

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

Explanatory Notes

For

Amendments to be Moved During Consideration in Detail by the Honourable Leanne Enoch MP

Short title

The short title of the Bill is the Waste Reduction and Recycling (Waste Levy) and Other Legislation Amendment Bill 2018 (the Bill).

Objectives of the amendments

The objectives of the amendments to the Bill are to:

- defer commencement of the waste levy to 1 July 2019;
- exempt from the levy: waste from serious local events, litter and illegal dumping in state forest plantations, uncontaminated acid sulfate soil, and other waste as prescribed by Regulation;
- ensure that the levy is not payable at sites operated solely for the appropriate disposal of waste from certain activities;
- make reasonable relaxations for the circumstances of some existing landfill sites;
- make minor clarifications and corrections.

Achievement of policy objectives

The amendments will achieve these objectives by:

1. amending the commencement of the waste levy to 1 July 2019 and ensuring associated provisions align with the changed date;
2. defining and exempting serious local event waste for a disaster in a local government area for limited periods under certain conditions, including that no other fees are charged for waste entering the waste facility;
3. exempting naturally occurring acid sulfate soils which are managed appropriately and are not otherwise contaminated, including those in dredge spoil and clean earth;
4. exempting waste resulting from littering or illegal dumping that has been collected by or for a plantation licensee under the *Forestry Act 1959*;
5. exempting certain facilities from the definition of 'waste facility' that were not intended to be captured by the waste levy, including:

- a facility which only receives waste from one or multiple resource activities provided that the facility is authorised under the same Environmental Authority as one of the resource activities disposing to it;
 - a facility, at a resource activity site, which only receives waste generated from the processing, storage, transport and handling of materials originating from that resource activity site; and
 - a facility where the waste was generated by the remediation of contaminated land that was generated by an activity prior to when environmentally relevant activity licensing was in existence;
6. exempting certain facilities from the definition of ‘waste disposal site’ that only dispose of certain types of exempt waste prescribed by regulation;
 7. excluding small waste disposal sites in the non-levy zone from recording waste delivered if they have taken all reasonable steps to ensure that waste from the levy zone or interstate cannot be lawfully delivered to the site;
 8. removing the requirement to measure waste delivered to a resource recovery area within a waste disposal site in a small vehicle;
 9. clarifying provisions of the Bill relating to mixed waste, and bad debt credit applications; and
 10. correcting some minor errors in the wording of provisions.

Alternative ways of achieving policy objectives

The amendments are necessary to achieve the policy intent of the Bill while minimising the impact on stakeholders.

Estimated cost for government implementation

Deferring the commencement date of the waste levy to 1 July 2019 delays collection of revenue for the 4-month delay period.

Exempting waste from a serious local event is likely to come at a small reduction in revenue to the State Government, depending on the frequency and severity of events. The disposal of household waste and waste from public places in preparation for, and generated by, a serious local event would generally otherwise have been categorised as municipal solid waste which, subject to finalisation of the Regulation to support the Bill, would attract annual advance payments from the State Government to relevant local governments. If the waste is exempt it would not be considered in calculating the annual payment. However, there could be some commercial and industrial waste or construction and demolition waste that is also exempted as serious local event waste but would not have contributed to calculation of the annual payment.

Exempting waste resulting from littering or illegal dumping that has been collected by or for a plantation licensee under the *Forestry Act 1959* from the levy, will result in a small reduction in levy revenue. Based on data provided by HQ Plantations about clean-up of illegally dumped waste in 2018, the levy forgone in the first full year of the levy (2019-20) may be approximately \$20,000.

Exempting naturally occurring acid sulfate soils from the levy will reduce levy revenue. The amount of acid sulfate soil or potential acid sulfate soil disposed of in landfill varies widely depending on the amount of development and other activities in a particular year. For example, 17,338 tonnes was disposed of Statewide in the 2016-17 financial year compared with 9,281 tonnes in the 2015-16 financial year. Based on these figures, the estimated reduction in revenue for the first full year of the levy (2019-20) could range from \$0.673M to \$1.257M. However, charging a levy on acid sulfate soil or potential acid sulfate soil may discourage appropriate disposal and result in significant remedial costs.

