New South Wales and Victoria have distinct rates for the metropolitan and regional areas that are substantially different. This is to recognise the challenge of transportation in regional communities. Capital investment will more likely occur in the larger population centres first, as there will be a faster return on the investment. Regional communities need support to work towards the new state waste strategy and having a $70 per tonne levy from commencement, will have detrimental impacts on regional communities compared to South East Queensland.*[97]

The IRC also recommended that the Queensland Government consider introducing a two-band levy system:

> *…with differential rates between metropolitan and regional areas. It is also recommended that a $35 per tonne be the initial waste levy price for regional Queensland.*
>
> *In addition to the differential waste levy for regional Queensland, consideration should be given to a regionalised levy structure, whereby regional centres within the levy zone have subsidies applied to offset the additional costs involved with recycling and resource recovery when*

94 Submission 4, p 1.

95 Tabled paper, Rockhampton public hearing, pp. 2-3.

96 Including submissions 1, 15, 17, 24, 29 and 31.

97 Submission 24, p 2.

compared with South East Queensland (SEQ). It is considered that this would allow the regional waste industry to develop and enable the aggregation of waste by compensating a Local Government Area for transport where they do not have a waste processing facility.[98]

The Charters Towers Regional Council (CTRC) expressed concern about the Bill's 'one-size fits all' model within a selected zone, while others miss out completely:

NSW acknowledged this concern with a Metropolitan Levy Area of $141.20 per tonne, a Regional Levy Area of $81.30 per tonne and a levy free zone. Lithgow in NSW, with a population of >13,000 and just 150km west of Sydney is just one town in the levy free zone based mostly on the concerns raised in this submission.[99]

2.5.2 Department's response – population threshold and single levy system

The department responded to these issues by advising:

Consistent with the approach adopted in 2011, the Queensland Government is committed to implementing the waste levy in a zone covering the most populous areas of the State. Councils with more than 10,000 residents are proposed to be included in the levy zone. According to the Queensland Government Statistician's Office, Mount Isa's population in 2017 was 19,192. The City of Mount Isa is large enough to make local recycling possible if appropriate financial incentives such as the levy are in place.

The department agrees that regional areas distant from major downstream recycling facilities… must deal with additional challenges and notes that the Queensland Government will be considering further programs to level the playing field.[100]

In response to calls for a two-tiered levy system, the department stated that:

A two tiered levy system is already proposed through the establishment of a levy zone and a non-levy zone. Creating a third intermediate tier in regional areas would encourage transport of waste from south east Queensland and possibly interstate into immediately adjacent rural and regional areas which may not have suitable landfill capacity.[101]

By way of response to specific requests that the MICC's local government area be excluded from the waste levy zone, the department stated that:

Consistent with the approach adopted in 2011, the Queensland Government is committed to implementing the waste levy in a zone covering the most populous areas of the State. Councils with more than 10,000 residents are proposed to be included in the levy zone.

According to the Queensland Government Statistician's Office, Mount Isa's population in 2017 was 19,192. The City of Mount Isa is large enough to make local recycling possible if appropriate financial incentives such as the levy are in place.

The department agrees that regional areas distant from major downstream recycling facilities deal with additional challenges and notes that the Queensland Government will be considering further programs to level the playing field.[102]

In response to objections made by submitters on the proposed inclusion of other local government areas in the waste levy zone, namely in relation to the local government areas of North Burnett

---

98 Submission 29, p 6.

99 Submission 17, p 2.

100 Correspondence dated 4 October 2018, attachment, p 3.

101 Correspondence dated 28 September 2018, attachment, p 11; and correspondence dated 4 October 2018, attachment, p 3.

102 Correspondence dated 28 September 2018, attachment, p 12.

Regional Council and the WDRC, the department reiterated matters raised in its above comments about the MICC, adding that:

> *The Queensland Government recognises that regional councils face acute issues such as higher transportation costs for waste and is investigating opportunities to support regional councils and businesses to facilitate increased recycling and resource recovery in these areas.*[103]

2.5.3 Stakeholder views – rural and regional issues

Various submitters expressed concerns in relation to the impact of the proposed waste levy on rural, regional and/or remote areas.[104]

For example, the WRIQ observed the existing:

> *…very limited recycling and resource recovery infrastructure capability, the regional tonnes of available waste capable of being captured and then processed is limited, and the tyranny of distance and cost of transport to markets / end users for recovered products is challenging. The power cost to operators in operating sorting plant and equipment as part of the processing of waste is a significant business cost and with landfill disposal costs now escalating to over $220.00 tonne in some areas with the $70 00 increase it will result in regional areas being significantly impacted…*[105]

The Tablelands Regional Council proposed a regionalised levy structure where regional centres within the levy zones have subsidies applied to offset the additional costs involved with recycling and resource recovery in these areas compared with SEQ:

> *For example, the cost per tonne to transport from FNQ to SEQ recycling processors is around $65 per tonne. The introduction of a levy will not alleviate this additional transport cost.*
>
> *…Council believes that a regional equalisation scheme for a minimum period of time would help to balance these costs out across the areas impacted by the levy, whilst local processing and markets are being established.*[106]

At the Rockhampton public hearing the Livingstone Shire Council informed the committee of an issue that specifically relates to regional and semi-rural areas outside the council's designated collection areas:

> *The residents currently procure their own waste services through private waste companies. They are usually a bulk bin that is either a 1.5-cubic metre or three-cubic metre bin. This is all municipal solid waste.*
>
> *Once the levy has been introduced, one private waste company has told me that they will be passing on the levy to those residents. Those residents will be impacted by that. Also, if those residents may then want a kerbside collection service, the council will have to look into extending the designated collection areas. Council then would not have any of that advance payment for those properties.*[107]

Additionally, submitters contended that:

- the levy favours larger population centres, especially coastal councils with direct access to ports and rail, and

---

103 Correspondence dated 28 September 2018, attachment, p 12.

104 Including submissions 1, 13, 17, 29 and 31.

105 Submission 1, p 3.

106 Submission 13, p 2.

107 Public hearing transcript, Rockhampton, 12 October 2018, p 10.

- levy revenue may not be invested and other benefits, such as jobs, will not be realised in smaller council areas where the levy will be payable.[108]

2.5.4 Department's response – rural and regional issues

The department stated that the Queensland Government is aware of the additional challenges for waste recovery and recycling in regional areas, advising that:

> *The Queensland Government is investigating further programs to assist regional councils, communities, businesses and industries to reduce waste generation, increase resource recovery and facilitate better waste management outcomes.*[109]

2.6 Exempt waste – disaster management waste

The Bill proposes to amend the Act to include Division 1 'Declaring limits for disaster management waste' of Part 2, comprising section 27.

The Bill proposes to define ***disaster management waste*** to mean:

> *…waste generated by or because of a disaster that is or has been the subject of a declaration of a disaster situation under the Disaster Management Act 2003, but only within the limits, if any, declared by the chief executive, by publication on the department's website, for a particular disaster.*[110]

Proposed section 27 'Chief executive may declare limits for disaster management waste' provides that the chief executive may declare limits to the exemption for disaster management waste and for how such a declaration can be made:

> *The chief executive may declare a limit by publishing it on the department's website. The chief executive must take all reasonable steps to ensure persons likely to be directly affected by the declaration are made aware of it, but a declaration is not invalid if the chief executive fails to do this. Examples of declared limits may include the period of time for which waste will be considered disaster management waste or that waste is disaster management waste only if disposed of at a facility stated on the website.*[111]

2.6.1 Stakeholder views

Various submitters expressed concern about delays caused by the need to wait for a declaration from the chief executive and that given, in a disaster, regulated waste would have to be transported to licensed facilities in the levy zone, regulated and general waste should be exempt.[112]

The Queensland Farmers' Federation (QFF) supported the exemption of disaster management waste from the levy:

> Extreme weather or climate events include heatwaves, bushfires, droughts, tropical cyclones, cold snaps and extreme rainfall (storms, hail, floods). These impacts are not uniform across the state and disproportionally impact the agricultural sector (both inside and outside the levy area).
>
> QFF notes that remote and regional landfills are not engineered or licenced (through their EA) to accept regulated wastes. Therefore, during a disaster, if regulated wastes are generated in non-levy zones, they will require appropriate transport and disposal to SEQ (inside the levy

---

108 Correspondence dated 28 September 2018, attachment, p 11.

109 Correspondence dated 28 September 2018, attachment, p 11.

110 Clause 6 of the Bill proposes to insert new section 26 into the Act.

111 Explanatory notes, p 12.

112 Submissions 6, 11 and 22.

zone), so an exemption (for both general and regulated waste) is strongly supported to maintain environmental and community health.[113]

Council of the City of Gold Coast (GCCC) submitted that it responds quickly to clean up activities following a disaster: 'This may include "free tipping" to expedite the recovery phase, waiting for a declaration from the chief executive could unnecessarily delay/hinder the recovery process for the community'.[114]

The North Burnett Regional Council conveyed concerns with the proposed definition of 'disaster management waste', noting it only refers to a declared event:

It is commonly known that the frequency and ferocity of storm events as well as other calamities (e.g. road trauma) generate waste. Waste from other events should be classified and determined at the discretion of the local government.[115]

The LGAQ recommended that local disaster events should be treated in the same manner as disaster management waste, without requirement for approval or condition, and be considered as 'exempt waste'.[116]

At the Rockhampton public hearing the Rockhampton Regional Council (RRC) advised the committee of a concern about pre-disaster waste:

We get a week's warning. 'Hang on, the water's coming.' You say, 'No, it's not,' and then seven days later it hits. Prior to the last flood the council made the decision to open up the landfill for free on that Saturday and Sunday because the flood was expected to hit on the Monday or the Tuesday, something like that. Our transactions went from about 350 transactions per day on average to between 1,000 and 1,200 transactions per day for each of those two days. They were just queued up out the gate. We would be caught in a situation whereby we would be liable, I would assume, for the levy component and we would not be able to recover that cost.[117]

2.6.2 Department's response

The department responded to the QFF, advising that: 'Other support mechanisms for farmers experiencing financial hardship would be more appropriate'.[118]

Regarding concerns raised about potential delays, the department advised that:

As soon as a disaster is declared under the Disaster Management Act 2003 the levy exemption would apply - see the definition of 'disaster management waste' in proposed section 26. The chief executive may only declare limits on the exemption for a particular disaster.[119]

In response to the North Burnett Regional Council's concerns with the proposed definition of 'disaster management waste', the department stated that:

Whilst there is special provision made for disaster management waste resulting from a declared disaster event, waste created by other events, including road accidents and regular storms, is not eligible for an exemption from the levy.[120]

113 Submission 11, p 6.

114 Submission 22, p 3.

115 Submission 2, p 1.

116 Submission 36, p 4 and pp 7-8.

117 Public hearing transcript, Rockhampton, 12 October 2018, p 12.

118 Correspondence dated 28 September 2018, attachment, p 24.

119 Correspondence dated 28 September 2018, attachment, p 24.

120 Correspondence dated 28 September 2018, attachment, p 25.

In response to the LGAQ, the department stated that:

> *Severe weather conditions which did not qualify for declaration of a disaster would generally not be exceptional circumstances in which the chief executive could declare waste as exempt. The department agrees that this is an issue and is assessing options to address it. It should also be noted that self-haul waste is recognised as part of municipal solid waste tonnages on which the advance payment to councils is calculated.*[121]

2.7 Exempt waste - exemption by default

The Bill proposes to exempt certain waste streams from levy payment by default, including:

- waste from a declared natural disaster
- asbestos-contaminated waste
- dredge spoil, and
- clean earth.[122]

The Bill proposes to amend the Act to include Division 3 'Declaring waste to be exempt waste' of Part 2, comprising section 35 'Chief executive may declare waste to be exempt waste in exceptional circumstances', which provides that:

> *… if the chief executive is satisfied that exceptional circumstances apply for waste or the disposal of waste then the chief executive may declare that waste to be exempt waste. The declaration is made by publication on the department's website. The declaration may be subject to limits or conditions.*[123]

2.7.1 Stakeholder views

The Logan City Council (LCC) and the GCCC questioned whether exemptions for exceptional circumstances would include severe weather conditions that do not give rise to a disaster declaration as local authorities move quickly to encourage a clean up after an event and would require timely notification.[124]

The LGAQ recommended that local disaster events should be treated in the same manner as disaster management waste, without requirement for approval or condition, and be as considered as exempt waste:

> *Local councils currently provide waste collection services in times of disasters that do not end up being 'declared'. Communities expect their council to be first responders when disaster strikes and immediate clean up in the aftermath is crucial to this. This provision, as currently drafted, will either inhibit or delay council services adding stress or additional costs to household.* [125]

2.7.2 Department's response

The department advised:

> *Severe weather conditions which did not qualify for declaration of a disaster would generally not be exceptional circumstances in which the chief executive could declare waste as exempt. The department agrees that this is an issue and is assessing options to address it.* [126]

---

121 Correspondence dated 4 October 2018, attachment, p 7.

122 Explanatory notes, p 2.

123 Explanatory notes, p 14.

124 Submission 6, p 2; and submission 22, Attachment A, p 1.

125 Submission 36, pp 7-8.

126 Correspondence dated 4 October 2018, attachment, p 7.

The department also advised that the circumstances in which such an exemption would apply would require clear legislative definition.[127]

2.7.3 Committee comment

The committee notes the concerns raised by local government about local disasters that are not 'declared' and also notes the department's advice that it is assessing options to address this issue.

2.8 Exempt waste - exemption by approval

The Bill proposes to amend the Act to include Division 2 'Approval of waste as exempt waste' of Part 2, outlining the application, assessment and approval process for the exemption of waste and comprising sections 28 – 34.

Proposed section 28 'Application for approval of waste as exempt waste' provides for the making of an application for waste to be exempt from the levy:

> *The application for the exemption must be in the approved form, supported by enough information to allow a decision to be made and accompanied by the fee prescribed by regulation.*[128]

A person may make an exempt waste application only for matters listed, including:

- waste that has been donated to a ***charitable recycling entity*** but that cannot practicably be re-used, recycled or sold
- waste collected by members of the community in the course of an organised event directed at addressing littering or illegal dumping, such as 'Clean Up Australia Day'
- contaminated earth from land listed on the environmental management register or contaminated land register, as defined in the *Environmental Protection Act 1994*, Schedule 4
- waste to be used at a levyable waste disposal site as part of the necessary operation of the site, including for progressive capping, batter construction, final capping, profiling and site rehabilitation, and
- biosecurity waste which is waste made up of matter that is subject to the operation of the *Biosecurity Act 2014*.[129]

2.8.1 Stakeholder views

Various submitters expressed concerns about the time and administration required to apply and make a decision to exempt waste from the levy and resulting consequences, such as cost, complexity and potential missed opportunities for recovery and reuse.[130]

For example, the North Burnett Regional Council noted that waste is often required to be managed within a short time frame:

> *An application process to classify waste as exempt waste adds time and complexity to waste management. There should be categories of exempt waste determined by regulation. In addition, public waste such as street litter should be included.*[131]

The LGAQ observed that proposed section 28 of the Act allows for the making of an application for waste to be exempt from the levy, however the application for the exemption must be in an approved

---

127 Correspondence dated 28 September 2018, attachment, p 24.

128 Explanatory notes, p 12.

129 Explanatory notes, p 12.

130 Submissions 2, 6, 12, 22 and 27.

131 Submission 2, p 1.

form, supported by enough information to allow a decision to be made and accompanied by the fee prescribed by regulation:

> *Local government does not support the requirement of local councils having to make application to the chief executive for such approval. These operations should be treated as exempt by right and not as 'exempt by application' bypassing any costly, convoluted and discretionary application and approval process, which adds an unknown layer of government 'red-tape'.*
>
> Alternatively to this approach, the Bill could consider/deem this material under the definition as 'clean fill' and as such be treated as exempt material providing certainty for local councils in their day to day operations.[132]

While recognising that exemptions from the levy are necessary to moderate unintended consequences, the SCC contended that:

> *While Council agrees with the concept of conditional exemptions for not for profit organisations that would be administered through an application process, further detail is required on how the exemptions would operate, including how eligible entities would be identified. For example, would organisations such as not for profit organisations, community sporting clubs need to be registered on the Australian Charities and Not-for-Profits Commission Register or would a separate register be established and managed by the Queensland Government?*
>
> *When considering community sports organisations, they are caught between being classified as a commercial premises and operating as a not-for-profit. These organisations operate for community benefit and must retain the very best financial ability to support their members, maintain their club facilities and grounds, pay increasing insurance charges, however the proposal as it stands would not exempt sporting clubs from the levy.*
>
> *It is also noted that under Part 3 of the Bill, residual waste resulting from a legitimate Material Recovery Facility (MRF) will have an exemption from the waste levy until June 2022.*
>
> *Council's position is that further detailed design on the proposed exemptions is required including how the process for administering exemptions for not for profit organisations is managed and the permanent exemption of residual MRF waste from the levy.*[133]

2.8.2 Department's response

In response to concerns about the time and administration required to apply and make a decision to exempt waste from the levy, the department stated that it '…is developing administration processes with the aim to effectively balance the administration load while maintaining sound processes.'[134]

The department responded to issues raised by the LGAQ as follows:

> *The Bill includes a number of operational works exemptions and provisions not provided in other jurisdictions. For example clean earth, used at many sites for daily cover of the active tip face, is exempt. It is not unreasonable for operators to plan for the future management of a site and to apply for operational exemptions accordingly. The department developing administration processes with the aim to effectively balance the administration load while maintaining sound processes.*[135]

---

132 Submission 36, p 8.

133 Submission 5, p 4.

134 Correspondence dated 28 September 2018, attachment, p 23.

135 Correspondence dated 4 October 2018, attachment, p 7.

The department responded to the SCC, advising that:

> *A charitable recycling entity must: operate on a not-for-profit basis; be registered as a charity under Collection Act 1966; be a Deductible Gift Recipient for the purposes of laws administered by the Australia Taxation Office of the Commonwealth; and actively and consistently operate a recycling or re-use program for providing emergency assistance or otherwise supporting the charitable purposes of the entity. Sporting clubs would be unlikely to meet all of these requirements.*
>
> *The department is currently consulting with the National Association of Charitable Recycling Organisation Inc. (NACRO) to develop the details of processes for these exemptions that are consistent with the proposed legislation.*[136]

2.9 Application for a discount levy rate for residue waste

Clause 6 of the Bill proposes to amend the Act to include new Part 4 'Discounting waste levy for residue waste', comprising sections 44 – 51.

Proposed section 44 'Application for discounted rate for waste levy for residue waste' details the application process for a discount, which recycling activities should be prescribed by regulation and provides for the discounted rate to be prescribed by regulation.

