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ENVIRONMENT, AGRICULTURE, RESOURCES AND ENERGY COMMITTEE

Report No.2: Waste Reduction and Recycling Bill 2011

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ENVIRONMENT, AGRICULTURE, RESOURCES AND ENERGY COMMITTEE

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Executive summary

This report presents a summary of the processes used and the findings from the committee's consideration of the Waste Reduction and Recycling Bill 2011.

On 3 August 2011, the House referred the Bill 2011 introduced by Hon Vicki Darling MP, Minister for Environment, to the committee for consideration and report by 23 September 2011.

The report is based on the 24 public submissions the committee received on the Bill, the testimony of witnesses who gave evidence at two public hearings and advice provided by officers of the Department of Environment and Resource Management.

The committee acknowledges the policy objectives that the Bill seeks to give effect to. In particular, the committee notes the importance of the waste reform provisions. To make waste reporting and administrative requirements on councils and other landfill operators less onerous, and to minimise the costs imposed on charitable recyclers, the committee has unanimously recommended the following amendments:

- Amendment to clause 28 so that charitable recycling organisations that operate in more than one local government area are able to secure a single authority for waste to be treated as exempt waste in all areas, rather than seeking separate exemptions for each area
- Amendment to clause 41 to change the 'levy period' for reporting and payment of the levy from monthly to quarterly
- Amendment to clause 49 so that both hard and electronic copies of volumetric survey results may be kept at the administration centre for waste disposal sites in lieu of a hard copy stored at the landfill site
- Amendment to clause 51 to give greater protection of commercially sensitive information provided by landfill operators as part of their waste data returns.

The committee has sought further clarifications from the Minister as follows:

- In relation to clause 5(e), whether it is the Government's intention that funding would be made available from the Waste and Environment Fund to councils to assist with their administration costs connected with the waste levy
- In relation to clause 9, why avoidance and reduction are listed together at the top of the waste and resource management hierarchy
- In relation to Chapter 3, the methodology used by the Department of Environment and Resource Management to calculate the 16 kg average weight of a 240 litre business wheelie bin used for the cost benefit analysis for the proposed waste levy
- In relation to clause 28: how her department will minimise the burden on charitable recyclers in relation to securing their exemption from the waste levy and the requirement to submit multiple applications for these exemptions; the number of applications for waste to be treated as exempt waste that her department expects to receive should the waste levy be implemented and the application fees that would be charged charitable recyclers and others; and how her department would assist the Tablelands and Cairns councils and other recyclers to ensure the continued viability of their recycling operations if the proposed levy on residual waste is implemented

- In regard to clause 70, how her department would ensure the fair allocation of infrastructure funding from the proposed Waste and Environment Fund to private and public providers
- In regard to Chapter 5, the resources that would be put in place to combat the increased risk of illegal dumping of waste as a means to avoid paying the waste levy.

In regard to clause 304, the committee seeks assurance from the Minister that councils would retain the ability to effectively regulate nuisance impacts of waste collection and transport if sections 369, 369A, 369B and 369C of the *Environmental Protection Act 1994* were repealed.

The committee is satisfied with explanations provided by the department in respect of potential non-conformance of the Bill with fundamental legislative principles.

A majority of the committee has recommended that the Bill proceed subject to the amendments it has recommended and clarifications by the Minister of points raised in this report.

Findings & recommendations

Clause 2 Commencement

The committee notes the concerns raised in submissions about the readiness of councils and other landfill operators to meet the proposed 1 December 2011 commencement for the waste levy provisions in the Bill. The committee also notes that these provisions were originally proposed to commence on 1 July 2011, but were deferred at the request of the LGAQ and the Council of Mayors South East Queensland, and with their support.

The committee notes the significant funding provided to assist councils prepare for as December 2011 commencement, and the concessions the Government has included in the Bill that are specifically targeted at small landfill operators.

The committee concludes that Clause 2 should proceed without amendment.

Clause 3 Objects of Act

The committee is satisfied that the inclusion of illegal operators in the definition of a levyable waste disposal is necessary to ensure the department can recover the waste levy in these circumstances, and to avoid inequities for legal operators who hold the appropriation registration certificate.

Clause 5(e) Approach to achieving Act's objectives – providing for reporting requirements for the State, local governments and business and industry

The committee notes the significant funding provided by the Government under its Infrastructure Grants Program to assist local governments prepare for the waste levy.

It is unclear to the committee whether the funding offered by the Government would be available to councils to meet their additional administration costs. It is also unclear whether councils would be eligible for funding from the proposed Waste and Environment Fund to defray their higher administration costs as a consequence of the waste levy.

The committee invites the Minister to clarify whether it is the Government's intention that funding would be made available from the Waste and Environment Fund to councils to assist with their administration costs connected with the waste levy.

Clause 9 Meaning of *waste and resource management hierarchy*

The committee notes the Queensland Conservation Council's concerns regarding the separation of avoidance and reduction, and requests further clarification from the Minister as to why they are listed in the Bill together at the top of the waste and resource management hierarchy.

Chapter 3 Waste levy

The committee notes that, based on DERM's calculations, the proposed waste levy would on average have minor impact on the waste disposal costs already incurred by businesses. However, DERM's advice was silent on the methodology used to calculate the 16 kg average weight of a 240 litre wheelie bin of commercial and industrial waste. This average weight is a key factor in the cost benefit analysis for the cost to businesses

of the levy. Small increases or decreases in the average weight used for the analysis could alter the estimated levy costs for businesses significantly.

The committee invites the Minister to clarify the methodology used by DERM to calculate the 16 kg average weight of a 240 litre business wheelie bin used for the cost benefit analysis for the proposed waste levy.

Clause 28 Application for approval of waste as exempt waste

The committee notes the concerns raised by the National Association of Charitable Recycling Organisations (NACRO) on behalf of charitable recyclers, and the burden that clause 28 would impose on these groups. The committee notes DERM's advice that the fees to accompany exemption applications would be addressed in the regulations. The committee also notes the department's undertaking to consider NACRO's master exemption certificate proposal when administering the exemption.

Recommendation

The committee recommends that clause 28 be amended so that charitable recycling organisations that operate in more than one local government area are able to secure a single authority for waste to be treated as exempt waste in all areas, rather than seeking separate exemptions for each area.

The committee also invites the Minister to quantify the numbers of applications for waste to be treated as exempt waste that her department expects to receive once the waste levy commences, and to the application fees that would be charged charitable recyclers and others.

Clause 36 Imposition of waste levy

The committee notes the concerns raised by submitters about the imposition of a waste levy. The committee also notes advice from the department that levies are in place in other states and that the imposition of a levy in Queensland is necessary to deter the dumping of waste in Queensland from other states. The committee is satisfied with the concessions to assist local governments and others to adapt to the levy system.

Clause 41 Remitting waste levy amounts to State

Recommendation

The committee recommends that clause 41 of the Bill be amended so that the 'levy period' for reporting and payment of the levy is changed from monthly to quarterly.

Clause 49 Keeping of results of volumetric survey

The committee appreciates the practical concerns raised by Moreton Bay Regional Council about the storage of survey reports at landfill sites.

Recommendation

The committee recommends that clause 49 of the Bill be amended so that both hard and electronic copies of volumetric survey results may be kept at the administration centre for waste disposal sites in lieu of a hard copy stored at the landfill site.

Clause 51 Submission of waste data returns

The committee agrees with the Waste Contractors and Recyclers Association of Queensland Inc.'s suggestion to amend the Bill in order to give greater protection of commercially sensitive information provided by landfill operators as part of their waste data returns.

Recommendation

The committee recommends that clause 51 of the Bill be amended to give greater protection of commercially sensitive information provided by landfill operators as part of their waste data returns.

Clause 70 Payment of amount from Waste and Environment Fund

The committee requests that the Minister further clarify how her department would ensure the fair allocation of infrastructure funding from the proposed Waste and Environment Fund to public and private providers.

Chapter 5 Offences relating to littering and illegal dumping

The committee requests that the Minister further clarify the resources that would be put in place to combat the likelihood of increased illegal dumping of waste as a means to avoid paying the waste levy.

Clause 304 Omission of Ch 7, Pt 7 (Special provisions about waste management)

The committee seeks assurance from the Minister that councils would retain the ability to effectively regulate nuisance impacts of waste collection and transport if Sections 369, 369A, 369B and 369C of the *Environmental Protection Act 1994* were repealed.

Part 10 Amendment of Water Supply (Safety and Reliability) Act 2008

The committee notes the concerns of the Queensland Greens and Lock the Gate Alliance. However, taking into consideration the advice provided from DERM, the committee emphasises that the amendments relating to CSG emergency releases are administrative in nature. The discharge of CSG recycled water into a natural water source is currently regulated under two legislative frameworks (the *Water Supply Act (Safety and reliability) Act 2008* and the *Environmental Protection Act 1994*).

The proposed amendments would remove the requirement under the *Water Supply Act* to obtain an approval for temporary discharge of CSG water where relevant

approvals, conditioned to protect public health for drinking water supplies, have been issued under the *Environmental Protection Act 1994*.

Conformance with fundamental legislative principles

The committee notes the advice provided by DERM in response to potential non-conformance of the Bill with fundamental legislative principles. The committee is satisfied with the justifications provided.

Recommendation – Bill to proceed

The committee recommends that the Bill proceed subject to the amendments recommended and clarifications by the Minister of points raised in this report.

The role of the committee

The Environment, Agriculture, Resources and Energy Committee is a bipartisan portfolio committee established by the Legislative Assembly on 16 June 2011. The committee's primary areas of responsibility are food, agriculture, mines, energy, water, natural resource management, the environment and fisheries.¹

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

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

The committee's processes

Referral

On 3 August 2011, the House referred the Waste Reduction and Recycling Bill 2011 introduced by Hon Vicki Darling MP, Minister for Environment, to the committee for consideration and report. The committee's consideration of the Bill included public submission process, a briefing by policy officers from the Department of Environment and resource Management (DERM) open to the public and two public hearings. The committee also considered expert advice on the Bill's conformance with fundamental legislative principles listed in Section 4 of the *Legislative Standards Act 1992* (Qld).

Public submissions

The committee advertised its inquiry into the Bill in *The Courier Mail*, *Queensland Country Life* and *The Cairns Post*. The committee also wrote to stakeholder groups inviting written submissions on the policy that the Bill would give effect to as well as the Bill's conformance with fundamental legislative principles. The committee accepted 24 written submissions (listed at Appendix 1). Appendix 2 provides a summary of the points raised in submissions on the chapters and clauses of the Bill.

Public briefing

Officers from the Department of Environment and Resource Management (DERM) briefed the committee on the Bill on 24 August 2011. The committee opened this briefing to the general public and broadcast the proceedings live on the Parliament's website. The transcript of the briefing is available from the committee's web pages.

Public hearings

The committee questioned submitters about their views on the Bill at two public hearings held on 7 & 8 September 2011 at Parliament House, Brisbane. The transcripts of these hearings are available from the committee's web pages. A list of witnesses who gave evidence at these hearings is at Appendix 3.

¹ Legislative Assembly of Queensland (2011) *Standing Rules and Orders of the Legislative Assembly*, Schedule 6, p.89. The schedule provides that the committee's responsibilities include departments, statutory authorities, government owned corporations or other administrative units related to the relevant ministers' responsibilities.

Waste Reduction and Recycling Bill 2011

The WRR Bill²:

- Supports *Queensland's Waste Reduction and Recycling Strategy 2010-2020*
- Establishes a framework to streamline waste management and recycling practices
- Introduces a waste levy on waste other than waste which can be reused or recycled
- Provides for funding of waste management programs from the waste levy
- Amends several acts to enable landholders to participate in the imminent Commonwealth Carbon Farming Initiative
- Amends the *Water Act 2000* (Qld) to implement the National Water Initiative compensation framework for reductions in the value of water access entitlements
- Amends the *Water Supply (Safety and Reliability) Act 2008* –
 - to remove the requirement to obtain an approval for the temporary discharge of coal seam gas (CSG) recycled water to a natural water source where approval, to protect public health, may have been issued under the *Environmental Protection Act 1994* and
 - allows sewerage service providers to consent to the discharge of seepage water (except from mining and petroleum activities) to their sewerage infrastructure.

Waste management

As implied by its title, the primary purpose of the Bill is to introduce legislation which manages waste and resource recovery.³ The following section about the Bill's waste management provisions is based on information provided by DERM in a briefing prepared for the committee.⁴

The Bill proposes a framework to modernise and streamline waste management and resource recovery practices in Queensland, and supports the goals and targets of *Queensland's Waste Reduction and Recycling Strategy 2010 – 2020*.

The Bill would achieve its objectives through a process guided by the waste and resource management hierarchy and policy principles including the polluter pays principle, the user pays principle, the proximity principle and the product stewardship principle.

² Department of Environment And Resource Management, *Background Information on the Waste Reduction and Recycling Bill and Key Policies*, August 2011.

³ Department of Environment And Resource Management, *Background Information on the Waste Reduction and Recycling Bill and Key Policies*, p.2.

⁴ Department of Environment And Resource Management, pp.1-4.

Waste levy

According to DERM, a waste levy is necessary to bring waste disposal costs in Queensland in line with other states and create a disincentive for waste from other states to be disposed of in Queensland. During 2010-11, Queensland received 9,824 tonnes of waste from other states and territories. A table providing breakdowns of this waste is at Appendix 6. A waste levy is intended to provide a price signal to encourage waste avoidance and resource recovery behaviour, and discourage disposal as the option of first choice. The levy will also provide a source of funding for waste management programs, and for state and local government environmental initiatives, and encourage industry investment in Queensland.

The waste levy is proposed to apply to commercial and industrial (C&I) and construction and demolition (C&D) sectors. C&I and C&D waste accounted for almost 60 per cent of the total waste generated in Queensland during 2008.⁵ The proposed waste levy would bring waste disposal costs in Queensland into line with costs in other states as well as provide a disincentive for the disposal of waste in Queensland from other states.⁶ The table at Appendix 4 provides a comparison of waste levies that apply in other Australian jurisdictions.

All local government and private sector waste disposal facilities in south-east Queensland and major regional local government areas such as Fraser Coast, Bundaberg, Rockhampton, Gladstone, Mackay, Cairns, Tablelands, Central Highlands and South Burnett as well as the Mt Isa and Townsville City Councils would be required to collect the levy.⁷

Levy model

The levy liability is created on levyable waste that is delivered to a levyable waste disposal site. The Bill would create an obligation on the operator of a levyable waste disposal site to pay to the state any levy owing on this waste. The Bill provides alternative payment options, including the ability for the site operator to request an extension of time or enter into an instalment agreement to pay off the levy liability over time.

The Bill proposes serious penalties for offences such as levy evasion and provision of false and misleading information.

Resource recovery area

The levy liability would be created at the point when levyable waste is delivered to the levyable waste disposal site. Levyable waste is waste other than exempt waste and may include waste that is able to be recycled.

In order that a levy liability is not created on recyclable waste that may be delivered to a levyable waste facility, the Bill would provide the ability for a site operator to declare

⁵ Department of Environment and Resource Management (2011) *What does an Industry Waste Levy Mean for Queensland* (Queensland's Waste Strategy 2010–2020 Waste Avoidance and Recycling Consultation Draft), Department of Environment and Resource Management: Brisbane, p.1. Retrieved from <http://www.derm.qld.gov.au/factsheets/pdf/environment/en6.pdf>, on 30 August 2011.

⁶ Department of Environment And Resource Management, *Background Information on the Waste Reduction and Recycling Bill and Key Policies*, p.2.

⁷ Department of Environment and Resource Management (2011), p.4.

a Resource Recovery Area. The Bill outlines the types of activities that may be carried out in the Resource Recovery Area. Essentially, this area acts as a 'levy-free zone' within the levyable waste disposal site. Waste that is delivered to the Resource Recovery Area would have no levy liability attached on delivery to that area.

Exclusion of municipal solid waste including self-haul

DERM advised that, in agreeing to introduce a waste levy, the Queensland Government made a commitment to exclude domestic kerbside-collected waste (municipal solid waste (MSW)) from application of the levy in order to reduce the potential cost impact to householders. DERM further advised that, due to the nature of local government charging structures for household waste and the comparatively good recycling performance of the household sector, charging a levy on MSW would simply add an extra cost to household waste. Householders would not be able to respond to the price signal in the same way as other waste generators.

The Bill proposes that the exclusion of MSW from the levy extends to domestic self-haul waste. This is in recognition of the fact that some householders do not have access to a kerbside service and may be unfairly disadvantaged if a levy applied to domestic self-haul waste. The Bill also provide for a review of the efficacy of the levy two years after its introduction.

Levy exemptions

The Bill provides for automatic exemption from the levy for: disaster management waste, lawfully managed and transported asbestos, contaminated soil (in specified instances), dredge spoil; waste collected by or for the state or a local government to clean up of litter or illegally dumped waste; and other waste prescribed under a regulation to be exempt waste.

The Bill also provides a process through which applications can be made for exemptions of other wastes within the categories provided in the Bill. This includes the waste from charitable recycling organisations, waste collected during community clean-up events such as Clean Up Australia Day, and contaminated soil (in circumstances specified by regulation).

Discounted levy for recycling residues

The Bill would allow operators of certain recycling activities to apply for a 50 per cent levy discount for the residue waste. This is a discount off the commercial and industrial waste levy rate of \$35 per tonne. This discount is included in the Bill in a transitional provision that applies until 30 June 2014. Eligible recycling businesses could also apply for exemption for a period of time if paying the levy on recycling residual waste.

Weighbridge requirements

The Bill would require waste disposal site operators to install weighbridges and maintain them in proper working order for calculating the levy liability. Sites disposing of greater than 10,000 tonnes of waste would be required to install a weighbridge within 12 months of commencement of the Bill. Sites disposing of between 5,000 and 10,000 tonnes would be allowed up to two years. For smaller sites, the Bill provides that a weight conversion measurement may be used to calculate the tonnage in lieu of a weighbridge.

Waste and Environment Fund

The Bill would establish a dedicated Waste and Environment Fund into which levy revenue will be paid. According to DERM, the establishment of this fund would address stakeholder concerns about transparency around the use of the levy revenue. The Bill provides for how the levy revenue may be expended from the fund. This includes the use of funds for implementing the waste management strategy business plan.

Priority products

The Bill provides that the department may, after consulting with affected parties, prepare and publish a priority product statement. This statement would identify future priority products and potential options for their management in the waste stream including product stewardship arrangements to target problem waste issues.

Disposal bans

The Bill provides a facility for the department to impose landfill disposal bans for certain products where environmental outcomes need to be achieved, where the targets and objectives of national product stewardship schemes need to be supported or where voluntary action has failed or is inappropriate. The Bill would enable the department to introduce disposal bans for categories of waste specified in a regulation where the necessary recovery or market development infrastructure is in place to take the diverted waste, and after consultation and the preparation of a regulatory assessment statement.

Product stewardship schemes

The Bill places emphasis on voluntary product stewardship arrangements as a first option. The Bill also allows for actions that complement any national product stewardship agenda.

Littering and illegal dumping

According to DERM, the introduction of a waste disposal levy is likely to result in a short term increase in illegal dumping, based on experience with levies in other states. The Bill would provide additional measures to address littering and illegal dumping. The Bill would create a new offence for illegal dumping and impose significantly higher penalties for this offence. The Bill also includes a mechanism that allows the public to report vehicle-related littering and illegal dumping of waste. Queensland's system will be modelled on the successful Victorian system. Under that system, over 18,000 incidents of vehicle related littering were reported by the public in 2009/2010. DERM suggests that the significant reductions in the incidence of roadside littering recorded in litter surveys in Victoria provide some evidence of the success of the public reporting system.

Delivery of unsolicited material

The Bill would address the problem of littering caused by the indiscriminate delivery of unsolicited material, including community newspapers.

Increased requirements for data reporting

The Bill would require better reporting of waste disposal and recycling activities across Queensland by recycling industries and landfill operators. This information could be used by the department to refine its future waste management strategies.

Omission of special provisions about waste management in the *Environmental Protection Act 1994*

The Bill provides for the omission of Chapter 7, Part 7 of the *Environmental Protection Act 1994*. This part of the Act provided local governments with potentially anti-competitive controls over waste management works and the approvals of individuals to perform waste management works within their local government area.

Local governments that wish to continue regulating these activities could do so by developing local laws.

Policy context for the waste management provisions

Queensland is one of the largest generators of waste in Australia with the highest amount of waste per capita of any state, and one of the lowest levels of recycling. Only around a third of Queensland's recoverable waste is recycled.⁸ At the time the Bill was presented, Queensland was also the only state without contemporary waste management legislation. The following arguments for reducing waste are from the Queensland Government's waste strategy, *Queensland's Waste Reduction and Recycling Strategy 2010 – 2020*⁹:

Resources are finite: every year in Queensland, millions of dollars are wasted burying valuable and finite resources. Waste is an inefficient use of natural resources, water, energy, money and land

Waste production has environmental impacts: producing waste has environmental impacts from extracting resources right through to disposal in landfill

Disposal has environmental impacts: even disposal of wastes into well-designed and managed landfills can create environmental impacts, from transporting the waste for disposal, to potential leachate, odour and greenhouse gas emission impacts

Disposal has social impacts: the more waste that is created and unnecessarily disposed of, the faster landfill capacity is used. This puts pressure on local councils to find suitable sites for new disposal facilities. For some local governments, finding suitable sites that won't impact on nearby land uses, such as residential areas, is increasingly difficult and expensive, leading to higher costs for ratepayers

Disposal has economic impacts: inefficient management of finite resources also means lost opportunities for business investment and job creation. Queensland is losing valuable investment and job creation opportunities in the resource recovery sector to other states where there are clear incentives to reuse and recycl.

⁸ Department of Environment and Resource Management (2010), *Queensland's Waste Reduction and Recycling Strategy 2010 – 2020*, Department of Environment and Resource Management: Brisbane, p.i.

⁹ Department of Environment and Resource Management (2010), pp.1-2.

Waste is increasing: the amount of waste generated in Queensland is steadily growing and this trend will continue unless action is taken. By 2026, Queensland's population is projected to reach six million people, a 30 per cent increase from 2006. This growth will put increasing pressure on Queensland's available space and future infrastructure planning. While much of this growth will occur in south-east Queensland, other regions will also experience significantly increases in their populations.

As Queensland's population grows and standards of living increase, more goods are consumed and more waste is produced. Rising disposable incomes, convenience-led lifestyles, unsustainable consumption, changing attitudes and fashions, and design for obsolescence all contribute to this trend.

Queensland produces a large volume of waste every year. In 2008, an estimated 32.6 million tonnes was reported being generated from commercial and industrial, construction and demolition, and household activities. This includes data collected on waste that is classified for indefinite storage—such as fly ash from electricity generation—which amounts to 22.3 million tonnes. Queensland households and businesses generated the remaining 10.3 million tonnes.

The trend over the past five years has been for a significant increase in waste generation and disposal.

The following sections about the remaining provisions of the Bill are based on briefing material information prepared by DERM for the committee.¹⁰

Carbon Farming Initiative¹¹

The Bill contains a number of proposed amendments to the *Forestry Act 1959*, *Land Act 1994*, *Nature Conservation Act 1992* and *Land Title Act 1994* that are intended to enable landholders in Queensland to participate in the Commonwealth Carbon Farming Initiative (CFI).

The Commonwealth Government is establishing the CFI as a carbon offsets scheme to provide new economic opportunities for farmers, forest growers and landholders and help the environment by reducing carbon pollution.¹² The CFI aims to give farmers, forest growers and landholders access to domestic and international carbon markets, providing an incentive for investment in environmental conservation and reducing greenhouse gas emissions. Undertaking emission abatement activities on the land that reduce or store carbon pollution will generate carbon credits, known as Australian Carbon Credit Units. These credits may be sold domestically or internationally, either voluntarily or to meet regulatory requirements.

To be considered an eligible offsets project under the Commonwealth CFI Bill, participants must hold the carbon sequestration right, and the legal right to carry out the project, in the area covered by the project.

¹⁰ Department of Environment And Resource Management, *Background Information on the Waste Reduction and Recycling Bill and Key Policies*, p.7.

¹¹ Information about the Commonwealth's Carbon Farming Initiative is available at <http://www.climatechange.gov.au/cfi>

¹² The House of Representatives passed the Commonwealth Carbon Credits (Carbon Farming Initiative) Bill 2011 in June 2011.

Under the *Forestry Act 1959* and the *Nature Conservation Act 1992*, the state is the owner of the carbon sequestration right for native forest timber and vegetation on non-freehold land, including most land held under a lease under the *Land Act 1994*, and on deeds of grant in trust (including deeds of grant in trust for Aborigines and Torres Strait Islanders).

The amendments to the *Forestry Act 1959* and *Nature Conservation Act 1992* include the power for the state to grant to a landholder the right to deal with the state's 'carbon abatement product' in a project area. The amendments to the *Land Act 1994* and *Land Title Act 1994* include creation of a special interest (a 'carbon abatement interest') that will give the interest holder (who may be the landholder) the legal right to carry out the project and deal with all carbon abatement product in the project area for the purposes of the Commonwealth CFI Bill.

According to DERM, failure to implement the amendments to the *Forestry Act 1959*, *Land Act 1994*, *Land Title Act 1994* and *Nature Conservation Act 1992* will potentially see a significant number of Queensland landholders being unable to participate in the CFI scheme.

National Water Initiative¹³

The National Water initiative (NWI) is Australia's key policy statement for water reform. The Bill includes amendments to the *Water Act 2000* to implement the NWI framework for compensation payable for reductions in the value of water access entitlements.

According to DERM, the amendments are necessary to implement the NWI risk assignment compensation framework for changes to water access entitlements that result in a reduction of the value of a water access entitlement. Adopting the NWI risk assignment framework before commencement of the Commonwealth Murray-Darling Basin Plan, anticipated in 2012, will ensure that the Commonwealth takes on Queensland's potential financial liability for reductions in available water required under the final plan.

Failure to adopt the framework under legislation could make the Queensland Government liable for substantial compensation under the existing framework, which could amount to tens or hundreds of millions of dollars.

Under the amendment, the compensation framework will apply to water allocations and other authorisations as prescribed by regulation, that suffer a reduction in value as a result of implementing the Commonwealth Murray-Darling Basin Plan. The framework will apply in the Murray-Darling Basin, with the option to include other parts of Queensland by regulation. Unless included by regulation, the current compensation framework outlined in s.986 of the *Water Act 2000* will apply to all other areas of the state.¹⁴

¹³ Information on the National Water Initiative is available at <http://www.nwc.gov.au/www/html/117-national-water-initiative.asp>.

¹⁴ Department of Environment And Resource Management, *Background Information on the Waste Reduction and Recycling Bill and Key Policies*, p.8.

In addition, as part of adopting the NWI risk assignment framework for compensation, the *Water Act 2000* is amended to allow existing instruments to be collectively made into management plans. The purpose of making the plan for the management of water is so that it may be eligible to be an interim water resource plan under the Commonwealth *Water Act 2007*. In the area to which the interim water resource plan applies, this will provide a mechanism for making water entitlements eligible for voluntary buyback arrangements under the Water for the Future Program and compensation under the NWI risk assignment framework, if appropriate.

Temporary emergency release of coal seam gas waste water

Part 10 of the Bill contains amendments to the *Water Supply (Safety and Reliability) Act 2008* to provide for the emergency discharge of waste water from coal seam gas (CSG) operations. The discharge of CSG recycled water into a natural water source is currently regulated under two legislative frameworks: the *Water Supply (Safety and Reliability) Act 2008*—for the purpose of protecting public health in relation to drinking water supplies of a drinking water service provider; and the *Environmental Protection Act 1994* for the purpose of protecting the environment.

Currently, if an emergency direction, transitional environmental program or an environmental protection order under the *Environmental Protection Act 1994* directs or authorises a release of CSG recycled water to a natural water source, a separate approval under the *Water Supply (Safety and Reliability) Act 2008* is also required. The Bill proposes to remove the requirement under the *Water Supply (Safety and Reliability) Act 2008* to obtain an approval for temporary discharges of coal seam gas (CSG) recycled water to a natural water source used by a drinking water service provider where relevant approvals, conditioned to protect public health for drinking water supplies, have been issued under the *Environmental Protection Act 1994*.

A CSG emergency release may consist of a one off release or a series of releases that continue for a combined period of 12 months or less. Where it is intended or anticipated that further releases may continue to happen, the Bill requires the recycled water provider or scheme manager to either prepare a recycled water management plan for approval by the regulator or apply for an exclusion decision.

The circumstances where an emergency release of CSC waste waters would be permitted include¹⁵:

- Where the release of water is necessary to avoid or respond to an emergency situation; and
- Where the release may impact on the drinking water supply of a drinking water service provider; and
- Where the release is authorised or required under a transitional environmental program, environmental protection order or emergency direction under the *Environmental Protection Act 1994*; and
- If the CSG entity complies with the *Environmental Protection Act 1994* authorisation.

¹⁵ Explanatory Notes - Waste Reduction and Recycling Bill 2011(Qld), p.185.

Disposal of seepage water to sewer

According to DERM, the Division 3 amendments about seepage water are necessary to allow service providers to accept underground seepage water to be discharged into their sewerage infrastructure for treatment. Under the proposed amendments, service providers will have discretion to impose any necessary conditions on a discharge approval. This approach is consistent with current policy around urban water services, that is, that service providers are responsible for operation of their infrastructure and services.

The need for this policy was identified in relation to the Airport Link Project (a road and tunnel project that will link Brisbane city precincts with Brisbane airport). It is a declared state significant project under the *State Development and Public Works Organisation Act 1971* and an environmental impact statement was completed for the Project in 2009 pursuant to that Act. Construction of the tunnel has resulted in the interception of underground seepage water. Due to the poor quality of the seepage water, disposal to the local watercourse (Kedron Brook) would require treatment by a reverse osmosis plant to meet water quality objectives. Discharge to sewer is the most environmentally sustainable option and is the Airport Link Project proponent's preferred option. The discharge would be directly into Queensland Urban Utilities' (QUU) sewerage network, for treatment at the Luggage Point sewerage treatment plant. QUU has indicated they are prepared to accept the seepage water and the network has the capacity to accommodate and treat the expected volumes of water.