Amendments 30 to 32 will increase the circumstances in which a site operator may be eligible for bad debt credit. There is no data available on the extent of bad debts in the industry and as a result it is not possible to estimate the amount of levy revenue forgone due to bad debt credits. However, the cost to Government is expected to be small.

There are no additional costs to Government expected for the remaining proposed amendments.

Consistency with fundamental legislative principles

The amendments to the Bill are generally consistent with Fundamental Legislative Principles. The following potential breaches have been identified.

Legislation makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review—Legislative Standards Act 1992, section 4(3)(a)

The proposed exemption for naturally occurring acid sulfate soils (also directly linked to the amended definition of ‘clean earth’) would authorise a sub-delegation – the Act would allow the Regulation to prescribe guidelines. This is a potential breach of whether the Bill has sufficient regard to allowing the sub-delegation of administrative power as per section 4(3)(a)(second limb) of the *Legislative Standards Act 1992*. This sub-delegation is considered appropriate as it will allow for the reference to the guideline to be updated more easily when needed, therefore allowing acid sulfate soil management and disposal practices to remain contemporary and appropriate. Further, there is precedent in the *Environmental Protection Act 1994* (EP Act), which prescribes in Regulation standards as provided in guidelines such as ‘Australian and New Zealand guidelines for fresh and marine water quality’.

Legislation allows the delegation of legislative power only in appropriate cases and to appropriate persons—Legislative Standards Act 1992, section 4(4)(a)

The proposed exemption from the definition of ‘waste disposal site’ if only receiving certain types of exempt waste authorises the Regulation to prescribe certain types of exempt waste. This is a potential breach of whether a Bill should allow the delegation of legislative power only in appropriate cases and to appropriate persons—*Legislative Standards Act 1992*, section 4(4)(a).

This amendment allows specific types of waste to be exempt, should it be required. Because of the changing requirements of the waste industry and changes which may occur in other

parts of the regulatory framework, it is considered that this provides an appropriate level of flexibility.

The Regulation is subject to the tabling and disallowance provisions as per provisions of the *Statutory Instruments Act 1992*, which provides an additional measure of scrutiny and assessment.

The remaining amendments are consistent with fundamental legislative principles.

Consultation

The proposed amendments address issues raised:

- in the public submissions received by the Innovation, Tourism Development and Environment Committee during its inquiry on the Bill;
- in submissions made to the Department of Environment and Science on a consultation draft of the Waste Reduction and Recycling (Waste Levy) Amendment Regulation 2018; and
- by stakeholders who the Department of Environment and Science has been engaging with about implementation of the levy.

Notes on provisions

Amendment 1

Amendment 1 amends Clause 1 to change the short title of the Bill to remove reference to other legislation. Amendments to the *Local Government Act 2009* and the *City of Brisbane Act 2010* were required because local governments' statutory budget meetings for the 2018-19 financial year have already been held and amendments to local government charges may have been required to reflect the original proposed levy commencement date of 4 March 2019. However, as the levy is now not proposed to commence until 1 July 2019, these amendments are no longer required.

Amendment 2

Amendment 2 amends Clause 2 to change the commencement date of provisions in subsection (1) from 4 February 2019 to 1 June 2019, which is a consequential amendment for delaying commencement of the waste levy to 1 July 2019.

Amendment 3

Amendment 3 amends Clause 2 to change the commencement date of provisions in subsection (2) from 4 March 2019 to 1 July 2019. This is a consequential amendment to adjusting the commencement of the waste levy to 1 July 2019.

Amendment 4

Amendment 4 amends Clause 5 to ensure that a waste facility is not a waste disposal site (and hence not subject to waste levy requirements) if only exempt waste prescribed by Regulation is disposed to landfill at the facility. This amendment is achieved by amending the definition of 'waste disposal site'.

This excludes from the waste levy particular sites that only dispose of a particular type of waste and were not intended to be captured by the waste levy.

Amendment 5

Amendment 5 amends Clause 6, proposed section 26 to provide that serious local event waste is added to the definition of exempt waste.