According to the explanatory notes:

> *A person who conducts a recycling activity, prescribed by regulation, may make an application (a residue waste discounting application) asking the chief executive to apply a discounted levy rate for residue waste from the activity.*
>
> *The application must be in an approved form, supported by enough information to allow the chief executive to decide the application, and accompanied by the fee prescribed by regulation.*
>
> *A recycling activity can only be prescribed if a discount on the waste levy for residue waste will have a significant impact on the activity becoming established and sustained in Queensland and the activity optimises the market and material value that can be derived from the waste used as feedstock.*[137]

At the public briefing the department explained:

> *Residue waste is the waste that is left over from resource recovery and recycling activities after the recyclable material has been removed or reprocessed. The bill provides a transitional levy exemption, on application, for residue waste from qualifying existing recovery and recycling activities. These transitional exemptions will assist recyclers to respond to China's decision earlier this year to tighten import quality standards for recycled materials under its National Sword policy.*[138]

2.9.1 Stakeholder views

The QRC and the LCC objected to a levy on residue waste from recycling, with the QRC arguing that the inclusion of such a levy appears inconsistent with the Government's shift to a 'zero avoidable net waste economy':

> *A waste levy, discounted or not, on residue waste provides a disincentive to business to recycle. The recycling company will pass on the levy cost to users regardless of a discount. A discount will not provide an incentive for leading practice or recycling efficiency thresholds, nor new technologies with low efficiencies.*

---

136 Correspondence dated 28 September 2018, attachment, p 24.

137 Explanatory notes, p 16.

138 Public briefing transcript, 17 Sep 2018, p 3.

Waste management is based on the general principles of the waste and resource management hierarchy, which includes segregated waste types at its source. Segregation of waste on site allows for an increased opportunity to recycle waste, however, can take up a large amount of resources in a complex work environment, as can be found in the resources sector. The inclusion of a waste levy for all residue waste from recycling processes means that the return currently provided will be minimised, discouraging the additional resources to separate waste types at the source.

QRC is of the view that it is not beneficial to the objectives of the Bill to include a waste levy on residue waste. As such, QRC recommends that the application of the levy in this regard be removed from the Bill.[139]

The LCC saw a need to better define a 'significant impact on the activity becoming established and sustained in Qld', asking how the impact will be measured as significant and the rate determined?'[140] The GCCC shared this view.[141]

Whilst the Australian Council of Recycling (ACOR) welcomed that residuals from recycling will have dedicated treatment under the new legislation, it maintained that, to ensure the best recyclate material quality and optimal resource recovery, an accreditation and auditing regime is preferable to the efficiency threshold approach:

It is less likely to be gamed and more likely to drive industry improvement and the internalisation of contamination-related costs... We are hopeful that the Chief Executive may wish, in future, to consider voluntary accreditation as a continual improvement strategy that enables exemption and/or discount eligibility.

We note that the legislation and regulation allows for formal review, and see that as an appropriate time to more formally transition to an accreditation regime, as this is also a better approach for the longer-term given the changing nature of materials and markets for recyclate - as opposed to the static nature of efficiency thresholds.[142]

2.9.2 Department's response

The department responded to the issue of a discounted levy being imposed on residue waste from recycling, by advising: 'As an avoidable charge, the levy will create an incentive to recycle because it will address the imbalance between the cost of disposal of waste to landfill and the cost of recycling'.[143]

In response to issues raised by submitters regarding the meaning of, and measurement of, 'significant impact on the activity becoming established and sustained in Queensland', the department stated that:

The Minister would need to be satisfied that the recycling activity met this test. Evidence could include, for example, information about the cost of undertaking the recycling activity and how this compares to the cost of the levy and information about the investment environment for establishing the recycling activity and how providing the discount might encourage the establishment of the activity in Queensland rather than in another state.[144]

139 Submission 10, p 4.

140 Submission 6, p 2.

141 Submission 22, p 4.

142 Submission 20, p 1.

143 Correspondence dated 28 September 2018, attachment, p 26.

144 Correspondence dated 28 September 2018, attachment, p 27.

Replying to the ACOR's preference for an accreditation and auditing regime, the department advised that:

> *The department supports industry-led accreditation schemes where they contribute to improvements in operational practice. However, no accreditation regime currently exists for the waste industry. Proposed section 18, inserted by clause 5 of the draft Regulation, includes a requirement that an operator receiving a discount must implement strategies or practices to progressively improve the efficiency of the operator's recycling activity. If an accreditation regime was developed, a future government could, if it was desirable, amend the regulation relatively easily to allow accreditation and auditing as a component of this.*[145]

2.10 Transitional arrangements - application for levy exemption

Clause 19 of the Bill proposes to insert new Chapter 16, Part 3 'Transitional provisions for Waste Reduction and Recycling (Waste Levy) and Other Legislation Amendment Act 2018' into the Act. Part 3, Division 1 'Exemption from waste levy for residue waste until 30 June 2022', comprises proposed sections 309 – 316.

According to the explanatory notes, proposed section 310 provides that an entity conducting a recycling activity during the qualifying period[146] may apply to the chief executive to exempt their residue waste from the waste levy for the transition period.[147] An application must be made no later than 30 June 2019 for all activities except for the Cairns' Bedminster Facility.[148]

2.10.1 Stakeholder views

The ACOR submitted that the proposed transitional exemption from the levy (for non-MRF operators) should better define 'financial hardship':

> *The current test of "financial hardship to an extent that would stop its business from operating" that's currently enshrined would effectively be triggered too late for any business that's being significantly impacted by fast-moving and often global market conditions and hopeful of applying for that category of exemption. An alternative approach is that financial hardship is triggered when the company can provide evidence that it is becoming substantially competitively disadvantaged relative to competitors not subject to the levy, such as overseas operators.*[149]

The Bundaberg Regional Council sought the removal of the requirement to show financial hardship to an extent that would stop the business from operating:

> *It appears the intent is to encourage efficiency gains at recycling facilities, which is commendable, however this is addressed adequately in other sections of the Bill.*
>
> *By including this clause* [proposed section 310(4)(c)(ii)]*, the legislation fails to acknowledge the different contractual arrangements that exist between landfill operators and recycling facilities. In some situations it's the recycling facility that pays the residual amount and in other cases it's the local authority. For the sake of equity, it's suggested this clause be removed as doing so will have no consequential impact.*[150]

---

145 Correspondence dated 28 September 2018, attachment, p 27.

146 'Qualifying period' means the period from 1 July 2018 to commencement.

147 'Transition period' generally means the period from commencement to 30 June 2022, but for the mechanical biological treatment facility in Cairns using Bedminster technology it means the period from commencement to 30 June 2026. See explanatory notes, p 42.

148 Explanatory notes, p 42.

149 Submission 20, p 2.

150 Submission 18, p 1.

The RRC submitted that:

> *Council understands that MRF residue waste will be exempt from the levy of a period of 3 years under Part 3, S309 of the Bill, if the material meets the efficiency threshold. The arbitrary efficiency threshold is of particular concern to council given the recent tightening of quality specifications under China's National Sword Policy.*
>
> *Under the proposed efficiency threshold, council would not be able to meet this transitional exemption. This will force council to have to pass those costs back to the householders, resulting in the perverse outcome of a wheelie bin tax.*
>
> *It is considered more reasonable that a sliding scale approach be taken in order to allow councils with differing efficiency thresholds to apply for exemption under section 44 of the Bill which details the application process for a discount.*[151]

The LGAQ made the following submission:

> *Section 44 details the application process for a discount, which recycling activities should be prescribed by regulation and for the discounted rate to be prescribed by regulation.*
>
> *The LGAQ's preference is that all residue waste from a Material Recovery Facility (MRF) be considered exempt or eligible for advance payment. This would then align to the Government's commitment of no impacts on households. It is important to note that all 'contamination' in a recycling bin (which is the residue waste) is waste that is actually just in the wrong bin. If the waste were in the right bin, then it would be eligible for the advance payment. As such, it is incongruous householders would be charged (albeit at a discounted rate) for making a mistake and putting items in the wrong bin.*
>
> *Notwithstanding, the LGAQ seeks confirmation that the Department will support assessing applications on their merits from MRF operators who are in regional areas and cannot meet the recycling efficiencies but are improving and supporting kerbside recycling operations. These older regional MRFs offer significant employment and environmental benefits to the regions and should be granted consideration due to their regional and additional processing challenges.*
>
> *It would be a reasonable outcome if a discounted levy for residual wastes generated from MRF operations as applied in this scenario be eligible to make a successful application under Section 44.*[152]

2.10.2 Department's response

The department responded to issues raised by the ACOR:

> *The transitional exemption on hardship grounds would be available only to existing recyclers who will otherwise be unable to survive the transition to the levy. Applications will only be accepted in the first few months after levy commences. Beyond the commencement of the levy, market fluctuations that affect the viability of a recycling operation are a foreseeable business risk that all recyclers need to consider. In general terms, recyclers are likely to be positively impacted by the levy because their operations will become a cheaper alternative to landfill.*[153]

In reply to the Bundaberg Regional Council, the department advised that:

> *The exemption is offered for exceptional situations only. Many existing recycling activities will become more competitive, compared to landfill disposal, when they levy is introduced. While recyclers may need to marginally increase their gate fees to cover the passed-on levy cost on*

151 Submission 34, p 6.

152 Submission 36, p 10.

153 Correspondence dated 28 September 2018, attachment, p 26.

their residue waste, this increase will be considerably less than if the same load went directly to landfill.[154]

Responding to the RRC, the department stated that:

The transitional exemption is designed to allow Material Recovery Facilities to adjust to the levy and to respond to the recently tightened rules on waste importation by China. No similar exemption is provided in other states.[155]

The department responded to issues raised about residue waste from Material Recovery Facilities (MRFs) as follows:

A transitional exemption (100%) is available, on application, for residue waste from a MRF until 2022. Section 312(5), inserted by clause 19, already provides that the chief executive can approve a transitional exemption for a MRF if it is not reasonably practical to achieve the recycling efficiency threshold and the applicant will be able to achieve as close to the threshold as is reasonably practical in the circumstances.

Resource recovery at a MRF is unlikely to meet the requirements in proposed section 44(3), inserted by clause 6 that would allow it to be prescribed by regulation as a type of recycling activity for which a residue waste discounting application could be made.[156]

2.11 Provision of sufficient information

According to the explanatory notes, proposed section 53 'Person delivering waste to levyable waste disposal site to give information' requires a person delivering waste to a levyable waste disposal site to provide information so that the operator of the site can meet their obligations under Division 2: 'The information required includes the amount of exempt waste; the amount of each type of waste; and whether the waste was generated in the non-levy zone, the waste levy zone or interstate'.[157]

A maximum penalty of 300 penalty units applies for a contravention of this requirement.[158]

The explanatory notes stated that:

If the person delivers waste from outside the non-levy zone to a levyable waste disposal site in the non-levy zone in a vehicle with a GCM (gross combination mass – broadly the maximum loaded mass of a vehicle) or GVM (gross vehicle mass – broadly the lawful maximum loaded mass of a vehicle) of more than 4.5 tonnes, then the person must give the site operator the required information at least 24 hours before the waste is delivered. The information may be given for several consignments of waste.

The information does not need to be given if the person delivering the waste knows that the operator already has the required information.

The operator of the site may require the information to be provided in the approved form. A maximum penalty of 300 penalty units applies for a contravention of this requirement unless the person has a reasonable excuse.

It is a defence to prosecution for the offences if a person who engages or directs another person to deliver waste can prove they issued appropriate instructions to ensure compliance with the

154 Correspondence dated 28 September 2018, attachment, p 28.

155 Correspondence dated 28 September 2018, attachment, p 28.

156 Correspondence dated 4 October 2018, attachment, p 8.

157 Explanatory notes, p 19.

158 Explanatory notes, p 19.

section, used all reasonable precautions to ensure compliance and could not have stopped the commission of the offence by the exercise of reasonable diligence.[159]

2.11.1 Stakeholder views

In relation to proposed sections 53 and 55 of the Act, the LCC observed that the delivery person must give the operator of the levyable waste disposal site delivery information, including how much is levyable and how much is exempt, and raised the following queries:

Should operator reasonably suspect false information to avoid levy charge:

i) What information must be collected (is there a prescribed form and details to be completed?)

ii) Where is that information sent?

iii) Who investigates the suspected avoidance or giving false/misleading information?

iv) What is a reasonable excuse not to provide delivery information

v) (sic) *…the delivery person* (sic) *permitted to tip without a levy charge applied while under investigation?*[160]

The LCC also contended that weighbridge operators '…will be asking reasonable questions to customers to determine the correct application and are likely to face resistance and hostility'.[161]

The IRC submitted that:

Section 53(2)(a) of the Bill refers to "how much of the waste is exempt waste and how much of it is levyable waste". It is suggested that "how much" is a vague parameter and this will create difficulties in terms of the practical application of this section. The reference to "how much" by extension also makes the application of Section 55 precarious.[162]

Various submitters identified significant challenges for council to determine and report on bulk haul of mixed waste, either collected from commercial and residential customers or from a council transfer station.[163]

The WMAA argued that:

…the proposed levy residue reductions and exemptions will be issued by the chief executive officer to waste generators, however the liability for correct payment of the reduced levy to the department is borne by waste disposal site operators, given waste generators are not obligated to make waste levy payments to the State. Robust mechanisms are required to be implemented to ensure that actions of the chief executive officer, in varying levy rates in individual circumstances, are directly communicated to the waste disposal facilities responsible for ensuring the applicable waste levy is collected and remitted to the State, in a timely and accurate manner…[164]

159 Explanatory notes, p 19.

160 Submission 6, p 2.

161 Submission 6, p 2.

162 Submission 29, p 7.

163 Submissions 4, 6 and 22.

164 Submission 28, pp 2-3.

2.11.2 Department's response

The department advised that:

> *As detailed in section 53 of the Bill, it is an obligation of a person delivering waste to a levyable waste disposal site to give the operator the information needed. The operator is able to take this information at face value when preparing waste data returns for calculation of the waste levy. Penalties apply to the person delivering the waste if the information is false or misleading.*
>
> *If an operator suspects they have been provided false information, they can request the information is provided in a form that will be approved by the chief executive so that they have a record of the information.*
>
> *If an operator has concerns they can refuse a delivery and suspected cases of supplying false information should be reported.*[165]

Responding to the issues raised by the IRC, the department advised that:

> *The question is necessary to establish if there is a mixed load of exempt waste and levyable waste. The levy would normally be paid on the whole load if exempt waste is mixed with levyable waste.*[166]

The department advised that: 'Where mixed loads attract the same levy rate, the operator may use the information provided by the person delivering the waste to make a reasonable estimate of each type of waste*'.*[167]

In response to matters raised by the WMAA, the department advised that:

> *The department is aware of this issue and that in some other jurisdictions information about certain decisions is conveyed directly to waste disposal site operators. Some issues relating to privacy and commercial in confidence information need to be considered before a commitment can be made to similar information being provided in Queensland.*[168]

2.12 Weighbridges

Clause 6 of the Bill proposes to amend the Act to insert sections 57 – 58, which provide for weighbridge requirements.

Proposed section 57 'Weighbridge required' provides that, if the levyable waste disposal site is in the waste levy zone, the operator must ensure a weighbridge is installed at the site (subsection (2)).

Subsection (1) proposes the following commencement dates for this requirement, providing that the section applies to the operator of a levyable waste disposal site from the beginning of the day on:

(a) if the operator is required to hold an environmental authority for the disposal of more than 10,000 tonnes of waste in a year at the site—4 March 2019; or

(b) if the operator is required to hold an environmental authority for the disposal of more than 5,000 tonnes, but not more than 10,000 tonnes, of waste in a year at the site—1 July 2021; or

(c) *for any other operator—1 July 2024*.

The explanatory notes advised that:

> *In the non-levy zone, a weighbridge will be required to be installed at a site from these dates only if the site receives at least 600 tonnes of levyable waste from outside the non-levy zone (levy*

---

165 Correspondence dated 28 September 2018, attachment, p 13.

166 Correspondence dated 28 September 2018, attachment, p 13.

167 Correspondence dated 28 September 2018, attachment, p 13.

168 Correspondence dated 28 September 2018, attachment, p 25.

zone or interstate) during a year. A site of the relevant size that hits this trigger will have until 30 June of the following year to install its weighbridge. In 2019, the weighbridge requirement is triggered if the amount of levyable waste received between 4 March and 31 December is at least 600 tonnes.[169]

A maximum penalty of 300 penalty units applies for contravention of these requirements.

Proposed section 58 'Weighbridge requirements' requires the operator of a levyable waste disposal site with a weighbridge to ensure it is installed, operated and maintained in accordance with requirements prescribed in regulation, kept in proper working order and certified under the *National Measurement Act 1960* (Cth).[170]

The explanatory notes stated that:

If any event results in the weighbridge being out of operation, the operator must bring the weighbridge back into operation in the shortest practicable time and keep a record detailing the reason and the period. If the period is more than 24 hours, the chief executive must be notified within three days of when the weighbridge ceased operation, whether or not the weighbridge is still out of operation, of the reason, the period and what actions are being undertaken to bring it back to operation. If the weighbridge is still out of operation when the chief executive is notified, the site operator must notify the chief executive of its operation within three days after it commences operation.[171]

A maximum penalty of 200 penalty units applies to contraventions of these requirements.

2.12.1 Stakeholder views

The CTRC submitted that the requirement for waste to be measured by weight is unreasonable, stating in relation to proposed section 57(1)(c) that:

…a weighbridge must be installed for every licenced landfill receiving less than 5,000 tonnes per annum within the levy zone, by 1 July 2024. This is unreasonable. Council has three (3) satellite landfills receiving under 150 tonnes each, within our region of 6.8 million hectares. The main township of Charters Towers already subsidises the satellite townships of Greenvale, Ravenswood and Pentland, which service around a hundred properties each. Putting the capital cost aside, the cost to maintain and operate a weighbridge or to construct a transfer station and transport waste to another licensed site will triple the current cost. If this cost is to be passed on to the applicable township rate payers, mums and dads would be looking at a cost of approximately $800.00 per rate payer per year, unless subsidised by the rate payers of Charters Towers.

It is acknowledged that section 317 of the Bill can extend the weighbridge installation requirement until to 30 June 2029, however, the cost implications would be unmanageable, and the smaller sites forced to close.[172]

Various submitters considered it unrealistic for very small sites to have a weighbridge installed and that sites are not eligible for levy ready funding.[173] For example, the WDRC submitted that:

In our case, we operate twelve smaller landfills and transfer stations that have a throughput of between approximately 50 and 500 tonnes per annum, and do not currently have supervision.