Given the water quality requirements for disposal of seepage water to natural water bodies under the *Environmental Protection Act 1994* and the Environmental Protection (Water) Policy 2009, DERM expects that ongoing urban infrastructure development will create an increasing need for practicable alternatives to costly and energy intensive onsite treatment and disposal of seepage water.

Examination of the Bill

The table at Appendix 2 provides a comprehensive summary of comments on the chapter and clause of the Bill raised by submitters, together with responses to these comments provided to the committee by DERM.

The following section discusses the key clauses (cl.2 Commencement; cl. 28 Application for approval of waste as exempt waste; and cl. 36 Imposition of waste levy) that attracted the greatest volume of comment from submitters, as well as other clauses where the committee believes the Legislative Assembly would benefit from further clarification by the Minister of advice provided by DERM.

For remaining clauses, the committee is satisfied with the advice provided by DERM on the points raised by submitters.

Clause 2 - Commencement

Clause 2 provides a commencement date of 1 December 2011 for key provisions in the Bill. These provisions include the waste levy covered in Chapter 3 and new offences in Chapter 5 related to littering and illegal dumping of waste. Clause 2 also provides for Chapter 16 parts 4 to 7 to commence on a day to be fixed by proclamation, and for the remaining provisions of the Bill to commence on Royal Assent.

Eight submitters raised concerns with this clause, specifically about the proposed commencement on 1 December 2011 of provisions in Chapter 3 relating to the waste levy.

The Toowoomba Regional Council argued in its submission that there are a large number of unmanned landfill sites across its local government area which would require staged closure, rehabilitation or conversion to modern sites.¹⁶ The council maintains that such conversion would take five years to implement. Similarly, the Goondiwindi Regional Council submitted that it would require up to three years to upgrade the Goondiwindi Waste Facility as well as the council's other facilities, including unmanned facilities.¹⁷

The Downs and Surat Basin Alliance of Councils argued in its submission that, given the large local government areas regional councils are responsible for, the solutions to improve waste management in the regions may require implementation periods on a site to site basis.¹⁸

The submissions from the Local Government Association of Queensland, Central Queensland Local Government Association and Gold Coast City Council proposed delaying the commencement of the levy until 1 July 2012.¹⁹

¹⁶ Toowoomba Regional Council, *Submission No. 6*, p.1.

¹⁷ Goondiwindi Regional Council, *Submission No. 10*, p.4.

¹⁸ Downs and Surat Basin Alliance of Councils, *Submission No.25*, p.2.

¹⁹ Local Government Association of Queensland, *Submission No.20*, p.1.; Central Queensland Local Government Association, *Submission No.7*, p.3.; Gold Coast City Council, *Submission No.8*, p.2.

Advice from DERM

In its advice, DERM stated that the commencement date of the levy was originally 1 July 2011; a date first announced on 5 June 2010 with the release of the discussion paper referred to as *Queensland's Waste Strategy 2010–2020: Waste Avoidance and Recycling Consultation Draft*. On 18 February 2011, the Government announced the deferral of the commencement date to 1 December 2011. This was on account of the impact of natural disaster events in early 2011 on the business sector and the capacity of councils and the waste sector to install infrastructure. DERM also advised that the deferral until 1 December 2011 was requested and supported by the Local Government Association of Queensland (LGAQ) and the Council of Mayors South East Queensland. Their letters to the Minister, provided by DERM, are at Appendix 7.

In its advice, DERM also noted that the Bill contains a number of transitional and permanent provisions to minimise some of the immediate impacts on levyable waste disposal sites from the introduction of the levy on 1 December 2011. These include:

- Clause 42 – does not require weighbridges to be installed from commencement. Sites disposing of greater than 10,000 tonnes of waste in a year are not required to have a weighbridge until 12 months after commencement, and sites disposing of between 5,000 and 10,000 tonnes in a year are not required to have a weighbridge until two years after commencement. Sites disposing of less than 5,000 tonnes of waste in a year are not required to have a weighbridge.
- Clause 44 – allows levyable waste disposal sites to use weight measurement criteria that will be prescribed in the Regulation to calculate their levy liability until they install or are required to have a weighbridge.
- Clause 297 – This is a transitional provision that allows the operator of a small site—that is, a site that disposes of less than 2,000 tonnes of waste in a year to nominate an alternative methodology for calculating their waste levy amount owing. This provision expires on 30 June 2014 after which time, if these sites are still a levyable waste disposal site, the requirements under clause 44 would apply.

In recognition of the difficulties that councils may have in becoming levy-ready, the Government also agreed to help with infrastructure installation. For 2010/11, \$4.1 million in grant funding was allocated to help councils install weighbridges and other infrastructure required to record waste delivered and to calculate their levy liability. This will be followed in the next two financial years by a further \$13 million in infrastructure grant funding.

The committee also noted the potential adverse impacts of further delaying the levy, for businesses and councils that have prepared for the December 2011 commencement date. As noted by Minister Darling in her advice to the committee²⁰:

....further delays will only create greater uncertainty for business and industry and for local government and significantly disadvantage those people who have invested money to adjust their business practices ahead of the levy commencing.

The Minister also noted in her correspondence with the committee that small site operators would be able to pay the levy twelve months in arrears and that sites that

²⁰ Hon Vicki Darling MP, Minister for Environment, *Correspondence*, 16 September 2011, p.1.

handle municipal solid waste exclusively would not be required to install levy ready infrastructure.²¹

Committee comment

The committee notes the concerns raised in submissions about the readiness of councils and other landfill operators to meet the proposed 1 December 2011 commencement for the waste levy provisions in the Bill. The committee also notes that these provisions were originally proposed to commence on 1 July 2011, but were deferred at the request of the LGAQ and the Council of Mayors South East Queensland, and with their support.

The committee notes the significant funding provided to assist councils prepare for a December 2011 commencement, and the concessions the Government has included in the Bill that are specifically targeted at small landfill operators.

The committee concluded that Clause 2 should proceed without amendment.

Clause 3 - Objects of Act

In regard to clause 3, the Waste Contractors and Recyclers Association of Queensland (WCRAQ) in its submission stated that the Bill acknowledges the relevance of operators in the [waste] sector who will be liable for collection of the levy though do not hold the appropriate ERA 60 registration certificate.²²

Advice from DERM

DERM confirmed in its advice that the definition of a levyable waste disposal at clause 26 of the Bill covers sites that are unlawfully operating (i.e. required to hold, but do not actually hold a registration certificate) to ensure that any levy owing by those sites can be recovered. DERM also advises that unlawful operators continue to commit an offence under the *Environmental Protection Act 1994* and enforcement action must be taken under that Act for the offence. If the definition of a levyable waste disposal site only covered operators holding a registration certificate, there could be no compliance action taken against operators that do not hold a registration certificate for the activity which would create inequity for operators who would be required to pay the levy.

Committee comment

The committee is satisfied that the inclusion of illegal operators in the definition of a levyable waste disposal is necessary to ensure the department can recover the waste levy in these circumstances, and to avoid inequities for legal operators who hold the appropriate registration certificate.

²¹ Hon Vicki Darling MP, Minister for Environment, *Correspondence*, 16 September 2011, p.2.

²² Waste Contractors and Recyclers Association of Queensland, *Submission No. 4*, p.3.

Clause 5(e) – Approach to achieving Act’s objects – providing for reporting requirements for the State, local governments and business and industry

The Moreton Bay Regional Council submitted that there will be a significant cost for councils to set up and administer the requirements for reporting. Council suggested that the costs incurred to collect and administer the waste levy should be funded from the proposed state Waste and Environment Fund. Council also stated that currently only a small amount of funding is available to go towards some of the incurred expenses for infrastructure, and no funding is available for the additional administration costs.²³

Advice from DERM

DERM advised the committee of its analysis of each local government site to ascertain possible cost impacts for local government. The department estimates the costs to local governments to 30 June 2013 and before payments for grants programs phases 3 and 4 to be \$12.548 million. Based on this assessment, a total of \$13 million over two years has been allocated to provide additional infrastructure assistance to all local governments under the Phase 3 and 4 grants. Of this, around \$11.7 million will be available in 2011/12. This funding is additional to funding provided in 2010/11 under phases 1 and 2 of the infrastructure grants.

In its advice to the committee, the department also highlighted its 2010-2011 Infrastructure Grants Program designed to target high priority sites and to prompt local governments to strategically analyse their infrastructure needs. This program includes the \$2 million Waste Facilities Assistance Grant Program which provides assistance with facility improvements such as computer hardware and software upgrades, traffic control, small site facilities such as personal digital assistants (PDAs) and security.

In a briefing on the Bill provided by DERM on 24 August 2011, officers of the department advised of the department’s willingness to work with individual councils to address their concerns implementing the waste levy.

Committee comment

The committee notes the significant funding provided by the Government under its Infrastructure Grants Program to assist councils prepare for the waste levy.

It is unclear to the committee whether the funding offered by the Government would be available to councils to meet their additional administration costs. It is also unclear whether councils would be eligible for funding from the proposed Waste and Environment Fund to defray their higher administration costs as a consequence of the waste levy.

The committee invites the Minister to clarify whether it is the Government’s intention that funding would be made available from the Waste and Environment Fund to councils to assist with their administration costs connected with the waste levy.

²³ Moreton Bay Regional Council, *Submission No.15*, p.1.

Clause 9 – Meaning of waste and resource management hierarchy

Clause 9 describes the waste and resource management hierarchy. The hierarchy provides a preferred order of considerations in relation to waste and resource management options.

The Queensland Conservation Council (QCC), in its submission, argued that in describing the waste hierarchy, the Act contradicts usual practice in favour of a principle to reduce and avoid unnecessary resource consumption and waste generation. They note that reducing waste is NOT avoiding waste as they are two separate functions, and proposed that the hierarchy must include waste avoidance as its first principle so that waste avoidance and reduction are recognised as separate.²⁴

Advice from DERM

DERM advise that the waste and resource management hierarchy is a foundation principle of the Bill. Each item in the hierarchy is explained in more detail in the *Waste Strategy Supplementary Paper 2: The waste and resource management hierarchy*.

The term ‘reduce’ is taken to include waste avoidance, for example by changing production processes to avoid waste generation at its source. The first Object of the Act as expressed in clause 3 of the Bill is —to promote waste avoidance and reduction.

The word ‘avoid’ was added to the first item of clause 9 in the Bill to address the concerns raised by QCC during consultation on the Bill.

Committee comment

The committee notes the Queensland Conservation Council’s concerns regarding the separation of avoidance and reduction, and requests further clarification from the Minister as to why they are listed in the Bill together at the top of the waste and resource management hierarchy.

Chapter 3 – Waste levy

The Chamber of Commerce and Industry Queensland (CCIQ) raised concerns in their submission that the proposed waste levy charged at \$35 per tonne for commercial and industrial waste will threaten business viability in Queensland. CCIQ further stated in their submission that DERM cost benefit analysis and regulatory impact assessment processes have not accurately reflected the full cost pass through to the business community, and could represent up to an additional 20 -30 per cent cost increase (in addition to the per tonne waste levy cost) on current waste costs for Queensland businesses.²⁵

The Waste Contractors and Recyclers Association of Queensland (WCRAQ) stated in their submission that a combined waste levy plus the [proposed Federal Government] carbon tax will result in very substantive increases in waste disposal costs for all Queensland Communities. They further advised that In South East Queensland the

²⁴ Queensland Conservation Council, *Submission No.16*, p.2.

²⁵ Chamber of Commerce and Industry Queensland, *Submission No. 5*, p.1.

waste levy alone would lead to cost increases of between 200 and 300 per cent for wastes to which the levy would apply from December 2011.²⁶

Advice from DERM

DERM advice to the committee confirmed that the levy has the potential to increase the costs of waste disposal for business and industry, though noted that the cost of the levy is avoidable if businesses change their waste management practices. DERM also referred to a cost-benefit analysis commissioned by Synergies Economic Consulting to assess the impacts of the levy to business, government and the community over a ten year period from 2011. This analysis formed part of the Regulatory Assessment Statement for the proposed waste levy. DERM advised that the analysis, based on an average weight of disposed waste in commercial and industrial waste (general business waste) 240 litre wheelie bins calculated at 16 kg, and a levy rate of \$35 per tonne, the average additional cost per 240 litre wheelie bin would be around 56 cents.

Committee comment

The committee notes that, based on DERM's calculations, the proposed waste levy would on average have minor impact on the waste disposal costs already incurred by businesses. However, DERM's advice was silent on the methodology used to calculate the 16 kg average weight of a 240 litre wheelie bin of commercial and industrial waste. This average weight is a key factor in the cost benefit analysis for the cost to businesses of the levy. Small increases or decreases in the average weight used for the analysis could alter the estimated levy costs for businesses significantly.

The committee invites the Minister to clarify the methodology used by DERM to calculate the 16 kg average weight of a 240 litre business wheelie bin used for the cost benefit analysis for the proposed waste levy.

Clause 28 - Application for approval of waste as exempt waste

Clause 28 of the Bill states the circumstances in which a person would be able to apply for waste to be exempt from the levy. Ten submitters commented on this clause.

—Exemptions for charitable and not for profit organisations

The Queensland Greens submission argues that waste collected by the community during organised events (such as Clean up Australia Day) should be automatically exempt from the waste levy.²⁷ The Queensland Conservation Council (QCC) also supported the exemption from the levy for charitable and not for profit organisations.²⁸

In their submission, the National Association of Charitable Recycling Organisations (NACRO), the peak body representing charitable recycling organisations throughout Australia, advised that there are seven major charitable recyclers in Queensland estimated to generate 85 per cent of the charitable waste volume. NACRO estimate that these seven major charitable institutions would potentially require 73 exemptions across 22 local government levy areas.²⁹

²⁶ Waste Contractors and Recyclers Association of Queensland, *Submission No. 4*, p.4.

²⁷ Queensland Greens, *Submission No.2*, p.2.

²⁸ Queensland Conservation Council, *Submission No.16*, p.2.

²⁹ National Association of Charitable Recycling Organisations, *Submission No. 18*, p.3.

To reduce the burden on these entities, NACRO proposed that a master exemption certificate could be issued, and tied to specific vehicles for monitoring and control purposes. NACRO also suggested that exemptions cover a specific time period, ideally 12 months, rather than specific loads which could be more easily distorted and skewed by volatile weather events.

NACRO further submitted that no tonnage limit should apply to the first year of operation as this figure will be distorted by inflated waste volumes.

Advice from DERM

In their advice, DERM did not dispute NACRO's estimates for permits that will be required for charitable recyclers, but noted that the fees accompany applications for exempt waste will be specified in the regulations. The department also noted that draft regulations do not currently provide for a fee for waste exemption applications for littered or illegally dumped waste collected by community clean-up events.

In relation to NACRO's suggestion for a master exemption certificate, DERM advised that NACRO raised this proposal during the consultation for the Bill, and that it is not a matter for the Bill, and would be "...considered in the logistics of administering the exemption."

Committee comment

The committee notes the concerns raised by the National Association of Charitable recycling Organisations (NACRO) on behalf of charitable recyclers, and the burden that clause 28 would impose on these groups. The committee notes DERM's advice that the fees to accompany exemption applications under section 28 would be addressed in the regulations. The committee also notes the department's undertaking to consider NACRO's master exemption certificate proposal when administering the exemption.

Recommendation

The committee recommends that clause 28 be amended so that charitable recycling organisations that operate in more than one local government area are able to secure a single authority for waste to be treated as exempt waste in all areas, rather than seeking separate exemptions for each area.

The committee also invites the Minister to quantify the numbers of s.28 applications for waste to be treated as exempt waste that her department expects to receive once the waste levy commences, and the application fees that would be charged charitable recyclers and others.

—Exemptions for day cover soil and crushed concrete at landfills

The Central Queensland Local Government Association, Gold Coast City Council and Tablelands Regional Council submissions requested that materials for operational works such as day cover soil or crushed concrete be included in Clause 28 to allow councils to apply for exemptions for those resources being reused in the operations of their landfills.³⁰

³⁰ Central Queensland Local Government Association, *Submission No.7*, p.3.; Gold Coast City Council, *Submission No.8*, p.2.; Tablelands Regional Council, *Submission No. 22*, p.4.

Advice from DERM

DERM advised that section 28(d) of the Bill already provides for the ability to make an application for exemption of wastes for operational uses such as progressive capping.

—Non-exemption of residual waste as an exempted waste category

A number of submitters raised concerns about the operation of clause 28 in relation to residue waste from recycling activities.

In their submission, Waste Contractors and Recyclers Association of Queensland (WCRAQ) submitted that residue waste from recycling activity was removed from the list of exempted waste categories for which an application for approval may be made. According to WCRAQ, the wording was in the original version of the Bill and should be reinstated.³¹

DERM advised that residue waste is covered in clause 279 of the Bill as a levy discount. According to DERM, this is because it is not an exemption in the sense of the exemption application under s28.

—Residue waste from recycling

Submissions from the Local Government Association of Queensland (LGAQ) and Cairns Regional Council expressed concern that residual waste from material recovery facilities (MRF) operated by councils, including Cairns, may be levyable.³²

In their submission, Kennedy's Classic Aged Timbers argued that the full levy exemption should apply where there are no viable alternative markets for the waste produced in timber recycling operations.³³

Tablelands Regional Council submitted that levying the MSW residual component at the commercial or industrial waste levy of \$35 per tonne would equate to additional costs to Tablelands Regional Council of approximately \$110,000 per annum and Cairns Regional Council of approximately \$1 million per annum.³⁴

Advice from DERM

In their advice, DERM confirmed that the waste left over after the recoverable material has been removed is residual waste, and would be treated as C&I waste to which a levy of \$35 per tonne would apply.

DERM advised that other Australian jurisdictions charge a levy on residuals from recycling and processing operations, and that the absence of a levy on residue waste has the potential to discourage improvement and efficiencies in resource recovery practices and technologies. DERM further advised that the Bill was amended in response to concerns raised by stakeholders about the issue of the levy in Queensland starting at \$35 per tonne and the need for certain recyclers to adjust to the price signal.

DERM also noted that the Bill contains transitional arrangements that could assist in alleviating levy impacts while rewarding best practice operators undertaking various

³¹ Waste Contractors and Recyclers Association of Queensland, *Submission No. 4*, p.7.

³² Local Government Association of Queensland, *Submission No.20*, p.3.; Cairns Regional Council, *Submission No. 12*, pp.2-3.

³³ Kennedy's Classic Aged Timbers, *Submission No. 21*, p.1.

³⁴ Tablelands Regional Council, *Submission No. 22*, p. 3.

types of recycling activities. The Bill provides for these arrangements to remain in place until 30 June 2014:

Discounted levy rate for residual waste—

The operator of a recycling activity may apply to the chief executive of the Department of Environment and Resource Management to have a discounted levy rate applying to their residue waste.

The regulation will prescribe a residue waste efficiency threshold that the applicant must meet to have the discounted levy. This will ensure that good practice can be rewarded; while poor performance is not.

The efficiency thresholds will be different for each type of recycling activity.

Exemption from waste levy for residue wastes—

Further, where operators can demonstrate that, although meeting the efficiency threshold for their recycling activity, the application of the levy even at the discounted levy rate would still cause the operator financial hardship, then the operator may apply to the chief executive to obtain a full levy exemption for their residual waste.

DERM advised that any application for exemption from the levy on residues would need to be lodged by 30 June 2012. The discounted levies for residue waste from recycling and possible exemption on the basis of hardship were developed in consultation with stakeholders and are supported by the Australian Council of Recyclers (ACOR).

The discounted levies for residue waste from recycling and possible exemption are supported by the ACOR and are considered an innovative approach in comparison with other states where no relief from the levy is available.

Further, the revenue from the waste levy would go into the Waste and Environment Fund to fund programs that may encourage markets and new options for avoidance, treatment to reduce hazard and alternative end-uses.

Committee comment

The committee notes the concerns raised in submissions from councils and other recyclers about the adverse impacts of charging the proposed waste levy on recycling residue waste, particularly for recycling operations not operated on a commercial basis.

In particular, the committee notes the difficulties raised by the Tablelands and Cairns regional councils. In effect, these councils would be charged a levy on residuals from their MSW recycling operations, which they would not be charged had they conducted no recycling and send all MSW to landfill. The committee also acknowledges the need for the levy system to be practically enforceable, and that waiving the levy for residue from any recycling activity could be problematic. The committee also notes the generous fifty per cent levy discount provided in the Bill for recycling residues following DERM's consultation with industry.

However, the committee remains concerned at the potential impact of the proposed waste levy on the viability of existing recycling operations.

The committee invites the Minister to clarify how her department would assist the Tablelands and Cairns councils and other recyclers to ensure the continued viability of their recycling operations if the proposed levy on recycling residual waste is implemented.

Clause 36 - Imposition of waste levy

Clause 36 provides for the actual imposition of a waste levy. The explanatory notes to the Bill indicate that the operator of a levyable waste disposal site would be liable to pay the state a levy (the waste levy) on all levyable waste delivered to the site if the site is located within the levy zone or, if the site is outside the levy zone, on levyable waste that was generated within the levy zone. A map detailing the areas to be subject to the waste levy (the levy zone) is at Appendix 5. Fourteen submitters raised concerns about this clause.

The Toowoomba, Goondiwindi and Western Downs Regional Councils argued in their submissions that the levy would be economically damaging to them and their regions. The Toowoomba Council submitted that the state is providing only partial funding to become 'levy-ready' and this does not take into account the current challenges associated with the amalgamation of eight former local government areas.³⁵

The Goondiwindi Council also submitted that collecting the levy would have a dramatic effect on waste disposal costs to council and the community, as preparations needed to become 'levy-ready' are considerable. Similarly, the Western Downs Regional Council in its submission argued that the levy would place additional cost pressures on their community, greater than that felt by residents in more metropolitan areas.³⁶

The Australian Council of Recycling (ACR) has several concerns about clause 36.³⁷ In particular, ACR raises concerns about exempting municipal solid waste (MSW) from the levy. ACR submits the design of the levy system, in responding to opposition from local government by exempting municipal waste, creates undesirable and unnecessary administrative complexity and the likelihood of higher transaction costs to the operation of various waste and recycling facilities.

Kennedy's Classic Timbers and Timber Queensland both submit that genuine recyclers will ultimately face the full waste levy for residuals from their recycling operations.³⁸ Kennedy writes that a large proportion of residual timber (produced after recycling) is treated with chemicals that would not allow re-use, and the only option is to dispose to landfill, for which the full levy would be incurred.

Cairns Regional Council states the application of the waste levy regarding the MSW component of residual waste, particularly from resource recovery facilities, is the primary issue that may substantially impact on the Council.³⁹ Tablelands Regional Council challenges DERM's position that residual waste from resource recovery facilities will attract a commercial or industrial waste levy because the waste is viewed as having passed through a commercial process.⁴⁰ The Local Government Association of

³⁵ Toowoomba Regional Council, *Submission No. 6*, p.2.; Western Downs Regional Council, *Submission No. 17*, pp.1-3.

³⁶ Goondiwindi Regional Council, *Submission No.10*, p.3.

³⁷ Australian Council of Recycling, *Submission No. 9*, p.3.

³⁸ Kennedy's Classic Aged Timbers, *Submission No. 21*, p.25; Timber Queensland Limited, *Submission No. 11*, p. 1.

³⁹ Cairns Regional Council, *Submission No. 12*, pp.1-4.

⁴⁰ Tablelands Regional Council, *Submission No.22*, pp.1-3.

Queensland raises the same concern regarding the levying of residuals from MRF processes.⁴¹

Mr Rob Spencer raised concerns in his submission that local residents, particularly the aged or disabled, may be disadvantaged financially. He asks how the government will reduce the impacts on ordinary households who appear to be carrying a more-than-fair share of cost recoveries. He writes that "...in general, through no direct action of their own, householders are being forced to bear an increasing share of costs associated with waste management."⁴²

Mr Simon Higgins in his submission stated that imposing a levy on industrial and commercial waste may result in increased illegal dumping.⁴³

Finally, Moreton Bay Regional Council recommended in their submission a yearly levy period be set for stockpiles of recyclable waste as this would provide more time for these stockpiles to be removed for recycling purposes.⁴⁴

Advice from DERM

DERM has provided and will continue to provide funding to assist local governments to become levy-ready, for example to install weighbridges, fences or other infrastructure. This funding has only been provided to local government owned facilities.

In order to limit costs to local government and assist with the transition to the levy regime, the Bill phases in over several years the requirements for weighbridge installation, weight measurement criteria methodology and monthly levy remittance depending on the size of facility. Under the legislation, weighbridges are only required for sites that are licensed to dispose of over 5,000 tonnes in a year.

DERM undertook an analysis of each local government site to ascertain possible cost impacts for local government. The analysis is based on a set of assumptions to arrive at a cost model e.g. for utilities connection – an allowance is made for the connection of water, power and phone to each facility >2,000 tonnes per annum as it is assumed that none of these sites have existing utilities connections.

DERM has provided a breakdown of cost for impacted local governments, excluding operational costs, such as staffing and administration.

Clause 42 of the Bill requires certain sites to install a weighbridge within a specified timeframe. However, the Bill was drafted to provide transitional periods of one or two years (depending on the size of the site) before a weighbridge must be installed. Sites that are required to hold a registration certificate to dispose of:

- more than 10,000 tonnes in a year must install a weighbridge within one year from levy commencement; and
- more than 5,000 but no more than 10,000 tonnes in a year must install a weighbridge within two years from levy commencement.

⁴¹ Local Government Association of Queensland, *Submission No.20*, p.3.

⁴² Mr Rob Spencer, *Submission No.13*, p.1.

⁴³ Mr Simon Higgins, *Submission No. 3*, p.1.

⁴⁴ Moreton Bay Regional Council, *Submission No. 15*, p.5.

Where a weighbridge is not in place the Bill allows the site operator to use load conversion factors (weight measurement criteria in clause 44) to measure the waste coming to the site. In the Phase 1 infrastructure grants program DERM made funding of around \$60,000 available to the Council to install a weighbridge at the main landfill. The Council has not yet taken this offer up. An additional \$13 million over two years is also available to local governments to establish infrastructure at waste disposal sites and transfer stations. The Bill also makes provision for operators of small sites by allowing the use of an alternative methodology for calculating levy payments and an annual payment and reporting period.

DERM notes that the Bill is drafted in accordance with the Government's position in this matter. The requirement for a site to have a weighbridge is consistent with the approach in other mainland states where a waste levy is in place.

According to DERM, the recycling targets in *Queensland's Waste Strategy 2010-2020* for regulated waste are the lowest of all waste streams. This reflects that alternatives, other than disposal, are more limited for this type of waste.

The industry waste levy from this waste will go into the Waste and Environment Fund which will fund programs, including research on options for avoidance, treatment to reduce hazard and alternative end-uses. The levy is also proportionate to that in other states so that Queensland does not become a cheap dumping ground for interstate waste. The Bill also allows for an application to be made by an operator of a recycling activity involving treated timber recycling to dispose of residues at a discounted levy. This will be based on efficiency thresholds for each type of recycling activity and included in the regulation.

Residual waste is the waste that is left over after the recoverable material has been removed. The policy position the Government has adopted is to treat this residual waste as C&I waste, to which a levy of \$35 per tonne will apply. This is because these wastes are largely the by-product of co-mingled (MSW and C&I) wastes which are processed by a commercial operation such as a material recovery facility (MRF). Other Australian jurisdictions also charge a levy on residuals from recycling and processing operations.

Clause 36(2) of the Bill deals with the levy in stockpiles. A levy would only apply if the levy had not already become payable on the delivery on the waste to that site as per clause 36(1). The Bill was developed in consultation with stakeholders including local governments and industry. During consultation stakeholders raised the issue of cash-flow where a levy must be paid on delivery of waste directed to a stockpile that is then recycled or recovered. As a result of consultation the Bill now contain provisions to address cash flow issues associated with the stockpiling of recyclables.

The levy will target commercial and industrial waste; construction and demolition wastes and regulated wastes. Key definitions for types of waste and levy rates will be included in the regulation supporting the Bill.

The definition of municipal solid waste (MSW) will cover waste from domestic premises commonly the subject of kerbside collection by council or self-hauled by a householder to a landfill site. A zero levy rate will apply to MSW to prevent the waste levy from impacting on householders. The waste levy is payable by a landfill operator - which may

be a private operator or local government – to the state. As MSW has a nil rate it is expected that no extra costs will be passed on to householders by landfill operators. However, the state has no involvement in gate pricing decisions by landfill operators including local government. The Bill includes provisions requiring the transporter or deliverer of the waste to provide information at the landfill gate to ensure the waste is identified appropriately (clause 40). Severe penalties apply to misrepresentation of the waste.

The Minister noted in her advice to the committee:

The decision to apply a zero levy on MSW was based on the Government's commitment, when agreeing to the waste reforms in 2010, not to impose a cost to households with the introduction of a levy. This decision recognises the investment of many local governments in providing a recycling bin through their kerbside collection services. This has proven to be an effective mechanism to boost recycling in the household sector. It also recognises that as households pay for waste services as part of a set charge rating structure, people who recycle and reduce the amount of waste disposed of pay the same as someone who doesn't recycle. The Government also made a decision to apply a zero levy to domestic self haul waste as the application of the levy could potentially lead to more illegal dumping.

Committee comment

The committee notes the concerns raised by submitters about the imposition of a waste levy. The committee also notes advice from the department that levies are in place in other states and that the imposition of a levy in Queensland is necessary to deter the dumping of waste in Queensland from other states. The committee is satisfied with the concessions to assist local governments and others to adapt to the levy system.

Clause 41 – Remitting waste levy amounts to State

—Timeframes

Clause 41 provides the timeframe within which the levyable waste disposal site operator would be required to pay waste levy amounts to the state.

In its submission, Moreton Bay Regional Council suggested that the Bill provide for quarterly reporting and payment of the levy, rather than monthly reporting to reduce the administrative burden on local government.⁴⁵

Advice from DERM

DERM advised that stakeholders were generally supportive of a monthly reporting and payment schedule for the levy throughout the consultation process.

Committee comment

Recommendation

The committee recommends that clause 41 of the Bill be amended so that the 'levy period' for reporting and payment of the levy is changed from monthly to quarterly.