While disaster management waste is already proposed to be exempt from the levy, there are situations where an event does not meet the threshold to be a declared disaster under the *Disaster Management Act 2003*, and so waste from the event would have been subject to the levy.

This amendment is linked to other amendments, which in combination define ‘serious local event’ to ensure that this exemption is for a limited time of preparation before the event occurs (7 days) and after the event (up to 28 days or for a longer period based on application). This exemption is based on meeting a number of prescribed conditions including the local government notifying the chief executive and that no other gate fee charges apply to waste delivered to the disposal site.

Amendment 6

Amendment 6 amends Clause 6, proposed section 26 to change the description of ‘dredge spoil’ under the definition of ‘exempt waste’ to clarify that acid sulfate soils in the dredge spoil is also exempt from the waste levy. Acid sulfate soils are naturally occurring soils or sediments containing iron sulfides that produce sulfuric acid when exposed to air.

This exemption applies provided that the acid sulfate soils are treated in accordance with best practice environmental management, within the meaning of the *Environmental Protection Act 1994*, section 21, for the treatment and management of acid sulfate soils, as stated in a guideline prescribed by regulation.

This amendment provides that if acid sulfate soil is present in dredge spoil, it is exempt from the waste levy.

Amendment 7

Amendment 7 amends the definition of ‘exempt waste’ under clause 6, proposed section 26 to add an exemption for waste collected by or for plantation licensees under the *Forestry Act 1959*.

Plantation licensees are required to maintain public access to the plantation licence area for recreational purposes. This results in significant occurrences of litter and illegal dumping and the licensee is required to dispose of this waste. The exemption in the current Bill for cleaning up of litter and illegal dumping waste under section 26 only applies to waste collected for or by the State Government or local government. The plantation license structure falls outside of this and therefore would attract the waste levy. The proposed exemption is given to all plantation licensees under the *Forestry Act 1959* and to apply to any future licensees.

Amendment 8

Amendment 8 amends Clause 6, proposed section 26 to omit subsection section (a)(i) under the definition of ‘levy period’. With the proposed commencement date being deferred to 1 July

2019, the period mentioned in this subsection (starting on the commencement and ending on 30 June 2019) is no longer applicable.

Amendment 9

Amendment 9 amends Clause 6, proposed section 26 to provide that definitions for ‘serious local event’ and ‘serious local event waste’ be added to the definitions for the chapter. This is a consequential amendment to the addition of ‘serious local event waste’ as a type of exempt waste under section 26.

These definitions describe a situation where a serious local event does not trigger the requirements to be a declared disaster under the *Disaster Management Act 2003* but nonetheless requires a significant response from local government to help a community prepare for and clean up after the event.

Amendment 10

Amendment 10 amends Clause 6, proposed part 2 to add a new Division 1A regarding notifying the chief executive about serious local event waste and the ability of the chief executive to declare limits for serious local event waste.

This is consequential to the amendment which adds ‘serious local event waste’ as a type of exempt waste under section 26. This exemption would be for a limited period of time, provided the operator of the landfill does not impose fees for the delivery of the waste and that the Chief Executive Officer of the local government where the waste is generated notifies the Chief Executive of the department.

New Division 1A describes the requirements where a local government notifies the Chief Executive that waste is serious local event waste, and would be exempt from the levy. This is provided that the Chief Executive Officer of a local government reasonably believes:

- there is or will be a serious local event in the local government’s local government area; and
- an exemption from the levy on types of waste generated as a result of the serious local event and delivered to particular levyable waste disposal sites should be allowed.

The contents of the notice must include details of:

- the type of waste that is to be serious local event waste;
- the waste disposal site/s at which the waste will be disposed of; and
- the period for which the waste is to be serious local event waste.

The maximum period for which waste may qualify as serious local event waste for this purpose is a period of 7 days immediately before the event happens or is predicted to happen, and ending 28 days after the serious local event happens.

The chief executive may declare limits on the status of waste as serious local event waste in relation to a particular local event. This provides discretion to the chief executive to limit, for example, the period for which the exemption relates.

Amendment 11

Amendment 11 amends Clause 6, proposed section 28 to change the term ‘listed on’ to ‘recorded in’ under subsection (c). The purpose of this amendment is to correct terminology

in accordance with the *Environmental Protection Act 1994*. This amendment ensures correct interpretation of this provision.