169 Explanatory notes, p 22.

170 Explanatory notes, p 22.

171 Explanatory notes, p 22.

172 Submission 17, p 3.

173 Submissions 2, 14 and 17.

The requirement for a weighbridge at these facilities is absurd. Whilst a temporary relaxation has been provided in section 325 for a 'small site', and an exemption process has been provided in Section 317 (providing a 5 year delay at the discretion of the chief executive), this is insufficient. It is completely unrealistic for these sites to have a weighbridge installed, with a minimum cost of $200,000 per weighbridge. To compound this issue, these smaller sites are not eligible for waste levy readiness funding…[174]

The SBRC submitted that:

Council has two (2) of its Waste Disposal Sites that have useful lives, depending upon disposal volumes, that could expire around 10 years. The economic benefit of installing a weighbridge at these sites, which will then be closed with no intended Transfer Station being established would seem to be a waste of money. Would the State consider providing an Approval process for an extension to the deadline for weighbridge installation to Council's with such sites?[175]

The WDRC identified the requirement to notify the Director General for any weighbridge faults that exceed 24 hours in duration (proposed section 58(4) of the Act), making the following comments:

This provision and the penalties for failure are excessive and disproportional and will be difficult to administer especially during weekends. During summer months, electrical storms regularly fault out our weighbridges and repairers are often unable to travel from South East Queensland for several days…[176]

The MRC deemed the requirement for all waste levy sites to have a weighbridge installed as unreasonable:

There is a network of nine waste facilities within 63,000km2, with travel distance sites of 100 or more kilometres, and populations of individual urban areas ranging from 10 to 700 people. The cost to install a weighbridge at each of these sites is excessive (>$200,000.00), and to compound this issue, these smaller sites are not eligible for "waste levy readiness" funding.[177]

The LGAQ stated that:

Section 58 requires the operator of a levyable waste disposal site with a weighbridge to ensure it is installed, operated and maintained in accordance with requirements prescribed in regulation, kept in proper working order and is certified under the National Measurement Act 1960 (Cth)*.*

It states that if any event results in the weighbridge being out of operation, the operator must bring the weighbridge back into operation in the shortest practicable time and keep a record detailing the reason and the period.

It is important to acknowledge the difficulty complying with these provisions in many regional and rural communities.

This provision and the penalties for failure are excessive and disproportionate and will be difficult to administer especially during weekends. It has been stated by a regional council that during summer months, electrical storms regularly fault out their weighbridges and repairers are often unable to travel from South-East Queensland for several days.[178]

174 Submission 4, p 2.

175 Submission 27, p 4.

176 Submission 4, p 2.

177 Submission 37, p 1.

178 Submission 36, p 13.

2.12.2 Department's response

Responding to concerns raised by the CTRC, the department advised that operators of sites with an EA of less than 5,000 tonnes of waste a year, will not be required to have a weighbridge until 1 July 2024:

> *For immediate weighbridge infrastructure upgrades for sites holding an environmental authority of more than 5,000 tonnes of waste a year, local governments can apply to receive funding under the 2018-19 Local Government Levy Ready Grant Program (LGLRGP). This program has been established as a one-off grant to eligible local governments for levy ready landfill infrastructure upgrades, in advance of the levy commencement date. The 2018-19 LGLRGP is currently open for Local Governments to submit project proposals through the Grants and Subsidies Portal, with submissions under the program closing 5pm, 12 October 2018.*[179]

Addressing submitter concerns that it is unrealistic for very small sites to have a weighbridge installed, the department stated that:

> *Operators of sites with an environmental authority for receipt of less than 5,000 tonnes of waste a year, will not be required to have a weighbridge until 1 July 2024 and a transitional exemption until 2029 may apply for operators of sites with an environmental authority for receipt of less than 1,000 tonnes in a year. Local governments are encouraged in the meantime, to assess the viability of their waste disposal sites and continue transitioning small sites to waste transfer stations.*[180]

On the matters raised by the SBRC, the department advised:

> *Depending on the size of the waste disposal site, the Council may apply under section 317 for a transitional exemption from the weighbridge requirement at the site until 30 June 2029. The levyable waste disposal site must have been in existence at the commencement of the levy and the operator must hold an environmental authority for the disposal of no more than 1,000 tonnes of waste in a year at the site.*[181]

In relation to comments made by the WDRC, the department stated that:

> *The Bill contains provisions to cover situations where a weighbridge may be out of operation for a period of time. Section 58(4) provides waste facility operators have up to three days to notify the chief executive that the weighbridge has been out of operation for more than 24 hours. Therefore, if a weighbridge breaks down on a weekend, a facility operator can inform the chief executive the following Monday, without penalty.*[182]

In response to the concerns expressed by the MRC, the department advised that:

> *Operators of sites with an environmental authority of less than 5,000 tonnes of waste a year, will not be required to have a weighbridge until 1 July 2024. For immediate weighbridge infrastructure upgrades for sites holding an environmental authority of more than 5,000 tonnes of waste a year, local governments can apply to receive funding under the 2018-19 Local Government Levy Ready Grant Program (LGLRGP). This program has been established as a one-off grant to eligible local governments for levy ready landfill infrastructure upgrades, in advance of the levy commencement date. The 2018-19 LGLRGP is currently open for local governments to submit project proposals through the Grants and Subsidies Portal, with submissions under the program closing 5pm, 12 October 2018.*[183]

---

179 Correspondence dated 28 September 2018, attachment, p 19.

180 Correspondence dated 28 September 2018, attachment, p 19.

181 Correspondence dated 28 September 2018, attachment, p 17.

182 Correspondence dated 28 September 2018, attachment, p 17.

183 Correspondence dated 4 October 2018, attachment, p 5.

Replying to submissions made by the LGAQ, the department stated that:

> *The Bill contains provisions to cover situations where a weighbridge may be out of operation for a period of time. Section 58(4) provides waste facility operators have up to three days to notify the chief executive that the weighbridge has been of operation for more than 24 hours. Therefore, if a weighbridge breaks down on a weekend, a facility operator can inform the chief executive the following Monday, without penalty.*[184]

2.13 Measurement of waste

Clause 6 of the Bill proposes to amend the Act to insert sections 59 – 61, providing for the measurement of waste.

Proposed section 59 'When waste or other material must be measured' provides that waste or more than 1 tonne of other material must be measured when it is delivered to, or removed from, a levyable waste disposal site and when it is delivered to or removed from a resource recovery area:

> *The requirement to measure waste or other material removed from a resource recovery area applies where waste is moved to any other part of the waste disposal site or if the waste or other material is moved off the site in a vehicle with a GCM or GVM of more than 4.5 tonnes.*[185]

2.13.1 Measurement of waste by weighbridge

Proposed section 60 'Measurement of waste by weighbridge' requires that if a weighbridge is installed at a waste disposal site it must be used to measure and record the waste or other material as required in section 59.[186]

Additionally, the operator must ensure that the record of all measurements includes the information required by the chief executive and published on the department's website about the type of waste or material, where the waste was generated, details of any levy exemption or discount applying to the waste and the vehicle used to move the waste or material.

> *A maximum of 300 penalty units applies for a contravention of the requirements to use the weighbridge to measure and record the movements of waste and include the information required by the chief executive.*[187]

If the weighbridge is not in operation, the operator of the site must ensure that '…the waste is measured and recorded in compliance with the weight measurement criteria prescribed under regulation'.[188]

If it is not practicable to use a weighbridge to measure and record a particular waste, an alternative method may be used where agreed to by the chief executive.[189]

2.13.2 Measurement of waste other than by weighbridge

According to the explanatory notes, proposed section 61 provides that where a weighbridge is not installed at a waste disposal site, the weight measurement criteria prescribed by regulation must be used for measuring movements of waste or other material as required in section 59.[190]

---

184 Correspondence dated 4 October 2018, attachment, p 5.

185 Explanatory notes, p 22.

186 Explanatory notes, p 23.

187 Explanatory notes, p 23.

188 Explanatory notes, p 23.

189 Explanatory notes, p 23.

190 Explanatory notes, p 23.

Additionally, the operator must ensure that:

> *…the record of all measurements includes the information required by the chief executive and published on the department's website about the type of waste or material, where the waste was generated, details of any levy exemption or discount applying to the waste and the vehicle used to move the waste or material.*[191]

A maximum penalty of 300 penalty units applies for contravention of the requirements.[192]

2.13.3 Stakeholder views

The Burdekin Shire Council (BSC) noted that the Bill does not include a definition for 'other material'.[193]

The Moreton Bay Regional Council (MBRC) recommended removal of the need for weighing in and out when customers present with recyclables: 'Tonnages can still be captured as the recycling leaves the site for processing'.[194]

Various submitters argued that significant resources and time will be required to measure all waste, which may result in duplication of effort.[195] For example, although the IRC appreciated that proposed section 59 of the Act, through the use of the word 'or', prevents a situation where a local government would be required to double measure waste, it considered:

> *…this important clarification is undone in Section 60(2) where it states that "<u>each time</u> waste or other material is required to be measured under section 59, the operator of the waste disposal site must ensure the weighbridge is used to measure and record the waste or other material". The ramification of that Section is that in each of the scenarios in Section 59, there will be a need to re-measure for as many of those scenarios as are applicable. It is suggested that this Section be amended to state: "when waste or other material is required to be measured under section 59, the operator of the waste disposal site must ensure the weighbridge is used to measure and record the waste or other material". If this amendment to the Bill is not made there will be disastrous ramifications for local government areas with already overburdened refuse sites due to the cumulative impacts of the mining industry.*[196]

The LGAQ recommended amendments to proposed sections 59 and 60 to align with current weight deeming practices for domestic vehicles:

> *Section 59 requires waste, or other material that is more than 1 tonne, to be measured if it is delivered to a waste disposal site. Section 60 requires the weighbridge to be used whether or not it is required under section 57.*
>
> *Local governments, particularly regional and remote councils, are extremely concerned that all waste needs to be measured with the exception of targeted small loads removed from the RRA for reuse or recycling (e.g. Purchases from the tip shop).*
>
> *The new proposed requirements to weigh every domestic vehicle on both the way in and on the way out of a waste disposal site is a departure from current practice in many councils who use appropriate 'weight deeming' systems for domestic vehicles. The proposed change will have significant practical and administrative costs for councils who will require additional staff to*

191 Explanatory notes, p 23.

192 Clause 6 of the Bill proposes new sections 61(2) and 61(3) be inserted into the Act.

193 Submission 14, p 3.

194 Submission 12, p 4.

195 Submissions 6, 22, 29 and 31.

196 Submission 29, pp 7-8.

manage both the weighbridge and the significant queuing at weighbridge due to anticipated delays.[197]

2.13.4 Department's response

On the definition of 'other material' in proposed section 59, the department advised that the term does not need to be defined because it includes all material that is not waste: 'Keeping records of all loads greater than 1 tonne entering and leaving a site ensures that the operator has information to refute any claims that they have committed an offence such as levy avoidance'.[198]

In response to the issues raised by MBRC, the department advised: 'Measuring waste delivered to any part of the site including a resource recovery area provides documentary information to verify mass balance calculations and demonstrate compliance'.[199]

In response to issues raised concerning the significant resources and time required to measure all waste, the department stated that:

Waste, or an amount of other material that is more than 1 tonne, is required to be measured in each of the situations described in 59(a) to (d). This could sometimes mean that the waste or material is required to be measured more than once.

The combined measurements enable a 'mass balance' calculation of how much waste should be in various parts of the site – either in stockpiles or landfill cells and will allow operators to demonstrate compliance though documentation.

The mass balance calculation will also be able to be compared with the results of the annual volumetric survey to verify the accuracy of data returns.[200]

Replying to the LGAQ's proposed amendments to sections 59 and 60, the department advised that:

A weighbridge is the most accurate and reliable method of measuring waste. A transitional provision (section 322) recognises that there are operators who currently allow small loads to enter a landfill site without going over the weighbridge. It gives these operators until 30 June 2020 (subject to specific requirements) to reconfigure their entry infrastructure. Under the exemption, small loads of waste will still need to be measured (using the weight measurement criteria) and the levy will still be payable on these loads.[201]

2.14 Resource recovery areas

Part 6 of proposed Chapter 3 of the Act provides for the declaration, cancellation and revocation of a resource recovery area and outlines the obligations relating to a ***resource recovery area***.

It comprises two divisions:

- Division 1 'Declaration of resource recovery area', comprising sections 72R – 72W, and
- Division 2 'Obligations relating to resource recovery area', comprising sections 72X – 73C.

Proposed section 72R 'Resource recovery area' enables the operator of a waste disposal site to declare a resource recovery area:

The operator can only establish a resource recovery area if the area is used for a recycling activity. A recycling activity is defined in the Dictionary (schedule) to include the re-use of waste resources,

197 Submission 36, p 11.

198 Correspondence dated 28 September 2018, attachment, p 20.

199 Correspondence dated 28 September 2018, attachment, p 15.

200 Correspondence dated 28 September 2018, attachment, p 15.

201 Correspondence dated 4 October 2018, attachment, p 4.

and recycling of waste resources to make products and recovering waste resources including for energy production.

The operator, or another entity who will be responsible for the area, must hold any relevant licences, environmental authorities or other approvals required for carrying out these activities in the resource recovery area.

The resource recovery area must be separated from the rest of the site by a physical barrier which limits vehicle access to points identified on the waste disposal site plan required under section 72S or 72U. The area and physical barrier must comply with any requirements prescribed under a regulation.

A resource recovery area cannot be declared if there has been a revocation under section 72W of a declaration of a resource recovery area within the previous 12 months in relation to the same waste facility.[202]

2.14.1 Stakeholder views

Various submitters expressed concerns regarding the proposed requirements.[203]

Referring to proposed section 72R, the ICC considered that at some waste management facilities installation of a physical barrier is not feasible:

For example, one of our waste management facilities was newly constructed in 2017 and does not have a physical barrier installed between the saw tooth arrangement and the recyclable areas. It is suggested that this requirement goes against the purpose of the Bill to encourage resource recovery activities as in effect this Section will mean that no resource recovery area can be declared at the majority of our waste management facilities.[204]

The BSC recommended that 'physical barrier' be defined, submitting that:

Council would like confirmation on what is required for a physical barrier around an RRA. Section 72R(d) states that the physical barrier must comply with the requirements prescribed by regulation, however there are no requirements included in the draft Regulations. Council is proposing to use power poles for the physical barrier around one section of the RRA. Will power poles be considered an appropriate physical barrier? Council's new greenwaste hardstand area has a soil bund around three sides and a collection drain on the fourth side. Are soil bunds and collection drains considered appropriate physical barriers?[205]

In relation to proposed section 72W 'Revocation of resource recovery area by chief executive', the BSC recommended that Councils be allowed to store recyclables such as crushed concrete for periods greater than 12 months:

Council currently crushes all of the concrete received at Kirknie landfill and uses it for projects at the landfill (roads, hardstand areas, etc). Limiting the storage of material in the RRA to a 12 month period will limit Council's ability to reuse crushed concrete both at the landfill and in Council projects external to the landfill. The nearest commercial C&D recycling facility is located in Townsville. If Council is required to send material to this site Councils recycling cost will increase significantly. The cost would need to be passed onto rate payers.[206]

---

202 Explanatory notes, pp 33-34.

203 Submissions 14, 27, 29, 31 and 33.

204 Submission 29, p 8.

205 Submission 14, p 4.

206 Submission 14, pp 4-5.

The Noosa Council submitted that the legislative requirement not to charge the levy for waste delivered to a resource recovery for sorting presents significant operational issues:

> *…Council must charge an appropriate fee at the weighbridge to cover its costs to sort and segregate the waste into recyclables/waste to landfill and include an allowance for the levy payment for the residual waste sent to landfill. It is proposed to charge a "processing fee" instead of a disposal fee for waste sent to the sorting pad, with the fee set high enough to pay for the processing costs and payment of the appropriate waste levy for the residual waste that is landfilled. This add to the complexity of the charging structure for disposal of mixed loads of waste, due to the requirement not to charge a levy on diverted waste.*
>
> *Council requests that where a small percentage of waste delivered to a sorting pad is diverted as recyclable material the waste levy be applied to the whole load of waste being sorted to reduce complexity in the waste disposal charging structure.*[207]

2.14.2 Department's response

The department responded:

> *The legislation does not prescribe what must be used as a physical barrier but requires it to be capable of separating the resource recovery area from the rest of the site and preventing vehicles from moving between the area and the rest of the site other than through points of access shown on the plan of the site accompanying a notice under section 72S or 72U. The Queensland Government cannot comment on whether soil bunds would achieve this without seeing the actual site. As long as the physical barrier prevents vehicles from moving between the RRA [resource recovery area] and the rest of the site it would suffice.*
>
> *When considering the appropriateness of using some relatively easily moved items as a physical barrier, operators should note that it would be an offence if the physical barrier was changed without a notification to the chief executive under proposed section 72U.*[208]

In response to the issues raised by the BSC, the department advised that:

> *Section 72W provides that the chief executive may revoke declaration of a resource recovery area for a number of reasons. One is that the stockpiled waste, including recyclable material, is greater than the total amount of waste delivered to the area in the previous 12 months. This allows for some material, such as crushed concrete, to be stored for longer than 12 months provided that the total amount of waste in the resource recovery area does not exceed that limit. Even if this trigger was reached, the chief executive would be required to provide an opportunity for the operator to provide reasons why the declaration should not be revoked.*[209]

On the matters raised by the Noosa Council, the department stated that:

> *It is correct that the levy only applies to levyable waste delivered to the levyable waste disposal site, which excludes the resource recovery area. This is designed to facilitate diversion from landfill.*[210]

2.15 Provision of monthly data

Clause 6 of the Bill proposes to amend the Act to insert section 72 'Submission of waste data returns', requiring the operator of a levyable waste disposal site to submit a waste data return by the end of

---

207 Submission 33, p 4.

208 Department of Environment and Science, correspondence dated 28 September 2018, attachment, p 21.

209 Correspondence dated 28 September 2018, attachment, p 22.

210 Correspondence dated 4 October 2018, attachment, p 3.

the last business day of the month following the end of a levy period for the site or if granted an extension of time (under section 72G, 72H or 72I) at the end of the extension.[211]

There are two types of waste data return:

- a summary data return which provides information required to be measured under section 59 used by the chief executive to calculate the levy liability for the site for a levy period, and
- a detailed data return which contains comprehensive information about the movements of individual waste loads and other material into, out from and within a waste disposal site as required by section 59.[212]

The explanatory notes state that:

> *All sites within the waste levy zone are required to submit a summary data return. In the non-levy zone, the requirement to submit a summary data return is triggered by the receipt, during a levy period, of any levyable waste generated in the levy zone or interstate.*
>
> *The requirement for sites to submit a detailed data return will be phased in over several years according to the size of the site and does not apply to a section 325 small site.*
>
> *A detailed data return must be submitted by the operator of a site in the levy zone:*
>
> *from commencement if an environmental authority for the disposal of more than 10,000 tonnes of waste in a year is required to be held for the site;*
>
> *from 1 July 2021 if an environmental authority for the disposal of more than 5,000 tonnes, but not more than 10,000 tonnes of waste in a year is required to be held at the site; or*
>
> *from 1 July 2024 for any other site.*
>
> *A detailed data return must be submitted by the operator of a site in the non-levy zone only if an environmental authority for the disposal of more than 10,000 tonnes of waste in a year is required to be held for the site and at least 50 tonnes of waste generated in the levy zone or interstate was received during the levy period. A maximum penalty of 300 penalty units applies for contravention of the requirements.*[213]

2.15.1 Stakeholder views

The WDRC queried the need to provide a monthly return: 'A more reasonable approach would be to require this return to be completed quarterly (in line with current QWDS quarterly return arrangement)'.[214]

The BSC sought guidance on when the requirements for a waste data return will be published:

> *Council believes there will be insufficient time to determine if the current waste management software will be capable of meeting data reporting requirements. Access to Levy Ready Grant funding for upgrades of current software will have closed by the time the information is published. Will Council have access to funding to upgrade the current waste management software and hardware once the requirements are published?*[215]

---

211 Explanatory notes, p 27.

212 Explanatory notes, p 27.

213 Explanatory notes, p 27.

214 Submission 4, p 3.

215 Submission 14, pp 3-4.

2.15.2 Department's response

Replying to the WDRC's suggestion that returns should be quarterly, the department stated: 'A monthly summary data return (which is used to generate an invoice) is consistent with monthly billing practices in the industry and the requirement in New South Wales'.[216]

In response to submissions made by the BSC, the department advised:

> *The department has begun discussing its proposed requirements with operators. To facilitate a smooth transition to the requirements for a detailed data return, the department will be working closely with site operators to ensure transactional data is provided in the correct format for system requirements. As a starting point and where agreed by the operator, the department will seek to use a sample of transactional data from each site to identify any changes needed.*[217]

2.16 Volumetric surveys

Clause 6 of the Bill proposes to amend the Act to insert sections 67 – 71 on volumetric surveys.