⁴⁵ Moreton Bay Regional Council, *Submission No. 15*, p.6.

Clause 49 – Keeping of results of volumetric survey

—Survey results

Clause 49 provides that an operator of a levyable waste disposal site would be required to keep hardcopies of the results of volumetric surveys on site for a period of five years.

Moreton Bay Regional Council suggested that the Bill could permit hardcopies of the survey results to be kept at the administrative centres for the levyable sites rather than at each waste disposal site (some of which, in council areas such as Goondiwindi, are not staffed). The council also suggest that results should be kept in electronic form, rather than hard copy.⁴⁶

Advice from DERM

Under section 48, a volumetric survey must be performed in compliance with the requirements prescribed under a regulation and must be accompanied by a topographical plan certified as accurate by a surveyor under the *Surveyors Act 2003*. Hard copies of the survey results would be required to accommodate the requirement of a certified topographical plan. Hard copies also ensure the accuracy of the volumetric surveys and prevent any electronic alterations.

Committee comment

The committee appreciates the practical concerns raised by Moreton Bay Regional Council about the storage of survey reports at landfill sites.

Recommendation

The committee recommends that clause 49 of the Bill be amended so that both hard and electronic copies of volumetric survey results may be kept at the administration centre for waste disposal sites in lieu of a hard copy stored at the landfill site.

Clause 51 – Submission of waste data returns

—Waste data return

Clause 51 would require the operator of a levyable waste disposal site to submit a waste data return within the prescribed timeframe to the chief executive, so that the chief executive has information on which to calculate and verify levy liability.

In their submission, the Waste Contractors and Recyclers Association of Queensland (WCRAQ) propose that the Bill be amended to either: limit the very detailed single transactions required of the data required, and that data only be provided by operators to reflect the totality of tonnes managed by each category; or that a new clause be added to ensure the absolute protection of data provided by landfill operators to the department.⁴⁷

⁴⁶ Moreton Bay Regional Council, *Submission No. 15*, p.7.

⁴⁷ Waste Contractors and Recyclers Association of Queensland, *Submission No. 4*, p.8.

Advice from DERM

DERM advised that information collected by the department from waste site operators is for restricted use for the purposes of obtaining data returns and levy summary returns, and that information of a confidential nature collected from waste site operators will not be disclosed to third parties.

Committee comment

The committee agrees with the Waste Contractors and Recyclers Association of Queensland Inc.'s suggestion to amend the Bill in order to give greater protection of commercially sensitive information provided by landfill operators as part of their waste data returns.

Recommendation

The committee recommends that clause 51 be amended to give greater protection to commercially sensitive information provided by landfill operators as part of their waste data returns.

Clause 70 – Payment of amounts from Waste and Environment Fund**—Infrastructure funding**

Clause 70 provides the circumstances for which amounts would be paid from the Waste and Environment Fund, and that payments may be withheld as a consequence of an entity failing to meet its obligations.

The submission from the Australian Council of Recycling (ACR) raises concerns regarding the allocation of infrastructure funding, and recommends that infrastructure funding be non-discriminatory between public and private sector providers.⁴⁸

Advice from DERM

DERM indicate that they believe the Bill does not discriminate between public and private sector.

On the Waste and Environment Fund, Minister Darling noted in her advice:

The Queensland Government, in agreeing to introduce a levy, also stated that the revenue would be distributed in three ways. The government has committed the majority of the funds to the Waste Avoidance and Resource Efficiency fund to be used for programs to improve waste management and resource recovery across Queensland, and to strengthen enforcement and compliance, particularly in relation to illegal dumping. Over four years this equates to \$159 million. The next call on the funds is to a dedicated local government fund — the Sustainable Futures Fund. Over four years this fund provides \$100 million. Finally, remaining revenue will be allocated to other environmental initiatives. The Queensland Government believes that the funding balance appropriately reflects the level of investment required to see improved waste management practices across the state. The Queensland Government is also the only Australian jurisdiction to provide a dedicated local government fund from the levy revenue and is also the only jurisdiction where 100 per cent of the levy funds are directed to waste and environmental initiatives and not into the consolidated fund.

⁴⁸ Australian Council of Recycling, *Submission No. 9*, p.4.

On the fairness of business and government shares of funding, Minister Darling advised:

I strongly believe that the current approach provides the most equitable arrangements for all local governments and businesses and industry. The Bill and Queensland's Waste Reduction and Recycling Strategy 2010-2020 provides a state-wide framework to encourage improved practice across Queensland and to provide reduced or no funding to areas outside the levy zone severely impacts on regional development and investment in these areas.

Committee comment

The committee requests that the Minister further clarify how her department would ensure the fair allocation of infrastructure funding from the proposed Waste and Environment Fund to public and private providers.

Chapter 5 – Offences relating to littering and illegal dumping

—Illegal dumping

A number of submitters raised concerns regarding the increased risk of illegal dumping as a result of the institution of a waste levy on landfill.

In their submission, the Cairns Regional Council wrote that they are confident that instances of illegal waste dumping will increase with the introduction of the levy, and that providing councils with the ability to resource additional monitoring and enforcement action will be essential to limiting these impacts.⁴⁹

Western Downs Regional Council stated they are greatly concerned about the potential for the waste levy to significantly increase the amount of illegal dumping across council's many bushland and other areas.⁵⁰ The submission stated that illegal dumping is already a serious and worsening issue. Council remains concerned that the waste reforms proposed in the Bill will necessitate a radical departure from their current strategy, which will be met with a negative response from local community members. This may lead to a substantial increase in illegal dumping.

Advice from DERM

In its advice, DERM stated that it is developing a new anti-littering and illegal dumping campaign, targeted programs and a strategy to combat littering and illegal dumping, and developing a guide for local government to assist them in combating littering and illegal dumping.

Chapter 5 in the Bill has strengthened the littering and illegal dumping provisions and penalties and introduced a public reporting system. The public reporting system enables members of the public to report vehicle littering or illegal dumping offences to DERM for enforcement.

In the Waste Strategy, DERM acknowledged the potential for the perverse outcome of increasing illegal dumping to avoid paying the levy. Accordingly an anti-littering and illegal dumping campaign, targeted programs and a strategy to combat littering and illegal dumping are being developed by DERM.

⁴⁹ Cairns Regional Council, *Submission No 12*, p.4.

⁵⁰ Western Downs Regional Council, *Submission No. 17*, p.3.

Committee comment

The committee requests that the Minister further clarify the resources that would be put in place to combat the likelihood of increased illegal dumping of waste as a means to avoid paying the waste levy.

Clause 304 – Omission of ch 7, pt 7 (Special provisions about waste management)

Clause 304 omits Chapter 7, part 7 of the *EP Act*. Part 7 relates to waste management works and approvals for waste management works granted under section 369A.

Several submissions raised concerns regarding the omission of this part of the *Environmental Protection Act 1994*. The Queensland Greens submission states that the proposed removal of s369 of the Act would result in the loss of the current permit requirements for waste management works such as waste collecting and temporary chemical toilets for public events.⁵¹ This provision, they state, allows councils to regulate nuisance impacts of waste collection and transport such as noise.

Advice from DERM

DERM confirmed that Sections 369, 369A, 369B and 369C of the *Environmental Protection Act 1994* would be repealed by this clause of the Bill. These sections provide local governments with the ability to issue approvals to people carrying out waste management works in their local government area. The operation of the provisions is limited and does not apply where the waste management works are performed by or for the local government, or where the person is acting under a development approval, code of environmental compliance or if the works are an environmentally relevant activity.

Committee comment

The committee seeks assurance from the Minister that local governments would retain the ability to effectively regulate nuisance impacts of waste collection and transport if Sections 369, 369A, 369B and 369C of the *Environmental Protection Act 1994* were repealed.

Part 10 - Amendment of Water Supply (Safety and Reliability) Act 2008

In their written submission, Lock the Gate Alliance Inc (LTGA) argued that continued emergency releases of CSG waste water for up to twelve months should not be permitted. The LTGA is concerned that no consideration has been given to cumulative impacts of multiple emergency releases, nor impacts on water quality.⁵²

The Queensland Greens expressed deep concerns about this provision in the Bill in evidence at the committee's first hearing convened on 7 September 2011.⁵³ Their

⁵¹ Queensland Green, *Submission No. 2*, p.3.

⁵² Lock the Gate Alliance Inc, *Submission No. 24*, p.2.

⁵³ Ms Libby Connors, Queensland Greens, *Hearing Transcript*, 7 September 2011, pp.30-31.

Convenor, Ms Libby Connors advocated for a limit of seven days on releases, rather than the twelve months proposed in the Bill.

Advice from DERM

DERM advised that CSG emergency releases are limited to a total period of 12 months to reflect that, although the release is properly authorised, it may be limited to periods of high surface water flows (for dilution) or may only be required during extreme weather. The department further advises that allowing a longer period for the discharges provides better management of a CSG emergency release in terms of protecting the environment and public health.

The *Water Supply (safety and reliability) Act 2008* provides for a recycled water management plan (RWMP) or exclusion decision to be amended, or revoked, respectively if additional discharges of CSG recycled water may have cumulative impacts. Under the EP Act, when deciding whether to issue a transitional environmental program (TEP) or environmental protection order (EPO), the administering authority must consider the standard criteria (e.g. the character, resilience and values of the receiving environment) and any other regulatory requirements under the EP Act. For example, section 51 of the Environmental Protection Regulation 2008 requires consideration of the impact of the release of contaminants or materials from carrying out the activity on the receiving environment, including the cumulative impact of the release with other known releases of contaminants, materials or wastes.

Committee comment

The committee notes the concerns of the Queensland Greens and Lock the Gate Alliance. However, taking into consideration the advice provided from DERM, the committee emphasises that the amendments relating to CSG emergency releases are administrative in nature. The discharge of CSG recycled water into a natural water source is currently regulated under two legislative frameworks (the *Water Supply (safety and reliability) Act 2008* and the *Environmental Protection Act 1994*).

The proposed amendments would remove the requirement under the Water Supply Act to obtain an approval for temporary discharge of CSG water where relevant approvals, conditioned to protect public health for drinking water supplies, have been issued under the *Environmental Protection Act 1994*.

Conformance with fundamental legislative principles

The committee considered the Bill's conformance with fundamental legislative principles. The following section discusses the issues identified by the committee regarding clauses 267, 210, 295, 296, 140, and 53, and the advice provided by the department.⁵⁴

Onus of proof

Clause 267 may have insufficient regard to the rights and liberties of individuals as it imposes an evidential burden on an accused person. It requires the executive officers of a corporation to ensure the corporation complies with the Act (clause 267(1)). If the corporation is found to have committed an offence against the Act, each of the executive officers of the corporation are deemed to have committed the offence of failing to ensure the corporation's compliance (clause 267(2)). Evidence that the corporation has been convicted of an offence against the Act is deemed to be evidence that each of the executive officers committed the offence of failing to ensure the corporation complies with the (breached) provision (clause 267(3)). Clause 267(4) requires an executive officer to prove, in his or her defence, that he or she:

(if in a position to influence the conduct of the corporation in relation to the offence) exercised reasonable diligence to ensure the corporation complied with the provision; or Was not in a position to influence the conduct of the corporation in relation to the offence.

Where legislation infringes the fundamental legislative principle regarding reversal of the onus of proof, the committee should evaluate any information given in justification for the reversal. In respect of clause 267, the explanatory notes (at pages 141-142) do not address the reversal of onus (other than to summarise the operation of the provision) and offer no explanation or justification in respect of it.

Advice from DERM

Clause 267 states that the executive officers of a corporation must ensure the corporation complies with the Act and that if a corporation commits an offence against the Act, each of the corporation's executive officers also commits an offence.

The infringement of the fundamental legislative principle regarding the reversal of the onus of proof is justified for this provision because it is necessary for the effective enforcement of particular offences and to prevent levy evasion. The provision prevents waste disposal site operators from using corporation status as a means of avoiding any personal responsibility for serious breaches of their obligations. Defences have been provided if an executive officer can prove that the officer exercised reasonable diligence to ensure the corporation complied with the provision, or that the officer was not in a position to influence the conduct of the corporation in relation to the offence.

Further, clause 267 gives some protection to levyable waste disposal site operators whose businesses are liable for paying the waste levy. Such businesses rely on waste transporters providing them with correct information about the waste they are delivering to the site to enable them to calculate their levy liability. Making executive

⁵⁴ Mr Terry Wall, Department of Environment and Resource Management, *Correspondence*, 16 September 2011.

officers potentially personally liable for the information given to the levyable waste disposal site operator by the driver of a delivery truck working for the company reduces the risk of the waste being misrepresented to the levyable waste disposal site operator. This will encourage the corporation to establish procedures to ensure that the driver is fully aware of the nature of the waste being transported in their vehicle so they can provide accurate information on delivery.

Similar executive officer liability provisions exist in many other Queensland Acts including for example, the *Environmental Protection Act 1994*; the *Workplace Health and Safety Act 1995*; and the *Transport Operations (Road Use Management) Act 1995*.

Power to enter premises

Clause 210 should also ideally contain a requirement that the person from whom items are seized be given a receipt for those items, both to confirm their removal for search purposes and to ensure a paper-trail should such items not be returned as soon as practicable as required under the section. The receipt issuing requirement is contained in clause 221 for things seized under that division (div.3) however that protection would not extend to clause 210 which is contained in division 2.

Advice from DERM

Clause 210 outlines the general powers of an authorised person, including the power under subsection (1)(c) that allows an authorised person to take for examination or analysis a thing, or a sample of or from a thing, at the place. This section is consistent with equivalent provisions in other legislation and subsections (3) and (4) provide for the return of the things that are most likely to be taken away for examination and analysis, as soon as practicable.

In practical terms, this section would most commonly be used for taking samples of materials for analysis. Other things, such as equipment or documents that may be required as evidence in a prosecution, would normally be seized in accordance with the seizure and forfeiture provisions identified in Chapter 10, Part 4, Division 3. However, the concern raised about the provision not containing a requirement to provide a receipt to the person from whom the thing is taken is noted and further consideration will be given to making an amendment during consideration in detail to address this issue. This would maintain consistency with Chapter 10, Part 4, Division 3 provisions in relation to receipting.

Retrospective operation

Clauses 295 and 296 impose obligations in respect of the volumetric surveys on the operator of a levyable waste disposal site within the waste levy zone. A failure to comply with these obligations carries a potential maximum penalty of 200 penalty units (\$20 000). The survey requirements set down in the bill have to be complied with within the 14 days immediately preceding 1 December 2011. Should this bill not be passed prior to that date (17 November 2011) the provisions would have to operate retrospectively to have effect.

Advice from DERM

These two clauses require volumetric surveys to be conducted by the operator of a levyable waste disposal site or the entity having responsibility for a resource recovery area within the 14 days immediately prior to 1 December 2011. These provisions have been drafted on the basis of the Government's announcements that the waste levy, as provided for under Chapter 3 of the Bill, will commence on 1 December 2011.

A volumetric survey of the landfill and any stockpiles at the landfill or resource recovery area needs to be undertaken to provide a baseline of waste and stockpiled waste at the site within a short period of time before the commencement of the waste levy.

If the Bill is not passed prior to the date these volumetric surveys are required to be undertaken, amendments during consideration in detail could be proposed to change the provision so that it only requires the volumetric survey to be conducted within 14 days of the levy commencement date and does not apply retrospectively.

Clear meaning

Clause 140 relates to planning entities rather than individuals so would not breach the rights and liberties of individuals FLP, however it states in sub-clause (1) that a planning entity has an obligation at all times (emphasis added) to ensure various matters in respect of waste reduction and recycling as set out in that clause. Sub-clause (3) is unusually drafted and could potentially confuse an entity in respect of understanding the extent of their obligations (especially how they sit with sub-clause 1) and the time for compliance. It states:

A planning entity that has an obligation under subsection (1) in relation to any of its relevant waste must, unless it has a reasonable excuse, commence to comply with the obligation within 1 year after the obligation commences to apply. Maximum penalty – 100 penalty units

Advice from DERM

This clause outlines the obligations of a planning entity in relation to having a waste reduction and recycling plan, and includes a section stating that the obligation commences within 1 year after the obligation commences to apply.

Section 138 describes the following ways in which an entity becomes a planning entity:

- a) *If the chief executive has identified the entity as a planning entity and given the entity an information notice about the decision; or*
- b) *If the entity is part of a sector of planning entities prescribed under a regulation.*

If an entity becomes a planning entity because of an action under a) above, section 139 of the Bill requires the information notice to include information about when the obligation will start to apply.

If an entity becomes a planning entity because of an action undertaken under b) above, the entity will become aware of their obligations through the consultation processes that must occur before the regulation can be amended to prescribe the entity.

The effect of section 140 is that it is not an offence for failing to have a waste reduction and recycling plan until one year after the obligation, as identified through one of the above processes. This provides the planning entity with twelve months in which to prepare a plan that complies with the requirements outlined.

Potential policy issue

Clause 53 imposes severe penalties for breach – 2000 penalty units (\$200,000) or two years imprisonment PLUS twice the amount of any waste levy amount the payment of which the offender 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. In addition, the court, as part of the proceeding for the offence, may order the offender to pay an amount, as decided by the court, made up of any waste levy amount currently owed by the offender together with any interest payable in relation to the failure to pay the amount by the due date for its payment. Whilst the penalty would have to be imposed by a court and, as such, offers inherent safeguards, it may be argued to be too punitive.

Advice from DERM

Clause 53 provides an offence for wilfully evading payment of the waste levy, including for example, by giving false information, keeping incorrect records, falsifying, destroying or altering records.

A levyable waste disposal site operator's levy liability is calculated using information that is required to be kept under the Bill. This includes information such as the type and quantity of each waste type delivered to the levyable waste disposal site, and information about exempt wastes and any eligible deductions from the recovery of recyclable materials sent off site for recycling. If any of this information which is required to calculate the levy is incorrect or not available, this impacts on the calculation of the levy payable.

The penalty is appropriate for the nature of the offence and is set high to provide a deterrent and incentive for operators to keep accurate records. Without a sufficient deterrent, there could be a temptation to falsify information to minimise their waste levy liability. Not paying the correct amount of levy could provide significant revenue and competitive advantage over other levyable waste disposal sites that pay the correct amount of levy.

The Department of Justice and Attorney-General did not raise any concerns with the penalties proposed for this offence when consulted on the draft Bill. The penalties are comparable with penalties in other jurisdictions for similar offences. For example:

- Under section 50W of the Victorian *Environmental Protection Act 1970*, the penalty for providing false or misleading information to determine the amount of landfill levy the person is liable for carries a penalty of 2400 penalty units or imprisonment for two years or both; and
- Under section 480 of Queensland's *Environmental Protection Act 1994*, the penalty for giving a document containing information that the person knows, or ought reasonably to know, is false or misleading in a material particular carries a penalty of 1665 penalty units or two years imprisonment.

Committee comments

The committee notes the advice provided by DERM in response to potential non-conformance of the Bill with fundamental legislative principles. The committee is satisfied with the justifications provided.

Recommendation

The committee recommends that the Bill proceed subject to the amendments recommended and clarifications by the Minister of points raised in this report.

Glossary

C&I - commercial and industrial waste

C&D - construction and demolition waste

CSG – coal seam gas

DERM – Department of Environment and Resource Management

EPO - environmental protection order

Fundamental legislative principles (FLPs) – the principles relating to legislation that underlie a parliamentary democracy based on the rule of law (*Legislative Standards Act 1992*, section 4(1)). The principles include requiring that legislation has sufficient regard to the rights and liberties of individuals and to the institution of Parliament.

Higher hazard regulated waste - regulated waste that is classified as having a higher hazard characteristic and may include waste generated by industries, such as galvanising, abrasives, foundries, and chemical and fertiliser manufacture.

Landfill - is a site for the disposal of waste materials by burial

Lower hazard regulated waste - regulated waste that is classified as having a lower hazard characteristic and may include tyres, food processing waste and stabilised regulated waste.

MRF – material recovery facility - where household recyclables are transported to after they have been collected from the kerbside. Once delivered to the MRF, they are sorted by hand and machinery to identify and separate all the recyclable items. After this process, the recyclable items are baled and transported to reprocessing plants.

Municipal solid waste (MSW) - domestic kerbside-collected and self-haul waste, and waste generated by the provision of local government municipal services, such as maintenance of parks, gardens, street bins, sewage and water treatment plant residues. MSW does not include waste generated from the commercial or administration activities of local governments.

RWMP – recycled water management plan - a documented, risk-based system for managing the production and supply of recycled water in a scheme

Resource recovery - the recovery of materials that have a reuse, recycling or energy value.

TEP - transitional environmental program - allows a mine site to complete actions outside of its agreed environmental authority (EA) conditions. The program is in place for a specified timeframe and requires adherence to special conditions. Once a TEP has expired the mine site is again expected to comply with its EA conditions.

Waste disposal facility - a facility receiving waste for final disposal. A waste disposal facility may include a transfer station.

Appendix 1 – List of Submissions

- 001 - Mitchell Bright
- 002 - Queensland Greens
- 003 - Simon Huggins
- 004 - Waste Contractors and Recyclers Association of Queensland Inc
- 005 - Chamber of Commerce and Industry Queensland
- 006 - Toowoomba Regional Council
- 007 - Central Queensland Local Government Association
- 008 - Gold Coast City Council
- 009 - Australian Council of Recycling
- 010 - Goondiwindi Regional Council
- 011 - Timber Queensland Limited
- 012 - Cairns Regional Council
- 013 - Rob Spencer
- 014 - The Rubbish Removers Pty Ltd
- 015 - Moreton Bay Regional Council
- 016 - Queensland Conservation Council
- 017 - Western Downs Regional Council
- 018 - National Association of Charitable Recycling Organisations
- 019 - Logan City Council
- 020 - Local Government Association of Queensland
- 021 - Kennedy's Classic Aged Timbers
- 022 - Tablelands Regional Council
- 023 - Queensland Murray-Darling Committee
- 024 - Lock the Gate Alliance Inc
- 025 - Downs and Surat Basin Alliance of Councils

Appendix 2 – Summary of submissions in chapter and clause order, with comments provided by the Department of Environment and Resource Management

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
n/a	Gold Coast City Council	8	Cost recovery notices clause required	The Council recommends that “a provision should be included in the Bill for Council to issue cost recovery notices to offenders”	<p>Cost recovery notices are an enforcement tool contained in the <i>Environmental Protection Act 1994</i> (EP Act) that can be used following a contamination incident involving serious or material environmental harm. The notice can be issued if the person responsible for complying with a clean-up notice (another enforcement tool under the EP Act) fails to do so and the administering authority chooses to clean up the contamination incident.</p> <p>The only delegated functions local governments will have under the Bill will be for administering and enforcing illegal dumping provisions. If the matter is significant enough to cause serious or material harm, as defined under the EP Act, the local government will continue to use their powers under that Act. The Waste Reduction and Recycling Bill does not impact on the operation of the EP Act or the ability of local governments to issue cost recovery notices under that Act.</p>
n/a	Gold Coast City Council	8	Access to Sustainable Futures Fund	The Council recommends that “opportunities are made available for councils such as our own to access funding from the Sustainable Futures Fund proportionate to our levy contribution and our requirements for undertaking illegal dumping cleanups”	<p>The distribution of levy monies from the Sustainable Futures Fund is outside the scope of the Bill. The Bill provides for an exemption from application of the levy for waste collected by the State or a local government to remediate the results of littering or illegal dumping activities. <i>The Environmental Protection Act 1994</i> also contains provisions whereby local governments may access money to recover the cost of cleanup.</p>
n/a	Logan City Council	19	Adoption of EP Act compliance provisions	Council recommends that “...to ensure efficient enforcement in line with the objects and approaches for achieving the objects of the Bill, compliance tools as captured in the direction, clean-up and cost recovery provisions under the <i>Environmental Protection Act</i> be included in the new waste legislation.”	The Bill contains many of the same compliance tools that are contained in the <i>Environmental Protection Act 1994</i> . However, the Bill also contains new and stronger compliance tools to ensure effective enforcement and equity in relation to the levy. For example, the Bill contains provisions that allow the Court to impose a monetary benefit order in addition to any penalty in relation to certain offences. This is to ensure that a waste disposal site operator does not gain a financial advantage by avoiding payment of the levy.
Chapter 1 [1-13]					
Cl 2	Toowoomba Regional Council	6	Commencement	The Council argues that, as it “...was formed from the amalgamation of eight former local government areas (the most for any amalgamation in Queensland), seven of which are rural zones containing widely distributed small communities, [it] contains a large number of historically	The commencement date of the levy was originally 1 July 2011. This date was first announced on 5 June 2010 with the release of the discussion paper referred to as <i>Queensland's Waste Strategy 2010–2020: Waste Avoidance and Recycling Consultation Draft</i> .

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
				unmanned landfill sites, requiring a staged approach to closure, rehabilitation or conversion to modern sites. The Council states "TRC must have a full 5 years to implement its Plan. If not, then untenably high rate increases will be needed to bring forward all this work."	Due to the impact the natural disaster events in early 2011 had on the business sector and the capacity of local governments and the waste sector to install infrastructure, the Local Government Association of Queensland and the Council of Mayors South East Queensland wrote requesting the commencement date be deferred until 1 December 2011. The decision to defer commencement to 1 December 2011 was announced on 18 February 2011.
CI 2	Central Queensland Local Government Association	7	Commencement	CQLGA requests on behalf of its member councils, a delay in the commencement date for an additional 6 months to 1 st July 2012.	The Bill contains a number of transitional and permanent provisions to minimise some of the immediate impacts on levyable waste disposal sites from the introduction of the levy on 1 December 2011. These include:
CI 2	Gold Coast City Council	8	Commencement	The Council recommends "the implementation of the waste levy is delayed until the commencement of the 2012/13 financial year"	s.42 – does not require weighbridges to be installed from commencement. Site disposing of greater than 10,000 tonnes of waste in a year are not required to have a weighbridge until 12 months after commencement, and sites disposing of between 5,000 and 10,000 tonnes in a year are not required to have a weighbridge until 2 years after commencement. Sites disposing of less than 5,000 tonnes of waste in a year are not required to have a weighbridge.
CI 2	Goondiwindi Regional Council (GRC)	10	Commencement	GRC note that LGAQ [in its submission] proposed that "GRC [Goondiwindi Regional Council] should not be included at this stage due to the fact that the preparation involved would take a number of years to become fully operational". GRC note that there are no notable differences between GRC and Maranoa Regional Council which has been excluded.	s.44 – allows levyable waste disposal sites to use weight measurement criteria that will be prescribed in the Regulation to calculate their levy liability until they install or are required to have a weighbridge.
CI 2	Goondiwindi Regional Council (GRC)	10	Commencement	<p>"GRC operates other waste facilities across our region and it was our suggestion that GRC submit a Waste Management Strategy which will indicate how the implementation of this levy will occur and a realistic timeframe of when they may be implemented. An example is at Texas. The council offers an unmanned Transfer Station and the waste is transferred weekly to the Inglewood Landfill.</p> <p>Our strategy will conclude just how this will work. Obviously, we need extensive Community consultation to explain why we are going to only open the Transfer Station on designated days and times. This all takes time and is totally unreasonable to expect regional councils to implement this by December 2011."</p>	<p>s.297 – This is a transitional provision that allows the operator of a small site—that is, a site that disposes of less than 2000 tonnes of waste in a year to nominate an alternative methodology for calculating their waste levy amount owing. This provision expires on 30 June 2014 after which time, if these sites are still a levyable waste disposal site, the requirements under s44 apply.</p> <p>In recognition of the difficulties that local governments may have in becoming levy-ready, the Queensland Government also agreed to help with infrastructure installation. For 2010/11, \$4.1 million in grant funding was allocated to help local governments install weighbridges and other infrastructure required to record waste delivered and to calculate their levy liability. This will be followed in the next two financial years by a further \$13 million in infrastructure grant funding.</p>
CI 2	Goondiwindi Regional Council (GRC)	10	Commencement	<p>GRC submit –</p> <p>"Council would need a phased out time frame of at least 3 years to be able to fully comply with the Regulatory requirements.</p>	The Bill as drafted is consistent with the Government's position in this area.