Amendment 12

Amendment 12 amends Clause 6, proposed section 28 to add an application category for serious local event waste to be approved as exempt waste. This amendment is related to an amendment which adds serious local event waste as a type of exempt waste under section 26. However, given that the exemption provided under section 26 is only for a limited period, any exempt waste arrangements outside of that period must be made by application by the chief executive officer of the local government area in which the waste would be generated. The requirements of this application are detailed in subsequent amendments.

Amendment 13

Amendment 13 amends Clause 6 (section 28) to insert new Section 28(3)(A) to require that an application for approval of serious local event waste as exempt waste may be made only by the chief executive officer of the local government where the waste was generated.

Amendment 14

Amendment 14 amends Clause 6 (section 28) to omit definitions for ‘contaminated land register’ and ‘environmental management register’ from this section. The purpose of this amendment is to remove duplicate definitions as these are already defined in the Dictionary as the result of another amendment.

Amendment 15

Amendment 15 amends clause 6, sections 41 and 42 to apply to exempt waste as a type of waste attracting a waste levy of zero. These sections currently set out how the waste levy applies to mixed loads of waste that attract different rates of levy and loads of waste that attract the same rate of levy, respectively. Without the amendment, this wording could be misinterpreted where exempt waste is taken to not attract a rate of levy and that these sections do not apply and would be therefore treated separately in a mixed load.

This amendment clarifies the intent of the provision which is to provide a disincentive for mixing loads that attract different rates of waste levy by charging the highest levy rate applicable to the types of waste in the load. This also rectifies the unintended effect of forcing operators to estimate the amount of exempt waste where it is mixed with levyable waste.

Amendment 16

Amendment 16 makes a minor amendments to clause 6, proposed sections 53, 55 and the heading for Division 2 to omit ‘levyable’ from the existing term ‘levyable waste disposal site’.

If these provision were to apply to a ‘levyable waste disposal site’ rather than a ‘waste disposal site’, this has the unintended consequence of requiring no delivery information as required under section 53 when delivering waste to a declared resource recovery area within a waste disposal site. This would have the flow-on consequence of attaching no penalty to providing false or misleading information when delivering waste in this circumstance.

These amendments ensure that the obligations of a person delivering waste under this provision apply to a person delivering to the entire waste disposal site, i.e. including a declared resource recovery area if it exists.

The same amendment to the heading for Division 2 ensures that the heading accurately reflects the expansion of weighbridge requirements to the entire waste disposal site, not just the levyable waste disposal part of the site.

Amendment 17

Amendment 17 amends Clause 6, proposed section 57(1) to clarify that the weighbridge requirements under this section apply to the operator of a waste disposal site, rather than a levyable waste disposal site, in the waste levy zone. This ensures that weighbridges can be installed at declared resource recovery areas outside the levyable waste disposal site area, as is common practice.

Amendment 18

Amendment 18 amends Clause 6, proposed section 57(1)(a) to ensure that the requirement to install a weighbridge at large waste disposal sites in the waste levy zone (those required to hold an environmental authority for the disposal of more than 10,000 tonnes of waste in a year) will be adjusted from 4 March 2019 to 1 July 2019. This is a consequential amendment to deferring commencement of the waste levy from 4 March 2019 to 1 July 2019.

Amendment 19

Amendment 19 amends Clause 6, proposed section 57(2) to omit this section. This stated that a levyable waste disposal site in the waste levy zone must install a weighbridge at the site, and included a penalty for contravention of this provision. This requirement has now been stated in section 57(1) because of another amendment, therefore section 57(2) is no longer needed.

Amendment 20

Amendment 20 amends Clause 6, proposed section 57 to insert new subsection (2) to clarify the requirements of waste disposal sites in the non-levy zone for the first year of levy commencement. Requirements for weighbridges to be installed at waste disposal sites in the non-levy zone are only triggered when 600 tonnes of levyable waste generated outside the non-levy zone is received during a year. Given commencement of the levy is now 1 July 2019, the period the waste levy will be in place has been shortened to 6 months during the first calendar year the levy comes into effect (i.e. 1 July 2019 to 31 December 2019). This amendment adjusts the requirement for a weighbridge to be installed by 30 June 2020 if at least 300 tonnes of levyable waste generated outside the non-levy zone was received at the site between 1 July 2019 and 31 December 2019. The maximum penalty of 300 penalty units is retained for this provision.