Section 67 'Volumetric survey for levyable waste disposal site in waste levy zone' requires the operator of a levyable waste disposal site located in the waste levy zone to carry out a volumetric survey in June each year:

> *At most sites the obligation applies from 1 June 2020, but at a small site (where the operator holds an environmental authority to receive less than 2,000 tonnes of waste in a year) the obligation only applies from 1 June 2022.*
>
> *The site operator must undertake a volumetric survey of the levyable waste disposal site in June 2020 and provide the results to the chief executive by the end of July 2020.*
>
> *The volumetric survey must be undertaken in accordance with section 70 for all stockpiled waste at the site and each landfill cell where waste has been disposed of since the last volumetric survey required under the Act. (An initial volumetric survey is required at each site in 2019 under section 323).*
>
> *(The information provided by the volumetric surveys may be cross-checked by the chief executive against the data provided by the operator, which is used as the basis for calculation of the levy payable, about movements of waste at the site since the last survey.)*
>
> *A maximum penalty of 200 penalty units applies for a contravention of these requirements.*
>
> *If since the last survey waste has stopped being delivered to the site or for some other reason the site has ceased to be a levyable waste disposal site, then the operator is still obliged to conduct a volumetric survey the following June. However, the volumetric survey may be conducted and submitted earlier than otherwise required.*[218]

2.16.1 Stakeholder views

Regarding proposed section 323 'Volumetric survey of levyable waste disposal site to be carried out within stated period', the BSC argued that council will incur additional unbudgeted costs to undertake volumetric surveys of the active landfill cells and stockpiles in the RRA between February and April 2019: 'Council currently undertakes volumetric surveys of these areas annually in July each year. Council believes the cost of these additional surveys should be included in the Levy Ready funding…' or reimbursed.[219]

---

216 Correspondence dated 28 September 2018, attachment, p 17.

217 Correspondence dated 28 September 2018, attachment, p 17.

218 Explanatory notes, p 25.

219 Submission 14, p 6.

The WMAA contended that proposed section 67 adds an extra impost on its members operating levyable sites: 'The mandatory volumetric surveys will add a financial impost that should be fully recovered under the available waste levy funds'.[220]

The CTRC submitted that proposed section 67(4) suggests that volumetric surveys do not apply to small sites until 1 June 2022: 'This appears to conflict with section 69, which appears to require new surveys for each new cell or trench that is constructed'.[221]

Whilst acknowledging the importance of volumetric surveys in levying waste, the IRC observed that proposed section 67(2) imposes:

> *…an unnecessary and onerous administrative burden on Council to continue to provide volumetric survey results to the Chief Executive in circumstances where waste may no longer be delivered to the site or the site cease to be a levyable waste disposal site. It is suggested that provision for a notice allowing local governments to provide a notice that a site is no longer used or is no longer a levyable waste disposal site could be incorporated into legislation to prevent a need for provision of volumetric data where the site is redundant.*[222]

The North Burnett Regional Council stated that an annual volumetric survey for landfills in rural and remote local governments in the levy zone is onerous, submitting that the provision should apply to very large landfill sites.[223]

The Noosa Council requested that the legislation allow aerial survey and certification by a qualified engineer, wherever the legislation requires a qualified surveyor to perform survey work on landfill cells or stockpiles of material:

> *The proposed survey requirements must be performed and certified by qualified surveyor. Noosa Council and others local governments use more modern technology for this purpose and conduct aerial surveys using an aeroplane or drone that flies over the site and takes photographic imagery aligned with accurate GPS coordinates using fixed points on the landfill. This process accurately records contour profiles and airspace capacity of the landfill cells. This information is currently used to determine the fill rate for the landfill cell, but could also be used for assessment of stockpiles of waste or recyclable material.*
>
> *The aerial imagery is forwarded to consulting engineers who use a computer program to determine landfill airspace consumption between surveys. This very accurate method of survey is less time consuming and less costly than using a surveyor.*[224]

2.16.2 Department's response

The department responded:

> *Volumetric surveys are required at all sites close to commencement and of all new landfill cells before they are used in order to establish a baseline for the calculation of levy liability if summary data returns are not provided or are inaccurate.*[225]

The department responded to issues raised about small sites:

> *An annual volumetric survey of small sites (which are required to hold an environmental authority for the disposal of no more than 2,000 tonnes of waste in a year) in the levy zone is not required annually until 2022. Volumetric surveys are required at all sites close to commencement*

220 Submission 28, p 3.

221 Submission 17, p 3.

222 Submission 29, p 8.

223 Submission 2, p 2.

224 Submission 33, p 3.

225 Correspondence dated 28 September 2018, attachment, p 16.

and of all new landfill cells before they are used in order to establish a baseline for the calculation of levy liability if summary data returns are not provided or are inaccurate.[226]

The department responded:

For a levyable waste disposal site which has ceased operations and is no longer accepting waste, the operator must conduct a final volumetric survey and provide a copy of the results to the chief executive by the end of July. However, under these circumstances, the operator can elect to conduct and give a copy of the results to the chief executive earlier than July. Once the final results have been submitted, there is no longer an ongoing requirement to perform volumetric surveys for a site which has ceased to be a levyable waste disposal site.[227]

The department responded to matters raised by the North Burnett Regional Council:

An annual volumetric survey of small sites (which are required to hold an environmental authority for the disposal of no more than 2,000 tonnes of waste in a year) in the levy zone is not required annually until 2022. Local governments are encouraged in the meantime, to assess the viability of small sites and consider whether some should be transitioned to waste transfer stations. Volumetric surveys are required at all sites close to commencement and of all new landfill cells before they are used in order to establish a baseline for the calculation of levy liability if summary data returns are not provided or are inaccurate.[228]

In reply to matters raised by Noosa Council, the department stated that:

Ensuring that the survey is undertaken by a registered surveyor will enable the department to rely on the information. Requiring the survey be undertaken by a surveyor does not preclude the use of new technologies.[229]

2.17 Monitoring on-site movement of waste

Clause 6 of the Bill proposes to amend the Act to insert sections 62 – 66, providing for monitoring systems.[230]

Proposed section 63 'When monitoring system may be required by the chief executive' empowers the chief executive to:

…require the operator of a waste disposal site to install, operate and maintain a monitoring system if the chief executive believes that the operator has not complied with their obligation to pay the waste levy or to submit waste data returns:

The requirement is made by a notice specifying monitoring points for recording vehicle movements at the site. The notice must state the day by which the notice must be complied with and include an information notice for the decision to give the notice. The requirement for an information notice makes the operator eligible to request a review of the decision under Chapter 9 of the Act.

A maximum penalty of 200 penalty units applies for a contravention of the notice.[231]

Proposed section 64 'Requirements for monitoring system' provides the requirements for a monitoring system required under section 63, including that the monitoring system must meet the minimum

226 Correspondence dated 28 September 2018, attachment, p 16.

227 Correspondence dated 28 September 2018, attachment, p 16.

228 Correspondence dated 28 September 2018, attachment, p 17.

229 Correspondence dated 4 October 2018, attachment, p 5.

230 Proposed section 62 defines a 'monitoring system' for the purposes of subdivision 4 as CCTV or another system approved by the chief executive by publishing the details of the system on the department's website.

231 Explanatory notes, p 23.

requirements as set out under a regulation and be kept in proper working order, and must be able to record each vehicle at each monitoring point in a way that identifies the vehicle, for example by recording the vehicle's registration.[232]

2.17.1 Stakeholder views

In relation to monitoring systems being defined as CCTV or approved systems, the IRC noted the potential that:

> *…if legislation, which seeks to regulate surveillance of workplace activities (similar to the current legislation in New South Wales and Victoria) is enacted, there is a risk that local governments that are subjected to CCTV requirements under the Bill will be in breach of any workplace surveillance Act, in the event of complaint by a local government employee.*
>
> *Sections 64 and 65 of the Bill make it an offence to contravene various requirements in relation to monitoring systems. It is noted that no provision is made in the said sections providing a defence for non-compliance in the event of natural disaster events. It is suggested that an appropriate defence should be included.*[233]

The LCC queried whether the CCTV recording/data storage requirements for systems installed by an operator set out in proposed section 64(3)(f), were the same as those required if the CCTV system is required to be installed where the operator is given notice under proposed section 63, that is: 'how long does the operator reasonably need to store CCTV recorded images for, and what are the minimum requirements prescribed by regulation for the CCTV monitoring system…'[234] The GCCC made a similar query.[235]

2.17.2 Department's response

The department responded to matters raised about proposed offence provisions as follows:

> *Unless specified otherwise, it is likely that the general criminal code defences apply which include, for example, accident, act independent of will and emergency. As such, it is not necessary to include specific defences. This is reflected in the department's enforcement guidelines, which include such matters as mitigating factors and the public interest.*[236]

Responding to the IRC's workplace surveillance concerns, the department stated that:

> *Many sites already have CCTV at the weighbridge. A further monitoring system may only be required where the chief executive believes the operator of a waste disposal site has not complied with the operator's obligation to pay the waste levy or provide a waste data return. It would only be installed at certain points to record vehicle movements. CCTV is already required at certain workplaces under other Queensland legislation, including the Liquor Act 1992.*[237]

The department responded to the LCC's queries about CCTV:

> *Sections 63 and 64 are referring to the same monitoring system. If the chief executive requires an operator to install a monitoring system under section 63, then that monitoring system must meet the requirements outlined in section 64.*[238]

---

232 Explanatory notes, p 23.

233 Submission 29, p 8.

234 Submission 6, p 3.

235 Submission 22, p 5.

236 Correspondence dated 28 September 2018, attachment, p 15.

237 Correspondence dated 28 September 2018, attachment, p 20.

238 Correspondence dated 28 September 2018, attachment, p 20.

2.18 Payment plans and extensions of time

Clause 6 of the Bill proposes to amend the Act to allow for payment plans and extensions of time to pay the levy in the event that a waste disposal site operator is unable to pay the levy on time, for example due to hardship.[239]

Proposed Section 72B 'Waste levy instalment agreement' defines a waste levy instalment agreement as an agreement between the chief executive and an operator of a levyable waste disposal site or sites to pay the waste levy owed in instalments.[240]

The Bill proposes the following provisions applicable to waste levy instalment agreements:

- Section 72C – providing for applications
- Section 72D - providing for amendments
- Section 72E - providing for affected interests, and
- Section 72F - providing for failure to pay instalments.

Proposed section 72G 'Application for extension of time to pay waste levy amount' allows an operator of a levyable waste disposal site to apply for an extension of time of up to one month to pay a waste levy amount: 'An application must be made by the due date for payment and state the reasons why the extension is applied for'.[241]

The Bill proposes the following provisions applicable to extensions of time:

- Section 72H – providing for applications for extension of time to submit waste data return and pay waste levy amount, and
- Section 72I 'Public notice granting extension of time to submit waste data return and pay waste levy amount'.

2.18.1 Stakeholder views

Whilst it appreciated that the Bill included some provision for extensions of time within which to pay waste levies, the IRC suggested that proposed section 72G could be improved by permitting '…an automatic extension of time for payment of the levy amount in circumstances where individual local governments have been impacted by a natural disaster event'.[242]

2.18.2 Department's response

In reply, the department advised that proposed section 72I provides for:

> *…the chief executive to grant an extension of time to the operators of stated levyable waste disposal sites if satisfied that the extension is justified because of a significant emergency. It is likely that this power would be exercisable in a natural disaster.*[243]

2.19 Re-crediting of levy

Clause 6 proposes that new section 72K 'Eligibility for bad debt credit after insolvency or bankruptcy of customer' be inserted into the Act. According to the explanatory notes, the section provides for:

> *…an operator of a levyable waste disposal site to apply for a credit in respect of waste levy if the operator passed on the levy costs to the customer who delivered the waste, the waste was*

239 Explanatory notes, p 3.

240 Explanatory notes, p 28.

241 Explanatory notes, p 30.

242 Submission 29, p 8.

243 Correspondence dated 28 September 2018, attachment, p 14.

included in a summary data return for the site and the customer failed to pay the amount within 30 days and became insolvent within 12 months.[244]

The section includes a number of specific requirements that must be met before an operator is eligible to apply or which make the operator ineligible:

These include that an operator is not eligible to apply if the operator and the customer were related entities or the operator accepted the delivery of waste from the customer when the customer had an overdue payment for an earlier delivery of waste.[245]

2.19.1 Stakeholder views

Various submitters considered that the Bill's proposed bad debt credit provisions were too onerous.[246]

For example, the LGAQ noted that proposed section 72K(1)(e)(ii) states that if the service delivery charge was more than the waste levy amount, then it would not be eligible for a bad debt credit:

This provision fails to recognise most regional landfills in Queensland have gate charges that are higher than the waste levy amount. In effect, this section means that most regional councils will not be able to make an application for bad debt credit in relation to the waste levy. No rationale has been provided for this requirement and it would appear to be an anomaly.[247]

The LGAQ recommended that proposed section 72K be amended to delete the words '…was not more than the waste levy amount'.[248]

The Mackay Regional Council made similar submissions, also observing that most regional landfills in Queensland have gate charges that are higher than the waste levy amount:

In effect, this section means that most regional Local Governments will not be able to make an application for bad debt credit in relation to the waste levy. It has not been explained why that this should be a requirement for eligibility. Retaining this would signal that this is a deliberate mechanism, so that no bad debt credits will be provided to the majority of Local Governments for the waste levy component, as most will not be eligible due to this requirement. In effect the bad debt risk for the waste levy amount has been passed onto Local Governments, even though this is a State Government levy.[249]

2.19.2 Department's response

The department responded:

Section 72K(1)(e) requires that the invoice list the costs of the levy passed on by the operator to the customer as a separate service charge which does not exceed the amount of levy that would have been payable by the operator for the waste (+GST).[250]

2.20 Penalties for levy evasion and illegal dumping

At the public briefing the department advised that the Bill will impose heavy penalties for levy evasion: up to two years imprisonment for a waste disposal site operator who provides false information with

244 Explanatory notes, p 32.

245 Explanatory notes, p 32.

246 Submissions 1, 18, 23, 24, 28 and 36.

247 Submission 36, pp 13-14.

248 Submission 36, p 14.

249 Submission 24, p 5.

250 Correspondence dated 28 September 2018, attachment, p 14; and similar comments in correspondence dated 4 October 2018, attachment, p 5.

intent to evade the levy. The Bill also increases the maximum financial penalty for illegal dumping to provide a deterrent to evading the levy by dumping waste illegally:

> *A potential means of levy evasion is transporting waste to small landfills in the non-levy zone without advising it is from interstate or the levy zone. Ideally, this would be addressed by a nationally based system of general waste movement tracking, but no such system currently exists. The bill includes measures that will make this practice an offence. In particular, there are requirements to give 24 hours' notice to a waste facility in the non-levy zone before delivering waste from the levy zone or interstate. This includes waste delivered to resource recovery or waste transfer facilities in the non-levy zone to ensure these are not used to launder waste as a means of levy evasion. That completes our initial presentation but we would be happy to answer any questions the committee might have.*[251]

2.20.1 Stakeholder views

Various submitters commented on issues relating to litter and illegal dumping, with several contending that the Bill would result in an increase in illegal dumping unless funds are provided for additional local laws, staffing and CCTV resources.[252]

BSC noted that councils are often asked to provide free tipping to landfill for excessive dumping of goods at charity sites and stores and submitted that 'the management of this excessive dumping should be the responsibility of the State Government and not become by default the responsibility of councils.'[253]

A number of stakeholders also raised a concern about illegal dumping on private land. For example, the QFF supported higher penalties for illegal dumping but argued that 'this must be accompanied by a strong policy and an enforced regulatory framework to ensure that landowners will not be the victims of illegally dumped waste from people and companies trying to avoid the higher disposal charges'.[254] The QFF requested further resourcing and enforcement of illegal dumping at both local government and state government levels and proposed an amendment to the definition of exempt waste so that clean-up costs associated with illegal dumping, borne by a private landowner do not include the levy.[255]

While HQPlantations supported the waste legislation reform it was concerned that the re-introduction of the waste disposal levy would escalate an already significant illegal dumping problem in State Forests under its management:

> *The Plantation Licence requires public access to the plantations for recreation purposes be maintained. Unfortunately, public access also increases illegal activity including littering and illegal dumping. This is a widespread and significant management issue that not only impacts our business, but also affects neighbours, neighbouring communities and recreational users who seek natural, environmental and recreational amenity.*[256]

At the Ipswich public hearing HQPlantations told the committee that illegally dumped materials include vehicles; tyres; building waste; other industrial waste; hazardous waste, including asbestos; animal carcasses; household furniture and whitegoods; household rubbish; and green waste, and that it removes this waste at its own expense, unless the removal was the result of a restitution action by the

---

251 Public briefing transcript, 17 Sep 2018, p 4.

252 See for example, WDRC, submission 4; TRC, submission 13; BSC, submission 14; CTRC, submission 17; IRC, submission 29; Whitsunday Regional Council, submission 31; and RCC, public hearing transcript, Rockhampton, 12 October 2018, pp 9 & 14.