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
				<ul style="list-style-type: none"> • 12-18 months to fully prepare the Goondiwindi Waste Facility "levy ready". • 2-3 years required to upgrade all other facilities. • Prepare a "waste management and waste reduction" strategy highlighting priorities and time frames for implementation." 	
CI 2	Local Government Association of Queensland	20	Commencement	The Association recommends that the commencement date for the industry waste levy be delayed to 1 July 2012.	
CI 2	Downs and Surat Basin Alliance of Councils	25	Commencement	[DASBAC states] our larger style Regional Councils with massive areas simply need more time to manage the problem and come up with acceptable solutions to improve the Waste Management in the State and in particular our own Regions. We believe that it is essential that Rural Regional Councils like ours should be afforded an Implementation period, which may vary from Site to Site.	
CI 3	Waste Contractors and Recyclers Association of Queensland Inc.	4	Objects of Act	<p>WCRAQ state: "The Bill does not address all forms of disposal. It targets landfill as the single driver, and ignores all other forms of disposal (ie incineration with no resource recovery benefit). As result, by inference the Bill supports the principles of mass burn with no recovery as opposed to landfilling that generates green power, which is supported by other Queensland Government Departments.</p> <p>The Bill acknowledges the relevance of operators in the sector who will be liable for collection of the levy that do not hold the appropriate ERA 60 registration certificate.</p> <p>The decision by Government to differentially place the full burden of its price signal at only select waste stream generation points (the business community) , and by placing a zero \$ value on streams that contribute up to 30% of total waste generation (household) is a fundamental flaw. Any Waste levy funds generated should be 100% hypothecated to delivery of the Objects of the Act under the direction of an independent non-political board representative of all</p>	<p>Disposal technologies</p> <p>The Bill defines a levyable waste disposal site in part as a facility where waste delivered to the facility commonly includes waste that is subsequently disposed of to landfill at the facility (clause 26). This means that for the purposes of the levy incineration, in common with other technologies such as autoclaving, is regarded as a form of waste treatment. Residue wastes from these treatment processes are usually disposed to landfill.</p> <p>One example of waste that may be incinerated is clinical waste which is a regulated waste that, under Regulation, must be treated prior to landfill disposal in Queensland.</p> <p>Compliance</p> <p>Clause 26 of the Bill defines a levyable waste disposal site to include a site that is required to hold a registration certificate (under the <i>Environmental Protection Act 1994</i>) for the disposal of waste at the facility. This also covers sites that are unlawfully operating (i.e. required to hold, but do not actually hold a registration certificate) to ensure that any levy owing by those sites can be recovered. Unlawful operators continue to commit an offence under the <i>Environmental Protection Act 1994</i> and enforcement action must be taken</p>

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
				<p>stakeholders, Government (State and Local), Industry, and NGOs.</p> <p>The Bill will not achieve a shared responsibility as the user pay's system as designed is flawed. This will lead to a shift in wastes moving from the commercial streams to household bins, placing pressure on industry and councils to resolve, but in any event will lead to an increase in Council and community costs directly.</p> <p>The current business plan as written disproportionately allocates funds to Local Government and Government activities as opposed to the business sector to wit the waste levy applies and is being generated." (sub 4, p.3)</p>	<p>under that Act for the offence. If the definition of a levyable waste disposal site only covered operators holding a registration certificate, there could be no compliance action taken against operators that do not hold a registration certificate for the activity which would create inequity for operators who would be required to pay the levy.</p> <p>Exclusion of household waste from the levy</p> <p>The Bill does not set the levy rates as this is a matter for the Regulation. However, as the submitter indicates the levy rates will be set at zero for municipal solid waste (MSW), including domestic self-haul waste, and \$35 per tonne for commercial and industrial and construction and demolition waste.</p> <p>The price signal is not the sole mechanism to achieve the targets of the <i>Queensland's Waste Reduction and Recycling Strategy 2010-2020</i> (the Strategy). The Strategy sets recycling and waste reduction targets for waste streams including MSW. A key strategy in achieving such targets is the investment of the levy revenue into appropriate programs. The full Strategy can be accessed on: http://www.derm.qld.gov.au/environmental_management/waste/pdf/waste-strategy.pdf</p> <p>The Bill provides in clause 72 for regular review of the efficacy of the levy including within two years of commencement. The review will look at all aspects of the levy, including unintended consequences that have resulted from its application.</p> <p>The application of a levy zero on MSW is consistent with the government's position on this matter.</p> <p>Allocation of levy funds – 100% hypothecation to waste and proportion allocated to local government</p> <p>The Bill establishes a Waste and Environment Fund into which levy monies are paid to support waste management and environmental initiatives (clause 67-68). Payment from the Fund can, among other things, be made for levy administration and implementing the waste management strategy business plan established under clause 23.</p> <p>The proportion of funds allocated to particular purposes was a Queensland Government decision from 2010 and is outside the scope of the Bill; however, the Waste Strategy flags an initial allocation of \$279 million over four years to implement waste minimisation initiatives.</p>
Cl 3	Moreton Bay Regional	15	Objects of Act	[Council states] the principles of ESD are recognised in the objectives of the Environmental Protection Act. Therefore this	The objects in clause 3 address the need to reduce the consumption of natural resources, and avoid waste generation in the first place, as well as the need to

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
	Council			Act appears to be only concerned with waste reduction and does not consider economic and social implications. It is recommended that the principles of ESD are recognized in this Act as these principles are recognised in the Strategy.	<p>minimise the impact of the waste that is generated. This fits broadly under the concept of Ecologically Sustainable Development (ESD).</p> <p>The Bill is by its nature based on the precautionary principle in that it assumes there is a benefit to be found from reducing waste generation and disposal and managing resources more wisely. The provisions of the Bill do not require proof of environmental harm in a particular case to be in force.</p> <p>This is in contrast to the <i>Environmental Protection Act 1994</i>, which primarily deals with the impacts of waste after it has been created, for example through licensing of recycling and landfill activities or through management of spills and other environmental incidents.</p> <p>The achievement of the objects of the Bill is guided by the waste and resource management hierarchy and principles. The <i>Explanatory Notes</i> for the Bill state that the hierarchy establishes “the framework for the prioritisation of waste management practices to achieve an outcome that is environmentally, socially and financially sustainable (clause 9). The Bill does not need to use one particular form of words to describe its objects or how they will be achieved.</p>
CI 3	Queensland Murray-Darling Committee Inc.	23	Objects of Act	<p>QMDC submits that the object 3(c) needs to be strengthened to reflect the need to primarily avoid impact caused by waste generation and disposal and not merely reflect a mitigation or minimisation objective. The action to avoid is clearly indicated in some of the approaches identified in Clause 5, for example, 5(f) and 5 (l).</p> <p>The term —overall impact is also vague. QMDC recommends using the term cumulative impact and the interpretation of cumulative to be included in the Act’s definitions. QMDC also asserts 3(e) should state the need to implement —national frameworks, objectives and priorities in alignment with regional frameworks, objectives and priorities.</p>	
CI 4	Queensland Murray-Darling Committee Inc.	23	Achieving Act’s objects	<p>QMDC suggests that the —waste resource management principles should include a number of other guiding principles. QMDC suggests the additional principles would provide a stronger platform for ecologically sustainable management. Achieving the Act’s objects by relying on a wider reaching set of principles would allow more inclusive community participation; stronger evidenced based action and more precaution where uncertainty prevails.</p> <p>QMDC recommends the following principles be included to Clause 4 (2) (b) and further defined in the <i>Interpretation</i> section under <i>key concepts and definitions</i>:</p> <ul style="list-style-type: none"> - community based processes - best available science - the precautionary principle 	
CI 5	Waste Contractors and Recyclers Association of Queensland Inc.	4	Approach to achieving Act’s objects	<p>WCRAQ request that (c) be removed:</p> <p><i>(c) price signaling, including through the introduction of a levy on waste disposal;</i></p> <p>They submit that a full economic analysis be conducted by an independent third party to determine:</p> <ul style="list-style-type: none"> • the impacts on the Queensland business community • the likelihood of future secondary resources sector investment 	<p>Levy economic analysis</p> <p><i>Queensland’s Waste Reduction and Recycling Strategy 2010-2020</i> identifies a five-part approach to achieving the goals of waste reduction, optimising recovery and recycling, and developing sustainable waste industries and jobs. The introduction of a waste levy as a price signal is an important part of achieving the goals and the targets of the Strategy.</p> <p>As part of the consultation process on the waste reforms, in late 2010 DERM released a Regulatory Assessment Statement for Queensland’s waste disposal</p>

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
				<ul style="list-style-type: none"> the likely impacts on all Government department budgets and projects financially committed to and already funded the full costs to be incurred by Local Government as well as Private sector owners and operators of landfills of the combined impact that the waste levy coupled with the Federal Carbon Tax will have in Queensland. (Sub 4, p.4) 	<p>levy proposal. The Statement included a cost-benefit analysis prepared by Synergies Consulting to assess the impacts of the levy to business, government and the community over a 10-year period (2011–2021). The Regulatory Assessment Statement and cost-benefit analysis are available on DERM's website.</p> <p>During the course of consultation on Queensland's waste reforms, waste industry submissions have consistently highlighted the need for the government to create a framework conducive to industry investment in resource recovery infrastructure. This has generally included the use of an economic instrument such as a levy. For example, the majority of waste and resource recovery sector submissions on the <i>Let's not waste our future: Queensland waste strategy discussion paper</i> released in 2007 supported the introduction of a levy. On release in June 2010 of the draft Strategy and Proposed Industry Waste Levy Consultation Draft, waste industry submissions again supported the use of a levy, although many submissions disagreed with aspects of the proposed levy model (most significantly, the exclusion of MSW from the levy).</p> <p>Carbon tax</p> <p>Please refer to response to CCIQ's submission regarding Ch 3 [25-72] on the topic "Inconsistency between carbon tax and waste levy." That response also addresses costs.</p>
CI 5	Queensland Murray-Darling Committee Inc.	23	Approach to achieving Act's objects	QMDC recommends the inclusion of a threshold limit approach in Clause 5. This approach would provide greater clarity and certainty because thresholds limits would help to define those natural resource assets identified as being both nationally and regionally at risk to the impacts caused by activities and infrastructure associated to the waste created by industries and businesses.	It is not feasible to include threshold limits in a general statement of approach. Natural resource asset management is outside the direct scope of this Bill.
CI 5	Downs and Surat Basin Alliance of Councils	25	Approach to achieving Act's objects	[DASBAC] believes the implementation is totally non feasible under the current framework. We consider that each council should be required to submit a Waste Management Strategy addressing the areas of concern to each council area and then implement the Waste levy — if required. It is council's opinion that the current proposal will do nothing to improve or reduce the current Waste Problem that exists.	This item is repeated below against clause 120 - Downs and Surat Basin Alliance of Councils.
CI 5 (c)	Moreton Bay Regional Council	15	price signalling, including through the introduction of a levy on waste	[Council submits] the introduction of a waste disposal levy will have major cost implications.	Refer response under clause 5(e) below – MBRC, regarding local government costs.

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
			disposal'		
CI 5 (d)	Moreton Bay Regional Council	15	providing for the preparation of State, local government and industry strategic waste management plans'	[Council believes] that local governments will have to develop new plans and include targets proposed under the State's plan. These targets will be costly to meet and will necessitate an increase to Council rate charges for residents.	<p>The Waste Strategy acknowledges the need for specific assistance to regional Queensland. This is one of the reasons that programs funded from levy monies, collected by disposal sites within the levy zone, will be spent on programs across the state including local government areas outside the levy zone.</p> <p>The Strategy targets are not mandatory. Targets are a mechanism that all state waste strategies employ to track progress in a publicly transparent manner. During consultation on the waste reforms since release of a discussion paper in 2007, stakeholders including local government have consistently given overwhelming support to the use of targets to measure the effectiveness of the state waste strategy.</p> <p>The targets for waste generation and landfill reduction and for improved recycling are state-wide. Apart from municipal solid waste, it is not possible to accurately measure recycling performance in relation to a particular local government area.</p> <p>The strategic waste planning provisions in the Bill (clause 120-129) do acknowledge local government's role as the principle manager of municipal solid waste by requiring strategic plans to include waste reduction and recycling targets for household waste. As the Bill does not state what these targets must be it is expected that each local government or regional grouping of local governments will develop targets appropriate to their circumstances. The <i>Explanatory Notes</i> to the Bill for clause 122 specify that a local government could only be expected to plan for some aspects of business and industry waste in a way that is locally appropriate. Also, clause 123 of the Bill mandates the consideration of relevant local factors in preparing the plan. Clause 124 ensures that in developing the plan appropriate consultation is undertaken with the community. These measures ensure that each strategic plan is locally appropriate.</p> <p>In reporting annually on strategic waste plans, clause 146 of the Bill requires local governments to explain how they have contributed towards achieving the goals and targets of the Waste Strategy. Again, it is expected that Councils with smaller more disperse populations that are located further away from waste recycling centres will adopt and report against locally appropriate targets. A key provision is the requirement in clause 122 for each local government to show continuous improvement in waste management.</p> <p>Clause 299 of the Bill also recognises existing local government plans that may be in force for a local government area under the repealed <i>Environmental Protection (Waste Management) Policy 2000</i>. This clause states that, for one</p>

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					year after commencement of this clause a plan continues to have effect as if the Act had not been enacted.
CI 5 (e)	Moreton Bay Regional Council	15	providing for reporting requirements for the State, local governments and business and industry'	[Council submits] there will be a significant cost for Council to set up and administer the requirements for reporting. The costs incurred to collect and administer the waste disposal levy should be funded from the State's Waste and Environment Fund. Currently only a small amount of funding is available to go towards some of the incurred expenses for infrastructure. However no funding is currently available for the additional administration costs.	<p>DERM has provided and will continue to provide funding to assist local governments to become levy-ready, for example to install weighbridges, fences or other infrastructure. This funding has only been provided to local government owned facilities.</p> <p>All levyable waste disposal site operators, regardless of ownership, must remit the levy and will have to cover the associated administrative costs. This includes levy remittance, as well as the reporting requirements in relation to waste received, recovered and disposed. DERM is developing a database application that will automatically calculate the monthly levy liability based on total tonnages reported for the month to minimise the amount of manual calculation required.</p> <p>The Bill also requires local governments to report annually on waste management activities and outcomes in the local government area. This is largely the same annual reporting requirements as are currently set out in the <i>Environmental Protection (Waste Management) Policy 2000</i>. To prevent any inefficient duplication in reporting, the Bill specifies that any data already reported as part of the monthly levy remittance does not have to be repeated in local government's annual waste management report.</p> <p>To order to limit costs to local government and assist with the transition to the levy regime, the Bill phases in over several years the requirements for weighbridge installation, weight measurement criteria methodology and monthly levy remittance depending on the size of facility. Under the legislation, weighbridges are only required for sites that are licensed to dispose of over 5000 tonnes in a year.</p> <p>DERM undertook an analysis of each local government site to ascertain possible cost impacts for local government. The analysis is based on a set of assumptions to arrive at a cost model e.g. for <i>Utilities Connection</i> – an allowance is made for the connection of water, power and phone to each facility >2,000 tonnes per annum as it is assumed that none of these sites have existing utilities connections. This data provided local governments and DERM with baseline waste acceptance and infrastructure information which helped develop and prioritise DERM's local government waste infrastructure funding programs for 2010/11 and 2011/12. Based on this analysis, the summary total costs for impacted local governments– not including operational costs such as staffing and administration – were calculated as follows:</p>

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
					<p>Capital Costs</p> <p>Control site upgrades \$3,320,000</p> <p>Accommodation (Dongas) \$210,000</p> <p>IT System Upgrades \$1,130,000</p> <p>Signage Costs \$399,000</p> <p>Utilities Connection \$2,220,000</p> <p>Weighbridges (Phase 1) \$2,016,791</p> <p>Weighbridges (Phase 3) \$7,200,000</p> <p>Sub Total Capital Costs \$16,495,791</p> <p>Less Grants Program Payments Phase One -\$2,016,791</p> <p>Less Grants Program Payments Phase Two -\$1,931,000</p> <p>Est. local govt costs for levy introduction to 30/6/2013 - before payments for grants programs phases 3 & 4 \$12,548,000</p> <p>Based on this, a total of \$13 million over two years has been allocated to provide additional infrastructure assistance to all local governments under the Phase 3 and 4 grants. Of this, around \$11.7 million will be available in 2011/12.</p> <p>The above is in addition to funding provided in 2010/11 under Phase 1 and 2 of the infrastructure grants. The 2010-2011 Infrastructure Grants Program was designed to target high priority sites and to prompt local governments to strategically analyse their infrastructure needs.</p> <p>The funding was split into two phases:</p> <ul style="list-style-type: none"> Phase 1 – the Local Government Infrastructure Grant Program, totaling \$2.1 million, is available for construction of facilities such as weighbridges, a weighbridge office/gatehouse and software to manage the data

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
					<ul style="list-style-type: none"> Phase 2 – the Waste Facilities Assistance Grant Program, totaling \$2 million provides assistance with facility improvements, such as computer hardware and software upgrades, traffic control, small site facilities such as personal digital assistants (PDA's) and security. <p>How landfill operators will respond after the levy has commenced will be a decision for each local government. For example, several local governments have indicated that they may investigate options for rationalising waste sites and either closing sites or transforming small landfills into transfer stations.</p>
CI 5 (f)	Moreton Bay Regional Council	15	banning particular waste disposal'	Council recommends] that the State provide alternative arrangements for particular wastes rather than to just ban these types of waste. Failure to provide these avenues for disposal will result in illegal disposal on land or into the sewerage systems.	<p>Priority products are products that have been identified as having an environmental, social or economic benefit associated with their recovery or in avoiding the impacts associated with their disposal. The legislation sets out a process for identifying priority products, enabling Queensland to support national approaches or to adopt state-based action.</p> <p>Possible management options the Bill provides for include (or combinations of) implementing a product stewardship or "take-back" scheme, banning the sale or disposal of a product, or implementing a state-wide education campaign to improve recycling.</p> <p>Disposal bans would not be considered until alternative management and market options are available to ensure that the waste is managed appropriately and does not end up illegally dumped.</p> <p>The Bill as drafted is consistent with the Government's position in this area.</p>
CI 5 (j)15	Moreton Bay Regional Council	15	waste tracking requirements'	Council suggests waste tracking requirements will result in a greater legal requirement for Council to track waste on behalf of the State and failure to do so will result in penalties. Councils should be compensated for the cost and act as the State's agent rather than being penalised for the non-compliance to provide data.	The council seems to misunderstand the Bill. Waste tracking requirements are already in place under the <i>Environmental Protection (Waste Management) Regulation 2000</i> . This regulation will expire on 31 August 2012. It is proposed that the waste tracking requirements will then be transferred into the new regulation to be made under this Bill. No changes to current waste tracking requirements are proposed and no additional requirements are placed on local governments. The clause in the Bill only signals that such requirements will eventually be a part of the framework under the Bill instead of the <i>Environmental Protection Act</i> framework.
CI 5 (k)	Moreton Bay Regional Council	15	granting approvals of resources for beneficial use'	[Council submits] the approval processes are very complicated and as such this may deter industries from investing in any new recycling programs. It is recommended that the State consider giving industries technical assistance for fast tracking development approvals and the issuing of their registration certificate	<p>Chapter 8 of the Bill contains the process for granting approvals of a resource for beneficial use. These provisions are based around the existing provisions in Part 6A of the Environmental Protection (Waste Management) Regulation 2000 which will be replaced by the new provisions of the Bill.</p> <p>The new provisions in the Bill provide a clear process for deciding whether to grant or refuse the two types of approvals available under chapter 8. The Bill</p>

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
					provisions streamline the approval processes. That are currently in the Waste Regulation 2000.
CI 6	Moreton Bay Regional Council	15	Act binds all persons	[Council submits] this sets double standards and indicates that the State won't be responsible for complying with the Act.	<p>Historically, the Crown has not been liable to criminal prosecution. For the Crown to be criminally liable, the courts have held that it is necessary for an Act to include very clear wording to that effect. It is not enough for the Act to be generally stated as binding the Crown. Section 6(2) is a standard legislative provision. Further the State cannot constitutionally introduce legislation which allows the Commonwealth to be prosecuted.</p> <p>In Queensland and the Commonwealth, the power to create courts and offices is given to the executive government (as the Crown's representative and in capacity of executive magistrate) under Chapter III of the Commonwealth Constitution and Chapter 4 of the Constitution of Queensland 2001. In short, the Commonwealth and the State must be exempt from prosecution to ensure the inviolability of the Commonwealth/State as supreme/executive magistrate.</p> <p>However, the legislation does bind the Crown as the Queensland Government generates waste which is levyable and therefore has obligations under the Bill that apply to generators of waste. These provisions apply equally to local government and some private sector businesses. By creating an obligation on itself the government is leading by example.</p> <p>The Chapters of the Bill that create obligations for the Crown are Chapters 6 and 7. These chapters relate to the preparation of strategic waste management plans and reporting obligations and do not contain offences.</p> <p>Officers authorised under the Bill are also liable for any actions negligently carried out and liability reverts to the Crown where an official has acted honestly and without negligence under section 265 of the Bill.</p>
CI 8	Waste Contractors and Recyclers Association of Queensland Inc.	4	The concept of disposal	<p>WCRAQ propose the inclusion of additional wording to [better] align the objects and Waste hierarchy statements: In (2) after the word 'landfill' and in (3) after 'onto land' insert: <i>'or waste being used as an input to a process that does not derive a measureable resource recovery benefit (eg energy)</i> (Sub 4, p.5)</p>	Refer to response under clause 3 – WCRAQ submission.
CI 8	Moreton Bay Regional Council	15	The concept of disposal	[Council suggests] this indicates that there will be major cost implication for Council, as there are currently no acceptable AWT's operating in Australia that significantly reduce the amount of waste to landfill and that do not significantly increase the costs by at least 4 times (ie \$40 to \$160/tonne).	The Bill does not advocate the adoption of particular technologies for waste management. The Bill provides an overarching framework, through the waste and resource management hierarchy and principles to guide decisions. Alternative Waste Technologies (AWTs) should not be considered as the only management option. There are a number of practical alternatives to disposal

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
				The State needs to provide evidence of practical alternatives before it implements legislative changes.	and funds from the levy will assist with the implementation of measures to improve waste reduction and recycling. The Bill makes the state government responsible for preparing and monitoring the State's Waste Strategy. Achievement of the Strategy's waste reduction and recycling targets will result in a lesser volume of waste presenting for disposal. Also refer response under clause 5(e) – MBRC, regarding local government costs.
CI 8	Queensland Murray-Darling Committee Inc.	23	The concept of disposal	QMDC submits that without further definition the term temporary or short term as per clause 8 (3) creates an ambiguity in the law. QMDC is concerned this ambiguity will allow disposal outcomes that may have an adverse impact on both environment and community even if deemed for a temporary basis.	Clause 8 in the Bill provides a general concept of disposal, which may be useful, for example, in understanding the objectives of the Bill. It is noted that subclause 8(4) provides that subclause 8(3) – which states that —in this Act, a reference to disposal in relation to waste may ordinarily be taken to mean the depositing of the waste, other than on a temporary or short term basis, into or onto land – does not limit what disposal may be taken to mean in an appropriate context. Clause 26 of the Bill provides the meaning of 'levyable waste disposal site' and it is this clause which is used in Chapter 3 of the Bill as the basis for imposition of a waste levy on levyable waste delivered to, or stockpiled waste disposed as landfill at, the site.
CI 9	Moreton Bay Regional Council	15	Meaning of waste and resource management hierarchy'	[Council recommends that dealing with waste at the source of generation and ensuring that the most effective approach is utilised] should be driven by the State. This would enable the most cost effective programs to be developed to address these issues as well as providing a consistent approach and message throughout the State eg State wide marketing and advertising programs.	The achievement of the objects of the Bill is guided by the waste and resource management hierarchy. This provides the overarching framework guiding waste and resource management decisions. DERM is developing a suite of levy-funded programs to foster waste avoidance and recycling practices across the State.
CI 9	Queensland Conservation Council	16	Meaning of waste and resource management hierarchy	[QCC suggests] in describing the Waste Hierarchy, the Act contradicts usual practice in favour of a principle to Reduce and Avoid unnecessary resource consumption and waste generation. However, Reducing waste is NOT avoiding waste; they are two separate functions. The hierarchy must include waste avoidance as its first principle. [QCC proposes] a minor re-phrasing so that avoidance and reduction are recognised as separate.	The waste and resource management hierarchy is a foundation principle of the Bill. Each item in the hierarchy is explained in more detail in the Waste Strategy Supplementary Paper 2: The waste and resource management hierarchy. The term 'reduce' is taken to include waste avoidance, for example by changing production processes to avoid waste generation at its source. The first Object of the Act as expressed in clause 3 of the Bill is "to promote waste avoidance and reduction." To address the concerns of QCC raised during consultation on the Bill, the word

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
					'avoid' has been added into the first item of clause 9 in the Bill.
CI 12	Moreton Bay Regional Council	15	Meaning of proximity principle'	Council agrees that this principle should be adopted, however as mentioned above it is recommended that the State takes the lead role in developing programs to assist businesses and residents in reducing their waste at the source.	The whole waste reform process, including the development of the new legislation and Queensland's first waste strategy with targets and publicly accountability, is the result of the state taking a leadership role for central coordination and oversight of improving waste management.
Chapter 2 [14-24]					
Ch 2 [14-24]	Gold Coast City Council	8	Management documents Pt 1 Waste management strategy	The Council submits that "roles and responsibilities between the State and local government require clarification"	It is unclear to what area of the Bill Council's comment relates. If Council's comment relates to management documents in the Bill, the development and review of the Waste Strategy is a state government responsibility. Local and state government agencies both have strategic planning and reporting requirements under chapters 6 and 7 of the Bill. These requirements are set out in separate clauses.
CI 14	Australian Council of Recycling (ACR)	9	Waste management strategy	ACR submits "the Bill gives a focus to waste avoidance and recycling as priorities over other measures to 'manage' waste resources, recognising that unless measures are taken to move to a more sustainable system for managing material by-products of the economy, Queensland's growing population will face increased economic costs of managing its growing waste stream by conventional means of disposal i.e. landfill."	No response required.
CI 14	Moreton Bay Regional Council	15	Waste management strategy'	[Council recommends] that the State should assist in the development and promotion of improved resource recovery practices rather than securing (regulatory approach) compliance and relying on industry to achieve these objectives. It is believed that if the State is not involved in more partnership roles with industry then industry will not risk the funding and development of these projects.	<i>Queensland's Waste Reduction and Recycling Strategy 2010-2020</i> identifies a five-part approach to achieving goals of waste reduction, optimising recovery and recycling, and developing sustainable waste industries and jobs. The development of strong partnerships is one of these five approaches and is crucial to achieving the goals and the targets of the Strategy. The allocation, through the Waste and Environment Fund established under the Bill, of levy money to waste management initiatives, will give practical effect to this part of the Strategy.
CI 15	Australian Council of Recycling (ACR)	9	What may be included in the State's waste management strategy	ACR submits "the Bill acknowledges growing community concern for the more effective use of end of life products and materials and the economic loss involved in wasting such resources to landfill"	The Bill provides for the more effective management of end of life products through the provisions of Chapter 4, which allows for the identification of priority products and the most appropriate means of management for those products, through analytical and public consultation processes. Possible management options that may be identified for particular wastes include the development of a voluntary or mandatory product stewardship or 'take-back'

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
					scheme, or a requirement for industry to strategically plan for a particular waste.
CI 15	Queensland Murray-Darling Committee Inc.	23	What may be included in the State's waste management strategy	QMDC suggests including in [Clause 15]: - Threshold limits for natural resources - A community consultation process that allows community to contribute to the preparation of the plans	It is beyond the scope of the Waste Strategy to inventory and set threshold limits for the use of all the natural resources in the State. The Strategy contributes towards the conservation of natural resources by providing a target, funding and programs for reducing waste generation. The Bill provides procedures (clauses 16-22) for developing and reviewing the Strategy document with appropriate public input.
CI 20	Queensland Conservation Council	16	Review of State's waste management strategy	[QCC supports the] requirement of a review of the waste management strategy within two years of the introduction of the bill. A full and proper review must assess progress against the waste reduction targets and the performance of sectors, particularly those in receipt of public monies, in delivering outcomes.	Clause 20 mandates regular review of the Waste Strategy inline with the Strategy's milestone target dates, which are at three year intervals. The expenditure of funds relating to the department's implementation of the Strategy under the Strategy's business plan must be reported on annually. The Strategy will have already been released for 12 months when the Bill receives Royal Assent. The review of the efficacy of the levy two years from commencement of the Bill aligns with the first review of the Strategy. The levy will then be reviewed every three years, which aligns with the Strategy review periods. This ensures the waste management framework is not reviewed in isolation.
Chapter 3 [25-72]					
Ch 3 [25-72]	Chamber of Commerce and Industry Queensland	5	Waste levy	The waste levy will threaten business viability in Queensland “...due to ongoing depressed economic conditions... many businesses do not have the financial capacity to absorb additional waste costs nor do they have the resources to investigate and make changes to their waste practices and systems...with minimal likelihood of being able to pass costs onto customers at present the additional cost will significantly affect the profitability and viability of many Queensland businesses.” (sub 5, p.1) “Financial impacts will be particularly significant for those businesses unable to make changes to their waste practices over the short to medium term (business located outside of South East Queensland) where mature waste markets and opportunities for recycling and reuse are limited...CCIQ is not convinced the introduction of a waste levy will provide any immediate incentive for the waste industry to expand into	Impact of the levy on business The levy has the potential to increase the cost of waste disposal for business and industry. However, the levy is an avoidable cost. This means that if a business changes its waste management practices to reduce waste generation or increase recycling rather than dispose of waste to landfill it can avoid paying the levy on that waste. As part of the consultation process on the waste reforms, in late 2010 DERM released a <u>Regulatory Assessment Statement for Queensland's waste disposal levy proposal</u> . The Statement included a cost-benefit analysis commissioned from <u>Synergies Economic Consulting</u> to assess the impacts of the levy to business, government and the community over a 10-year period from 2011. The analysis included case studies to outline the impact of the levy on a range of business types, based on information provided by Master Builders and the

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				<p>regional Queensland, as has been argued by the Minister for Environment and DERM.” (Sub 5, p.2)</p> <p>“DERM cost benefit analysis and regulatory impact assessment processes have not accurately reflected the full cost pass through to the business community – additional 20-30% cost increase (in addition to the per tonne waste levy cost) on current waste costs to Queensland businesses.” (sub 5, p.2)</p> <p>“Business waste planning and reporting requirements were not discussed during consultation and in addition to established targets for C&I and C&D waste will increase the red tape and regulatory burden in Queensland. CCIQ does not support any requirement for individual businesses to report on their waste generation and recovery practices” (sub 5, p.2)</p> <p>The Queensland Commercial Waste Levy is inconsistent with other emerging environmental policies...advice from the waste industry suggests that the introduction of the levy and the proposed carbon price will represent a 200 per cent increase for C&I and a 300 per cent increase for C&D waste charges passed onto Queensland businesses from July 2012 (sub 5, p.2)</p> <p>CCIQ urges the Queensland Government to reconsider the introduction timeframes for the commercial waste levy until after the Australian Government has finalized details on how the carbon pricing mechanism is to operate and its applicability to waste emissions to avoid any unsustainable cost impact on Queensland businesses...DERM should be requested to undertake additional cost modelling (including the impact of a carbon price) prior to the passage of the Bill through parliament and the introduction of the commercial waste levy. (sub 5, p.2)</p> <p>“The waste levy unfairly targets the business community ...the exclusion of municipal/household waste from the levy not only unfairly taxes the business community but also creates a number of complexities within the legislation which significantly increases red tape for business and the waste industry.....according to the National Waste Report 2010, the C&I sector contributed only 26 per cent of waste to landfill</p>	<p>Chamber of Commerce and Industry Queensland. For example, based on the type of waste generated by a small to medium sized cafe the levy has the potential to increase business costs by \$315 or \$385 a year for cafes located in SEQ and regional Queensland, respectively. However, this assumes no change in behaviour to reduce the amount of waste generated or to recycle more.</p> <p>An average weight of disposed waste in commercial and industrial waste (general business waste) 240 litre wheelie bins has been calculated at 16kg per bin. Based on a levy rate of \$35 per tonne, the average additional cost per 240L wheelie bin would be around 56 cents. If a business has a weekly bin pick-up, the annual cost would equate to a little over \$29.</p> <p>The decision to pass on levy costs to business customers will be a commercial decision by the waste service provider. The final cost of waste can also be impacted by factors such as the type of waste, where the waste is going, how much of it is recyclable and how the waste transporter measures the waste—for example they may charge according to bin volume regardless of fullness, per bin lift or by weight.</p> <p>If a business can change its existing practices by reducing the amount of waste going into their waste bin and to landfill, it will reduce the potential levy cost effects. Doing more to reduce waste in the first place, or recycling more, will become a much better option for businesses rather than sending all waste to landfill.</p> <p>Business will require assistance to transition to the levy regime, and this is acknowledged in the Waste Strategy, which flags significant support through re-investment of levy funds into programs to help businesses avoid the impact of the levy by cutting waste generation and disposal.</p> <p>The cost benefit analysis noted the impact of the difference in recycling options open to businesses in metropolitan and regional areas. The Waste Strategy acknowledges the need for specific assistance to regional Queensland. This is one of the reasons that programs funded from levy monies, collected by disposal sites within the levy zone, will be spent on programs across the state including local government areas outside the levy zone. This will include assistance both for businesses to investigate waste generation and recycling options, and assistance for the development of regional resource recovery businesses and markets for recycled products.</p> <p>Impact of business reporting requirements</p> <p>Business planning and reporting requirements were part of an early draft of the Bill that was used for targeted consultation with key stakeholder members of</p>