Amendment 21

Amendment 21 amends Clause 6, section 57(3) to apply from 1 January 2020 onwards and to apply to waste disposal sites rather than levyable waste disposal sites. This is a consequential amendment to amending commencement of the waste levy to 1 July 2019. The first full year that a waste disposal site is able to receive waste following the commencement of the levy is the year commencing on 1 January 2020. Additionally, applying this subsection to 'waste disposal sites' rather than 'levyable waste disposal sites' expands the criteria to allow for weighbridges to be installed at a declared resource recovery area instead of the levyable part of the site, as is common practice.

Amendment 22

Amendment 22 amends Clause 6, to omit section 57(4), which describes the period in 2019 that levyable waste disposal sites in the non-levy zone would have to receive at least 600 tonnes of levyable waste generated outside the non-levy zone to trigger weighbridge requirements. Since commencement of the waste levy has been deferred to 1 July 2019, this period is no longer correct and is clarified as a result of another amendment.

Amendment 23

Amendment 23 amends Clause 6 to remove reference to 'levyable' in section 58(1). This ensures that weighbridge requirements are applicable to the whole of a waste disposal site (i.e. including a declared resource recovery area if it exists) rather than just the levyable part of the site. This ensures that weighbridges can be installed at declared resource recovery areas outside the levyable waste disposal site area, as is common practice. This amendment is consequential to another amendment, which applies the same change to section 57.

Amendment 24

Amendment 24 amends Clause 6, proposed section 59 to number the existing provisions as being subsection (1). This is a consequential amendment to the adding of a subsection (2) because of another amendment.

Amendment 25

Amendment 25 amends clause 6, proposed section 59(c) to remove the requirement to measure waste delivered to a resource recovery area by a vehicle with a Gross Combination Mass or Gross Vehicle Mass of no more than 4.5 tonnes. This allows for some current arrangements where small vehicles safely deliver recyclable waste to specified collection points without passing through a point where waste is measured, for example a weighbridge used by large commercial waste vehicles. This amendment then logically aligns with the current provision in the Bill section 59(d)(ii) which excludes small vehicles leaving the resource recovery area from the requirement to be measured.

Amendment 26

Amendment 26 amends clause 6, proposed section 59, which describes when waste and other material must be measured, requiring the weighing of waste when it moves into, around and from a site.

A number of small, remote and unstaffed waste disposal sites are unlikely to have the capacity to meet measuring requirements under section 59 and the Bill provides a number of transitional measures to assist these sites. This amendment adds section 59(2) to exclude sites authorised to receive 5,000 tonnes or less of waste in a year in the non-levy zone if they have taken all reasonable practical steps to ensure that levyable waste generated at a place outside the non-levy zone cannot be lawfully delivered to the site.

Amendment 27

Amendment 27 amends Clause 6, proposed section 68(1)(b), such that volumetric survey requirements for operators of a levyable waste disposal site in the non-levy zone applies when receiving at least 300 tonnes of levyable waste generated outside the non-levy zone in 2019, and at least 600 tonnes from 2020 onwards. This is a consequential amendment to deferring commencement of the waste levy from 4 March 2019 to 1 July 2019, thereby reducing the period the waste levy will be in place in 2019.

Amendment 28

Amendment 28 amends Clause 6, proposed section 68(7) that details the period during which 600 tonnes of levyable waste generated outside the non-levy zone would need to be received before triggering volumetric survey requirements. This amendment removes this subsection as this requirement has been transferred to subsection (1) due to another amendment. These are consequential amendments to the commencement date for the waste levy being delayed from 4 March 2019 to 1 July 2019. Given the reduced time the waste levy would be in place in 2019, the tonnage trigger has been adjusted for the shortened period from 600 tonnes to 300 tonnes.