253 Submission 14, p 2.

254 Submission 11, p 4.

255 Submission 11, p 5.

256 Submission 25, p 1.

offender ordered by the department's Litter and Illegal Dumping Unit or Clean Up Australia day events that they host each year.[257]

2.20.2 Department's response

The department responded to the concerns raised by the BSC:

> *Subject to conditions, charitable recycling entities can be exempted from levy payment for charity bin waste that cannot be practicably be re-used, recycled or recovered. The department has been consulting with the National Association of Charity Recycling Operators (NACRO) and its members on effective ways to manage charity waste. NACRO Queensland, Griffith University, and the department's Litter and Illegal Dumping Programs team have partnered to undertake a major behaviour change project over three years which will trial and evaluate a number of interventions to reduce illegal dumping at charity donation points and increase the quality of donations being received.*[258]

The department responded to the concerns raised by the QFF as follows:

> *A general exemption for all waste collected to remediate illegal dumping would be impossible to administer. This waste would be visually identical to waste on which the levy will be paid. Targeted initiatives aimed at preventing, monitoring and managing litter and illegal dumping are currently being developed.*[259]

The department responded to the issue raised by HQPlantations:

> *The department agrees that the circumstances of HQPlantations are unique with respect to litter and illegal dumping. It is required to maintain public access to the plantation licence area for recreation purposes by the plantation licence agreements and section 61QE(1)(b) of the Forestry Act 1959. There is also known to be a significant dumping problem in parts of the licence areas that are in the proposed waste levy zone.*
>
> *If an exemption were considered to reflect these unique circumstances, the department suggests it should be limited to waste collected by or for a plantation licensee under the Forestry Act 1959 to remediate the results of a person having done something that may be an offence under section 103 or 104 in the licence area.*[260]

The department responded to concerns regarding the policing of illegal dumping:

> *Clause 7 of the Bill will amend the Act to significantly increase the maximum penalty for illegal dumping.*
>
> *Waste collected by or for the State or a local government to remediate the results of a person having done something that may be an offence under section 103 or 104 is exempt waste. Sections 103 or 104 are the offences for littering and illegal dumping respectively.*
>
> *Funding from the levy will be used to deliver targeted initiatives aimed at preventing, monitoring and managing litter and illegal dumping. The initiatives will be part of a renewed Litter and Illegal Dumping Pollution Plan focussing on education, engagement and awareness raising; capacity building; data gathering and analysis; compliance and enforcement; and policy and legislation, each underpinned by research and assessment.*[261]

---

257 Public hearing transcript, Ipswich, 4 October 2018, p 23.

258 Correspondence dated 28 September 2018, attachment, p 29.

259 Correspondence dated 28 September 2018, attachment, p 29.

260 Correspondence dated 28 September 2018, attachment, p 29.

261 Correspondence dated 28 September 2018, attachment, pp 29-30; correspondence dated 4 October 2018, attachment, pp 8-9.

Penalties are also discussed in section 3.1.1.1 of this report on Compliance with the *Legislative Standards Act 1992.*

2.21 Annual payments to local government

Clause 6 proposes that new section 73D 'Annual payment to local governments' be inserted into the Act. The section outlines the requirements for making, using and providing information about annual payments to local governments:

> *It requires the chief executive to make an annual payment to each local government affected by the waste levy. The payment is to be calculated in the way prescribed by regulation. Local governments must use the payment to mitigate any direct impacts of the levy on households within the local government area. The chief executive must not make a further annual payment if the chief executive reasonably believes a local government has not used the funds in the way required.* [262]

Additionally, section 73D requires a local government must include information about the purpose of the annual payment and amount received by the local government in its rate notices for the relevant year:

> *If the local government fails to provide the information, the chief executive may refuse to make a further annual payment until the local government provides the information to its ratepayers. Also, if the local government distributes misinformation in relation to an annual payment, the chief executive may refuse to make a further annual payment until the local government has informed the intended audience of the distributed information of how the misinformation was false or misleading. Distribution means including the misinformation in a rate notice or other document issued by the local government, publishing it on the local government website or including it in an advertisement made by, or on behalf of, the local government.*[263]

Clause 5 of the draft Amendment Regulation includes proposed section 20 of the WRR Regulation 'Annual payments to local governments—Act, s 73D' which provides the following formula for the calculation of the annual payment to be made to each local government, in accordance with new section 73D of the Act:

> *For section 73D(1) of the Act, the annual payment to be made to each local government affected by the waste levy is a payment for a financial year worked out using the following formula—*
>
> ***P = A** x **B** x **C** x **1.05***
>
> *where—*
>
> **P** *is the amount of the annual payment payable to a local government for the financial year.*
>
> *A is the total weight, in tonnes, of municipal solid waste generated in the local government's local government area, other than excluded waste, that is delivered to a levyable waste disposal site in the levy zone in the financial year starting on 1 July 2017.*
>
> *Note—*
>
> *The* **A** *value for each local government area is published on the department's website.*
>
> **B** *is the average of the waste levy rates mentioned in schedule 1 opposite the type of waste for the relevant calendar years for the financial year.*
>
> *Example—*

[262] Explanatory notes, p 38.

[263] Explanatory notes, p 38.

The value for **B** *for other levyable waste for the 2019–2020 financial year is $72.50 each tonne, being the average of the waste levy rate for 2019 and the waste levy rate for 2020.*

C *is an adjustment made by the chief executive for the projected population change in the local government area between the financial year starting on 1 July 2018 and the financial year for which the annual payment is worked out.*

Note—

The ***C*** *adjustment value for each local government area is published on the department's website.*[264]

The draft Amendment Regulation provides that, if an annual payment payable to a local government relates to a period that is less than a year, a pro-rata amount of the annual payment is payable for the financial year.[265]

At the public briefing the department advised:

The government has committed that there will be no direct impact on households associated with the introduction of the levy. This will be achieved through advance payments to council that will offset the cost of the levy on municipal solid waste.[266]

In response to a question from the committee at the public briefing the department advised that the commitment the government has made is budgeted for on the forward estimates payments will continue until at least 2022.[267] In response to a further question about whether councils would need to pass costs on to households if payments were not to continue after 2022 the department advised:

That would be correct. It is a call for a future government to decide whether that will be extended. One point I will also make is that no other state or jurisdiction that we are aware of provides this kind of support for councils.[268]

The department did however point out that that local governments are already looking at a range of initiatives to reduce their waste:

Local governments can actually have a net gain in a year by managing to reduce their waste between the tonnage on which the advance payment is based the year before and what they do this year. We would be expecting that local governments will be taking significant measures during that time to reduce the amount of waste that they will be sending to landfill from their local government area. [269]

2.21.1 Stakeholder views – annual payment

The Noosa Council queried when the annual payments will be released in each financial year, particularly, the initial payment:

For budgeting purposes the Council would like to know the date when the first rebate for MSW [Municipal Solid Waste] *is proposed to be given in 2018 or early 2019, but preferably deferred with the legislation implementation to 1 July 2019.*

---

264 Proposed subsection (1).

265 Clause 5 proposes section 20(2) to be inserted into the Act.

266 Public briefing transcript, 17 Sep 2018, p 2.

267 Public briefing transcript, 17 Sep 2018, p 8.

268 Public briefing transcript, 17 Sep 2018, p 8.

269 Public briefing transcript, 17 Sep 2018, p 8.

Given that accurate assessment of MSW vs. other waste may not have been tracked in 2017/18 as it was not necessary, government must also realize the accuracy of the information provided will have some approximations.

Government must accept that the initial assessment of domestic waste exempt from the levy in 2017/18 will not be accurate as the data has not been required to be tracked during that period.

The legislation should inform Local Government of the date when the State will release the MSW advance levy payment in each financial year to offset the domestic waste levy.[270]

The MICC submitted that it may be the case that the rate of the Waste Levy Rebate, which will be governed by regulation pursuant to the draft legislation, could be reduced from 105 per cent to 0 per cent by 2022:

We note the proposed waste levy rebate of 105% payable in advance in the first year. We also note that the Draft Regulation and related policy documents provide for this rebate to be reduced over time – this policy is, it seems, ostensibly designed to drive improvements in waste recovery. Thus, the waste levy will be permanent, but the associated grant program to which we will not achieve access because of our remoteness and high transport costs (which are critical factors in efficient and profitable resource recovery projects) will be one-time only. That is to say, Mount Isa City Council has no chance of success relative to all the other local government areas included in the waste levy zone to access the grant program related to the new waste levy. And it may be the case that the rate of the Waste Levy Rebate, which we note will be governed by Regulation pursuant to the draft legislation, could be reduced from 105% down to 0% by 2022, meaning an ongoing net annual cost to Mount Isa of approximately $2.5m.[271]

The CCIQ contended that the Bill proposes a rebate to local governments to offset the costs of the levy on MSW (Municipal Solid Waste) with the rebate reducing over time:

Local governments are directed by the Bill to use the amount paid to mitigate any direct impacts of the waste levy on households with businesses being excluded from this direction.

The Chamber acknowledges that households should be protected from the direct cost impacts but strongly advocates that businesses should also be protected.

The outcome of this exclusion may be highly detrimental to businesses as the burden of this waste levy will solely fall on business shoulders, with the high possibility of small businesses crippling under another levy.

CCIQ maintains the position that any proposal to phase in the waste levy, through a rebate, should apply to all those affected, including businesses, for the purpose that all affected parties are afforded a period of time to adjust to the new regulations.

In the absence of a business impact statement, government cannot guarantee that the introduction of the waste levy will not result in detrimental consequences to businesses; a gradual phase in of the new provisions will at the very least lessen the impacts in the short-medium term.[272]

The WRIQ observed that many Councils also operate commercial waste businesses, asserting that: 'The advance payment plan to these Council business operations gives them an unfair competitive advantage and industry argues it is anti-competitive'.[273]

---

270 Submission 33, p 4.

271 Submission 35, pp 3 and 4.

272 Submission 19, pp 3-4.

273 Submission 1, p 2.

The LGAQ recommended that all core council services be considered as either exempt waste and/or eligible for the 105 per cent advance payment, including council administration and community facility waste and all road, water and waste management activity waste:

> *The LGAQ appreciates that some council feedback on the recent Transforming Queensland's Recycling and Waste Industry Directions Paper appear to have been considered during the drafting of the Bill and associated Regulation. Most notably, the definition of MSW now includes self-hauled waste and waste generated by street sweeping, public rubbish bins, parks and gardens. Notwithstanding, the LGAQ is very concerned about the cost impacts of the waste levy on its core council services, including council administration and community facility waste, road/municipal works waste and biosolids/water treatment plant sludge.*
>
> *If the aforementioned core council services are not considered exempt or eligible for the 105% advance payment, recent modelling undertaken by AEC Group Pty Ltd indicate an average increase of $27.61 per household in high growth councils.*[274]

The LGAQ expressed concern about the potential of a future review of the formula for the calculation of the annual payment to be made to each local government, as set out in proposed section 20 of the WRR Regulation. Accordingly, it recommended that the advance payment rate be enshrined in the Bill and not the subordinate regulation to provide councils and the community confidence it will not be removed readily in the future:

> *Although advance payments are welcome, they provide no certainty for councils as they are included in the Regulation and not the Bill, meaning they can be readily amended by the Minister of the day via Governor in Council approval and do not require amendment by the Parliament.*
>
> *Queensland councils and the LGAQ are deeply concerned that the formula contained in the Regulation (section 20) will be reviewed in future years. This fails to provide certainty for councils to ensure that impacts will not be transferred to households in the future.*[275]

2.21.2 Department's response – annual payment

Responding to concerns raised by the Noosa Council, the department stated that: 'The Government has committed to advance payments in order to provide certainty for council budgeting. The formula proposed in the draft Amendment Regulation has been developed for this purpose'.[276]

On issues raised by the MICC about the quantum of annual payments, the department advised that proposed section 73D provides that the chief executive must make to each local government affected by the waste levy an annual payment as prescribed in the Regulation:

> *The draft Regulation sets out the proposed formula. There is no end or review date set in either the Bill or the draft Regulation other than the general review of the efficacy of the levy within three years of commencement.*[277]

The department responded to issues raised about the impact of annual payments on the business sector:

> *Local governments are the intermediary in disposal of household waste which comprises most municipal solid waste. They will have an incentive to introduce strategies to reduce household waste disposed to landfill - if the amount of waste disposed is less than in the year on which the annual payment was based then the local government will be able to keep difference between*

274 Submission 36, p 12.

275 Submission 36, p 12.

276 Correspondence dated 4 October 2018, attachment, p 2.

277 Correspondence dated 4 October 2018, attachment, p 2.

the payment and the actual cost. It is not proposed to extend annual payments to businesses. The levy is intended to send a price signal to incentivise the diversion of waste from landfill.[278]

In response to the LGAQ, the department advised that:

The purpose of the advance payment is to avoid direct impact on households. Extending the payment to tonnages in addition to municipal solid waste as defined in the draft Regulation goes beyond this purpose.[279]

In response to the LGAQ's concerns about the proposed formula to calculate the annual payment, the department advised that:

The Government has committed to advance payments in order to provide certainty for council budgeting. The formula proposed in the draft regulation has been developed for this purpose.[280]

2.21.3 Stakeholder views – rates notice statement

The LCC submitted that:

- The requirement that all rates notice must include a line that informs 'the rate payer of the amount paid to the local government and the purpose of that payment' is an unreasonable administration burden that will add to the complexity and cost in preparing and processing a rates notice, and
- Whether a local government has included or published information that is considered to be 'misinformation' on the grounds it is misleading is open to interpretation, fact can be reported in a misleading way. Guidance and clear examples of what is considered acceptable would be helpful to reduce the risk of a local government falling foul of this requirement.[281]

The BSC considered the provision onerous and misdirected, and sought its deletion, with consideration to be given to including such information in the annual report of the local government.[282] SCC also sought the provision's deletion from the Bill, noting that:

Such a statement will only exacerbate the likely conflict that will occur at landfill gatehouses when the levy is applied to commercial clients delivering waste for disposal generated at domestic premises.[283]

The Brisbane City Council conveyed concerns that placing the proposed information on a rates notice has unintended consequences and administration costs, including:

- administration costs to provide this information on the rates notices annually (at least $100,000 per annum)
- legislative compliance in ensuring that current information on reprinted and backdated rates notices is always correct
- community understanding of what the information means and how it is relevant to residents and ratepayers, and
- extremely short time frame to achieve the intended outcome if the information is to go on the rates notices for the third quarter in November 2018.[284]

---

278 Correspondence dated 28 September 2018, attachment, p 8.

279 Correspondence dated 4 October 2018, attachment, p 7.

280 Correspondence dated 4 October 2018, attachment, p 1.

281 Submission 6, p 3.

282 Submission 14, p 5.

283 Submission 5, p 4.

284 Submission 16, p 2.

Other submitters also made criticisms of the proposed requirement.[285]

2.21.4 Department's response – rates notice statement

The department responded: 'This provision was included in the Bill to ensure that accurate information on the amount paid to the local government and the purpose of the payment is conveyed to ratepayers'.[286] It advised that: 'Section 73D is not retrospective - a statement is not required to be included on rates notices issued before 4 March 2019'.[287]

2.21.5 Stakeholder views – misinformation

In relation to the distribution of misinformation in relation to an annual payment and the chief executive's power to refuse to make a further annual payment until the local government has informed the intended audience of the distributed information of how the misinformation was false or misleading, the LGAQ recommended: '…further guidance and examples are provided to local government on what information is acceptable and what constitutes 'misinformation'.[288]

2.21.6 Department's response – misinformation

The department commented that:

> *Section 73D(7) clarifies that a local government is taken to have distributed misinformation if it is: included in a rate notice or other document issued by the local government, published on the local government's website, or is included in an advertisement made by, or on behalf of, the local government.*
>
> *Section 73D(8) provides that misinformation, in relation to an annual payment, means a false or misleading statement about (a) the impact of the waste levy on a local government, (b) the purpose of the annual payment, (c) the amount of the annual payment paid to a local government.*[289]

2.21.7 Stakeholder views – retirement villages

The SCC sought clarification as to whether '…retirement villages are to be categorised as households or not, i.e. are they to be treated as domestic premises or commercial premises'.[290]

The Noosa Council asserted that the levy should not apply to retirement villages: 'These premises should be exempt from the levy and classified as municipal domestic premises'.[291]

2.21.8 Department's response – retirement villages

The department advised that: 'Consistent with the approach adopted in other states, residential aged care facilities and retirement villages, are considered to be commercial premises'.[292]

---

285 See submissions 12, 24, 27, 34 and 36.

286 Correspondence dated 28 September 2018, attachment, p 8; and correspondence dated 4 October 2018, attachment, p 4.

287 Correspondence dated 28 September 2018, attachment, p 8.

288 Submission 36, p 12.

289 Correspondence dated 4 October 2018, attachment, p 4.

290 Submission 5, p 4.

291 Submission 33, p 2.

292 Correspondence dated 28 September 2018, attachment, p 8; and correspondence dated 4 October 2018, attachment, p 2.

2.22 Use of levy revenue (other than advance payments to councils)

The Directions Paper advised that revenue from the levy will be available to fund levy administration, enhanced compliance and enforcement activities and improved data and reporting and:

> *It will also fund waste programs designed to achieve the strategy's waste reduction and resource recovery targets. Programs include statewide and industry-specific programs such as funding to help local government prepare and implement waste management plans, industry and market development, and grants and rebate schemes. These programs are essential for Queensland to meet the strategy's targets.* [293]

The Directions Paper provided the following summary of the proposed use of funds:

- *the environment* - new programs, such as incentives to business to reduce their energy, waste and water consumption
- *the community* - supporting Queensland's schools, hospitals, essential infrastructure and other frontline services.[294]

The explanatory notes advised that between 2018-19 and 2021-22 it is expected that over 70 per cent of revenue generated through the waste levy will be allocated to advance payments to councils, scheme start-up and operational costs, industry programs and other environmental priorities and that surplus revenue from the levy will benefit the entire community by providing funding for schools, hospitals, transport infrastructure and frontline services.[295]

2.22.1 Stakeholder views

A number of stakeholders submitted that the waste levy should be part of the state waste management and recycling strategy.[296] The RRC advised the committee that education is absolutely critical:

> *At the moment, we are in the process of recruiting an education officer. We will probably be spending $100,000 a year on that recruitment. Currently, we have just built into a new 10-year contract for our kerbside recycling an education contribution as another way of trying to get some funding for that activity.*

……

> *Our contamination rate is around 16.5 per cent to 20 per cent in that kerbside recycling bin, which we need to improve on. If we were to introduce a third bin for garden or food organics to try to reduce that volume of municipal waste going to landfill, education is absolutely critical. We need to be educating. We need assistance from the state government funding through the levy 12 months plus in advance of that third bin hitting the kerb, or the contamination will just be out of control and we are not going to be diverting waste from landfill; we are just going to have a mess.*[297]

The Wide Bay Burnett Environment Council (WBBEC) supported the aims of the Bill but raised a concern that the legislation does not prescribe how the funds collected from the levy are to be spent or apportioned.