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				<p>and was responsible for 48 per cent of waste recovered compared to the household sector which contributed 40 per cent of total waste sent to landfill and only 36 per cent of waste recovered in Queensland" (sub 5, p.3)</p> <p>"The State of Waste and Recycling in Queensland 2008: Technical Report notes that there has been a steady increase in the amount of household waste produced over the five year period 2003/04-2007/08. Household waste increased 40 per cent, and only part of this increase can be attributed to population growth. In contrast, the amount of commercial and industrial waste reported appears to have stabilized, despite population and business growth and has even shown a slight reduction of approximately 2-3 per cent over the past three years." (sub 5, p.3)</p> <p>CCIQ does not believe there is any strong argument (other than political reasons) to exclude household waste from the levy, especially when the overall objective of the Waste Strategy and Waste reform Bill is to reduce waste to landfill and the household sector is Queensland's largest growing contributor of waste. (sub 5, p.3)</p>	<p>the Waste Reform Stakeholder Advisory Committee, including QCCI.</p> <p>Mandatory planning already exists for facilities such as blood banks and hospitals that generate clinical waste under the clinical waste planning provisions of the <i>Environmental Protection (Waste Management) Regulation 2000</i> (Part 5 Division 1 sections 43-45). These clinical waste provisions will be transferred to the new regulations that will sit under the Bill.</p> <p>The Bill allows additional sectors or wastes to be identified for mandatory reporting but only where the chief executive has identified a need and where businesses generate waste above a specified threshold, or generate specified regulated or priority product wastes. However, a business is not subject to these planning and reporting requirements in relation to a product for which they are already undertaking action under a product stewardship scheme that is recognised or accredited under the Bill.</p> <p>The <i>Explanatory Notes</i> to the Bill recognise that the preparation of reports on business plans is potentially resource-intensive and this should be taken into account when determining the appropriate interval for reporting on business waste plans. Reports on business plans will not be annual (as are government sector reports) but will be at 3 year intervals unless otherwise stipulated in regulation. The reason for this is that the government sector reports are required both to track the progress of plan implementation</p> <p>and to provide data for the state government's annual waste summary report for the state. Also, it is in the public interest for local and state government entities to report annually and show leadership in waste minimisation. The data in business reports, on the other hand, will vary greatly between business sectors and waste types, and may not be required for the state government's annual waste summary report.</p> <p>Inconsistency of waste levy and carbon tax</p> <ul style="list-style-type: none"> • All other mainland states have a waste levy and DERM's advice is that levies will continue to exist in a carbon tax or emissions trading scheme scenario. • The waste levy and carbon tax have different but complementary purposes. • Queensland's waste levy will provide a strong price signal that discourages the disposal of waste to landfill and encourages resource recovery and recycling. The waste levy is also a source of revenue for investment in programs that will help achieve the targets of the Queensland's Waste Reduction and Recycling Strategy 2010-2020 (the Strategy). • Departmental assessment shows that the waste levy as both a price signal and source of investment will work to meet the Strategy's landfill reduction target of halving the amount of waste disposed of to landfill by 2020 compared to a business as usual scenario.

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					<ul style="list-style-type: none"> • The waste levy is an avoidable tax in that the levy does not apply to waste that is diverted from landfill by reuse, recovery and or recycling. • The waste levy will work as a preventative economic instrument to minimise waste generation and landfill disposal and, as a consequence, contribute to reduced greenhouse gas emission generation. • The waste levy seeks to divert all types of waste including inert waste and dry recyclables such as glass, aluminium and plastic, while the carbon tax focuses on organic waste. • Reduction in greenhouse gas emissions from landfills is only one of the objectives of the waste reform framework and is a by-product of the landfill reduction target. Other benefits of diverting waste from landfill and reducing waste generation include conservation of finite resources at the front end of production; reduction in the disposal of hazardous wastes; reduction in environmental and social externalities resulting from landfill, including amenity and nuisance impacts such as dust, odour and noise, and creation of more jobs in the resource recovery area. • The carbon tax will not address the issue of interstate waste disposal in Queensland given that disposal costs here are much lower in comparison to disposal costs in other mainland States that have had a waste levy for years. The levy will help to equalise prices across the states and prevent Queensland being regarded as a cheap dumping ground for waste. • In Queensland, the waste levy combined with a carbon tax is likely to result in cost increases on the disposal of C&I waste in a business as usual scenario. This is in part due to disposal costs in Queensland being significantly lower than other States where a levy is in place. However, where the levy diverts C&I waste into recycling, resource/commodity savings from such diversion have been quantified at around \$35.8 million over ten years as indicated in the RAS undertaken by the government. This amount is solely due to the levy and is expected to increase with the investment of levy revenue in programs that will result in higher diversion rates. • Unlike CCIQ suggests, DERM was advised by the Australian Landfill Owners Association (ALOA) that the carbon tax is unlikely to significantly impact C&D waste charges. ALOA expects the market to redirect C&D waste to C&D landfills that do not accept putrescibles waste and which are likely to be below the emissions threshold for a carbon tax. • The RAS estimated the waste levy will drive resource savings of around \$76 million. Again, this is expected to increase with the investment of levy revenue to achieve higher diversion rates for C&D waste. • Cost modelling on impact of carbon tax to business will be undertaken by the Commonwealth. • The carbon tax is being proposed by the Commonwealth government and it's outside of the scope of the Bill.

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					<p>Note: The draft of the Bill including a waste levy is in accordance with the government's position on this issue. Such position is also consistent with the waste management approach in other Australian jurisdictions.</p> <p>Exclusion of household waste from the levy</p> <p>The Bill does not set the levy rates as this is a matter for the Regulation. However, as the submitter indicates the levy rates will be set at zero for MSW including domestic self-haul waste and \$35 per tonne for C&I waste.</p> <p>The application of different levy rates means that landfill operators will need to take extra care to ensure C&I waste is not being misrepresented as MSW to avoid levy pass through costs.</p> <p>DERM acknowledges the potential for leakage from C&I waste stream into the MSW stream particularly where commercial self-haul waste is misrepresented as domestic.</p> <p>Clause 40 of the Bill addresses this issue by requiring transporters or any person delivering waste to a levyable waste disposal site to provide all information to enable the operator of the site to identify the waste. This means that the deliverer of the waste will need to inform the site operator of</p> <p>the portion of a mixed load that contains exempt waste and for levyable waste which type of waste the load is made of e.g. 40% C&I waste and 60% MSW waste. A maximum of 300 penalty units may apply for a breach of clause 40.</p> <p>The Bill also includes in its clause 72 a requirement for a review of the efficacy of the levy to occur within two years from the commencement of the levy.</p> <p>The price signal is not the sole mechanism to achieve the targets of the Queensland's Waste Reduction and Recycling Strategy 2010-2020 (the Strategy). The Strategy sets recycling and waste reduction targets for waste streams including MSW. A key strategy in achieving such targets is the investment of the levy revenue into appropriate programs. The full Strategy can be accessed on:</p> <p>http://www.derm.qld.gov.au/environmental_management/waste/pdf/waste-strategy.pdf</p> <p>Note: The application of a levy zero on MSW is consistent with the government's position on this matter.</p> <p>Different recycling figures</p> <p>Differing levels of confidence apply to the range of waste streams for which data is reported to DERM annually. Only the data with a high level of confidence could be used in the cost benefit analysis calculations and the performance</p>

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					<p>targets in <i>Queensland's Waste Reduction and Recycling Strategy 2010–2020</i>.</p> <p>This is one of the reasons why baseline and projected recycling and disposal rates in the Strategy differ from those calculated by other entities. Other reasons for differing sets of waste projection data are the fact that no agency has access to a complete dataset; differing assumptions input into cost benefit models; and differing definitions of waste stream composition.</p> <p>DERM stands by the data contained in the Strategy, noting however that the limitations of this data have been publically acknowledged. DERM and industry sectors acknowledge the data gaps.</p> <p>The Bill contains measures to address the shortcomings in the collection of annual data on waste and recycling in the State (Chapter 6). Also, DERM is participating in a project that seeks to standardise waste data collection and reporting nationally.</p>
Ch 3 [25-72]	Cairns Regional Council	12	Waste levy	Council notes a definition of MSW is included in the Act, however, needs clarification to avoid any ambiguity in the application of the meaning of MSW. In particular, it is not clear whether household self-haul waste is included in the definition of MSW.	<p>The Bill does not contain a definition of Municipal Solid Waste (MSW). MSW definition is outside the scope of the Bill and will be included in the Regulation. However, the proposed MSW definition and in particular the topic of self-haul has been the subject of consultation through the development of the Bill and the Regulation. In particular, consultation was undertaken on whether domestic self-haul waste should be included in the definition of MSW which has a zero levy rate on delivery or whether it should be considered commercial and industrial waste to which a \$35 levy applies. Domestic self-haul will be included in the definition of MSW.</p> <p>This is in recognition that not all households have a domestic kerbside-collection service provided by a local government and must self-haul their waste to a landfill.</p> <p>Note: The inclusion of domestic self-haul in the definition of MSW is in accordance with the government's commitment not to affect households with the waste levy.</p>
CI 25	Moreton Bay Regional Council	15	Levyable waste means waste other than exempt waste'	[Council states] municipal solid waste / domestic waste is not listed as an exempt waste in the Bill. Therefore it is a 'levyable waste' unless it is declared by the chief executive officer or prescribed under a regulation to be an exempt waste. This regulation is currently not available for review and as such it is unclear if municipal solid waste / domestic waste will be classified as an exempt waste.	<p>MSW is a levyable waste to which a rate of zero will apply. The Regulation will set the rates for levyable waste including zero for MSW.</p> <p>On advice from legislative drafters the most appropriate and transparent way for the levy not to apply to MSW waste, the policy intention, was to assign a \$0 levy. In order to 'exempt' MSW waste under the legislative schema it first has to have a dollar value other than zero. Therefore, MSW cannot technically be classified as 'exempt' under the proposed provisions of the Bill. Whether assigned a zero value or exempt, the same policy outcome is achieved</p>

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					Any future changes to levy rates included in the regulation will require a Regulation amendment which is the subject of the Government's requirements for a RAS and consultation.
CI 25	Moreton Bay Regional Council	15	progressive capping means capping of active landfill cells at a waste facility on a cell by cell basis, but does not include temporary or daily covering'	[Council states] the above definition implies that progressive capping is only considered progressive capping if the whole cell is capped in one go, rather than in stages. If this interpretation is correct this is not the best practice for reducing environmental risk by minimising leachate ingress into the landfill.	Section 28(2)(d) provides that a person may make an application in the approved form, for approval of waste as exempt waste for waste to be used for progressive capping, batter construction, final capping, profiling and site rehabilitation. The application process and approved form will provide supplemental information on the definitions for those terms. There will also be supporting manuals and guidelines for appropriate uses of exempt waste for each.
CI 28 ⁵⁵	Queensland Greens	2	Application for declaration of waste as exempt waste – item 2(b)	"It is the Green's opinion that this is contrary to the spirit in which these [community collections such as Clean Up Australia Day'] days are held, where the public give up some of their leisure time to improve the amenity of their community. Waste collected by the community during organised cleanup events should be automatically exempt and not require the organiser to lodge an application and pay a fee."	Section 28(3)(b) provides that an application for exempt waste must be accompanied by the fee prescribed under regulation. A fee may not be required for all types of exempt applications; however the Bill provides that a fee can be applied if necessary. The prescription of a fee is a matter for regulation. The draft regulations do not currently provide for a fee for waste exemption application for littered or illegally dumped waste collected by the community clean-up events.
CI 28	Waste Contractors and Recyclers Association of Queensland Inc.	4	Application for approval of waste as exempt waste	WCRAQ submit that 'residue waste from recycling activity' has been removed [from the list of waste categories for which an application for approval of waste as exempt waste may be made]. WCRAQ submit that the wording was in the original version of the Bill and should be reinstated. (sub 4, p.7)	Residue waste is covered in clause 279 of the Bill as a levy discount. This is because it is not an exemption in the sense of the exemption application under s28.
CI 28	Central Queensland Local Government Association	7	Application for approval of waste as exempt waste	CQLGA requests on behalf of its member councils that materials for operational works, such as day cover soil or crushed concrete be included in Section 28 to allow councils to apply for exemption for resources being utilized in the operations of the landfill.	Section 28(d) in the Bill already provides for the ability to make an application for exemption of wastes for operational uses such as progressive capping. This does not limit the waste to which this exemption could apply.

⁵⁵ The submission wrongly identifies this as pertaining to Section 27.

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CI 28	Kennedy's Classic Aged Timbers	21	Application for approval of waste as exempt waste	Kennedy's submission argues that "hardship provisions/discounted waste levy" provisions in the Bill, as they would apply to licensed timber recyclers, are "fundamentally wrong and seriously flawed". They argue that "...some current timber recycling operations such as power pole recycling in Queensland will become unviable after the imposition of the levy".. They argue that "Where there are no viable alternative markets for the waste and the facility is operating at industry best practice then the full levy exemption should apply"	<p>Residual waste is the waste that is left over after the recoverable material has been removed. The policy position adopted is to treat this residual waste as C&I waste, to which a levy of \$35 per tonne will apply.</p> <p>Other Australian jurisdictions also charge a levy on residuals from recycling and processing operations. The absence of a levy on residue waste has the potential to discourage improvement and efficiencies in resource recovery practices and technologies.</p> <p>Consultation with stakeholders during the development of the Bill raised the issue of the levy in Queensland starting at \$35 per tonne and the need for certain recyclers to adjust to the price signal.</p> <p>The Bill was modified to include the following transitional arrangements that could assist in alleviating levy impacts while rewarding best practice operators undertaking various types of recycling activities. The arrangements are in place until 30 June 2014.</p> <p>a) Discounted levy rate for residual waste—</p> <ul style="list-style-type: none"> • The operator of a recycling activity may apply to the chief executive of the Department of Environment and Resource Management to have a discounted levy rate applying to their residue waste. • The regulation will prescribe a residue waste efficiency threshold that the applicant must meet to have the discounted levy. This will ensure that good practice can be rewarded; while poor performance is not. • The efficiency thresholds will be different for each type of recycling activity. <p>The efficiency threshold is a matter for the regulation. Timber recycling will have its own threshold and the submitter as well as the Australian Council of Recyclers will be consulted in the development of the threshold.</p> <p>b) Exemption from waste levy for residue wastes—</p> <ul style="list-style-type: none"> • Further, where operators can demonstrate that, although meeting the efficiency threshold for their recycling activity, the application of the levy even at the discounted levy rate would still cause the operator financial hardship, then the operator may apply to the chief executive to obtain a full levy exemption for their residual waste. • Any application for exemption from the levy on residues must be lodged by 30 June 2012. <p>The discounted levies for residue waste from recycling and possible exemption are supported by the ACOR and are considered an innovative approach in</p>

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
					<p>comparison with other states where no relief from the levy is available.</p> <p>Further, the revenue from the waste levy will go into the Waste and Environment Fund which will fund programs which may encourage markets and new options for avoidance, treatment to reduce hazard and alternative end-uses.</p> <p>Note: The Bill reflects the government's position in relation to levying residue waste.</p>
CI 28	Cairns Regional Council	12	Application for approval of waste as exempt waste	Council believes the implications of the residual waste from the MSW component of the feedstock not being declared exempt waste will have the direct effect of imposing the commercial and industrial waste disposal levy on municipal solid waste which has a zero dollar waste levy.	This has been addressed in the response to Cairns Regional Council's submission in regards to clause 36 below.
CI 28	Cairns Regional Council	12	Application for approval of waste as exempt waste	<p>Council supports the inclusion of residue waste from recycling activity as a category of waste eligible to be declared exempt waste. However, the definition of a recycling activity is not clearly explained in the Act and no definition of such an activity exists in the Act. In conjunction with this, the criteria for granting an exempt waste application are also not clearly explained.</p> <p>For example, Cairns Regional Council owns and operates a material recovery facility (MRF) which sorts kerbside domestic & commercial recycling and self-haul domestic & commercial recycling. The residual waste from the MRF is processed at an alternative treatment technology facility (SITA Environmental Solutions Bedminster Advance Resource Recovery Facility) along with kerbside domestic & commercial waste, self-haul domestic & commercial waste and council waste. The organic portion of the waste is aerobically composted and diverted from landfill. The residual waste is taken to landfill for final disposal.</p>	<p>Criteria for granting waste application</p> <p>Section 30(3) provides the matters the chief executive must consider when deciding an exempt application. They include any criteria prescribed under regulation. In addition, an application must be made in the approved form and be accompanied by information to allow the chief executive to make a decision, s28(3). The prescription of criteria used to decide whether to grant an exempt application is a matter for regulation. The approved form will request the information that must be provided; this will include reference to any criteria that may be prescribed under the regulation.</p>
CI 28	Gold Coast City Council	8	Application for approval of waste as exempt waste	The Council recommends that "the Bill be amended to make it possible to apply for exemption applications under section 28 for clean fill used for daily cover and residue waste from recycling activities"	Section 28(d) in the Bill already provides for the ability to make an application for exemption of wastes for operational uses such as progressive capping. Residue waste is covered in clause 279 of the Bill as a levy discount. This is because it is not an exemption in the sense of the exemption application under s28.

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
CI 28	Queensland Conservation Council	16	Application for approval of waste as exempt waste	QCC supports the exemption of charitable and not for profit organisations from the levy, where donated products and materials cannot be used or where materials have been collected as part of clean up operations or from illegal dumping incidents.	DERM has consistently received feedback in consultation that supports these exemptions and appreciates QCCs support in this area.
CI 28	National Association of Charitable Recycling Organisations	18	Application for approval of waste as exempt waste	[The Association submits] there are 7 major charitable recyclers in Queensland that are estimated to generate 85% of the charitable waste volume. Five of these organisations are NACRO members with the other 2 organisations NACRO members in other states. The remaining "charitable" recyclers would be local church groups, scout groups etc. It is estimated that the 7 major charitable institutions will potentially require 73 exemptions across 22 local government levy areas	These issues are not a matter for the Bill. DERM has previously received this advice from NACRO during consultation and comments will be considered in the logistics of administering the exemption.
CI 28	National Association of Charitable Recycling Organisations	18	Application for approval of waste as exempt waste	[The Association suggests] that where a charitable recycler uses its own transport assets to access a particular waste disposal facility this would be reasonable. It is suggested that a "master exemption certificate" be issued to an applicant and vehicle details registered for monitoring and control purposes. Charitable recyclers who use outsourced transport for waste disposal may need access to more than one waste disposal facility and register the outsourced transport arrangements accordingly.	
CI 28	National Association of Charitable Recycling Organisations	18	Application for approval of waste as exempt waste	[The Association suggests] the exemption should cover a specific time period, ideally 12 months, not specific loads. Specific loads exemptions would be more easily distorted and skewed by volatile weather events.	
CI 28	Local Government Association of Queensland	20	Application for approval of waste as exempt waste	That the MSW component of residuals from the Bedminster and MRF processes be levy exempt. "Residuals from the Bedminster and Material Recovery Facility (MRF) processes are to be levyable and this is of concern to local government whilst municipal solid waste (MSW) is levied at zero dollars per tonne."	This has been addressed in the response to Cairns Regional Council's submission in regards to clause 36 below.
CI 28	Tablelands Regional Council	22	Application for approval of waste as exempt waste	Tablelands Council also raises an issue regarding "Clean Fill used for daily cover". They are concerned that clean fill brought in for operational purposes, which has traditionally been used to fulfil licence requirements of daily covering of	Section 28(d) in the Bill already provides for the ability to make an application for exemption of wastes for uses such as progressive capping.

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
				landfill, will incur the levy.	
CI 28 (2)(a)	National Association of Charitable Recycling Organisations	18	Application for approval of waste as exempt waste	[The Association submits] no tonnage limit should apply to the first year of operation as this figure will be distorted by the inflated waste volumes. Waste disposal volumes should be recorded for exempt recyclers for the initial exemption years and be used as a benchmark to act as a base figure to implement future exemption waste volume limits	These issues are not a matter for the Bill. DERM has previously received this advice from NACRO during consultation and comments will be considered in the logistics of administering the exemption.
CI 31	National Association of Charitable Recycling Organisations	18	Grant of application	[The Association suggests] head office should be the administrative control point for the receipt of exemption certificates. Head office should make application on behalf of its constituent bodies operating in each levy council area	
CI 33	National Association of Charitable Recycling Organisations	18	Chief executive may declare waste to be exempt waste without exempt waste application	[The Association states that the] larger NACRO members separate data on illegally dumped waste collected from clothing bin sites and waste generated from its recycling operations. This data can be extrapolated to provide an estimate of state wide volumes of illegal waste based on their share of the state's total charitable waste figure.	
CI 36	Simon Huggins	3	Imposition of waste levy	Mr Huggins believes the committee would be wise to consider the consequences of the introduction of a levy on the disposal of industrial and commercial waste, without adequate preventative measures. This is based on Mr Huggins' experience in the UK where similar legislation was introduced and resulted in a considerable increase in the amount of fly tipping/illegal dumping on council owned land.	Chapter 5 in the Bill has strengthened the littering and illegal dumping provisions and penalties and introduced a public reporting system. The Public reporting system enables members of the public to report vehicle littering or illegal dumping offences to DERM for enforcement. In the Waste Strategy, DERM acknowledged the potential for the perverse outcome of increasing illegal dumping to avoid paying the levy. Accordingly an anti-littering and illegal dumping campaign, targeted programs and a strategy to combat littering and illegal dumping are being developed by DERM. Also, additional resources for compliance for illegal dumping will be provided through the Waste Avoidance and Resource Efficiency fund program area.
CI 36	Toowoomba Regional Council	6	Imposition of waste levy	Council writes "In the worst case scenario, where TRC is forced to introduce the Waste Levy on 1 December 2011, certain assurances provided by DERM or Ministerial officers need to be written in to the legislation or relevant regulations, or at the very least confirmed in writing by the Minister. - Exemption of farm waste (treated as MSW) whether household or generated as part of the farm operation, other than that from an ERA operating on the property. - Exercise of a risk-based approach to compliance at unstaffed	Farm Waste The regulations will provide that MSW attracts a zero levy. Household/domestic farm waste meets the definition of MSW and therefore a rate of \$0 will apply. In addition, there are free programs available to assist in the reduction and management of farm waste such as drumMuster and ChemClear. A blanket exemption of all farm waste would be inequitable and out of step with the imposition of the levy on other business waste. The Bill as drafted is consistent

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
				<p>sites where LGs can demonstrate that all reasonable and practical measures have been taken to comply with Levy requirements (eg signage). This approach is not to be time-limited.</p> <ul style="list-style-type: none"> - Exemption of non-MSW waste dumped illegally at MSW-only unstaffed sites, again provided appropriate measures are taken. - Furthermore, another measure not yet promised is essential — that clean fill introduced or accepted by councils for daily cover, intermediate cover and capping at landfills must also be exempt from the Levy. 	<p>with the government's position in this area.</p> <p>Illegally dumped waste in a landfill</p> <p>Section 103(3) of the Bill provides that it is an offence to illegally dump waste without the consent of the occupier of the waste disposal site. The definition of exempt waste (s25) includes illegally dumped waste that has been collected by a local government. If the landfill site has taken appropriate measures (e.g. signs) to notify that non-MSW is not accepted, the waste is regarded as illegally dumped waste and penalties apply. In addition, the local government can transport the illegally dumped waste to an appropriate landfill site and the waste will be exempt.</p> <p>Clean Fill</p> <p>Section 28(d) in the Bill already provides for the ability to make an application for approval of waste to be used for progressive capping as exempt waste. This section does not limit the type of waste to which an application may apply.</p>
Cl 36	Toowoomba Regional Council	6	Imposition of waste levy	<p>The Council argues that "The impact of the Waste Levy will be economically non-viable in the Toowoomba Region...The problem is that the State is only offering partial funding to become Levy-ready, and in our case, far too little especially given the challenges both financial and logistical that are associated with amalgamating 8 former Local Government Areas."</p>	<p>Refer to response provided for MBRC submission regarding cl 5(e) on 'Impact of the levy on business' and response provided for CCIQ submission on Ch 3 (25-72) for the impact of the levy on local government.</p>
Cl 36	Australian Council of Recycling (ACR)	9	Imposition of waste levy	<p>ACR has concerns that "the exemption of Municipal Solid Waste from the levy, in particular, creates an economic environment which will promote;</p> <ul style="list-style-type: none"> a. little encouragement to Councils to better engage their constituencies in source segregation and improved recycling b. 'leakage' of commercial and industrial materials to which the levy should otherwise apply, c. distort the market for investment in improved technologies. d. unnecessary policy and regulatory complexity and its corresponding system costs e. potential fraud in the avoidance of the levy 	<p>DERM acknowledges that further encouragement to householders to better understand waste segregation and thus reduce contamination of recycling bins is desirable.</p> <p>ACOR through consultation has been supportive of a levy on all waste streams as mechanism to drive investment in improved resource recovery technologies. In light of a zero levy on MSW, Queensland will rely on reinvestment of levy revenue in technologies to recover or divert that waste stream.</p>
Cl 36	Australian Council of	9	Imposition of waste levy	<p>ACR is concerned that "the design of the levy system, in responding to opposition from local government by exempting municipal waste, creates undesirable and</p>	<p>All levy revenue will be paid into the Waste and Environment Fund established under Chapter 3, Part 6 of the Bill. In accordance with the Bill the levy revenue may be used to fund waste management and environmental initiatives. These</p>

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	Recycling (ACR)			unnecessary administrative complexity and likely higher transaction costs for industry operating various waste and recycling facilities."	<p>could include, for example:</p> <ul style="list-style-type: none"> • funding for programs that would better educate the community in source segregation and improved recycling; • resource recovery technology or infrastructure to recover MSW. <p>The Bill provides the framework for allocation of levy funds. Details of funding allocation or decisions are outside the scope of the Bill and will be included in the Business Plan that is being developed in consultation with stakeholders.</p> <p>The application of different levy rates could increase the potential for leakage from C&I waste stream into the MSW stream particularly where commercial self-haul waste is misrepresented as domestic waste. The Bill addresses this risk by:</p> <ul style="list-style-type: none"> • imposing an obligation on persons delivering the waste loads to provide information to enable the operator of the site to identify the types of levyable waste (clause 40); • imposing data reporting requirements on levyable waste disposal site operators (clause 51); • providing authorised officers with powers to inspect waste facilities to investigate leakage, levy evasion and related issues (Chapter 10); • requiring a review of the efficacy of the levy to occur within two years from the commencement of the levy (clause 72). <p>The Bill has offences with very severe penalties to deal with fraud and persons trying to avoid the levy. These include the following offences:</p> <ul style="list-style-type: none"> • Waste Levy Evasion in clause 53; • Giving authorised persons false or misleading information in clause 241; • Giving the chief executive false or misleading information in clause 264. <p>Note: The application of a levy zero on MSW is consistent with the government's position on this matter.</p>
Cl 36	Australian Council of Recycling (ACR)	9	Imposition of waste levy	ACR is concerned that "the rate of the primary levy, which is substantially below that applied in some other Australian jurisdictions, may not be adequate to drive the change needed to deliver the waste reduction targets desired and the transition to a sustainable materials economy."	<p>As at 1 July 2011 the NSW levy is \$82.20 per tonne in the Sydney area and \$31.10 per tonne in northern NSW Council areas to the Queensland border. The levy in Victoria increased on 1 July 2011 and is now \$44 per tonne for municipal and commercial waste in metropolitan areas and \$22 for municipal waste and \$38.50 for commercial waste in rural areas.</p> <p>Hazardous waste is \$30, \$70 and \$250 per tonne depending on the category of hazard.</p> <p>In Western Australia the levy is \$28 per tonne on putrescible waste and \$12 per</p>