Amendment 29

Amendment 29 amends Clause 6, proposed section 72(4) which describes that detailed data return requirements under 72(3) do not apply to the operator of a section 325 small site. A transitional provision under section 325 allows for a temporary relaxation of the measurement requirements for small sites (those required to hold an environmental authority for the disposal of less than 2,000 tonnes of waste in a year) until the end of 30 June 2021. However, the requirement to provide a detailed data return for a small site would not apply until 1 July 2024, well after the end of the transitional provision for section 325 small sites. This amendment omits section 72(4) as it is redundant and could cause confusion.

Amendment 30

Amendment 30 amends clause 6, proposed sections 72K to remove ‘levyable’ from the term ‘levyable waste disposal site’ used in this provision.

This amendment expands the eligibility criteria of bad debt credit applications and payment of bad debt credit, to apply to deliveries to resource recovery areas at a waste disposal site. This allows for site operators to claim bad debt credit on waste delivered to a resource recovery area in the first instance, which may then dispose of residue waste to the levyable part of the site. This amends a provision which may otherwise discourage diversion of waste through resource recovery areas.

Amendment 31

Amendment 31 amends clause 6, proposed section 72K(1) to remove reference to the operator ‘of a levyable waste disposal site’. Operator is defined at the end of subsection (4), as such this text is redundant.

Amendment 32

Amendment 32 amends Clause 6 proposed sections 72K, 72L and 72Q to remove ‘levyable’ from the term ‘levyable waste disposal site’ used in these provisions.

These amendments expand the eligibility criteria of bad debt credit applications and payment of bad debt credit to apply to deliveries to resource recovery areas at a waste disposal site. This allows for site operators to claim bad debt credit on waste delivered to a resource recovery area in the first instance, which may then dispose of residue waste to the levyable part of the site. An amendment consequentially updates the definition of the term ‘operator’ for this section to ensure provisions apply to an operator of a waste disposal site. These amend a provision which may otherwise discourage diversion of waste through resource recovery areas.

Amendment 33

Amendment 33 amends Clause 6, proposed section 72Z(1) such that volumetric survey requirements for operators of a declared resource recovery area in the non-levy zone apply when receiving at least 300 tonnes of levyable waste generated outside the non-levy zone in 2019, and at least 600 tonnes from 2020 onwards. This is a consequential amendment to deferring commencement of the waste levy from 4 March 2019 to 1 July 2019, thereby reducing the period the waste levy will be in place in 2019.

Amendment 34

Amendment 34 amends clause 6, proposed section 72Z(8) to omit this subsection. This is a consequential amendment to Amendment 33 which moves this requirement to subsection (1) and is therefore no longer needed in subsection (8).

Amendment 35

Amendment 35 makes a minor amendment to correct a typographical error in the Bill. Section 73C(4) applies to the entity having responsibility for the operation 'of', rather than 'or' the resource recovery area.

Amendment 36

Amendment 36 inserts new sections 9A and 9B to amend sections 204 and 206 to correct the reference from 'section 41(1)' to 'section 53(2)'. Section 41(1) of the Act was repealed and as such, reference to this section in sections 204 and 206 is incorrect. The provisions contained within it have been transferred to section 53(2). Correcting this section reference restores the correct link.

Amendment 37

Amendment 37 replaces the current heading of proposed Clause 19, Part 3, Division 1 from 'Exemption from waste levy for residue waste until 30 June 2022' to 'Exemption from waste levy for particular residue waste during transition period' to reflect that one of the eligible facilities, the Cairns Bedminster Facility, may apply for an exemption until 2026.

Amendment 38

Amendment 38 amends Clause 19, proposed section 310 to omit subsection (4)(a) and renumber the remaining subsections accordingly. This enables an application for approval of residue waste as exempt waste to be made on hardship grounds at any time within the transition period. This allows for a potential time lag between commencement of the waste levy and identification of financial impact on businesses that may require this transitional exemption.

Amendment 39

Amendment 39 amends Clause 19, proposed section 312(7)(b) to amend the recycling efficiency threshold for the Cairns Bedminster Facility from 45 percent to 33 percent to reflect new information about the operation of this facility.