> *WBBEC is particularly concerned that funding from the levy is allocated to "sustain Queensland's natural environment", however the legislation gives no indication as to what proportion of the*

---

293 Transforming Queensland's Recycling and Waste Industry' directions paper, June 2018, p 13.

294 Transforming Queensland's Recycling and Waste Industry' directions paper, June 2018, p 13.

295 Explanatory notes, p 5.

296 See for example, WRIQ, submission 1 and Nathalie Deacon, submission 32.

297 Public hearing transcript, Rockhampton, 12 October 2018, p 8.

levy funds collected will be allocated for this purpose. The legislation needs to be amended to reflect the proportions of levy funds that will be allocated to the various programs to "establish better resource recovery practices, improve overall waste management performance and sustain Queensland's natural environment".

WBBEC anticipates that funds from the levy could be dedicated to programs such as purchasing of habitat to protect existing koala populations in the Wide Bay Burnett region and in other regions in Queensland.[298]

The CCIQ noted that funds raised by the levy will be allocated to advance payments to councils, scheme start-up and operational costs, industry programs and other environmental priorities and that surplus revenue, from the levy, will provide funding for schools, hospitals, transport infrastructure and frontline services. The CCIQ submitted that 'businesses will be effectively cross-subsidising of other government programs/sectors' and advocated:

…. levy revenue must be used in its entirety to develop the required infrastructure and industry adjustment packages, as well as small business support programs to assist businesses in reducing waste to landfill.[299]

The CCIQ noted that in the proposed investment model outlined in the Directions Paper and Queensland's State Budget 2018-19, the three facets intended to improve the entire resource industry in Queensland is infrastructure, market development and price signalling – the waste levy falling under the last category, and advocated for:

…. a multipronged approach to reducing waste centres on four key principles: 1) developing and adopting new rules and incentives to reducing waste disposal; 2) Advocating for manufacturer responsibility for product waste; 3) Improving green industry infrastructure; and 4) Educating and promoting a credible sustainability agenda.[300]

The WRIQ submitted that the 'Bill fails to provide transparency of how the Government will allocate waste levy revenues' and advocated that the Government 'must commit to a full hypothetical of the funds to the programs it is proposing to introduce' and 'the Bill should include provisions for the formation of a statutory board that will oversee the funds management and that the waste strategy is actually delivered.'[301]

2.22.2 Department's response

The department advised the waste levy underpins, and will provide funds to implement, a new waste and recycling strategy that is currently being finalised. The new waste strategy will help Queensland better manage its waste, improve resource recovery and transition to a zero avoidable new waste economy by 2050. Specifically, the levy aims to reduce the amount of waste sent to landfill, increase recycling and recovery rates and support the creation of new jobs and industries. [302]

The department responded to the CCIQ's concerns by advising:

The $100 million Resource Recovery Infrastructure Development Program (RRIDP) is designed for local governments, established businesses, not-for-profits and consortia looking to employ proven technologies for resource recovery to improve existing operations or bring significant new facilities to Queensland. These operations or facilities can be along the entire supply chain from collection and transfer to sorting and remanufacture, as well as waste to energy.

298 Submission 3, p 1.

299 Submission 19, p 5.

300 Submission 19, p 3.

301 Submission 1, p 4.

302 Correspondence dated 28 September 2018, attachment, p 2.

The waste strategy, which is currently being finalised, will address the need for other enablers to reduce landfill rates, increase resource recovery and change community, government, business and industry behaviours towards waste management. The waste strategy will be underpinned by the levy and will providing a funding source for further initiatives. [303]

[303] Correspondence dated 28 September 2018, attachment, p 2.

3 Compliance with the *Legislative Standards Act 1992*

3.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (LSA) 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 and considered that clauses 6, 7, 16, 17 and 19 raise matters of fundamental legislative principle.

The Bill also includes numerous offence or penalty provisions which are provided in the table at the end of this section.

The committee brings the following to the attention of the Legislative Assembly.

3.1.1 Rights and liberties of individuals

Section 4(2)(a) of the LSA requires that legislation has sufficient regard to the rights and liberties of individuals.

3.1.1.1 Clauses 7, 16 and 17

Clause 7 proposes to amend section 104 of the Act, relating to illegal dumping of waste. It proposes to increase the penalties:

- for an offence involving less than 2,500 litres of waste to 400 penalty units
- for an offence involving more than 2,500 litres of waste to 1,000 penalty units.

Clause 16 proposes to amend section 264 of the Act, relating to general duties about documents or records. If a person, with the intent of evading payment of the waste levy, keeps, produces or makes a document or record and knows (or reasonably ought to know), that it contains information that is false or misleading, the maximum penalty is 2 years imprisonment, or a fine that is the greater of 2,000 penalty units or twice the waste levy which the person sought to evade.

Clause 17 proposes to amend section 265 of the Act and introduces section 265A, which relate to giving incomplete, false or misleading information to the chief executive. A maximum penalty of 1,665 penalty units applies. However, if the intention of providing the incomplete document is to evade the waste levy, then a maximum penalty applies of two years imprisonment or whichever the greater of 2,000 penalty units and twice the amount of any waste levy that was attempted to be avoided (plus interest).

Potential FLP issues

Penalties

A penalty should be proportionate to the offence. The Office of the Queensland Parliamentary Counsel (OQPC) Notebook states:

> *Legislation should provide a higher penalty for an offence of greater seriousness than for a lesser offence. Penalties within legislation should be consistent with each other.*[304]

[304] OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 120.

In relation to clause 7, the explanatory notes stated:

> *The amendment is justified because the current maximum penalty for larger volumes of waste may be less than the levy avoided. The new maximum penalty will be a disincentive to using illegal dumping to avoid the levy.*[305]

In relation to clauses 16 and 17, the explanatory notes stated:

> *The maximum penalties established under clauses 16 and 17 reflect the seriousness of these offences and the need to provide an effective deterrent to levy evasion. For example, a large levyable waste disposal site may receive over 50,000 tonnes of levyable waste per month. If it provided incomplete or false information about these deliveries resulting in avoidance of 25% of it [sic] true levy liability over a twelve month period, then the total levy avoided would exceed $10.5 million.*[306]

Under clause 6, significant penalties of 1,665 penalty units are to be imposed under sections 73A and 73B of the Act. These penalties relate to operators of a waste disposal site and offences relating to resource recovery areas. No further explanation is provided in the explanatory notes.

There are other penalties imposed, of varying amounts, such as 200 or 300 penalty units, but these have not been addressed as an FLP concern in the explanatory notes.

Committee comment

The committee noted the significant penalties proposed for illegal dumping of waste and deliberately evading payment of the waste levy and considered these penalties to be appropriate and justified given the serious nature of the offences.

3.1.1.2 Clauses 6 (sections 31, 32, 34, 47, 48, 50, 63, 72C, 72D, 72W) and 19 (sections 313, 314, 315, 320, 321)

Section 4(3)(a) of the LSA requires that legislation has sufficient regard to making rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.

The Bill proposes that an information notice is to be given in most circumstances where an application may be refused or where an application is approved subject to conditions. The receipt of an information notice triggers an entitlement to seek internal review of the decision. If not satisfied with the outcome of an internal review, an applicant may request an external review of the decision by the Queensland Civil and Administrative Tribunal.

Potential FLP issues

Previous committees have taken care to ensure adherence to the principle that there should be a review or appeal against the exercise of administrative power.

Committee comment

The committee is satisfied that sufficient review and appeal rights have been provided for and that there any FLP issues have been adequately addressed.

3.1.1.3 Clause 6 - Chapter 3, Part 5, Division 2, Subdivision 4 (Monitoring system sections 62-67)

Section 4(2)(a) of the LSA requires legislation to have sufficient regard to the rights and liberties of individuals and ensure the rights, obligations and liberties of individuals are only dependent on administrative power if the power is sufficiently defined and subject to appropriate review.

---

305 Explanatory notes, p 7.

306 Explanatory notes, p 8.

The proposed provisions require the operator to monitor (by CCTV or another approved system) vehicle movements at certain waste disposal sites. An operator of a waste disposal site will only be required to install the monitoring system where the operator has not complied with the obligation to pay the waste levy or provided the chief executive with a waste data return for the site.

The monitoring system will record each vehicle in a way that identifies the vehicle, such as by recording the vehicle's registration.[307]

Signage must be displayed to inform users of the site that a monitoring system is installed.

Access to the monitoring system must generally be restricted to the operator or a person authorised by the operator. Recordings made using the equipment must also be stored in a secure place at the premises. Recordings must be kept for inspection and viewing by an authorised person for a minimum of 60 days. Only an authorised person, the operator, or a person approved by the operator are permitted to view the recordings, erase or destroy them. The recordings must be erased or destroyed after 90 days.

Penalties of up to 200 penalty units apply for breach of these provisions.

Potential FLP issues

Privacy and confidentiality issues are relevant to the consideration of whether legislation has sufficient regard to an individual's rights and liberties.

The explanatory notes stated:

> *The requirement (to install monitoring systems) is considered necessary to address the risk of further levy evasion by operators who fail to accurately report the movements of waste at the site which are used to calculate the levy. The recordings of certain movements will be able to be checked against the detailed data return required to be recorded for waste movements.*

…

> *The monitoring system recording will only need to be capable of identifying the vehicle being used to move the waste, for example from its number plate. It will not need to identify individuals.*[308]

Committee comment

The committee noted:

- while an individual may be captured by the monitoring system, this could be seen as incidental, as the objective of the provisions is to capture the vehicle details for the purpose of checking waste movements against other data, and
- there are also a number of safeguards to protect any personal information, such as restrictions on who may view the recordings and the length of time they are kept and penalties apply for breaches against these provisions.

The committee considered that given the objective of the provisions (to record vehicle information only to prevent further evasion by operators) and the safeguards provided in relation to the recordings, any breach of FLPs is justified.

3.1.2 Institution of Parliament

Section 4(2)(b) of the LSA requires legislation has sufficient regard to the institution of Parliament.

307 Explanatory notes, p 24.

308 Explanatory notes, p 8.

3.1.2.1 Clause 6 – sections 37, 58, 64, 70, 72Y, 72Z, 323, 324, 72A, 72X, 60

Section 4(3)(c) of the LSA requires legislation has sufficient regard to allow the delegation of administrative power only in appropriate cases and to appropriate persons. Section 4(4)(a) requires a Bill has sufficient regard to allow the delegation of legislative power only in appropriate cases and to appropriate persons.

A number of provisions delegate legislative power to regulation:

- proposed new section 37 states that the waste levy for each type of waste will be prescribed in regulations
- proposed new section 58(2)(a) provides that the installation and operation of a weighbridge complies with requirements prescribed in regulations
- proposed new section 64(3)(b), (c) and (d) relate to the monitoring system, minimum requirements, maintenance and storing or recordings. These provisions will be prescribed by regulation
- proposed new section 70 states that requirements for volumetric surveys are to be prescribed in regulations
- proposed new section 72Y provides that requirements for volumetric surveys for resource recovery areas in a waste levy zone are to be prescribed in regulations
- proposed new section 72Z states that requirements for volumetric surveys for resource recovery areas in non-levy zone are to be prescribed in regulations
- proposed new section 323 states that volumetric surveys of levyable waste disposal site to be carried out within stated period in compliance with requirements prescribed by regulation
- proposed new section 324 provides that volumetric surveys of resource recovery area to be carried out within stated period in compliance with requirements prescribed by regulation
- proposed new section 72A states the operator of levyable waste disposal site is to keep records prescribed by regulation, and
- proposed new section 72X states that the entity responsible for operation of a resource recovery area must keep documents or records for the area as prescribed by regulation.

The following sections provide that certain information required will be published on the department's website:

- proposed new section 60 states that where it is impractical to use the weighbridge, the operator must record information required by the chief executive. This information required must be published on the department's website
- proposed new section 61 states that where waste is measured other than by weighbridge, a record made by the operator must include information required by the chief executive and this information will be published on the department's website, and
- proposed new section 72 provides that the operator of a levyable waste disposal site must give the chief executive the waste data return in the way decided by the chief executive as published on the department's website.

Potential FLP issues

Section 4(4)(a) of the LSA provides that a Bill should allow the delegation of legislative power only in appropriate cases and to appropriate persons. As noted in the OQPC FLP Notebook, this matter is concerned with the level at which delegated legislative power is used.

Generally, the greater the level of political interference with individual rights and liberties, or with the institution of Parliament, the greater the likelihood that the power should be prescribed in an Act of Parliament and not delegated below Parliament.

In relation to levy rate and levy calculation to be prescribed by regulation, the explanatory notes stated:

> *… It is arguable that all key components for the new levy should be contained in primary legislation. However, it is also necessary to ensure that the levy rate can be adjusted where necessary to achieve the objectives of the proposed Bill, especially by acting as a price signal that encourages waste avoidance and resource recovery behaviour, and discourages disposal as the first option.*[309]

The explanatory notes discussed additional requirements to be prescribed by regulation, including regarding weighbridges, monitoring systems, volumetric surveys, record keeping and resource recovery areas:

> *… Although learnings from interstate levy schemes and the former Queensland levy arrangements have been incorporated in the requirements of the Bill, it is not possible to foresee all the operational issues that may emerge when implementing such a significant reform as the waste levy. These provisions will enable minor issues to be addressed by regulation. The making of a regulation to prescribe additional requirements may require impact assessment under The Queensland Government Guide to Better Regulation requirements and would be subject to Parliamentary oversight via the tabling and disallowance requirements for a regulation.*[310]

The Bill provides for the chief executive to publish specifications for required data:

> *The detail of the requirements published by the chief executive about the information recorded and how it is to be submitted is not amenable to a regulation, particularly where it concerns information that will ultimately be submitted as a detailed data return. This is because it will include technical specifications that will ultimately ensure compatibility of the data with the department's administration and monitoring systems when it is uploaded. In essence, the chief executive's powers to particularise what information must be recorded (sections 60 and 61) and submitted (section 72) in a certain way is equivalent to requiring the information to be recorded and submitted in an approved form.*[311]

Committee comment

Given the justifications provided in the explanatory notes, the committee is satisfied that sufficient regard has been had to fundamental legislative principles in these respects.

309 Explanatory notes, p 7.

310 Explanatory notes, p 6.

311 Explanatory notes, p 7.

3.2 Explanatory notes

Part 4 of the LSA 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 sufficient level of background information and commentary to facilitate understanding of the Bill's aims and origins.

3.3 Annexure A – Proposed New or Amended Offence Provisions

[NOTE: ONE PENALTY UNIT = $130.55]

Clause	Offence	Proposed maximum penalty
6	**38 Offence to remove waste from levyable waste disposal site in particular circumstances** The operator of a levyable waste disposal site must not, for sale or other commercial gain, remove from the site waste for which the waste levy was, or is to be, paid to the State. Maximum penalty—50 penalty units.	50 penalty units
6	**53 Person delivering waste to levyable waste disposal site to give information** (1) This section applies if a person delivers waste to a levyable waste disposal site. (2) The person must give the operator of the levyable waste disposal site the information (the ***delivery information***) that the operator reasonably requires to identify— (a) how much of the waste is exempt waste and how much of it is levyable waste; and (b) for each type of waste required to be measured by the operator under section 59—how much waste there is; and (c) whether the waste was generated in the waste levy zone, the non-levy zone or outside Queensland. Maximum penalty—300 penalty units.	300 penalty units
6	**53** (5) If the operator of the levyable waste disposal site asks the person to give the operator the delivery information in the approved form, the person must comply with the request unless the person has a reasonable excuse. Maximum penalty—300 penalty units. (6) If a person (the ***principal***) engages or directs another person to deliver waste on behalf of the principal, it is a defence for subsection (2) or (5) for the principal to prove—	300 penalty units

	(a) the principal gave the other person appropriate instructions; and (b) the principal used all reasonable precautions to ensure the other person complied with this section; and (c) the principal could not by the exercise of reasonable diligence have stopped the commission of the offence. (7) Nothing in this section prevents the person from giving delivery information for more than 1 consignment of waste to be delivered to the levyable waste disposal site.	
6	**54 Person delivering particular waste to give information** (1) This section applies if— (a) a person delivers waste to— (i) a resource recovery and transfer facility in the non-levy zone; or (ii) an entity conducting a recycling activity in the non-levy zone; and (b) the waste was generated outside the non-levy zone; and (c) the person delivers the waste in a vehicle with a GCM or GVM of more than 4.5 tonnes. (2) The person must, at least 24 hours before delivering the waste, give the operator of the resource recovery and transfer facility or entity the information (the ***delivery information***) that the operator or entity reasonably requires to identify— (a) how much of the waste is exempt waste and how much of it is levyable waste; and (b) whether the waste was generated in the waste levy zone or outside Queensland. Maximum penalty—300 penalty units. (3) However, subsection (2) does not apply to the person if the person knows the operator or entity already has the delivery information when it is required under that subsection. *Example—* The person delivering the waste to a resource recovery and transfer facility is the operator of the facility. (4) If the operator or entity asks the person to give the delivery information to the operator or entity in the approved form, the person must comply with the request unless the person has a reasonable excuse. Maximum penalty—300 penalty units.	300 penalty units 300 penalty units
6	**55 Giving false or misleading information when delivering waste** (1) This section applies to a person delivering waste to—	

	(a) a levyable waste disposal site; or (b) a resource recovery and transfer facility in the non-levy zone; or (c) an entity conducting a recycling activity in the non-levy zone. (2) The person must not give the operator or entity information about the waste that the person knows is false or misleading in a material particular. Maximum penalty—300 penalty units. (3) However, subsection (2) does not apply to the person if the person, when giving information in a document— (a) tells the operator or entity, to the best of the person's ability, how the document is false or misleading; and (b) if the person has, or can reasonably obtain, the correct information—gives the correct information. (4) To remove any doubt, it is declared that subsection (2) applies to any information whether or not the person is required to give the information under section 53 or 54. (5) In this section— ***operator*** means the operator of the levyable waste disposal site or resource recovery and transfer facility. ***resource recovery and transfer facility*** see section 54(7).	300 penalty points
6	**57 Weighbridge required** (1) This section applies to the operator of a levyable waste disposal site from the beginning of the day on— (a) if the operator is required to hold an environmental authority for the disposal of more than 10,000 tonnes of waste in a year at the site—4 March 2019; or (b) if the operator is required to hold an environmental authority for the disposal of more than 5,000 tonnes, but not more than 10,000 tonnes, of waste in a year at the site—1 July 2021; or (c) for any other operator—1 July 2024. (2) If the levyable waste disposal site is in the waste levy zone, the operator must ensure a weighbridge is installed at the site. Maximum penalty—300 penalty units. (3) If the levyable waste disposal site is in the non-levy zone and receives at least 600 tonnes of levyable waste generated outside the non-levy zone during a year, the operator must ensure a weighbridge is installed at the site by 30 June in the following year. Maximum penalty—300 penalty units.	300 penalty units 300 penalty units