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					<p>cubic metre for inert waste. In South Australia the levy is \$35 per tonne in metropolitan Adelaide and \$17.50 in non-metropolitan areas.</p> <p>All states increased their levies this financial year. In ACT there is only one landfill and it is operated by the ACT Government, which charges \$117/tonne gate fee. The Northern Territory has no levy and there is no State government imposed levy in Tasmania.</p> <p>Queensland is the only mainland state without a levy. Although the proposed levy rates may be lower when compared to most of other mainland Australian states, the Bill addresses this issue by requiring a review of the efficacy of the levy to occur within 2 years from levy commencement.</p>
CI 36	Australian Council of Recycling (ACR)	9	Imposition of waste levy	<p>ACR notes that "simpler administrative scheme would have been to impose the primary (non-hazardous materials) levy at a flat rate on waste from all sources with the capacity to provide rebates for specific purposes i.e. recycling residues, non-profits etc, especially to promote resource recovery and recycling (natural disaster waste could be dealt with by temporary wholesale suspension of levy and fees)."</p>	<p>The Bill does not deal with the levy rates as these will be set by the Regulation. However, DERM acknowledges that there will be differentiated levy rates applying to the different types of waste.</p> <p>C&I and C&D levy rates will be the same at \$35 per tonne. Regulated wastes will be levied at \$35; or \$50 or \$150 per tonne depending on the hazardous character of that waste. MSW will have a levy rate of zero.</p> <p>The higher rates for regulated wastes will send a stronger price signal to discourage disposal of such waste to landfill unless strictly necessary.</p> <p>ACR has been very supportive of a levy throughout the consultation on the Bill. ACR's preference is a flat rate levy for administration purposes with rebate system to promote resource recovery and recycling. The Bill includes two mechanisms that promote resource recovery and recycling:</p> <ul style="list-style-type: none"> • Resource Recovery Deductions (RRDs) in clause 38; and • Establishment of Resource Recovery Areas (RRAs) in Chapter 3, Part 5. <p>RRDs promote resource recovery and recycling by allowing the landfill operator to claim a deduction against the levy payable in a month for materials exported for recycling.</p> <p>RRAs are levy free zones established within a waste disposal site to encourage resource recovery and recycling on that site. Waste may be directed to an RRA for the purposes of recycling and resource recovery without incurring a levy liability on its delivery to the site. Only residues from such activities are subject to the levy when disposed of to landfill.</p> <p>The RRD and RRA provisions in the Bill have been drafted to lessen the administrative burden on operators. Unlike rebate systems in other Australian</p>

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					<p>jurisdictions, no application or approval process is required prior to a site operator claiming a RRD. The operator includes the claim in its data return submitted to DERM as per clause 51 and only pays the levy on the amount owing after the deduction has been taken out. The operator must keep records as per clause 52 to enable DERM to undertake compliance and audits.</p> <p>Similarly, no application is required for the establishment of a RRA. The operator will do a self-assessment of his or her site in accordance with the requirements of the Bill and notify DERM of the establishment of the RRA under clause 61 of the Bill.</p> <p>Both the RRD and RRA provisions were strongly supported by all stakeholders throughout consultation undertaken on the Bill.</p>
CI 36	Australian Council of Recycling (ACR)	9	Imposition of waste levy	ACR submits that "for first time in Queensland, the Bill it proposes a levy to provide a disincentive to disposal, with the funds raised from the levy to be directed towards delivering environmental outcomes including more sustainable management of materials through improved resource recovery and recycling."	ACOR is supportive of a waste levy with investment on resource recovery and recycling. The Bill introduces a waste levy and brings Queensland in line with all other Australian mainland States which already have a levy in place.
CI 36	Australian Council of Recycling (ACR)	9	Imposition of waste levy	ACR suggests that "the Levy could be designated as a Resource Recovery Levy, not a waste levy, thus focusing on the outcome to which the levy is directed, rather than be seen simply as a tax on waste."	Waste levy is terminology commonly used by other Australian jurisdictions and internationally. The term Resource Recovery levy could lead to misinterpretation of the levy as a tax on resource recovery.
CI 36	Goondiwindi Regional Council (GRC)	10	Imposition of waste levy	<p>The Council submits –</p> <p>"Collection of State Levy will have a dramatic effect on the costs of waste disposal to Council and the Community</p> <ul style="list-style-type: none"> • The State Levy will have a considerable financial impact on businesses that will need to pay the costs at Council's refuse disposal facilities. • GRC has 1 manned facility and 6 unmanned "rural" sites. • It is estimated GRC's ongoing annual operational costs for compliance with DERM Levy requirements would be around \$250,000.00. • GRC will have to procure and install necessary systems at the Goondiwindi Waste Facility (computers or PDA's/Software); including training and ancillary infrastructure costs at around \$100,000.00 (excluding DERM 	<p>Cost to local government, community and business</p> <p>Refer response under clause 5(e) – MBRC, regarding local government costs and the response to CCIQ (Chapter 3: clause 25-72)</p> <p>Weighbridge requirement</p> <p>Clause 42 of the Bill requires certain sites to install a weighbridge within a specified timeframe. However, the Bill was drafted to provide transitional periods of 1 or 2 years (depending on the size of the site) before a weighbridge must be installed. Sites that are required to hold a registration certificate to dispose of:</p> <ul style="list-style-type: none"> • more than 10000 tonnes in a year must install weighbridge within 1 year from levy commencement; and • more than 5000 but no more than 10000 tonnes in a year must install a weighbridge within 2 years from levy commencement. <p>Where a weighbridge is not in place the Bill allows the site operator to use load conversion factors (weight measurement criteria in clause 44) to measure the</p>

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				<p>Phase 2 grant of \$67,000.00).</p> <ul style="list-style-type: none"> GRC will have to consolidate waste disposal sites and required to rationalise or change the type of facility to comply with DERM Levy requirements at enormous costs. Goondiwindi facility has no electricity supply to facilitate installation of a weighbridge. <p>DERM has issued a Regulation Provisions Summary which proposes that sites licensed to accept 5000 Tonne or more of waste per annum must have a weighbridge."</p>	<p>waste coming to the site.</p> <p>In the Phase 1 infrastructure grants program DERM made funding of around \$60,000 available to the Council to install a weighbridge at the main landfill. The Council has not yet taken this offer up.</p> <p>An additional \$13 million over two years is also available to local governments to establish infrastructure at waste disposal sites and transfer stations.</p> <p>The Bill also makes provision for operators of small sites by allowing the use of an alternative methodology for calculating levy payments and an annual payment and reporting period.</p> <p>Note: The Bill is drafted in accordance with the Government's position in this matter. The requirement for a site to have a weighbridge is consistent with the approach in other mainland states where a waste levy is in place.</p>
CI 36	Timber Queensland	11	Imposition of waste levy	<p>Timber Queensland have several concerns "...regarding the lack of support for genuine recyclers under the new Bill. In particular, genuine recyclers that are operating at industry best practice will ultimately face the full waste levy for residuals from their recycling operations".</p>	<p>The Bill supports genuine recyclers in a number of ways.</p> <p>The reforms themselves will result in more recyclable materials being available to the recycling sector, particularly when the impact of the waste levy and programs funded from the Waste and Environment Fund start to take effect.</p> <p>The Bill provides for a transitional period to allow the application of a recycling activity residue waste levy discount. This discount is available, on application, to the operator of an eligible recycling activity and is set at 50% of the C&I levy rate. An operator is required to make an application at least every 12 months and the transitional provisions expire on 30 June</p> <p>2014. The transitional arrangements allow recycling businesses time to adjust to the new waste levy to accommodate the increased cost of disposing of their residual waste to landfill.</p> <p>This will allow time for the recycling industry to adjust to the levy and will help stimulate investment in the recycling sector, while encouraging greater efficiencies to reduce the amount of residual waste requiring disposal.</p> <p>The Bill also contains transitional provisions that will allow recycling activities that would be eligible for a levy discount to apply for a financial hardship levy exemption.</p>
CI 36	Cairns Regional Council	12	Imposition of waste levy	<p>The application of the waste levy regarding the MSW component of residual waste, particularly from these resource recovery facilities, is the primary issue that may substantially impact on Council.</p>	<p>Residual waste is the waste that is left over after the recoverable material has been removed.</p> <p>The policy position adopted is to treat this residual waste as C&I waste, to which a levy of \$35 per tonne will apply. This is because these wastes are largely the</p>

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CI 36	Cairns Regional Council	12	Imposition of waste levy	<p>The rate prescribed for MSW under the WRR Regulation is contained in Chapter 3, Part 2, s2 which states the rate of waste levy on a type of levyable waste delivered to a site is stated in schedule 1, column 2 opposite the type of levyable waste for each tonne of the type of levyable waste. Schedule 1, Part 1, column 2 indicates that MSW attracts a zero (\$0) dollar waste levy. It is therefore Council's interpretation that the residual waste component of any MSW from the above two facilities which is transported to landfill will be levied at zero (\$0) dollars.</p> <p>However, current advice from Queensland Department of Environment and Resources Management (DERM) officers is that all the residual waste from these resource recovery facilities will attract a commercial or industrial waste levy, as the waste is viewed as having been passed through a commercial process; a position that Council challenges. Levying the MSW residual component at the commercial or industrial waste levy of \$35 per tonne would equate to additional costs to Cairns Regional Council of approximately \$1 million per annum and Tablelands Regional Council of approximately \$110,000 per annum.</p>	<p>by-product of co-mingled (MSW and C&I) wastes which are processed by a commercial operation such as a Material Recovery Facility (MRF). Other Australian jurisdictions also charge a levy on residuals from recycling and processing operations.</p> <p>The Bill does not contain a definition of Municipal Solid Waste (MSW) or C&I waste. These are outside the scope of the Bill and will be included in the Regulation. However, the MSW definition will include domestic waste collected by a local government kerbside-collection service and domestic self-haul waste. MSW does not include residue waste from a resource recovery process. Such waste is C&I waste.</p> <p>However, DERM is working with CRC and the operator of the AWT facility on this issue. One of the issues has been around identifying the residue that is from the MSW stream and that coming from the C&I stream. One solution is to request the operator to provide data on the split to be able to accurately quantify the residue from MSW. This would negate the impact on ratepayers.</p> <p>With regards to the general operation of the levy, the Bill is drafted to ensure a levy applies on levyable waste at the point of delivery to a waste disposal site (Clause 36(1)).</p> <p>The Bill provides for a resource recovery deduction (clause 38) to be claimed against the levy owing in a month for materials exported off-site for recycling. Further, the Bill enables the site operator to establish resource recovery areas (clause 60) within the levyable waste disposal site where waste may be delivered without attracting the levy. This area (or areas) is for the purpose of sorting waste for recycling or reprocessing without attracting a levy liability on delivery. The levy will only apply on the residue waste from these areas which are subsequently landfilled.</p>
CI 36	Cairns Regional Council	12	Imposition of waste levy	Council agrees in general with the operation of the levy and the levy scheme operating model particularly where the levy is only applicable to material which is actually landfilled.	
CI 36	Cairns Regional Council	12	Imposition of waste levy	Imposing the levy on MSW residual waste contradicts the intent of the waste disposal levy outlined in the Act and also in Queensland's Waste Reduction and Recycling Strategy 2010-2020	
CI 36	Cairns Regional Council	12	Imposition of waste levy	Utilising an alternative treatment technology facility, such as the SITA Environmental Solutions Bedminster Advance Resource Recovery Facility, significantly reduces the amount of waste going to landfill however currently attracts higher gate fees than landfills in Queensland. Imposing a levy on MSW residual waste processed through an alternative treatment technology facility effectively provides a disincentive for future development of this type of facility in Queensland.	<p>The levy on residue waste from stockpiles at a levyable waste disposal site or a resource recovery area is regardless of the original source of the waste. The absence of a levy on residue waste, either from a processing, treatment of recycling facility, or from stockpiles at a levyable waste disposal site, has the potential to discourage improvement and efficiencies in resource recovery practices and technologies and could potentially lead to increased contamination of the waste being diverted to such facilities as a way to avoid levy payment.</p> <p>The Bill contains the following transitional arrangements that could assist in alleviating levy impacts while rewarding best practice operators undertaking specified types of recycling activities, including Alternative Waste Technologies such as the Bedminster process (as defined in the Bill). The arrangements are in</p>

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					<p>place until 30 June 2014.</p> <p>a) Discounted levy rate for residual waste—</p> <ul style="list-style-type: none"> • The operator of a recycling activity may apply to the chief executive of the Department of Environment and Resource Management to have a discounted levy rate applying to their residue waste. • The regulation will prescribe a residue waste efficiency threshold that the applicant must meet to have the discounted levy. This will ensure that good practice can be rewarded; while poor performance is not. • The efficiency thresholds will be different for each type of recycling activity. <p>b) Exemption from waste levy for residue wastes—</p> <ul style="list-style-type: none"> • Further, where operators can demonstrate that, although meeting the efficiency threshold for their recycling activity, the application of the levy even at the discounted levy rate would still cause the operator financial hardship, then the operator may apply to the chief executive to obtain a full levy exemption for their residual waste. • Any application for exemption from the levy on residues must be lodged by 30 June 2012. <p>The discounted levies for residue waste from recycling and possible exemption on the basis of hardship were developed in consultation with stakeholders and are supported by the Australian Council of Recyclers (ACOR).</p> <p>Note: The Bill reflects the government's position in relation to levying residue waste.</p>
CI 36	Rob Spencer	13	Imposition of waste levy	<p>Mr Spencer writes the following;</p> <ol style="list-style-type: none"> 1. Whilst I support any initiative to reduce waste and increase recycling, and, in fact, practice many recent initiatives myself, I am concerned that local residents, particularly aged, frail and disabled, may again be a target of increased costs recovery. 2. Whilst the objectives specifically refer to industrial waste, construction and demolition waste and regulated waste, I am concerned that at the local tip, residents mentioned in 1. above may have no exemptions. 3. How is the Government - State and Local - going to differentiate between household and industrial waste? 4. Here in Redland City, residents have had a recycling impost for such waste deposited at local tips. This had led to an 	<p>The levy will target commercial and industrial waste; construction and demolition wastes and regulated wastes. Key definitions for types of waste and levy rates will be included in the regulation supporting the Bill.</p> <p>The definition of Municipal Solid Waste (MSW) will cover waste from domestic premises commonly the subject of kerbside collection by council or self-hauled by a householder to a landfill site. A zero levy rate will apply to MSW to prevent the waste levy from impacting on householders.</p> <p>The waste levy is payable by a landfill operator - which may be a private operator or local government – to the State. As MSW has a nil rate it is expected that no extra costs will be passed on to householders by landfill operators. However, the State has no involvement in gate pricing decisions by landfill operators including local government.</p> <p>The Bill includes provisions requiring the transporter or deliverer of the waste to provide information at the landfill gate to ensure the waste is identified</p>

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				<p>increase in such waste dumped in other areas. How will the Government ensure that household recycling waste is cost neutral to residents, whilst differentiating that level of recycling from industrial waste.</p> <p>5. How will the levy exempt household residents, particularly frail, aged and disabled?</p> <p>6. The Bill also amends other Acts, mostly it would appear the Carbon Farming and Coal Seam Gas recycled water discharge. Is there provision in these amendments to exclude urban, regional and rural household residents from being caught up in these cost-recovery amendments?</p> <p>7. Does the Government have any provision at all in these Bills and Amendments to Bills to reduce the horrendous impost on ordinary households who appear to be carrying a more-than-fair share of cost recoveries. In general, through no direct action of their own, householders are being forced to bear an increasing share of costs associated with waste management, recycling, the Carbon question, the unknown costs of water quality changes due to coal seam gas mining, and what appears to me an un-fair impost of Government expenses in these matters?</p>	appropriately (clause 40). Severe penalties apply to misrepresentation of the waste.
CI 36	Rubbish Removers.com Pty Ltd	14	Imposition of waste levy	By charging the waste levy to all who pass through the land-fill gates will encourage all, both business and private to recycle. We see a change in the future to positively encourage Queenslanders to recycle. The creation of Community Recycling Stations as being the first port of call to dispose of unwanted product. If the consumer avails themselves of this facility they are rewarded with a voucher waiving the landfill levy for the disposal of the rest of the unrecyclable product.	Rubbish Removers have been generally supportive of a waste levy throughout the consultation process on the Bill. The Bill imposes a levy on waste delivered to a waste disposal site. The levy will discourage disposal and encourage resource recovery and recycling initiatives similar to those outlined by the submitter.
CI 36	Rubbish Removers.com Pty Ltd	14	Imposition of waste levy	Rubbish Removers submit that "Our main concern is that The Levy applies to C&I, C&D and regulated wastes and does not apply to MSW self haul waste. For the record the Rubbish Removers believes that MSW self haul waste should be included under the waste levy as the governments data show that "domestic waste generation 2007-08 was 40% higher than in 2003-04 but the population grew by only 10%"."	<p>The Bill does not contain a definition of Municipal Solid Waste (MSW). MSW definition is outside the scope of the Bill and will be included in the Regulation. However, the proposed MSW definition and in particular the</p> <p>topic of self-haul has been the subject of consultation through the development of the Bill and the Regulation. In particular, consultation was undertaken on whether domestic self-haul waste should be included in the definition of MSW which has a zero levy rate on delivery or whether it should be considered</p>

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CI 36	Rubbish Removers.com Pty Ltd	14	Imposition of waste levy	The Rubbish Removers believe that self haul waste should be a separate stream to local council bin collections and kerb side waste. (ie) Any person – private or business passing through the dump facilities should be levied at the same rate. Please do not make this levy another Business Only Tax.	commercial and industrial waste to which a \$35 levy applies. Domestic self-haul will be included in the definition of MSW. This is in recognition that not all households have a domestic kerbside-collection service provided by a local government and must self-haul their waste to a landfill. Note: The inclusion of domestic self-haul in the definition of MSW is in accordance with the government's commitment not to affect households with the waste levy.
CI 36	Queensland Conservation Council	16	Imposition of waste levy	[QCC] strongly support[s] the introduction of a waste levy.	QCC is strongly supportive of a waste levy. The Bill introduces a waste levy and brings Queensland in line with all other Australian mainland States which already have a levy in place.
CI 36	Queensland Conservation Council	16	Imposition of waste levy	QCC suggests there is no provision for [the waste levies] strategic or reactive increase. This is not consistent with the practices of other jurisdictions and certainly removes a significant strategic opportunity to increase pressure upon recalcitrant sectors.	Section 72 of the Bill provides for a review of the efficacy of waste levy within two years of the commencement of the levy and then at no more the intervals of three years. This provision will allow a regular review of the efficacy of the levy rates.
CI 36	Western Downs Regional Council	17	Imposition of waste levy	[Council submits] for many of our community members, the levy will place additional cost pressures upon them; greater than that felt by residents in more metropolitan areas.	Refer to response provided for MBRC submission regarding cl 5(e) on 'Impact of the levy on business' and response provided for CCIQ submission on Ch 3 (25-72) for the impact of the levy on local government.
CI 36	Local Government Association of Queensland	20	Imposition of waste levy	That the MSW component of residuals from the Bedminster and MRF processes be levy exempt. "Residuals from the Bedminster and Material Recovery Facility (MRF) processes are to be levyable and this is of concern to local government whilst municipal solid waste (MSW) is levied at zero dollars per tonne."	See comments provided above in relation to the same issue raised by Cairns Regional Council.
CI 36	Local Government Association of Queensland	20	Imposition of waste levy	That DERM carry out an extensive community education program to ensure that commercial waste generators and transporters are aware of the levy and should seek alternate resource recovery options where available. "Local government weighbridge and gate attendants will be subjected to considerable abuse if this levy is not advertised and it is unfair to place these officers in such a position as a result of a state tax".	This is outside the scope of the Bill. DERM is however working with LGAQ on preparing and delivering training to various stakeholders including waste generators and transporters and weighbridge operators. Training will occur in October-November this year.
CI 36	Kennedy's Classic Aged Timbers	21	Imposition of waste levy	Kennedy's argues that there is no change on regulating unlicensed operators – argues that the current legislation does not provide disincentives to unlicensed timber recycling operators.	Unlawful operators may be committing an offence under several pieces of legislation, including for example, the <i>Environmental Protection Act 1994</i> , <i>Sustainable Planning Act 2009</i> and <i>Workplace Health and Safety Act 1995</i> .

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
					Enforcement action in relation to unlawful activities must be taken under the respective Acts where offences apply. This Bill does not affect an operator's requirements under other legislation regarding holding appropriate approvals for that activity
CI 36	Kennedy's Classic Aged Timbers	21	Imposition of waste levy	Kennedy's writes that there is a high residual in World Class operations of licensed Timber recyclers – "Milling treated round logs results in more than 60% of log volume being non-usable residual product...Given nature of this residual i.e. CCA or some other timber preservative treatment it is NOT suitable for traditional re-use application... Disposal to landfill is the only option...Timber recycling from treated timbers is being significantly cost impacted by the provisions of the Bill."	<p>The recycling targets in the Queensland's Waste Strategy 2010-2020 for regulated waste are the lowest of all waste streams. This reflects that alternatives, other than disposal, are more limited for this type of waste.</p> <p>The industry waste levy from this waste will go into the Waste and Environment Fund which will fund programs, including research on options for avoidance, treatment to reduce hazard and alternative end-uses.</p> <p>The levy is also proportionate to that in other states so that Queensland does not become a cheap dumping ground for interstate waste.</p> <p>The Bill also allows for an application to be made by an operator of a recycling activity involving treated timber recycling to dispose of residues at a discounted levy. This will be based on efficiency thresholds for each type of recycling activity and will be contained in the Regulation.</p>
CI 36	Tablelands Regional Council	22	Imposition of waste levy	The Council writes that "...current advice from Queensland Department of Environment and Resources Management (DERM) officers is that all the residual waste from these resource recovery facilities will attract a commercial or industrial waste levy, as the waste is viewed as having been passed through a commercial process; a position that Council challenges."	See comments provided above in relation to the same issues raised by Cairns Regional Council.
CI 36	Tablelands Regional Council	22	Imposition of waste levy	The Council writes that "Levying the MSW residual component at the commercial or industrial waste levy of \$35 per tonne would equate to additional costs to Tablelands Regional Council of approximately \$110,000 per annum and Cairns Regional Council of approximately \$1 million per annum."	
CI 36	Moreton Bay Regional Council	15	Imposition of waste levy	Council recommends that a yearly levy period is utilised for stockpiles of recyclable waste as this would provide more time for these stockpiles to be removed for recycling purposes.	<p>Clause 36(2) of the Bill deals with the levy in stockpiles. A levy only applies if the levy had not already become payable on the delivery on the waste to that site as per clause 36(1).</p> <p>The Bill was developed in consultation with stakeholders including local governments and industry. During consultation stakeholders raised the issue of cash-flow where a levy must be paid on delivery of waste directed to a stockpile that is then recycled or recovered. As a result of consultation the Bill now contain provisions to address cash flow issues associated with the stockpiling of recyclables.</p>

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
					<p>The Bill includes two mechanisms to address these issues:</p> <ul style="list-style-type: none"> • Resource Recovery Deductions (RRDs) in clause 38; and • Establishment of Resource Recovery Areas (RRAs) in Chapter 3, Part 5. <p>RRDs allow the landfill operator to claim a deduction against the levy payable in a month for materials exported for recycling.</p> <p>RRAs are levy free zones established within a waste disposal site to encourage resource recovery and recycling on that site. Waste may be directed to an RRA for the purposes of recycling and resource recovery <u>without incurring a levy liability on its delivery to the site</u>. Only residues from such activities are subject to the levy when disposed of to landfill.</p> <p>Both the RRD and RRA provisions were strongly supported by all stakeholders throughout consultation undertaken on the Bill</p>
CI 37	Cairns Regional Council	12	Calculating waste levy amount	<p>Council proposes;</p> <ul style="list-style-type: none"> - That the residual waste from the commercial or industrial component of the feedstock is levyable waste and the rate of the waste levy for the commercial or industrial residual waste component is \$35 per tonne. - That the residual waste from the MSW component of the feedstock is levyable waste and the rate of the waste levy for the MSW residual waste component is zero (\$0) dollars per tonne. - Further, if this is not the case, then the residual waste from the MSW component of the feedstock is declared exempt waste. 	<p>These matters have been addressed in the comments above.</p> <p>See comments for Cairns Regional Council – under clause 36.</p>
CI 37	Tablelands Regional Council	22	Calculating waste levy amount	<p>The Council argues that “...by potentially imposing a commercial or industrial levy on the municipal solid waste (MSW) residual waste component from the ARRF and materials recovery facility (MRF), both [Cairns and Tablelands] Councils will be significantly financially disadvantaged for implementing innovative waste recovery technologies.”</p>	
CI 38	Australian Council of Recycling (ACR)	9	Resource recovery deduction	<p>ACR submits that “the Bill recognises there is a non-recyclable portion of materials being processed through any recycling facility. Allowing for a reduced levy by way of a) a resource recovery deduction on materials diverted for reuse and recycling, and b) a levy discount scheme for the residual materials of legitimate recycling processes is an Australian</p>	<p>ACORs support of these provisions is acknowledged and appreciated.</p>

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
				first, which will help promote new investment in recycling technologies and help position Queensland as a competitive leader in recycling in Australia.”	
CI 38	Timber Queensland	11	Resource recovery deduction	Timber Queensland believes that the Act should contain ongoing provisions for the application of a discount levy and levy exemption, which can be accessed for as long as there is no viable alternative market from the residue waste.	The Bill provides in clause 72 for regular review of the efficacy of the levy including within two years of commencement, and then every three years. This provision will allow a regular review of the efficacy of the levy rates, including any transitional discounts and exemptions currently provided for in the Bill.
CI 38	Timber Queensland	11	Resource recovery deduction	Timber Queensland write “the Bill gives some recognition of the plight of recyclers, allowing for a discounted waste levy or for a levy exemption for genuine recycling residue waste. However these provisions are fundamentally flawed. In the first instance, both the levy exemption and the levy discount are transitional measures only, terminating on 30 June 2014. Secondly, the full levy exemption only applies if a discount levy ‘would cause the applicant financial hardship to an extent that would stop its business from operating’.”	
CI 38	Moreton Bay Regional Council	15	Resource recovery deduction	[Council states] under the legislation as it is currently written, this waste attracts the full levy and is not eligible for a deduction because it is not transported off site. There are obvious environmental benefits of reusing construction and demolition wastes at Council landfill facilities, when an alternative is to buy in virgin materials.	<p>The Bill allows construction and demolition waste to be delivered to a resource recovery area (RRA) for further reprocessing without a levy being paid on the delivery of that waste to the RRA. Residues from an RRA that are landfilled have the levy applied on them.</p> <p>The Bill also enables the regulation to prescribe a lawful use for which a resource recovery deduction may arise (clause 38(1)(d)). DERM is working with stakeholders in developing the regulation and is investigating whether another lawful use that would give rise to a resource recovery deduction should be prescribed under the regulation.</p>
CI 39	Local Government Association of Queensland	20	Identifying waste levy zone	The Association recommends that Goondiwindi Regional Council be removed from the industry waste levy zone. “Geographically and in terms of estimated levy liability, Goondiwindi is no different to Maranoa and Barcaldine Regional Councils which were not included in the levy zone.	<p>Goondiwindi was included in the levy zone in all consultation documents associated with the Bill. Goondiwindi is a critical location for major transport routes and its inclusion in the levy zone is necessary to prevent shifting of waste to locations outside the levy zone as a way to avoid levy.</p> <p>The council has also been provided with infrastructure funding to assist them in becoming levy ready.</p>
CI 40	Moreton Bay Regional	15	Person delivering waste to levyable waste disposal	[Council submits] quite often drivers will not provide the correct information to try and reduce the charges. If this occurs will the State follow up on information provided by the	Clause 40 of the Bill includes provisions requiring the transporter or deliverer of the waste to provide information at the landfill gate to ensure the waste is identified appropriately. Penalties may apply to misrepresentation of the waste.

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
	Council		site to give information as required by operator of site'	operator (Council) to prosecute the driver.	The State may start a prosecution against a breach of that clause and will consider information provided by the landfill operator in investigating such a breach.
CI 41	Waste Contractors and Recyclers Association of Queensland Inc.	4	Remitting waste levy amounts to State	WCRAQ state that "...the introduction of the waste levy on the site operator, coupled with the future Federal Government Carbon Tax imposts on the sector, will lead to significant financial exposure and liability for all landfill operators and their clients." WCRAQ propose that "...an additional provision be included that allows in the circumstances of a significant bad debt impacting a company, the operator has an ability to request an extension of time to pay the moneys owed or seek a waiver of these for that specific bad debt." (sub 4, p.7)	For comments in relation to a carbon tax, please refer to response to CCIQ's submission regarding Ch 3 [25-72] on the topic —Inconsistency between carbon tax and waste levy. Clause 57 of the Bill enables a site operator to apply for an extension of time to pay the levy if the operator cannot pay the levy by the due date. Further, clause 54 of the Bill also allows the site operator to enter into an instalment agreement for the payment of waste levy amounts.
CI 41	Central Queensland Local Government Association	7	Remitting waste levy amounts to State	The Association has asked "Should the '20%' interest payable on unpaid Levies be in the Bill or in the Regulations?"	For matters such as determining what is appropriate to go into the Bill or the subordinate legislation (regulations) DERM is guided by the advice and expertise of the Office of the Queensland Parliamentary Council.
CI 41	Moreton Bay Regional Council	15	Remitting waste levy amounts to State' and Section 51 'Submission of waste data returns'	[Council states] with the remittance due by the last day of the "prescribed period after the end of a levy period" ie in 1 month and 20 days from the end of each month and data returns due within the "prescribed period", Council would suggest quarterly reporting and payment of the levy.	Stakeholders were generally supportive of a monthly reporting and payment schedule for the levy throughout the consultation process.
CI 42	Central Queensland Local Government Association	7	Weighbridge requirement provision	CQLGA, on behalf of its member councils, seeks clarification as to how sections 42 and 44 would apply to landfills between 2000t and 5000t – does the regulation help to define this better?	<p>Clause 42 of the Bill requires certain sites to install a weighbridge within a specified timeframe.</p> <p>Sites that are required to hold a registration certificate to dispose of 5000 tonnes of waste in a year or less will not be required to install a weighbridge.</p> <p>Where a weighbridge is not in place the Bill allows the site operator to use load conversion factors (weight measurement criteria in clause 44) to measure the waste as outlined in clause 44.</p> <p>However, where a site that is not required to have a weighbridge does install one, then, such site will need to comply with the requirements for weighbridges in clause 42 (e.g. keep the weighbridge in proper working order) and must use the weighbridge to measure the waste as per clause 43.</p>

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
CI 43	Moreton Bay Regional Council	15	Measurement of waste by weighbridge'	[Council submits] when a waste material is utilised on site it is unclear if this material needs to be weighed when it is removed from a stockpile and used.	This is outside of the scope of the Bill. The Bill requires waste to be weighed upon delivery to the site; moved from stockpile to landfill; or moved from stockpile off-site. Clause 43(2)(d) enables the regulation to require a prescribed waste movement to be recorded. Stakeholders will be consulted on the development of the regulation.
CI 44	Central Queensland Local Government Association	7	Measurement of waste other than by weighbridge	CQLGA, on behalf of its member councils, seeks clarification as to how sections 42 and 44 would apply to landfills between 2000t and 5000t – does the regulation help to define this better?	Please refer to response to CQLGA's submission on clause 42.
CI 46	Moreton Bay Regional Council	15	Volumetric surveys on levyable waste disposal site'	[Council submits] volumetric surveys of stockpiled waste such as concrete, steel and timber will be highly inaccurate as they have large voids and this data will be inconsistent and useless.	Volumetric surveys are required for the purpose of obtaining measured quantities of stockpiled supplies. A volumetric survey of stockpiled waste is only one tool within a scope of various waste tools used to measure compliance. The Bill as drafted is consistent with the government's position in this area.
CI 47	Western Downs Regional Council	17	Volumetric survey for new landfill cells	[Council suggest that] the requirements for each active landfill cell and all waste stockpiled to be subject to regular volumetric survey (conducted by a licensed surveyor) as proposed in the Bill is excessive. A recent locating survey (May 2011) at one landfill facility cost Council \$7,300. Council has 22 facilities that would require regular survey.	This provision is in line with the requirement to monitor waste movements of a levyable waste disposal site located in the waste levy zone. This requirement does not apply to small sites until 1 June 2014. Refer to response under clause 5(e) – MBRC, regarding local government costs.
CI 49	Moreton Bay Regional Council	15	Keeping of results of volumetric survey'	[Council suggests] hard copies are required to be kept of all surveys on site at the waste facility for five years. These should be in electronic form and kept at the administrative centres for the levyable sites for example in Council's document management system suitable for viewing with standard computer software eg PDF files. In this day and age records should be managed without printing out reams of paper.	Under section 48, a volumetric survey must be performed in compliance with the requirements prescribed under a regulation and must be accompanied by a topographical plan which must be certified as accurate by a surveyor under the <i>Survey's Act 2003</i> . Hard copies are required to accommodate the requirement of a certified topographical plan. Hard copies also ensure the accuracy of the volumetric surveys and to prevent any electronic alterations.
CI 51	Waste Contractors and Recyclers Association of Queensland Inc.	4	Submission of waste data returns	WCRAQ state that "...the Bill requires waste site operators to provide data returns which contain very detailed information about the delivery and movements of individual waste returns to a facility...provided no commercial protection for any operators' business that the information provided to Government will be treated in absolute confidence, how the date will be held and used, who will have access to it and how it will be treated...there is a very high level of commercial risk	The information collected by DERM in relation to detailed data provided by waste site operators is for restricted use for the purposes of obtaining data returns and levy summary returns. Information collected of a confidential nature from waste site operators will not be disclosed to third parties.