Amendment 40

Amendment 40 amends Clause 19, proposed section 317(1) to clarify the provision relates to an operator of a levyable waste disposal site in existence at commencement, for which the operator holds an environmental authority for the disposal of between 1,000 and 2,000 tonnes of waste in a year at the site. This has been updated from a 1,000 tonne limit to align with the minimum Environmentally Relevant Activity threshold for waste disposal.

Amendment 41

Amendment 41 amends Clause 19, proposed section 317(2), to clarify wording that the operator may apply to the chief executive for an exemption during the transition period from the requirements under section 57.

Amendment 42

Amendment 42 amends Clause 19, proposed section 322(a), to clarify that the intended trigger for not using a weighbridge is that it is not practicable to use the weighbridge for waste or other material moved in a small vehicle (i.e. a vehicle with a Gross Combination Mass or Gross Vehicle Mass of 4.5 tonnes or less).

Amendment 43

Amendment 43 amends Clause 19, proposed sections 323(1) and 324(1) relating to baseline volumetric surveys of levyable waste disposal sites and resource recovery areas required to be conducted in 2019. Currently, volumetric surveys are required to be undertaken between 4 February 2019 and the end of April 2019. However, deferring commencement of the waste levy to 1 July 2019 requires shifting this period accordingly, to apply between 1 June 2019 and the end of August 2019.

Amendment 44

Amendment 44 amends Clause 19, proposed section 324(1) to limit application of the provision to a waste disposal site in the waste levy zone, as was the original intent of the provision.

Amendment 45

Amendment 45 amends clause 20, schedule (Dictionary) to change the definition of ‘clean earth’ to include acid sulfate soils. Acid sulfate soils are naturally occurring soils or sediment containing iron sulfides that produce sulfuric acid when exposed to air.

The definition of ‘exempt waste’ under clause 6, section 26 includes ‘clean earth’. Adding properly managed acid sulfate soil to the definition of clean earth exempts acid sulfate soil from the waste levy. This is provided that:

- the acid sulfate soils are not contaminated with waste or a hazardous contaminant other than naturally occurring iron sulfides that produce sulfuric acid when exposed to air; and
- the soil has been treated in accordance with best practice environmental management within the meaning of the *Environmental Protection Act 1994*, section 21, for the treatment and management of acid sulfate soils, as stated in a guideline prescribed by regulation.

This amendment also adds a definition for ‘contaminated land register’. This is defined by reference to Schedule 4 of the *Environmental Protection Act 1994*. The purpose of this amendment is to add relevant definitions consequential to another amendment which adds further exclusion scenarios from the definition of waste facility. This includes an exclusion scenario relevant to land on the contaminated land register.

Amendment 46

Amendment 46 amends Clause 20, proposed schedule (Dictionary) to add a definition for ‘environmental management register’. The environmental management register is defined by reference to Schedule 4 of the *Environmental Protection Act 1994*. The purpose of this amendment is to add relevant definitions to support another amendment, which adds further

exclusions from the definition of waste facility relevant to land on the contaminated land register and environmental land register.

Amendment 47

Amendment 47 amends Clause 20, proposed schedule (Dictionary) to add definitions for ‘serious local event’ and ‘serious local event waste’. This amendment refers to definitions already provided under chapter 3, section 26 because of another amendment.

Amendment 48

Amendment 48 amends Clause 20, proposed schedule (Dictionary) definition of ‘waste facility’ to ensure that a landfill is not a waste facility, and hence not subject to the waste levy, if it meets certain criteria.

The amendment excludes arrangements where multiple resource activities use a common waste disposal facility; where the waste resulting from processing a material at a separate site is disposed of at the resource activity site from which the material originates; and where a waste disposal facility accepts waste generated from historic activities at that same site. These exemptions are based on a number of conditions that ensure the activity is appropriately licensed under the *Environmental Protection Act 1994*, the facility is appropriately operated, and the facility does not dispose of waste not associated with the activity.