	(4) For the period from 1 January 2019 to 31 December 2019, only levyable waste received at a levyable waste disposal site between 4 March 2019 and 31 December 2019 is to be counted for subsection (3).	
6	**58 Weighbridge requirements** (1) This section applies to the operator of a levyable waste disposal site at which a weighbridge is installed. (2) The operator must ensure that— (a) the installation and operation of the weighbridge complies with the requirements prescribed by regulation for the weighbridge; and (b) the weighbridge is kept in proper working order; and (c) a copy of any record of certification for the weighbridge obtained in complying with the *National Measurement Act 1960* (Cwlth) is kept by the operator for 5 years after the certification. Maximum penalty—200 penalty units. (3) If the weighbridge is out of operation, the operator must— (a) bring the weighbridge back into operation in the shortest practicable time; and (b) keep a written record detailing the period for which the weighbridge was out of operation and the reason it was out of operation. Maximum penalty—200 penalty units. (4) Further, if the weighbridge is out of operation for a period of more than 24 hours, the operator must notify the chief executive of the following details within 3 days after the weighbridge first became out of operation, whether or not the weighbridge is still out of operation— (a) the event that resulted in the weighbridge being out of operation; (b) when the weighbridge first became out of operation; (c) whether the weighbridge is still out of operation; (d) if the weighbridge is still out of operation— what actions are being taken to bring the weighbridge back into operation. Maximum penalty—200 penalty units. (5) If the weighbridge is still out of operation when the chief executive is notified under subsection (4), the operator must notify the chief executive of its being brought back into operation within 3 days after it starts operating again. Maximum penalty—200 penalty units.	200 penalty units 200 penalty units 200 penalty units 200 penalty units

6	**60 Measurement of waste by weighbridge** (1) This section applies if a weighbridge is installed at a waste disposal site, whether or not it is required under section 57. (2) Each time waste or other material is required to be measured under section 59, the operator of the waste disposal site must ensure the weighbridge is used to measure and record the waste or other material. Maximum penalty—300 penalty units. *Note—* See also section 42. (3) However, if it is not practicable to use the weighbridge to measure and record a particular amount of waste or other material, the operator may measure and record the waste in the way the operator and the chief executive agree to in writing. *Examples of something that is impracticable to weigh using a weighbridge—* • a large aircraft • a large amount of waste that is taken to be delivered to the levyable part of a waste disposal site because of a cancellation or revocation of the declaration of the resource recovery area (4) The operator of the waste disposal site must ensure a record made under subsection (2) includes the information required by the chief executive. Maximum penalty—300 penalty units. (5) The information required by the chief executive under subsection (4) must be published on the department's website and may include only— (a) the type of waste or other material; and (b) whether the waste was generated in the waste levy zone, the non-levy zone or outside Queensland; and (c) details of any exemption or discount applying to the waste; and (d) the vehicle used to move the waste or other material. (6) If the weighbridge is not in operation when an amount of waste or other material is required to be measured under section 59, the operator of the waste disposal site must ensure the waste or other material is measured and recorded in compliance with the weight measurement criteria. Maximum penalty—300 penalty units.	300 penalty units 300 penalty units 300 penalty units

6	**61 Measurement of waste other than by weighbridge** (1) This section applies if a weighbridge is not installed at a waste disposal site. (2) Each time waste or other material is required to be measured under section 59, the operator of the waste disposal site must ensure the waste or other material is measured and recorded in compliance with the weight measurement criteria. Maximum penalty—300 penalty units. *Note—* See also section 42. (3) The operator of the waste disposal site must ensure a record made under subsection (2) includes the information required by the chief executive. Maximum penalty—300 penalty units. (4) The information required by the chief executive under subsection (3) must be published on the department's website and may include only— (a) the type of waste or material; and (b) whether the waste was generated in the waste levy zone, the non-levy zone or outside Queensland; and (c) details of any exemption or discount applying to the waste; and (d) the vehicle used to move the waste or material.	300 penalty units 300 penalty units
6	**63 When monitoring system may be required by chief executive** (1) This section applies if the chief executive reasonably believes the operator of a waste disposal site has not complied with the operator's obligation under this chapter to pay the waste levy or give the chief executive a waste data return for the site. (2) The chief executive may, by notice given to the operator, require the operator to install, maintain and operate a monitoring system at the site to record vehicle movements at the locations (each a ***monitoring point***) stated in the notice. (3) The notice must also— (a) state the day by which the monitoring system must be installed; and (b) include or be accompanied by an information notice for the chief executive's decision to give the notice. (4) The operator must comply with the notice. Maximum penalty—200 penalty units.	200 penalty units

6	**64 Requirements for monitoring system** (1) This section applies to the operator of a waste disposal site given a notice under section 63 requiring the operator to install, maintain and operate a monitoring system. (2) The operator must comply with the obligations stated in subsections (3) and (5). Maximum penalty—200 penalty units. (3) The operator must— (a) display signage at the waste disposal site in a way that is likely to make persons arriving at the site aware that a monitoring system is installed at the site; and (b) ensure the monitoring system— (i) meets the minimum requirements prescribed by regulation for the system; and (ii) is kept in proper working order; and (iii) records vehicles at each monitoring point in a way that identifies the vehicles; and *Example of a way that identifies a vehicle*— an image of the vehicle's registration (c) comply with any requirements prescribed by regulation about maintaining the monitoring system; and (d) store each recording in a secure place at the premises in compliance with any requirements prescribed by regulation for the storage; and (e) keep each recording available for inspection by an authorised person at the premises until the recording is erased or destroyed in compliance with paragraph (f); and (f) ensure a recording— (i) is only erased or destroyed by the operator or a person approved by the operator; and (ii) is not erased or destroyed earlier than 60 days after it was made; and (iii) is erased or destroyed no later than 90 days after it was made. (4) However, if a copy of a recording is given to an authorised person, the recording— (a) need only be kept available for inspection by an authorised person until the authorised person has confirmed by written notice that the recording is viewable; and (b) may be destroyed once the authorised person has confirmed by written notice that the recording is viewable.	200 penalty units

	(5) The operator must not— (a) allow the monitoring system to be operated by anyone other than— (i) the operator of the site; or (ii) a person approved by the operator; or (b) allow a recording to be viewed by anyone other than an authorised person or a person mentioned in paragraph (a). (6) In this section— ***monitoring point*** means a monitoring point under section 63(2). ***recording*** means a video recording made by the monitoring system.	
6	**65 Requirements if monitoring system stops operating** (1) This section applies to the operator of a waste disposal site given a notice under section 63 requiring the operator to install, maintain and operate a monitoring system. (2) If the monitoring system stops recording, the operator must— (a) bring the system back into operation in the shortest practicable time; and (b) keep a written record detailing the period within which the system was not recording and the reason it was not recording. Maximum penalty—100 penalty units. (3) Further, if any event results in the monitoring system not recording for any period of more than 24 hours, the operator must notify the chief executive of the following details within 3 days after the system stops recording, whether or not the system is still not recording— (a) the event that resulted in the monitoring system not recording; (b) when the monitoring system stopped recording; (c) whether the monitoring system is still not recording; (d) if the monitoring system is still not recording—what actions are being taken to bring the monitoring system back into operation. Maximum penalty—100 penalty units. (4) If the monitoring system is still not recording when the chief executive is notified under subsection (3) but later starts recording again, the operator must notify the chief executive that it is recording again within 3 days after it starts recording. Maximum penalty—100 penalty units.	100 penalty units 100 Penalty units 100 penalty units

6	**66 Operators required to give chief executive plan for monitoring system** (1) This section applies to the operator of a waste disposal site given a notice under section 63 requiring the operator to install, maintain and operate a monitoring system. (2) The operator must give the chief executive a plan for the monitoring system complying with subsection (3) within 21 days after the day the operator is required under the notice to install the monitoring system. Maximum penalty—40 penalty units. (3) The plan for the monitoring system must contain a diagram of the system indicating the following in relation to the waste disposal site— (a) how the components that comprise the system have been positioned; (b) the scope of the coverage of recordings by the system.	40 penalty units
6	**Subdivision 5 Volumetric surveys** **67 Volumetric survey for levyable waste disposal site in waste levy zone** (1) From 1 June 2020, the operator of a levyable waste disposal site in the waste levy zone must, in each year, in compliance with the requirements for volumetric surveys under section 70— (a) ensure that a volumetric survey is carried out in June for— (i) each landfill cell where waste has been disposed of since the last volumetric survey required under this subdivision was carried out; and (ii) all stockpiled waste at the site; and (b) give the chief executive a copy of the results of the volumetric surveys required under paragraph (a) before the end of July. Maximum penalty—200 penalty units. (2) This section continues to apply to the operator— (a) regardless of whether waste may no longer be delivered to the site; and (b) even if the site ceases to be a levyable waste disposal site. (3) However, if a matter mentioned in subsection (2) happens, the carrying out of the survey and the giving of a copy of the results to the chief executive may happen earlier than when otherwise required under subsection (1). (4) This section does not apply to a small site until 1 June 2022.	200 penalty units

6	**68 Volumetric survey for levyable waste disposal site in non-levy zone in particular circumstances** (1) This section applies to the operator of a levyable waste disposal site if— (a) the site is in the non-levy zone; and (b) at least 600 tonnes of levyable waste, generated outside the non-levy zone, is received at the site during a year. (2) The operator of the levyable waste disposal site must— (a) ensure that a volumetric survey is carried out between 1 January and 30 June of the following year for— (i) each active landfill cell at the site; and (ii) all stockpiled waste at the site; and (b) give the chief executive a copy of the results of the survey before the end of July in the following year. Maximum penalty—200 penalty units. (3) The volumetric survey must be carried out in compliance with the requirements applying for volumetric surveys under section 70. (4) This section continues to apply to the operator— (a) regardless of whether waste may no longer be delivered to the site; and (b) even if the site ceases to be a levyable waste disposal site. (5) However, if a matter mentioned in subsection (4) happens, the carrying out of the survey and the giving of a copy of the results to the chief executive may happen earlier than when otherwise required under subsection (2). (6) This section does not apply to a small site until 1 June 2022. (7) For the period from 1 January 2019 to 31 December 2019, only levyable waste received at a levyable waste disposal site between 4 March 2019 and 31 December 2019 is to be counted for subsection (1)(b).	200 penalty units
6	**69 Volumetric survey for new landfill cells** (1) This section applies to the operator of— (a) a levyable waste disposal site in the waste levy zone; or (b) a levyable waste disposal site in the non-levy zone if at least 600 tonnes of levyable waste generated outside the non-levy zone was received at the site during the preceding 12 months. (2) Before a landfill cell is used for the first time for disposing of waste to landfill at the site, the operator of the site must, in compliance with the requirements applying for volumetric surveys under section 70—	

	(a) ensure that a volumetric survey is carried out for the landfill cell; and (b) before the end of the month immediately following the month in which the volumetric survey is carried out, give the chief executive a copy of the results of the survey in the approved form. Maximum penalty—200 penalty units. (3) This section applies whether or not waste has previously been disposed of to landfill at the levyable waste disposal site.	200 penalty units
6	**Subdivision 6 Waste data returns** **72 Submission of waste data returns** (1) The operator of a levyable waste disposal site must give the chief executive the returns (each a ***waste data return***) required of the operator under subsections (2) and (3)— (a) by the due date for the site; and (b) in the way decided by the chief executive as published on the department's website. Maximum penalty—300 penalty units. (2) Each of the following operators must give the chief executive a summary data return— (a) the operator of a levyable waste disposal site in the waste levy zone; (b) the operator of a levyable waste disposal site in the non-levy zone if any levyable waste, generated at a place outside the non-levy zone, is received at the site during the levy period to which the return relates. (3) Each of the following operators must give the chief executive a detailed data return— (a) the operator of a levyable waste disposal site in the waste levy zone if— (i) the operator is required to hold an environmental authority for the disposal of more than 10,000 tonnes of waste in a year at the site; or (ii) from 1 July 2021—the operator is required to hold an environmental authority for the disposal of more than 5,000 tonnes, but not more than 10,000 tonnes, of waste in a year at the site; or (iii) from 1 July 2024—the operator is not mentioned in subparagraph (i) or (ii); (b) the operator of a levyable waste disposal site in the non-levy zone if—	300 penalty units

	(i) the operator is required to hold an environmental authority for the disposal of more than 10,000 tonnes of waste in a year at the site; and (ii) at least 50 tonnes of levyable waste, generated outside the non-levy zone, is received at the site during the levy period to which the return relates. (4) However, subsection (3) does not apply to the operator of a section 325 small site. (5) In this section— ***detailed data return*** means a return providing comprehensive information about all movements of waste and other material required to be measured under section 59. ***due date***, for a levyable waste disposal site, means— (a) the end of the last business day of the month following the end of a levy period for the site; or (b) if the chief executive grants an extension of time under section 72G, 72H or 72I for submitting the returns for the site—the end of the extension. ***summary data return*** means a return providing a summary of information, required to be measured under section 59, that the chief executive may use to calculate amounts payable for a particular levy period for a levyable waste disposal site.	
6	**Subdivision 7 Record keeping** **72A Operator of levyable waste disposal site to keep particular documents** The operator of a levyable waste disposal site must keep at the site, or at another place agreed to by the chief executive and the operator, each of the following documents for the period stated for the document— (a) a copy of a waste data return for 5 years after the return is given to the chief executive; (b) records containing any information that was used to support the preparation of a waste data return, including each of the following records, for 5 years after the return is given to the chief executive— (i) weighbridge records; (ii) if weight measurement criteria were used—records of vehicles delivering waste to the site; (iii) for small sites that have used an alternative methodology under section 325, records that enable the chief executive to fairly work out the total waste levy amount owing for the site in a levy period;	

	(c) a record required to be kept under section 58(3)(b) and section 65(2)(b) for 5 years after the record is made; (d) a copy of the results of a volumetric survey of a landfill cell at the site for 5 years after the survey is carried out; (e) a copy of the results of a volumetric survey of stockpiled waste at the site for 5 years after the survey is carried out; (f) a copy of a notice the operator is required to give the chief executive under this chapter for 5 years after giving the notice; (g) any other record prescribed by regulation for the period prescribed by regulation. Maximum penalty—300 penalty units.	300 penalty units
6	**Division 2 Obligations relating to resource recovery area** **72X Requirement to keep documents** An entity having responsibility for the operation of a resource recovery area must keep the following documents for at least 5 years after the event that is the subject of the document happens— (a) any document that records waste delivered to the area, including its measurements; (b) any document that records waste or other material removed from the area as mentioned in section 59(d), including its measurements; (c) a copy of the results of a volumetric survey of the area carried out under section 72Y or 72Z; (d) any document that records any other event for the area as prescribed by regulation. Maximum penalty—300 penalty units.	300 penalty units
6	**72Y Volumetric survey for resource recovery area in waste levy zone** (1) From 1 June 2020, this section applies for a resource recovery area for a waste disposal site in the waste levy zone. (2) The entity having responsibility for the operation of the resource recovery area must, in each year— (a) ensure that a volumetric survey is carried out in June for all stockpiled waste at the resource recovery area; and (b) give the chief executive a copy of the results of the volumetric survey in the approved form before the end of July. Maximum penalty—200 penalty units.	200 penalty units

	(3) The volumetric survey must be carried out in compliance with the requirements prescribed by regulation. (4) The results of the volumetric survey must— (a) be in electronic form; and (b) include a topographical plan complying with the specifications advised by the chief executive; and (c) include details of the following— (i) the area of the resource recovery area; (ii) the stockpiles of waste, including recyclable waste, at the area; and (d) be certified as accurate by a surveyor under the *Surveyors Act 2003*. (5) This section continues to apply to the entity having responsibility for the operation of the resource recovery area even if the declaration of the area as a resource recovery area is cancelled or revoked. (6) However, if a matter mentioned in subsection (5) happens, the carrying out of the survey and the giving of a copy of the results to the chief executive may happen earlier than when otherwise required under subsection (2). (7) This section does not apply to a resource recovery area for a small site until 1 June 2022.	
6	**72Z Volumetric survey for resource recovery area in non-levy zone** (1) This section applies for a resource recovery area declared for a waste disposal site if— (a) the site is in the non-levy zone; and (b) at least 600 tonnes of levyable waste, generated outside the non-levy zone, was received at the resource recovery area during a year. (2) The entity having responsibility for the operation of the resource recovery area must— (a) before the end of June of the following year, ensure a volumetric survey is carried out for all stockpiled waste at the resource recovery area; and (b) before the end of July in the following year, give the chief executive a copy of the results of the survey in the approved form. Maximum penalty—200 penalty units. (3) The volumetric survey must be carried out in compliance with the requirements prescribed by regulation. (4) The results of the volumetric survey must—	200 penalty units

	(a) be in electronic form; and (b) include a topographical plan complying with specifications advised by the chief executive; and (c) include details of the following— (i) the area of the resource recovery area; (ii) the stockpiles of waste, including recyclable waste, at the area; and (d) be certified as accurate by a surveyor under the *Surveyors Act 2003*. (5) This section continues to apply to the entity having responsibility for the operation of the resource recovery area even if the declaration of the area as a resource recovery area is cancelled or revoked. (6) However, if a matter mentioned in subsection (5) happens, the carrying out of the survey and the giving of a copy of the results to the chief executive may happen earlier than when otherwise required under subsection (2). (7) This section does not apply to a resource recovery area declared for a small site until 1 June 2022. (8) For the period from 1 January 2019 to 31 December 2019, only levyable waste received at a levyable waste disposal site between 4 March 2019 and 31 December 2019 is to be counted for subsection (1)(b).	
6	**73A Obligations of entity responsible for operation of resource recovery area** (1) This section applies if the operator of a waste disposal site has declared, or claims to have declared, an area as a resource recovery area under section 72S. (2) The entity having responsibility for the operation of the resource recovery area must ensure— (a) there is not an active landfill cell within the area; and (b) the area complies with the requirements for the area prescribed by regulation; and (c) the physical barrier between the resource recovery area and the rest of the waste disposal site complies with the requirements prescribed by regulation; and (d) the points of access allowing vehicles to move between the area and the rest of the waste disposal site comply with the requirements prescribed by regulation. Maximum penalty—1,665 penalty units.	1,665 penalty units