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
				<p>associated with providing the level of data to be supplied with each return, with no protection commercially of it making its way to breaches of confidentiality to external third parties of other interests."</p> <p>WCRAQ [propose] the Bill be amended to either limit the very detailed single transactions required of the data required and that data only be provided by operators to reflect the totality of tonnes managed by each category or that a new clause be added to ensure the absolute protection of submitted data and that any release of this by the department and or its officers, or other parties be recognised as an offence by law and liable for prosecution by the appropriate authorities." (sub 4, p.8)</p>	
CI 51	Moreton Bay Regional Council	15	'Submission of waste data returns'	<p>[Council submits] as all waste is required to be accounted for then each resident delivering waste to the site must give their personal details and these details must be recorded in the information provided to the State in the 'detailed data return' information. This will take considerable time, cost and inconvenience. Also residents and commercial operators delivering waste to Transfer Stations are not required to provide this information, as they are not levyable waste disposal sites. As such when this waste is delivered to a levyable site this information will therefore not be available for this waste.</p>	<p>Refer to response under clause 5(e) – MBRC, regarding local government costs.</p> <p>Transfer station obligations</p> <p>While a transfer station does not have to meet the data reporting requirements imposed on levyable waste disposal site operators (s51), they are still required to meet the obligations under clause 40 - Obligations of person delivering waste. This provision imposes an obligation on persons delivering the waste loads to provide information to enable the operator of the site to identify the types of levyable waste.</p> <p>Therefore a transfer station still has an obligation to record the information so that it can be provided to the levyable waste disposal site.</p>
CI 53	Waste Contractors and Recyclers Association of Queensland Inc.	4	Waste levy evasion	<p>WCRAQ is concerned that this section appears to place no responsibility on the person delivering waste to be accountable for the information provided to the waste facility operator. In this instance, the information is provided by the person transporting the waste to the facility operator, not the chief executive. WCRAQ submit that a new subsection be added to s53⁵⁶ providing that:</p> <p>Information given to a levy able waste disposal site operator is taken to be information given to the Chief Executive for the purposes of waste levy offences." (Sub 4, p.7)</p>	<p>The Bill places the obligation to pay the levy on waste disposal site operators rather than transporters or other persons delivering the waste. Accordingly, it is not appropriate for such persons to be prosecuted for levy evasion.</p> <p>The Bill recognises the need for transporters and persons delivering the waste to provide site operators with accurate information about their waste. This is reflected in clause 40 of the Bill which requires that the deliverer of the waste provide the site operator with all information reasonably required for identification of the waste. Severe penalties apply for a breach of clause 40.</p>
CI 57	Waste Contractors and Recyclers	4	Application for extension of time to pay waste levy	<p>WCRAQ state that subsection (8) "...recognises formally that unlicensed companies will be allowed to operate and may collect the levy...and that it is inappropriate that the Bill gives any recognition for [an unlicensed] landfill to open and</p>	<p>Unlawful operators continue to commit an offence under the <i>Environmental Protection Act 1994</i> and enforcement action must be taken under that Act for the offence. If the definition of a levyable waste disposal site only covered</p>

⁵⁶ The WCRAQ submission wrongly identifies their amendment as pertaining to Section 35.

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
	Association of Queensland Inc.		amount	operate other than to prohibit such an activity to establish in the first place. WCRAQ believes that "...where a levyable waste disposal site does not hold the appropriate licences, the existence of such sites should not be formally recognised in this act other than to apply penalty costs as associated with the levy recover." (sub 4, p.8)	operators holding a registration certificate, there could be no compliance action taken against operators that do not hold a registration certificate for the activity which would create inequity for operators who would be required to pay the levy.
CI 60	Moreton Bay Regional Council	15	'Resource recovery area'	[Council submits] there could be considerable infrastructure costs for operators to set up suitable locations with the necessary provisions to get these areas approved as Resource Recovery Areas.	<p>The Bill does not require operators to set up resource recovery areas.</p> <p>The Bill seeks to collect the levy only on waste disposed of to landfill. However, recognising that materials delivered to a landfill may be subsequently recovered, the Bill provides several mechanisms for disposal facility operators to pay the levy only on waste that is disposed of.</p> <p>The first method is to claim a 'resource recovery deduction' for waste exported for recycling or another lawful prescribed use under clause 38. Unlike the levy system operating in some other states, the Bill does not require monthly remittance of the levy on all materials entering the site coupled with an annual 'refund' based on presentation of evidence of recycling. Instead, the Bill allows remittance of the monthly balance between incoming wastes and waste exported as a resource recovery deduction.</p> <p>The second method is to establish a resource recovery area on the disposal site under Chapter 3, Part 5 of the Bill. These are levy free zones established within a waste disposal site to encourage resource recovery and recycling, and waste may be directed to a resource recovery area for these purposes <u>without incurring a levy liability on its delivery</u> to the site. Only residues from such activities are subject to the levy when disposed of to landfill.</p> <p>Because the resource recovery area is considered as separate from the levyable waste disposal site, the Bill requires the resource recovery area to be separated by a physical barrier with no more than 3 access points to and from the rest of the waste facility. However, the establishment of a resource recovery area should not require significant additional infrastructure or changes to the operation of a site. To save costs, a resource recovery area can be delineated by GPS coordinates and does not need to be surveyed by a registered surveyor.</p> <p>Further, the resource recovery provisions in the Bill have been drafted to lessen administrative burden on operators. No application or approval by DERM is required for the establishment of a resource recovery area. The operator will do a self-assessment of the site in accordance with the requirements of the Bill and notify DERM of the establishment of the resource recovery area under clause 61 of the Bill.</p> <p>The resource recovery provisions have been included in the Bill as a result of</p>

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
					<p>consultation and to alleviate cash-flow issues associated with levy on stockpiled waste that has good recycling potential. These provisions were strongly supported by all stakeholders throughout consultation undertaken on the Bill. However, waste disposal facility operators are not obliged to establish resource recovery areas. The use of the resource</p> <p>recovery deduction option, for example, would obviate the need for a resource recovery area.</p> <p>Also refer response under clause 5(e) – MBRC, regarding local government costs.</p>
CI 62	Cairns Regional Council	12	Effect of declaration of resource recovery area	Council is concerned with the potential issue of mixed waste loads and determination of how much of the waste is exempt waste and how much of it is levyable waste. Providing Councils with ongoing support and the ability to resource awareness and education campaigns will be essential for the smooth transition of the scheme.	<p>The Bill provides for automatic exemptions and for waste to be exempt upon application. Where an application is approved the person will be issued with an exemption certificate which must be presented at the gate of the waste disposal site thus making it easier for the site operator to identify the portion of a load that is exempt.</p> <p>Where levyable waste is mixed in a load with waste which is automatically exempt by the legislation (e.g. asbestos) then clause 40 of the Bill will apply.</p> <p>Clause 40 of the Bill addresses mixed loads by requiring transporters or any person delivering waste to a levyable waste disposal site to provide all information to enable the operator of the site to identify the waste including how much of the waste was levyable and how much was exempt.</p> <p>A maximum of 300 penalty units may apply for a breach of clause 40.</p>
CI 67	Toowoomba Regional Council	6	Waste and Environment Fund	The Council submits that “If a Levy is to be charged, 100% of the proceeds must be hypothecated to waste management activities including avoidance, redirection and recycling. The only other alternatives are to either exclude TRC from the action of the <i>Bill</i> , or at the very least postpone its application to TRC for 5 years. It should be noted that TRC's fundamental position is that it objects in principle to the introduction of a state-imposed waste tax.”	The Bill provides the general framework for the allocation of levy funds. All levy money goes into the Waste and Environment Fund established under the Bill and the Bill requires the fund be used for waste or environment initiatives only. Details of allocation of the funds are outside the scope of the Bill and will be provided in the business plan being developed in consultation with stakeholders.
CI 67	Australian Council of Recycling (ACR)	9	Waste and Environment Fund	ACR submits “the levy will fund an allocation of \$159 million in levy revenue for the Waste Avoidance and Resource Efficiency (WARE) Fund for waste-related programs and projects.”	The Bill provides the general framework for the allocation of levy funds. All levy money goes into the Waste and Environment Fund established under the Bill and the Bill requires the fund be used for waste or environment initiatives only. Further details of allocation of the funds are outside the scope of the Bill and will be provided in the business plan being developed in consultation with stakeholders.

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
CI 68	Waste Contractors and Recyclers Association of Queensland Inc.	4	Object of Waste and Environment Fund	WCRAQ state that "...the stated object of the Waste and Environment Fund is inconsistent with the objects of the Act and ...the object of the fund should be to deliver the objects of the act as defined in Part 2 Section 3." WCRAQ submit that the statement [object] should be amended to reflect the actual object of the fund itself ie the fund will be used for both delivery of the Business Plan and contribution to DERM's operational budget, not simply to reflect funding of 'motherhood' statements'." (sub 4, p.9)	The objects of the Waste and Environment Fund are consistent with the objects of the Act. It should be noted that clause 70 does address WCRAQ's comments in this regard as payments from the fund made be made to: <ul style="list-style-type: none"> • Pay expenses incurred in collecting and administering the waste levy, including the conduct of audits and volumetric surveys of levyable waste disposal sites, progress reporting and compliance activities (s70(2)(a)); and • implement the waste management strategy business plan (s70(2)(d))
CI 70	Waste Contractors and Recyclers Association of Queensland Inc.	4	Payment of amounts from Waste and Environment Fund	WCRAQ state that clause 70 provides no clear governance arrangements for payments from the fund and are non-prescriptive, and that the clause should reflect more definitively what expenses will be allowed to be paid, and on what grounds. WCRAQ propose that sub-clause 2(b) "...should not allow for performance payments to be made from it [the fund] based on regulations that are unknown." (sub 4, p.9)	The Bill provides the general framework for the allocation of levy funds. All levy money goes into the Waste and Environment Fund established under the Bill and the Bill requires the fund be used for waste or environment initiatives only. Clause 70 provides the framework in relation to what payments from the fund may be made for. Further details of allocation of the funds are outside the scope of the Bill and will be provided in the business plan being developed in consultation with stakeholders.
CI 70	Australian Council of Recycling (ACR)	9	Payment of amounts from the Waste and Environment Fund	ACR recommends infrastructure funding be non-discriminatory between public and private sector providers.	The Bill does not discriminate between public and private sector.
CI 70	Australian Council of Recycling (ACR)	9	Payments of amounts from Waste and Environment Fund	ACR is concerned that "while substantial funding is allocated to Waste Avoidance and Resource Efficiency (WARE) Fund for recycling and resource efficiency related programs and projects, substantial revenue raised is to be siphoned off to the \$100 million to broader state government sustainability objectives and \$120 million for a new Sustainable Future Fund (SFF) to assist in the delivery of local government waste and environmental programs, rather than resource recovery and recycling. Allowing funding to be siphoned off for use in general 'waste' and environmental programs may ultimately undermine the goals and effectiveness of the Bill if insufficient focus is not given to achieving resource recovery and recycling targets."	The Bill provides the general framework for the allocation of levy funds. All levy money goes into the Waste and Environment Fund established under the Bill and the Bill requires the fund be used for waste or environment initiatives only. Clause 70 provides the framework in relation to what payments from the fund may be made for. Further details of allocation of the funds are outside the scope of the Bill and will be provided in the business plan being developed in consultation with stakeholders
CI 70	Cairns Regional Council	12	Payment of amounts from the Waste and Environment Fund	Council agrees with the general object of the fund but is concerned the criteria for payments from the fund is unclear and the Waste and Environment Fund regulation is not available at the time of writing this submission.	The Bill provides the general framework for the allocation of levy funds. All levy money goes into the Waste and Environment Fund established under the Bill and the Bill requires the fund be used for waste or environment initiatives only. Clause 70 provides the framework in relation to what payments from the fund may be made for. Further details of allocation of the funds are outside the scope

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
					of the Bill and will be provided in the business plan being developed in consultation with stakeholders.
CI 70	Moreton Bay Regional Council	15	'Payment amounts into Waste and Environment Fund	[Council states] the costs incurred to collect and administer the waste disposal levy should be funded from the waste levy fund.	Refer response under clause 5(e) – MBRC, regarding local government costs.
CI 70	Western Downs Regional Council	17	Payment of amounts from the Waste and Environment Fund	[Council requests] that capital upgrade grants be brought forward (prior to the commencement of the levy) to cover the full \$3.179m costs of capital works required to prepare for the levy.	Refer response under clause 5(e) – MBRC, regarding local government costs.
CI 70	Western Downs Regional Council	17	Payment of amounts from the Waste and Environment Fund	[Council submits] the additional administration costs are expected to be substantial; the costs of part time supervision of some twelve busier landfills, regular audit at ten other smaller sites to determine the quantity of waste subject to levy, data recording devices, collection costs and levy administration generally are expected to cost in excess of \$650,000 annually. Council has little capacity to fund these additional recurrent costs; furthermore, it is likely to be difficult to be able to recruit for any additional positions in the local area due to very low unemployment rates. [There will be a cost to Council to monitor remote sites, even where fenced] and account for the levy, as C&I or Construction & Demolition (C&D) waste may still enter the site on smaller commercial vehicles, such as utilities.	Refer response under clause 5(e) – MBRC, regarding local government costs.
CI 70	Downs and Surat Basin Alliance of Councils	25	Payment of amounts from the Waste and Environment Fund	[DASBAC states] our opinion has not changed. Unless substantial upfront funding is afforded to councils, the concept of improved waste management practice over the state of Queensland will not see any improvement. Councils simply are not in a financial position to self-fund this State Imposed Tax. It resembles the classic version of cost shifting to Local Government.	Refer response under clause 5(e) – MBRC, regarding local government costs.
CI 72	Waste Contractors and Recyclers	4	Review of efficacy of waste levy	WCRAQ state that "if the Government chooses to ignore Investigating the future impacts of both the Carbon Tax and the Waste Levy on the Queensland community and does not undertake a detailed in dependent financial analysis of the	Refer to response to CCIQ's submission regarding Ch 3 [25-72] on the topic 'Inconsistency between carbon tax and waste levy' and 'Exclusion of household waste from the levy'.

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
	Association of Queensland Inc.			impacts of both the introduction of the waste levy and carbon tax then the following applies •Inclusion of Municipal Solid Waste and Self Haul Waste as being levy able wastes.” (sub 4, p.6)	
Chapter 4 [73-101]					
Ch 4 [73-101]	Queensland Greens	2	Management of priority and other products	The Greens the Bill should include container deposit legislation to bring Queensland in line with South Australia and the Northern Territory	<p>This issue is currently part of a national Ministerial Council study. As a consultation Regulatory Impact Statement process is underway it is considered premature to include specific provision in this Bill for a state-based management system for beverage containers.</p> <p>The Bill does provide for the development and accreditation of industry product stewardship schemes for priority products, which will complement the national product stewardship legislation framework.</p>
Cl 84	Mitchell Bright	1	What is a regulated product stewardship scheme	Mr Bright hopes a regulation can be made under section 84 of the Bill to make low-density polyethylene irrigation pipes (poly-pipe) subject to a regulated product stewardship scheme.	Priority products are products that have been identified as having an environmental, social or economic benefit associated with their recovery or in avoiding the impacts associated with their disposal. The legislation sets out a process for identifying priority products, enabling Queensland to support national approaches or to adopt state-based action. Possible management options include implementing a product stewardship or ‘take-back’ scheme, banning the sale or disposal of a product, or implementing a state-wide education campaign to improve recycling. If as poly-pipe is identified as a priority product, there are provisions in the Bill that would enable the government to add it to the regulations requiring a product stewardship program. The Bill also has provision for voluntary product stewardship schemes to be established and accredited.
Cl 84	Mitchell Bright	1	What is a regulated product stewardship scheme	Mr Bright hopes that “.. waste electronic and electrical equipment can also be subject to a stewardship scheme which requires manufacturers and importers to take back their products from consumers and also from city council waste disposal facilities”	<p>The Bill’s product stewardship provisions provide a complementary framework to the Commonwealth’s product stewardship legislation. Queensland has been part of the national e-waste product stewardship process, which has been working with the television and computer industries on a product stewardship scheme. While the Bill doesn’t specifically cover e-waste, it does allow for the use of disposal bans. We</p> <p>could use disposal bans for e-waste, for instance, to support a national industry recycling scheme.</p>

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
CI 84	Mitchell Bright	1	What is a regulated product stewardship scheme	Mr Bright wishes a regulation could also be made under section 84 of the Bill for a stewardship scheme for drink container recycling.	See response to Mr Bright's enquiry above, regarding polypipe, clause 84.
CI 97	Queensland Greens	2	Regulation about product stewardship	The Greens submission states that the Bill "... provides for a new regulatory provision effectively allowing a ban on retail establishments supplying plastic shopping bags to consumers for the holding or carrying of goods" though "... has not proposed penalty amounts related to shopping bags' and "...is silent on the enforcement of the provision related to shopping bags." The Greens state that "...the state must provide resources to successfully investigate and enforce the provision" and "... the inability to differentiate between bio-degradable and degradable bags will impact the effectiveness of this section and add to the enforcement complexity." [there is no provision in the bill to regulate or prohibit the provision of shopping bags. These comments may relate to an earlier draft of the bill]	These comments relate to the consultation draft of the Bill circulated in June 2011. The decision to remove these provisions from the Bill was a policy decision of the government and was based on government support for a ban being predicated on the availability of viable alternatives.
CI 97	Cairns Regional Council	12	Regulation about product stewardship	Council agrees with the general principles for the management of priority products. However, Council is concerned management of plastic shopping bags has been singled out and believes plastic bags should be subject to the same criteria as other waste types to be declared a priority product or for disposal bans. [there are no provisions in the final version of the Bill that relate to plastic bags]	
CI 97	Queensland Conservation Council	16	Regulation about product stewardship	[QCC has] supported the introduction of a phase out of single use plastic bags. It is extremely disappointing that the program designed to address this process, which existed in the preliminary draft of the bill, has been completely removed. This program should be reinstated.	
CI 100	Moreton Bay Regional Council	15	'Prohibition on disposal of disposal ban waste'	[Council submits] for Councils to be solely liable for a disposal ban waste put into landfill that has been placed by others in a Council wheelie bin or at the local waste transfer station is not appropriate. The liability needs to be directed towards the true offender, rather than on local governments for providing a waste collection service.	Section 40 of the Bill provides that a person delivering waste to levyable waste disposal site must provide information about the waste to the operator of site. The information includes how much of the waste is exempt and levyable, what types of levyable waste the load contains and whether the waste was generated in the levy zone. It is an offence for failing to provide the information.

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
Chapter 5 [102-117]					
Ch 5 [102-117]	Gold Coast City Council	8	Offences relating to littering and illegal dumping	The Council recommends that “provisions are included in the Bill to provide better differentiation of penalties relative to the scale of littering offences, similar to section 440D in the Environmental Protection Act 1994”	Littering is of significant public concern and the provisions in the Bill provide greater enforcement capacity and strengthened penalties for litter and illegal dumping offences. The removal of tiered littering offences simplifies enforcement by having a level of penalty for a general littering offence.
Cl 102	Mitchell Bright	1	General littering provision	M Bright does not believe the dangerous litter provisions in the Bill will serve to reduce the disposal of beer bottles onto the road.	Chapter 5 in the Bill has strengthened the littering and illegal dumping provisions and penalties and introduced a public reporting system. The Public reporting system enables members of the public to report vehicle littering or illegal dumping offences to DERM for enforcement. . Public reporting systems have been utilised with success in other jurisdictions. Queensland’s system of reporting will be modelled on the successful Victorian system where in 2009/2010 over 18,000 incidents of vehicle related littering were reported by the public. The system has been so successful at reducing littering that roadside littering surveys show a 60% reduction in waste littered on roadsides since the system was introduced.
Cl 102	Moreton Bay Regional Council	15	General littering provision	[Council states cl 102 (4) (a)] is not clear regarding when the deposition of waste in a roadside bin is an offence. This section needs to be clear in that public place (park, street and roadside) bins are for the depositing of small amount of litter from low level activities, such as packaging from food items purchased from a takeaway store or left over waste from a picnic held adjacent to where the bin is located. Waste taken from a business or directly from a residence should be prohibited from being placed in a public place bin and must be deposited at a waste disposal facility.	The intent of subsection 102(4) of the Bill is to make it clear that if a person is on a road they cannot litter even if they consider themselves the occupier of the place or have the consent of the occupier of the place. It provides that a person does not litter if they place the waste into a bin [...] <i>provided for the purpose of depositing the relevant waste.</i> For example, a person litters at a place if the person deposits household or commercial waste into a litter bin that has been provided by a local government for the purpose of depositing waste from a park BBQ area.
Cl 102	Logan City Council	19	Litter management	Council suggests that a training CD-ROM, produced the last time littering laws were reformed, be updated to support the new legislation. “The Local Government Toolbox initiative would be an ideal avenue for DERM to distribute information to officers”. It also advocates a statewide communications marketing campaign and a more strategic approach to litter management.	DERM is developing a new anti-littering and illegal dumping campaign, targeted programs and a strategy to combat littering and illegal dumping. A guide for local government to assist them in combating littering and illegal dumping is under development.
Cl 103	Cairns Regional Council	12	Illegal dumping of waste provision	Council is confident that instances of illegal waste dumping will increase with the introduction of the levy. Providing councils with the ability to resource additional monitoring and enforcement action will be essential to limiting these impacts.	Chapter 5 in the Bill has strengthened the littering and illegal dumping provisions and penalties and introduced a public reporting system. The Public reporting system enables members of the public to report vehicle littering or illegal dumping offences to DERM for enforcement. In the Waste Strategy,

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
CI 103	Western Downs Regional Council	17	Illegal dumping of waste provision	Council is greatly concerned about the potential for the waste levy to significantly increase the amount of illegal dumping. Across the Council area, with many bushland areas, illegal dumping is already a serious issue and may get worse.	DERM acknowledged the potential for the perverse outcome of increasing illegal dumping to avoid paying the levy. Accordingly an anti-littering and illegal dumping campaign, targeted programs and a strategy to combat littering and illegal dumping are being developed by DERM.
CI 103	Western Downs Regional Council	17	Illegal dumping of waste provision	Council remains concerned that the waste reforms proposed in the bill will necessitate a radical departure from the Council's current strategy, which will be met with a negative response from our local community members. This may lead to a substantial increase in illegal dumping.	
CI 104	Logan City Council	19	What is advertising material?	Council suggests more clarity is needed in the definitions of 'unsolicited advertising material' and 'commercial purposes'. They also suggest an online form be developed for occupiers to notify a publisher they want them to cease delivery of material to their property.	Material lawfully distributed under an Act by either by an elected representative or a person seeking election is not advertising for a commercial purpose and therefore is not advertising material and cannot be unsolicited advertising material.
CI 105	Logan City Council	19	What is unsolicited advertising material for premises?	Council suggests more clarity is needed in the definitions of 'unsolicited advertising material' and 'commercial purposes'. They also suggest an online form be developed for occupiers to notify a publisher they want them to cease delivery of material to their property.	It is not necessary to define the term commercial purpose as it is a common term referring to doing something for gain or reward. The provision of an online form to notify organisations of an occupier's intent to not receive material is out of the scope of the legislation.
CI 106	Logan City Council	19	Unlawful delivery provision (unsolicited advertising material)	Council recommends that, in regard to nuisance litter/unsolicited advertising material "...greater emphasis should be placed on the company being responsible for training, supervising and monitoring their workers..."	Section 111 (Avoiding accumulations of waste) of the Bill already requires entities responsible for delivering advertising material to take all reasonable steps to ensure that the advertising material does not become waste. A reasonable step might be for example, advising and training staff on their obligation to deliver advertising material in a secure manner.
CI 108	Logan City Council	19	Placing document on or in motor vehicle or on building or other fixed structures	"Council officers frequently leave courtesy cards...in mail boxes or at the front door of premises, addressed to "The owner" or "The occupier". Any restriction on this process would seriously hamper the ability of Council and other regulatory agencies to investigate offences".	Delivery of courtesy cards to occupiers by a local government would not be impacted by the provisions regarding material that may become waste. Section 104 defines advertising material as advertising for a commercial purpose; therefore courtesy cards are not unsolicited advertising material and are not captured by this provision.
CI 108	Logan City Council	19	Placing document on or in motor vehicle or on building or other fixed structure.	Council writes that "Council officers frequently attach warning notices...or fact sheets...to vehicles. There is nothing written in local laws or legislation to authorize this. It needs to be clarified in relation to section 108(4) that attaching [such a notice] to a vehicle or building...does not contravene the Act."	The <i>Explanatory Notes</i> for the Bill for s180 explain that a person doesn't contravene this section if the action is made in the lawful performance of a function under an Act or if the action is reasonable in the circumstance. Use of compliance tools such as warning notices would be regarded as a reasonable circumstance.

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
CI 117	Queensland Greens	2	Facilitating enforcement of vehicle littering or illegal dumping offence	The Greens state ‘...the Bill provides for the general public to make a report of observed incidences where illegal dumping or littering has occurred...it is unclear as to whether the administrative provision of this form of public reporting will be devolved to local governments to administer...if local governments are devolved responsibility, the intent of a consistent state legislation will conflict with local government boundaries issues and will also need to be clarified...inn Victoria where similar legislation exists, the enforcement of this activity is undertaken by the state government.’	As with Victoria, the responsibility of the public reporting system introduced in clause 117 and its enforcement capacity lies with the state government. Local governments will continue their current powers to enforce the littering and illegal dumping provisions; however they are not required to use or maintain the public reporting system.
CI 117	Logan City Council	19	Facilitating enforcement of vehicle littering or illegal dumping offences	Council supports the idea of a vehicle littering/illegal dumping “hotline”.	DERM has consistently received positive feedback during consultation to support these provisions.
Chapter 6 [118-145]					
CI 120	Downs and Surat Basin Alliance of Councils	25	Object of pt 2 (Local government strategic planning for waste)	[DASBAC] believes the implementation is totally non feasible under the current framework. We consider that each council should be required to submit a Waste Management Strategy addressing the areas of concern to each council area and then implement the Waste levy — if required. It is council's opinion that the current proposal will do nothing to improve or reduce the current Waste Problem that exists.	<p>The Bill transfers the existing local government strategic planning requirements in the <i>Environmental Protection (Waste Management) Policy 2000</i>, and updates them to align with the goals of the Waste Strategy and to require the inclusion of performance indicators. These requirements apply to all local governments in Queensland. Clause 121 allows local governments to produce regional plans.</p> <p>The levy will only apply to waste generated or disposed in the levy zone. The levy zone will be identified in regulation and will include all the Downs and Surat Basin Alliance of Councils members except Maranoa Regional Council.</p>
CI 120	Western Downs Regional Council	17	Object of pt 2 (Local government strategic planning for waste)	Council's [2009 infrastructure strategy in relation to waste disposal sites] has been met with general community acceptance. Council's strategy has been central to improving the community's attitude towards waste management, which Council feels may be jeopardised by reform that is too radical.	<p>The Bill contains a number of measures that may complement Council's efforts in this area and assist Councils to achieve the goals of their strategic waste plans, for example:</p> <ul style="list-style-type: none"> • Levy funding will be allocated to educational and waste minimisation projects, including projects in regional areas • The levy is intended to encourage a reduction in waste generation and disposal Improved management of priority products may also reduce the burden on Councils for management of end-of-life disposal.