The first exclusion in part 2(a), already proposed in the Bill but reinserted for clarity in drafting, provides that 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 1994* if:

- the waste is or was generated only by, and its generation is or was ancillary to, the operation of the activity;
- the activity is not a waste management environmentally relevant activity;
- the facility is operated by or for the entity carrying out the activity; and
- the facility is authorised under the same environmental authority as the activity;

An exclusion would also apply for a facility lawfully operated for the disposing of waste generated by one or more resource activities under the *Environmental Protection Act 1994* provided that:

- the waste is or was generated only by, and its generation is or was ancillary to, the operation of one or more resource activities,
- the facility is operated by or for an entity that is carrying out one or more resource activities, and
- the facility is authorised under the same environmental authority as one of the resource activities disposing of waste there.

An exclusion would also apply to a facility lawfully operated for the sole purpose of disposing of waste generated by the processing, handling, storage or transport of materials from a resource activity carried out under the *Environmental Protection Act 1994* if:

- the waste is or was generated only by, and its generation is or was ancillary to, the processing, handling, storage or transport of the materials from the resource activity;
- the facility is operated by or for the entity carrying out the resource activity; and
- the facility is authorised under the same environmental authority as the resource activity;

An exclusion would also apply to a facility lawfully operated for the sole purpose of disposing of waste generated to remediate contaminated land recorded in the environmental management register or contaminated land register if:

- the waste was generated by an activity (the initial activity) lawfully carried out on the contaminated land before the initial activity became an environmentally relevant activity under the *Environmental Protection Act 1994* (the relevant activity); and
- from the day the initial activity became the relevant activity, the waste is or was generated by the relevant activity carried out on the contaminated land; and
- all of the following apply—
 - the waste is or was generated only by, and its generation is or was ancillary to, the operation of the initial activity or relevant activity;
 - the relevant activity is not a resource activity under the *Environmental Protection Act 1994* or a waste management environmentally relevant activity;
 - the facility is operated by or for the entity carrying out the relevant activity;
 - the facility is authorised under the same environmental authority as the relevant activity.

This amendment also amends the definition of ‘waste management environmentally relevant activity’ in the *Waste Reduction and Recycling Act 2011* to replace the list of waste management activities with the following:

- a. metal recovery
- b. mechanically crushing, milling, grinding, shredding or sorting waste.
- c. mechanically reprocessing waste
- d. battery recycling
- e. composting organic material, anaerobically digesting organic material or soil conditioner
- f. waste reprocessing or treatment
- g. waste storage
- h. regulated waste transport
- i. regulated waste treatment
- j. tyre recycling
- k. waste disposal
- l. waste incineration, thermal waste reprocessing or thermal treatment
- m. operating a waste transfer station or resource recovery facility
- n. maintaining a decommissioned waste disposal facility.

This updates the list of waste management environmentally relevant activities to cover all activities currently licenced under the *Environmental Protection Act 1994*, whilst also taking into consideration amendments to the *Environmental Protection Regulation 2008* effective 23 November 2018, which amended the list of waste management environmentally relevant activities.

Amendment 49

Amendment 49 amends Clauses 21 and 22 to remove proposed amendments to the *City of Brisbane Act 2010*. These provisions were required because local governments’ statutory budget meetings for the 2018-19 financial year had already been held and amendments might have been required to local government charges to reflect the levy commencement on 4 March 2019. However, if the levy does not commence until 1 July 2019 then these amendments are no longer required.

Amendment 50

Amendment 50 amends Clauses 23 and 24 to remove proposed amendments to the *Local Government Act 2009*. As for amendments to Clauses 21 and 22, these provisions were required because local governments' statutory budget meetings for the 2018-19 financial year had already been held and amendments might have been required to local government charges to reflect the levy commencement on 4 March 2019. However, if the levy does not commence until 1 July 2019 then this amendment is no longer required.

Amendment 51

Amendment 51 amends the long title of the Bill to remove reference to the *City of Brisbane Act 2010* and the *Local Government Act 2009*. This is a consequential amendment to Amendments 49 and 50. These provisions were required because local governments' budget meetings for the 2018-19 financial year had already been held and amendments might have been required to local government charges to reflect the levy commencement on 4 March 2019. However, if the levy does not commence until 1 July 2019 then these amendments are no longer required.

Queensland Legislative Assembly

Number: 5619T169



14 FEB 2019

Tabled
By Leave

MP: Enoch

Clerk's Signature: [Signature]