6	**73B False claims about resource recovery area** (1) The operator of a waste disposal site must not claim to have a resource recovery area for the site if— (a) the operator has not declared the area under section 72S; or (b) the declaration of the area has been cancelled or revoked under section 72V or 72W. Maximum penalty—1,665 penalty units. (2) The operator of a waste disposal site must not falsely claim a part of the site is within the resource recovery area for the site. Maximum penalty—1,665 penalty units.	1,665 penalty units 1,665 penalty units
6	**73C Changes affecting resource recovery area requiring notification** (1) This section applies for a waste disposal site if a declaration of a resource recovery area is in effect for the site. (2) If there is a change to the physical barrier or points of access for the resource recovery area that does not change the boundaries of the area, the operator of the waste disposal site must do all of the following within 7 days after the change happens— (a) amend the plan of the waste disposal site; (b) give the chief executive notice of the change in the approved form; (c) give the chief executive a copy of the amended plan of the waste disposal site indicating the resource recovery area and clearly showing the physical barrier and points of access for the area. Maximum penalty—300 penalty units. (3) If the recycling activities declared to be conducted in the resource recovery area change, the operator of the waste disposal site must advise the chief executive of the change within 7 days after the change happens. Maximum penalty—100 penalty units. (4) If there is a change of the entity having responsibility for the operation or the resource recovery area, the entity having responsibility for the operation of the area immediately before the change must notify the chief executive of the change within 7 days after the change happens. Maximum penalty—100 penalty units.	300 penalty units 100 penalty units 100 penalty units

7	**Part 7 Miscellaneous** **Amendment of s 104 (Illegal dumping of waste provision)** Section 104(1), penalty— *omit, insert—* Maximum penalty— (a) if the offence involves depositing a volume of less than 2,500L of waste—400 penalty units; or (b) if the offence involves depositing a volume of 2,500L or more of waste—whichever is the greater of the following amounts— (i) 1,000 penalty units; (ii) a fine that is twice the waste levy amount that would have been payable, when the waste was dumped, by the operator of a levyable waste disposal site if the waste had been delivered to the site.	400 penalty units 1,000 penalty units
16	**Amendment of s 264 (General duties about documents or records)** Section 264— *insert—* (3) However, if a person contravenes subsection (1) or (2) with the intent to evade payment of the waste levy, the person is liable to a maximum penalty of— (a) 2 years imprisonment; or (b) whichever is the greater of the following amounts— (i) 2,000 penalty units; (ii) a fine that is twice the waste levy amount the payment of which the person sought to evade, and twice the amount of any interest payable in relation to the failure to pay the waste levy amount by the due date for its payment.	2 years imprisonment 2,000 penalty units
17	**Replacement of s 265 (Giving chief executive false or misleading information)** Section 265— *omit, insert—* **265 Giving chief executive false or misleading information** (1) A person must not, in relation to the administration of this Act, give the chief executive information the person knows is false or misleading in a material particular. Maximum penalty—1,665 penalty units.	1,665 penalty units

	(2) However, if the person gave the information to the chief executive with the intent to evade payment of the waste levy, the person is liable to a maximum penalty of— (a) 2 years imprisonment; or (b) whichever is the greater of the following amounts— (i) 2,000 penalty units; (ii) a fine that is twice the waste levy amount the payment of which the person sought to evade, and twice the amount of any interest payable in relation to the failure to pay the waste levy amount by the due date for its payment. (3) Subsection (1) applies to information given in relation to the administration of this Act whether or not the information was given in response to a specific power under this Act. (4) Subsection (1) does not apply to a person if the person, when giving information in a document— (a) tells the chief executive, to the best of the person's ability, how the document is false or misleading; and (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.	2 years imprisonment 2,000 penalty units
17	**265A Giving chief executive incomplete information** (1) This section applies to a person who is required under chapter 3 to give a document to the chief executive. (2) The person must not give the chief executive a document the person knows, or ought reasonably to know, contains incomplete information in a material particular. Maximum penalty—1,665 penalty units. (3) However, if the person gave the document to the chief executive with the intent to evade payment of the waste levy, the person is liable to a maximum penalty of— (a) 2 years imprisonment; or (b) whichever is the greater of the following amounts— (i) 2,000 penalty units; (ii) a fine that is twice the waste levy amount the payment of which the person sought to evade, and twice the amount of any interest payable in relation to the failure to pay the waste levy amount by the due date for its payment. (4) Subsection (2) does not apply to a person if the person, when giving document— (a) tells the chief executive of the extent to which the document is incomplete; and	1,665 penalty units 2 years imprisonment 2,000 penalty units

	(b) if the person has, or can reasonably obtain, the complete information—gives the information. (5) It is enough for a complaint for an offence against subsection (2) to state the person knew, or ought reasonably to have known, the document was incomplete, without specifying whether the person knew it was incomplete or whether the person ought reasonably to have known it was incomplete.	
19	**323 Volumetric survey of levyable waste disposal site to be carried out within stated period** (1) Between 4 February 2019 and the end of April 2019, the operator of a levyable waste disposal site in the waste levy zone must— (a) ensure that a volumetric survey is carried out for— (i) each active landfill cell at the site; and (ii) all stockpiled waste at the site; and (b) give the chief executive a copy of the results of the survey in the approved form. Maximum penalty—200 penalty units. (2) The volumetric survey must be carried out in compliance with the requirements prescribed by regulation. (3) The results of the volumetric survey must— (a) be in electronic form; and (b) include a topographical plan complying with specifications advised by the chief executive; and (c) include details of the following— (i) the area of the levyable waste disposal site; (ii) the site's landfill capacity; (iii) the stockpiles of waste at the site; and (d) be certified as accurate by a surveyor under the *Surveyors Act 2003*. (4) After carrying out the volumetric survey under this section, the operator must ensure that a copy of the results of the survey is kept as a document in hard copy form at the levyable waste disposal site for at least 5 years after the survey is carried out. Maximum penalty—200 penalty units. (5) Subsections (6) and (7) apply if the operator of a levyable waste disposal site fails to comply with subsection (1). (6) The chief executive may arrange for the volumetric survey to be carried out at the site and for that purpose may direct an authorised person to enter the site and carry out the survey.	200 penalty units 200 penalty units

	(7) The chief executive may recover the cost of carrying out the volumetric survey from the operator as a debt payable by the operator to the State.	
19	**324 Volumetric survey of resource recovery area to be carried out within stated period** (1) Between 4 February 2019 and the end of April 2019, the entity having responsibility for the operation of a resource recovery area must— (a) ensure that a volumetric survey is carried out for all stockpiled waste at the area; and (b) give the chief executive a copy of the results of the survey in the approved form. Maximum penalty—200 penalty units. (2) The volumetric survey must be carried out in compliance with the requirements prescribed by regulation. (3) The results of the volumetric survey must— (a) be in electronic form; and (b) include a topographical plan complying with specifications advised by the chief executive; and (c) include details of the following— (i) the area of the resource recovery area; (ii) the stockpiles of waste at the area; and (d) be certified as accurate by a surveyor under the *Surveyors Act 2003*. (4) After carrying out the volumetric survey under this section, the entity must ensure that a copy of the results of the survey is kept as a document in hard copy form at the levyable waste disposal site for at least 5 years after the survey is carried out. Maximum penalty—200 penalty units. (5) Subsections (6) and (7) apply if an entity having responsibility for the operation of a resource recovery area fails to comply with subsection (1). (6) The chief executive may arrange for the volumetric survey to be carried out at the resource recovery area and for that purpose may direct an authorised person to enter the area and carry out the survey. (7) The chief executive may recover the cost of the volumetric survey from the entity as a debt payable by the entity to the State.	200 penalty units 200 penalty units

Appendix A – Submitters

Sub #	Submitter
1	Waste Recycling Industry Association (QLD) Inc.
2	North Burnett Regional Council
3	Wide Bay Burnett Environment Council
4	Western Downs Regional Council
5	Sunshine Coast Council
6	Health, Environment & Waste Branch, Logan City Council
7	Conny Turni
8	Queensland Local Government Reform Alliance Inc.
9	Gary Duffy
10	Queensland Resources Council
11	Queensland Farmers' Federation
12	Moreton Bay Regional Council
13	Tablelands Regional Council
14	Burdekin Shire Council
15	Housing Industry Association Limited
16	Brisbane City Council
17	Charters Towers Regional Council
18	Bundaberg Regional Council
19	Chamber of Commerce and Industry Queensland
20	Australian Council of Recycling
21	Glencore North Queensland
22	Gold Coast City Council
23	Rockhampton Regional Waste and Recycling, Rockhampton Regional Council
24	Mackay Regional Council
25	HQPlantations
26	Master Builders Queensland

27 South Burnett Regional Council

28 Waste Management Association of Australia

29 Isaac Regional Council

30 Property Council of Australia

31 Whitsunday Regional Council

32 Natalie Deacon

33 Noosa Council

34 Townsville City Council

35 Mt Isa City Council

36 Local Government Association of Queensland

37 Maranoa Regional Council

Appendix B – Officials at public departmental briefing

Department of Environment and Science

- Adrian Jeffreys, Executive Director, Waste Levy Taskforce
- Marguerite Clarke, Director, Waste Levy Taskforce

Appendix C – Witnesses at public hearings

Ipswich

Local Government Association of Queensland

- Luke Hannan, Manager – Planning, Development & Environment
- Joshua O'Keefe, Manager - Intergovernmental Relations

Western Downs Regional Council

- Ross Musgrove, Chief Executive Officer
- Todd Summerville, Planning & Environment Manager

Moreton Bay Regional Council

- Angelika Hesse, Manager Waste Services - Engineering, Construction & Maintenance

Mt Isa City Council

- Cr Joyce McCulloch, Mayor
- Sharon Ibardolaza, Chief Executive Officer

Bundaberg Regional Council

- Kerry Dalton, Coordinator Waste & Recycling (Compliance)

Mackay Regional Council

- Jason Grandcourt, Manager Waste Services

Master Builders Queensland

- Paul Bidwell, Deputy Chief Executive Officer
- Melanie Roberts, Manager Safety & Environment

Housing Industry Association

- Garry Sharman, Assistant Director - Planning, Development and Environment,

HQPlantations Pty Ltd

- Stephanie Hunt, Community Engagement

Queensland Local Government Reform Alliance

- Jannean Dean, Vice President
- Gary Duffy, Executive Committee member

Waste Recycling Industry Association (Qld)

- Rick Ralph, CEO

Queensland Resources Council

- Frances Hayter, Policy Director - Environment,

Waste Management Association of Australia

- Gayle Sloan, CEO

Rockhampton

Banana Shire Council

- Cr David Snell
- Mr Ray Geraghty, Chief Executive Officer

North Burnett Regional Council (submission 2)

- Cr Rachel Chambers, Mayor
- Mr Trevor Harvey, General Manager Strategy

Rockhampton Regional Council (submission 23)

- Mr Michael O'Keeffe, Manager, Rockhampton Regional Waste and Recycling

Livingstone Shire Council

- Ms Leanne Randall, Waste Collection and Recycling Officer

Housing Industry Association Ltd (submission 15)

- Mr John Futer, North Queensland Executive Director

Statements of Reservation

In supporting the recommendation of this Committee on the *Waste Reduction and Recycling (Waste Levy) and Other Legislation Amendment Bill 2018* it is important to note areas of concern as there is no provision to incorporate these into the Committee recommendation or statements as they fall outside the Bill's scope.

Firstly, there has not been the inclusion of the full allocation of levy proceeds required by Councils for waste management, diversion and recycling initiatives so that they may achieve rapidly the performance of other States in this arena. Denying this will slow the transition process.

Secondly, change of Governments can lead to a change of policy on this levy, leading to impacts on Local Government and ratepayers through a potential lack of subsidisation from State Government.

Finally, to deliver lasting, sustainable environmental outcomes for Queenslanders – there needs to be a permanent 'ring fencing' of the significant revenue that will be generated by this levy for environmental initiatives exclusively. This should be done through the primary legislation to prevent future Governments from rolling this protection back without a debate in Parliament. Allocating proceeds exclusively to environmental initiatives would demonstrate unparalleled environmental leadership and help fund initiatives that will improve Queensland for all of us and future generations.

The Department and agencies are to be commended on the work they have been undertaking in efforts to reduce waste in Queensland, and that moving forward they continue to work with Local Government and industry to ensure they have the assistance needed to fund infrastructure, meet compliances and transition smoothly in these endeavours.

Sandy Bolton MP
Noosa

Date – 18th October 2018

STATEMENT OF RESERVATION – WASTE REDUCTION AND RECYCLING BILL 2018

While the State struggles under the burden of the nation's highest unemployment rate, record government debt, record cost of living expenses and record levels of congestion, the Palaszczuk Labor Government continues to treat Queenslanders as blank cheques from which they can extort any sum of money for whatever political agenda they want.

Emboldened by nearly four years of Government, Palaszczuk and Labor have moved beyond taxing families by stealth through electricity, water, speeding fines and the like to directly reaching into the pocket of all Queenslanders with this mammoth $1.3 billion tax grab. Even the millions of taxpayer dollars the Palaszczuk Government spends on political spin can't dress this new tax grab up as anything but a direct hit on every family and business in Queensland.

While it may have been an easy out for Premier Palaszczuk and her political spinners on 20 March 2018 to pledge that "*Queensland families will not face the cost of this levy"*, this statement will forever haunt her. The more details that emerge about the proposed Waste Reduction and Recycling Bill 2018 the clearer it becomes to Queensland mums and dads that they'll be hit with another increase in their weekly bills. During the inquiry, the Committee heard from an overwhelming number of stakeholders that this Bill will be a direct hit on households, despite Premier Palaszczuk's empty guarantee.

From Cairns to Currumbin, councils will be forced to hike rates as more and more money flows to the Government's coffers in Brisbane. Whether it's a growing family doing a major renovation or a young family buying a new home, they'll all be slugged. Every customer of every business that is being slugged will have to pay more. Even retirees in aged care aren't spared – the Queensland Government should be looking after our most vulnerable, not using them as a bank.

Regrettably the inquiry process re-confirmed the same revelations that were first uncovered at budget estimates on 1 August 2018. As this Bill stands, less than ten cents in the dollar of the $1.3 billion raised will go towards environmental programs. With less than 10% going back to the industry that this Bill is supposed to support, it is nothing but insulting to call it a levy and not what it really is – a blatant Labor money grabbing tax.

From day one Palaszczuk and Labor have been selling Queensland anything but the truth. Firstly the Bill was proposed due to an interstate waste problem, then it was a recycling issue, then it was because of an international trade development with China then it was back to stop interstate dumping. The Palaszczuk Government tried to spin every excuse imaginable to the people of Queensland as to why Labor was going to hit their hip pockets, yet again.

With less than 10% of revenue raised being directed towards environmental programs it certainly isn't a recycling measure. Equally as indicative of the nonsense that is being spun by Labor, as stated in the below excerpt this tax isn't even guaranteed to stop NSW from dumping waste in Queensland:

> *Mr KRAUSE: Are you saying that the construction demolition waste coming to Ipswich dumps from regional New South Wales attracting $81 a tonne in New South Wales and $70 a tonne here will probably not stem the flow of that?*
>
> *Ms Clarke: There would, of course, be transport costs on top of that difference of $11 in the levy.*

Mr KRAUSE: I understand that, but have you looked at the question of whether that is going to stop? When you look at the disparity between the two levies, it is not that great. It is $11 a tonne, but if you put a few tonne on a big truck—

Ms Clarke: We cannot make guarantees—

Mr KRAUSE: No, you cannot

(Public Briefing transcript 17 September 2018)

There's been no tangible recognition of how the disproportionate impact this Bill will likely have on regional communities that lack the infrastructure or economies of scale that South East Queensland has. During the inquiry process numerous stakeholders cited that as the Bill stands, many regions of Queensland that are being forced to bare this new tax burden will see no improvement in recycling rates. The below excerpt is demonstrative the Palaszczuk Labor Government's complete disregard or care for the impact this Bill, if passed, will have on Queensland:

Mr KRAUSE: Thank you. In respect of the potential impact on small business owners, can you enlighten the committee as to what modelling was undertaken to identify the impact of the levy on small business in Queensland?

Mr Jeffreys: There was—

Mr KRAUSE: Was there any?

Mr Jeffreys: There was not modelling. There was certainly a review of the impact of a levy, which was conducted by the Queensland Treasury Corporation and material on that had been released earlier this year. We also looked at the experiences in other states.

Mr KRAUSE: But no specific modelling—just what you referred to?

Mr Jeffreys: Yes.

(Public Briefing transcript 17 September 2018)

Failing the most basic of transparency checks, the Labor Government isn't even able to publicly explain the criteria they used to determine which local government areas (LGA) were included within the levy zone. As with every other misleading angle spun by the Palaszczuk Government, their justification that the levy zone was based upon LGAs with a populations of over 10,000 was quickly found to be baseless. As the below except demonstrates, even the Departmental Officials charged with implementing Premier Palaszczuk's complex web of spin can't clearly explain the underlying reasons:

Mr COSTIGAN: I go back to what the deputy chair asked just a moment ago. Why is the Goondiwindi local government area not listed given the population threshold that you have told the committee is 10,000 people?

Mr Jeffreys: As I understand it, when those numbers were calculated, Goondiwindi was below the 10,000 threshold.

Mr COSTIGAN: Are you saying that there has been a baby boom since this work started?

Mr Jeffreys: I cannot speculate on that. However, I point out that Goondiwindi is at the other side of the New South Wales non-levy zone. If that was the issue—

Mr COSTIGAN: No, it is not the issue. I go back to what the committee has been told today and that is that the threshold to make the map to be part of the green zone—no pun intended—was a population of 10,000 people, which is the case, as I understand it, in Goondiwindi. I want to know why the Goondiwindi local government area has been omitted.

Mr Jeffreys: That was how it was set out in the original directions paper.

Mr COSTIGAN: Set out by whom?

Mr Jeffreys: By the Queensland government. It was released by the Queensland government.

Mr COSTIGAN: The minister responsible?

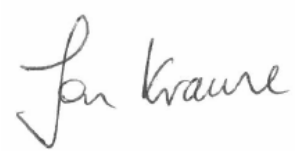
Mr Jeffreys: It was a decision of government to release that directions paper.

Mr COSTIGAN: Thank you.

(Public Briefing transcript 17 September 2018)

While it may be all fun and games in the Premier's Office with the political spinners assuring each other that they've hoodwinked the public, the reality is that if this Bill is passed it'll hurt all Queensland families. Families that are already struggling with job security, weekly bills and daily gridlock. Queenslanders aren't mugs and won't be taken for fools.

This out of touch Bill heralds a new era of the Palaszczuk Labor Government's arrogance. It is poorly designed and will take much more than it provides in return. The LNP opposes this Bill as it'll deliver nothing but more pain for already struggling families.



Jon Krause
Member for Scenic Rim
On behalf of Liberal National Party MPs on Committee