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
CI 122	Waste Contractors and Recyclers Association of Queensland Inc.	4	Local government's waste reduction and recycling plan obligation	<p>The WCRAQ state that this section of the Bill requires Local Governments to have responsibility for producing plans for the management of all wastes within their region, even those they have no control of...by allowing councils authority to set the agenda for waste activities when council operated business units are also part of the competitive environment, and political interference based on local agendas influencing such agendas this makes for a huge risk to the private sector's operating investments and all business operations.</p> <p>The WCRAQ also state if the Bill is intended to give local governments total control of all waste activities, then the act should be explicit in declaring this...the future operating environment of the private sector and protection of its investments must be safe guarded against all anti-competitive local government business unit behavior. The requirements for local government plans must include provisions in the Bill that specifically exclude local government's ability to prescribe in such plans any exclusive provisions in relation to commercial, industrial, construction or demolition, waste and recycling collections...if it is not the intent for Local Government to have total control, then local government should not have responsibility to plan for the management of all waste within their respective regions...the act should be explicit in declaring what waste a local government is responsible for...where there is a desire to have a waste reduction and recycling plan open to competition, such planning should become the responsibility of the state, and not local government. The current draft of the act (Division 3) does give the Chief Executive the ability to prepare such plans...these questions need to addressed and this chapter rewritten based on the decision made." (sub 4, pp.10-11)</p>	<p>This clause does not confer any new powers on local government. It does not give local government control over waste management.</p> <p>However, it does make local government more accountable for the waste it produces through its own activities, and for how its actions as a waste planner and manager achieve continuous improvement and acquit against the goals and targets of the Waste Strategy.</p> <p>The <i>Environmental Protection (Waste Management) Policy 2000</i> (sections 25-33) already requires local government to undertake strategic waste planning and reporting for its area. The existing legislation covers both general waste planning for the local government area, and local government's activities as a waste manager, but does not specifically require local government to plan or report on the waste it generates from its own activities.</p> <p>The intention of the Bill is to update these requirements to align them with the goals of the Waste Strategy and to require the inclusion of performance indicators. Chapter 6 Part 2 of the Bill covers strategic planning, and Chapter 7 clause 146 covers annual reporting.</p> <p>The Bill also brings local government into line with existing state government requirements by mandating planning and reporting on the waste generated by local government's own activities.</p> <p>Clause 122(2) is simply a list of items that must be included in a local government strategic waste plan. Sub-clause 122(2)(a) refers to waste reduction and recycling targets for waste generated in the area, both by the local government's own activities and otherwise.</p> <p>However, this obligation only applies <i>to the extent reasonably practicable</i>. This clause acknowledges that while local government has a role in planning for its area, it would not be reasonable to expect local government to plan or account for all private sector activity.</p> <p>The <i>Explanatory Notes</i> for this clause give the example that it may be reasonably practicable for a local government to oversee a range of targets and actions for improving household waste management – as they are the principle managers of municipal waste; however it would only be reasonably practicable for local governments to plan for some aspects of business waste.</p>
CI 123	Queensland Murray-Darling Committee	23	Matters to be complied with in the preparation and adoption of a	<p>QMDC recommends including in clause 123 (1) (a):</p> <ul style="list-style-type: none"> - Condition, trends, targets and threshold limits for natural resources - Other principles outlined above for clause 4 	Refer to responses under QMDC submission on clauses 4 and 146.

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
	Inc.		local government's waste reduction and recycling plan		
Chapter 7 [146-153]					
CI 146	Queensland Murray-Darling Committee Inc.	23	Local government reporting	<p>QMDC recommends including in clause 146:</p> <ul style="list-style-type: none"> - Details of the impacts of waste generation, disposal and management actions on condition, trends, targets and threshold limits of natural resources in that local government's region - A community consultation process that allows community to contribute to the preparation of the plans and report 	<p>It is beyond the scope of local government planning and reporting to account for the use of all the natural resources in the local government area. The Bill requires local governments to make a detailed annual report of disposal and recycling, as well as actions to reduce waste generation, in their local government area.</p> <p>Clause 124 of the Bill ensures that in developing the plan appropriate consultation is undertaken with the community.</p>
CI 147	Queensland Murray-Darling Committee Inc.	23	State entity reporting	<p>QMDC recommends including in clause 147:</p> <ul style="list-style-type: none"> - Details of the impacts of waste generation, disposal and management actions on condition, trends, targets and threshold limits of natural resources in the region of the State entity 	<p>The purpose of clause 147 is to require state government departments and government owned corporations to report on actions and progress against the performance indicators in their strategic waste plans which are mandated under clauses 132-133. The strategic plans relate to waste generated by the department.</p>
CI 153	Queensland Murray-Darling Committee Inc.	23	Annual report on waste disposal and recycling	<p>QMDC recommends including in clause 153:</p> <p>An evaluation by local governments and reporting entities of the degree and types of impacts reported as being caused by waste generation, disposal and management actions on condition, trends, targets and threshold limits of natural resources</p>	<p>The purpose of clause 153 is to require the state government to publish an annual summation of waste that has been recycled and disposed of in that year, to enable the tracking of trends and progress.</p> <p>Local government annual reporting requirements on the other hand are set out in clause 146 and relate to reporting on the local government's strategic waste plan.</p> <p>The data reported by local government, as well as the data from the new mandatory reporting provisions for private sector waste disposal and recycling companies in clauses 149-152, provide the basis of the aggregated annual report by the state government.</p>
Chapter 8 [154-172]					
CI 156	Queensland Murray-Darling Committee	23	Application	<p>QMDC recommends including in clause 156:</p> <ul style="list-style-type: none"> - Assessment guidelines - Details of likely cumulative impact - An assessment of the degree and types of impacts that may potentially be caused by the resource on condition, trends, targets and threshold limits of natural resources 	<p>Chapter 8 of the Bill contains the process for granting approvals of a resource for beneficial use. These provisions are based around the existing provisions in Part 6A of the Environmental Protection (Waste Management) Regulation 2000 which will be replaced by the new provisions of the Bill.</p>

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
	Inc.				
CI 159	Queensland Murray-Darling Committee Inc.	23	Criteria for decision	<p>QMDC recommends including in clause 159:</p> <ul style="list-style-type: none"> - Inclusion of other key principles as per above discussion on Clause 3 - An evaluation of the degree and types of impacts reported as being caused by waste generation, disposal and management actions on condition, trends, targets and threshold limits of natural resources - The applicant's ability to provide adequate financial assurance should any harm occur 	<p>Section 156 relates to information the applicant must provide with their application. Section 156(2)(b)(x) includes an assessment of the potential for material environmental harm, serious environmental harm or environmental nuisance arising from its proposed use. This section encompasses the matters recommended by QMDC.</p> <p>Section 159 relates to matters that must be considered, such as the standard criteria under the Environmental Protection Act 1994, when deciding an application. This section encompasses consideration of some of the matters recommended by QMDC, however the provision of financial assurance is outside the scope of the Bill.</p>
Chapter 9-14 [173-270]					
CI 262	Logan City Council	19	Delegation by chief executive	Council is concerned with the workloads foreseen by the littering regulatory provisions. "It remains Council's position that it has limited capacity to effectively administer these provisions of the future WRR Act, and therefore any mandatory delegation of these provisions to local government is not supported.	The public reporting system for vehicle littering and illegal dumping introduced in clause 117 will not be delegated or devolved to local government. The responsibility for the public reporting system lies solely with the state government. Local governments will retain their current delegated responsibilities powers for enforcing the littering and illegal dumping provisions; however they are not required to use or administer the public reporting system.
CI 270	Waste Contractors and Recyclers Association of Queensland Inc.	4	Regulation-making power	WCRAQ state that they repeatedly raised concerns at commenting on the proposed WRR Bill without having the opportunity to read the draft regulations that will underpin it. "We are advised by the Minister that under a long standing protocol of the OQPC that it does not commence drafting regulations until after a final version of the Bill has been tabled in the House." (sub 4, p.2)	<p>Extensive consultation on various aspects of the regulation has been undertaken with targeted stakeholders, including WCRAQ, over the last 12 months. Consultation has been undertaken on proposed definitions, the low and high regulated waste classifications, the weight measurement criteria, the formulas to calculate the levy payments, the levy rates and the levy zone.</p> <p>In accordance with drafting procedure, drafting of the regulations does not usually commence until a final version of the WRR Bill has been tabled in the House. Stakeholders received a consultation draft of the regulation on 1 September 2011.</p>
Chapter 15 [271-300]					
CI 277	Central Queensland Local Government Association	7	Application for discounting of waste levy amount	CQ councils have recently signed a contract to use a Material Recovery Facility. CQLGA submits that domestic waste from these facilities will incur a levy which is a disincentive for councils to pursue recyclables processing.	<p>Residual waste is the waste that is left over after the recoverable material has been removed.</p> <p>The policy position adopted is to treat this residual waste as C&I waste, to which a levy would apply. This is because these wastes are largely the by-product of co-mingled (MSW and C&I) wastes which are processed by a commercial</p>

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
CI 286	Moreton Bay Regional Council	15	Application for approval of residue waste as exempt waste for transition period	[Council submits] this residual waste is MSW and would have a \$0 levy charge if the waste was deposited into the waste bin rather than the recycling bin and therefore a levy charge should not be applied at any point in time.	operation such as a Material Recovery Facility (MRF). Other Australian jurisdictions charge a levy on residuals from recycling and processing operations. Chapter 15, part 2 of the Bill contains provision to allow the chief executive to declare, on application, that residual waste from an eligible recycling activity is subject to a reduced levy rate. A fifty percent discount off the C&I rate for a transitional period until 30 June 2014 is proposed. This will allow time for the recycling industry to adjust to the levy and will help stimulate investment in the recycling sector, while encouraging greater efficiencies to reduce the amount of residual waste requiring disposal.
CI 295	Central Queensland Local Government Association	7	Volumetric survey of levyable waste disposal site before waste levy commencement	CQLGA, on behalf of member councils, request that the timeframe for volumetric surveys be extended for those landfills that do not currently conduct regular surveys.	Section 295 requires an operator of a levyable waste disposal site to ensure a volumetric survey is carried out for each active landfill cell and all stockpiled waste at the site within 14 days immediately preceding 1 December 2011. A volumetric survey for landfill and any stockpiles at the landfill needs to be undertaken in the prescribed timeframe in order to provide a baseline of waste at the site before commencement of the levy. This provision covers all waste disposal sites located within the waste levy zone, regardless of whether they conduct regular
Chapter 16 [301-407]					
CI 304 ⁵⁷	Queensland Greens	2	Omission of ch 7, pt 7 (Special provisions about waste management) of the <i>Environmental Protection Act 1994</i>	The Greens state that the proposed removal of s369 of the <i>Environmental Protection Act 1994</i> will result in the loss of the current permit requirements for waste management works such as waste collecting and temporary chemical toilets for public events. This provision they state allows councils to regulate nuisance impacts of waste collection and transport such as noise, "...especially where BCC does not have a contract to regulate hours." They state that the repeal of s369 is "...a significant retrograde step for local government ability to specify collection times to reduce environmental nuisance and also to recover the cost of regulating complaints."	Sections 369, 369A, 369B and 369C of the <i>Environmental Protection Act 1994</i> will be repealed by this clause of the Bill. These sections provide local governments with the ability to issue approvals to people carrying out waste management works in their local government area. The operation of the provisions is limited and does not apply where the waste management works are performed by or for the local government, or where the person is acting under a development approval, code of environmental compliance or if the works are an environmentally relevant activity. During consultation, the waste sector indicated that they are now competing with local governments in the same sector and raised concerns about the potential for local governments to use these provisions in an anti-competitive manner.
CI 304	Gold Coast City Council	8	Omission of Ch 7, pt 7 EPA	The Council recommends that "Section 369 of the <i>Environmental Protection Act 1994</i> is <u>not</u> omitted"	Section 363A of the <i>Environmental Protection Act 1994</i> allows a notice (a

⁵⁷ The Greens submission wrongly identifies this as pertaining to Section 253.

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
CI 310	Local Government Association of Queensland	20	Amending EP Act	That section 369 of the Environmental Protection Act 1994 be retained for a period of two years to allow local government to develop alternate tools to manage nuisance associated with commercial waste collection. "Whilst it is recognized that s369 is not ideal it would be of assistance to local government if the omission of this section were able to be delayed for two years to allow the development of other tools".	Direction Notice) to be issued in circumstances where there is an environmental nuisance, such as noise from early morning commencement of waste collection services. These notices can be issued by the local governments to remedy the contravention. If they choose to do so, local governments could develop a local law to manage this issue in their local government area.
CI 319	Timber Queensland	11	Carbon abatement products	Timber Queensland notes that Chapter 15 of the Bill is devoted to amendments to other legislation, some of which are very important to the timber industry. In particular, we note that this section will establish a framework for granting the right to carbon on State-owned land to a lessee or indeed a licence holder. The State currently owns the forest products on much of this land, and Timber Queensland is very concerned that an unintended consequence of these provisions could be to constrain timber production.	Current timber production on State-owned land will not be constrained by introduction of the carbon abatement provisions of the Waste Reduction and Recycling Bill 2011. A lessee or licensee must apply under the <i>Forestry Act 1959</i> for the right to deal with the carbon rights in State owned timber on the lease or licence. The chief executive under the <i>Forestry Act 1959</i> must assess whether the grant of such a right would constrain timber production. For example, an application for the right to deal with carbon rights in Stateowned timber would be refused if the timber is subject to an agreement under the <i>Forestry Act 1959</i> to sell the timber. Additionally, if the State plans to sell the timber, the application may also be refused. However, if the State-owned timber is not subject to a current agreement to sell, and the State has no plans to sell State-owned timber, the right to deal with carbon rights in the State-owned timber may be granted.
CI 393	Lock the Gate Alliance Inc	24	Division 2 Amendments about coal seam gas water	LTGA does not support the sanctioning of emergency releases of CSG recycled water that may have an impact on drinking water supplies. Protection of drinking water quality should be of the utmost importance and a requirement under the Act. We reject the notion of an up to 12 month-long emergency release. That up to a year may be required is a clear indication that the project and/or its operation poses unacceptable risks, is unsustainable and should not have been granted an environmental authority in the first place.	CSG emergency releases are rare; during the 2010/11 wet season only two Transitional Environmental Programs (TEPs) were approved and only one scheme was required to use the approval for a CSG emergency release. The regulatory frameworks must recognise that in extreme or unforeseen circumstances these releases may be necessary. This has been the case in the <i>Environmental Protection Act 1994</i> (EP Act) since commencement. The Bill makes no amendment to the EP Act; all existing provisions continue to apply to CSG releases. Recognising specific EP Act authorisations, where conditions have been included to protect public health in relation to impacts on water sources of a drinking water service provider, in the <i>Water Supply (Safety and Reliability) Act 2008</i> (Water Supply Act) streamlines the approval process for responding to these situations. CSG emergency releases are limited to a total period of 12 months. This is done to reflect that although the release is properly authorised, it may be limited to periods of high surface water flows (for dilution) or may only be

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
					<p>required during extreme weather. Allowing a longer period for the discharges provides better management of a CSG emergency release in terms of protecting the environment and public health.</p> <p>Operational and longer term releases of CSG recycled water will continue to be regulated under the Water Supply Act to protect public health in relation to impacts on water sources of a drinking water service provider.</p>
CI 393	Lock the Gate Alliance Inc	24	Division 2 Amendments about coal seam gas water	LTGA is deeply concerned about the lack of publicly available information or advice about this process [coal seam gas developments], and the fact that significant changes to other pieces of legislation are effectively buried and not in the view of an increasingly concerned public.	<p>It is not uncommon for amendments to a number of Acts to be included in a single Bill. The amendments to the Water Supply (Safety and Reliability) Act 2008 (Water Supply Act) were included in the Waste Reduction and Recycling Bill 2011 in order to progress the amendments in a timely and efficient manner. This is to ensure that the Environmental Protection Act 1994 (EP Act) and the Water Supply Act work together to protect both the environment and public health with respect to CSG recycled water.</p>
CI 394	Queensland Murray-Darling Committee Inc.	23	Division 4A Provisions for CSG emergency releases. CI 329GA What is a CSG emergency release?	<p>QMDC does not support the emergency release of CSG recycled water that may have an impact on drinking water supplies and asserts this should not be permitted under the Act.</p> <p>However, if CSG recycled water is released QMDC also asserts an emergency release should have a very limited timeframe of no more than 7 days. If a CSG entity perceives the likelihood of emergency releases their operations should not be allowed to proceed and an environmental authority (EA) be declined or revoked. No CSG activity or infrastructure should be allowed to proceed on floodplains or on sites known to pose risks because of climate change or variability.</p>	<p>CSG emergency releases are rare; during the 2010/11 wet season only two TEPs were approved and only one scheme was required to use the approval for a CSG emergency release.</p> <p>The regulatory frameworks must recognise that in extreme or unforeseen circumstances these releases may be necessary. This has been the case in the EP Act since commencement.</p> <p>The Bill makes no amendment to the EP Act; all existing provisions continue to apply to CSG releases.</p> <p>Recognising the EP Act authorisations in the Water Supply Act streamlines the approval process for responding to these situations.</p> <p>CSG emergency releases are limited to a total period of 12 months. This is done to reflect that although the release is properly authorised, it may be limited to periods of high surface water flows (for dilution) or may only be required during extreme weather. Allowing a longer period for the discharges provides better management of a CSG emergency release in terms of protecting the environment and public health.</p> <p>Operational and longer term releases of CSG recycled water will continue to be regulated under the Water Supply Act.</p>
CI 394	Queensland Murray-	23	Division 4A Provisions for CSG	QMDC recommends that where the CSG companies make CSG recycled water available for 'beneficial use', the water must be:	This submission does not relate directly to the amendments as the submission refers to beneficial use approvals rather than CSG emergency releases.

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
	Darling Committee Inc.		emergency release. What is a CSG emergency release?	<ul style="list-style-type: none"> - Subject to risk assessments based on the immediate, future or cumulative impact which may result from its use, taking into account potential contaminants including salt, surface and ground water interaction, changes to overland flow, and new and existing infrastructure. - When water is released into streams or weirs, those streams or weirs are subject to chemical and biological monitoring to assess impacts; and all monitoring data be made available to the public within one month of collection. 	<p>However, the following information is provided about public access to information.</p> <p>Water quality monitoring requirements are applied to environmental approvals and approvals under the Water Supply Act. The amendments do not limit these provisions.</p> <p>Under section 274 of the Water Supply Act a recycled water provider discharging under a Recycled water management plan (RWMP) is required to prepare and make publically available reports about monitoring results, noncompliances and prescribed incidents. Information about TEPs and EPOs is available to the public via the public register provisions of the <i>Environmental Protection Act 1994</i>. Both TEPs and EPOs are on the public register. Monitoring programs required under TEPs and EPOs are considered to be a monitoring program carried out under the Act and are therefore also on the public register, as are the results of those monitoring programs. Matters of non-compliances and incidents are not required to be released publicly but notification is required to DERM and to affected persons such as landowners and/or Local Government.</p>
CI 394	Queensland Murray-Darling Committee Inc.	23	Division4A Provisions for CSG emergency releases. CI 329GB Relationship with EPA 1994 for CSG emergency release	QMDC does not support this clause. It must be mandatory for the provider's recycled water management plan to fully consider a range of emergency conditions and plan for them within the stringent conditions of an EA.	<p>The Bill makes no amendment to the EP Act; all existing provisions continue to apply to CSG releases.</p> <p>A Water Supply Act approval does not remove an obligation under the EP Act.</p> <p>The amendments are intended to address situations where a CSG emergency release is required and either:</p> <ul style="list-style-type: none"> • there is no existing approval under the Water Supply Act or • the CSG emergency release is authorized or required under an EP Act instrument and there is an inconsistency with the Water Supply Act approval.
CI 394	Queensland Murray-Darling Committee Inc.	23	Division4A Provisions for CSG emergency releases. CI 329GC Obligations for continued release of recycled water after CSG emergency release	QMDC does not support the continued release of an emergency release of CSG recycled water and asserts that this should not be permitted under the Act. QMDC also asserts an emergency release should have a very limited timeframe of no more than 7 days.	<p>CSG emergency releases are limited to a total period of 12 months. The amendments require that in the event of a continued release of CSG recycled water, the release will no longer be considered CSG emergency release and a RWMP or exclusion decision is required under the Water Supply Act.</p> <p>CSG emergency releases are limited to a total period of 12 months. This is done to reflect that although the release is properly authorised, it may be limited to periods of high surface water flows (for dilution) or may only be required during extreme weather. Allowing a longer period for the discharges provides better management of a CSG emergency release in terms of protecting the environment and public health.</p>

Clause No.	Submitter	Sub No.	Section / initiative	Key Points	DERM Comments (provided by correspondence on 14 September 2011)
CI 394	Lock the Gate Alliance Inc	24	Division4A Provisions for CSG emergency releases. CI 329GA What is a CSG emergency release?	Continued emergency releases for up to 12 months should not be permitted under the Act. LTG is concerned that no consideration has been given to cumulative impacts of multiple emergency releases nor the impacts on water quality.	<p>CSG emergency releases are limited to a total period of 12 months. This is done to reflect that although the release is properly authorised, it may be limited to periods of high surface water flows (for dilution) or may only be required during extreme weather. Allowing a longer period for the discharges provides better management of a CSG emergency release in terms of protecting the environment and public health.</p> <p>The Water Supply Act provides for a RWMP or exclusion decision to be amended, or revoked, respectively, if additional discharges of CSG recycled water may have cumulative impacts.</p> <p>Under the EP Act, when deciding whether to issue a TEP or EPO, the administering authority must consider the standard criteria (e.g. the character, resilience and values of the receiving environment) and any other regulatory requirements under the EP Act. For example, section 51 of the Environmental Protection Regulation 2008 requires consideration of — the impact of the release of contaminants or materials from carrying out the activity on the receiving environment, including the cumulative impact of the release with other known releases of contaminants, materials or wastes.</p>
CI 395	Queensland Murray-Darling Committee Inc.	23	Amendment of sch 3 (Dictionary)	QMDC submits the definition of public health should be extended to include those impacts which have environmental and cultural and spiritual components associated with water and Aboriginal belief systems. The cumulative impact of emergency CSG water releases by multiple CSG or other entities should also be defined.	A definition is provided in the Bill for 'public health conditions'. This definition is limited to reflect the purpose of the Water Supply Act which is 'to provide for the safety and reliability of water supply.'

Appendix 3 – Hearing Witnesses

ORGANISATION

WITNESS

Chamber of Commerce and Industry Queensland

Mr Nick Behrens, General Manager - Policy

Mr Troy Harrison, Principal Sustainability Consultant

Waste Contractors and Recyclers Association
Queensland Inc.

Mr Rick Ralph, Executive Director

The Rubbish Removers

Mr John Erhard, Director

Timber Queensland

Mr Jim Burgess, Resource and Environment Manager

Kennedy's Classic Aged Timbers

Mr Michael Kennedy, Founder and CEO

Local Government Association of Queensland

Mrs Christine Blanchard, Principal Adviser –
Environmental Health

Mr Greg Hoffman, General Manager – Advocacy

Gold Coast City Council

Mr Matthew Fraser, Acting Manager – Waste
Resources Management

Moreton Bay Regional Council

Mrs Portia Rigby, Coordinator – Planning and Capital
Works, Moreton Bay Waste

Toowoomba Regional Council

Mr Kevin Flanagan, General Manager – Water and
Waste Services

Australian Council of Recycling

Mr Grant Musgrove, Director – Policy, Partnerships
and Projects

Queensland Conservation Council

Mr Toby Hutcheon, Executive Director

Queensland Greens

Ms Libby Connors, State Spokesperson

Goondiwindi Regional Council

Cr Graeme Scheu, Mayor; Chairman

Downs and Surat Basin Alliance of Councils

Western Downs Regional Council

Cr Ray Brown, Mayor

Tablelands Regional Council

Cr Thomas Gilmore, Mayor

Mr William Cuthbertson, Manager – Water, Waste
Water and Waste Operations Group

Ms Kirsty Lamperd, Senior Adviser – Environmental
Planning

Cairns Regional Council

Mr Nigel Crumpton, Acting Manager – Waste and
Environment

Appendix 4 – State & territory waste levies

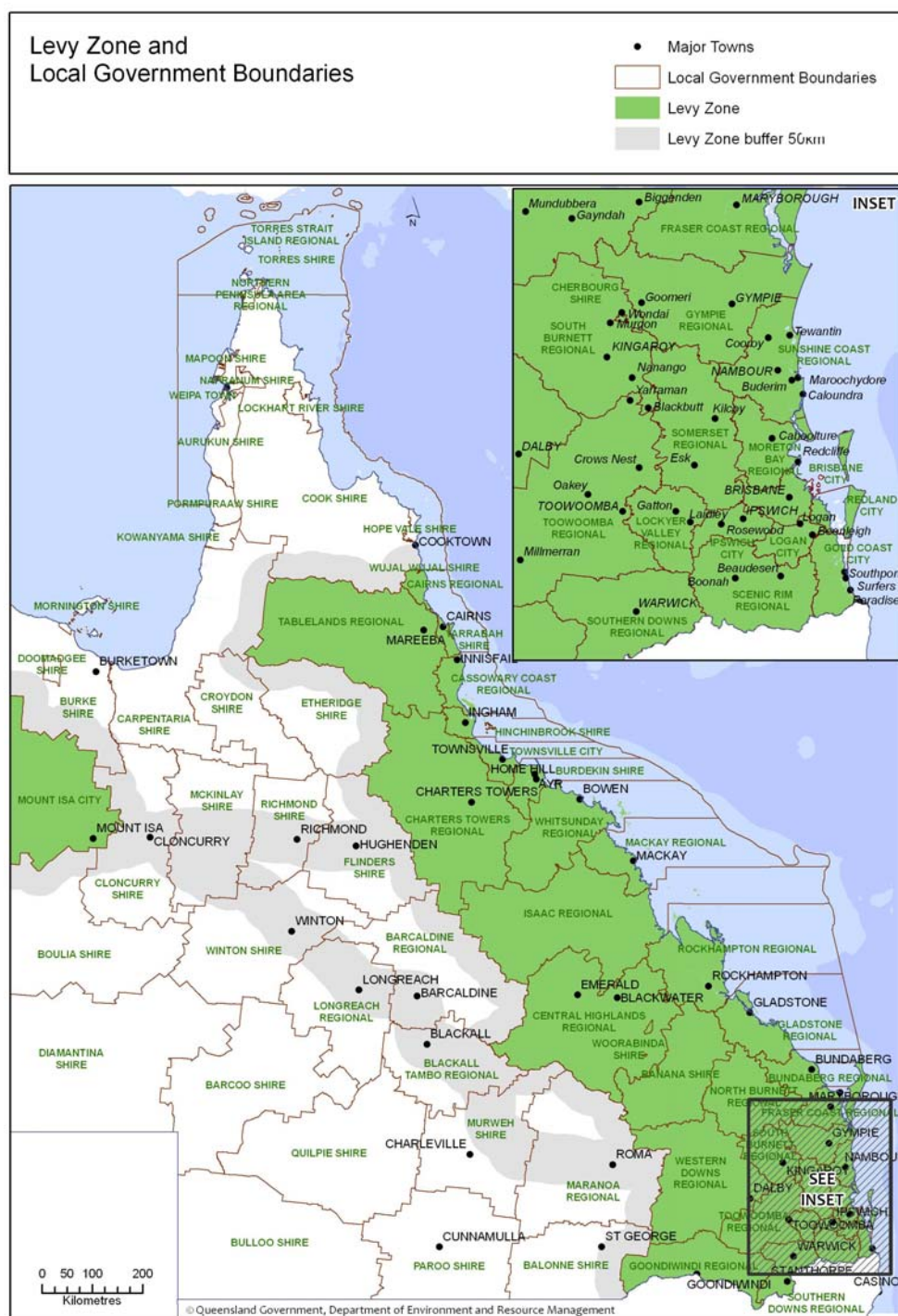
State	Calculation of levy	Legislation	Waste type	Region	Levies*
NSW	Waste levies calculated according to the location of the waste facility, and paid by the facility for each tonne received for disposal.	<i>Protection of the Environment Operations (POEO) Act 1997</i> <i>Waste Avoidance and Resource Recovery (WARR) Act 2001</i> Protection of the Environment Operations (POEO) Regulation	Unspecified	Sydney metropolitan	\$82.20
				Extended regulated area	\$78.60
				Regional regulated area	\$31.10
				Levy on trackable liquid waste	\$64.50
VIC	Waste levies dependent on classification of waste	Environmental Protection (Industrial Waste Resource) Regulations 2009	Municipal waste	Metropolitan	\$44.00
				Rural	\$22.00
			Industrial waste	Metropolitan	\$44.00
				Rural	\$38.50
			Prescribed waste	Category B – includes wastes from manufacturing industries and contaminated soils	\$250.00
				Category C - includes wastes which pose a low hazard from manufacturing industries and contaminated soils	\$70.00
				Packaged waste asbestos – levy remains as previously scheduled to encourage safe handling and disposal of asbestos	\$30.00
SA	Waste levies dependent on classification of waste as solid or liquid.	Environmental Protection Regulations 2009	Solid waste**	Metropolitan Adelaide	\$35.00
				Non-metropolitan Adelaide	\$17.50
			Liquid waste	All	\$11.25
WA	Waste levies dependent on classification of waste as inert or putrescibles	<i>Waste Avoidance and Resource Recovery (WARR) Act 2007</i> WARR Levy Act 2007	Inert Waste	Unspecified	\$12.00/cubic metre
			Putrescibles		\$28.00
ACT	Waste levies calculated according to <i>Waste Minimisation Act 2001</i>	<i>Waste Minimisation Act 2001</i> , Section 45 – Determination of Fees and Waste Minimisation (Landfill Fees) Determination 2011 (No 1)	General commercial waste	Unspecified	\$121.90
TAS	No state-imposed levy. Regional councils have introduced levies such as \$2 per tonne on all landfill waste in Northern Tasmania				N/A
NT	No levy				N/A

Source: Based on information by Department of Environment and Resource Management and the Parliamentary Library.

*Unless otherwise specified, levies are calculated as price per tonne.

**Increase in solid waste levies foreshadowed for 2011-12 to at least \$50 per tonne in Adelaide

Appendix 5 – Proposed Waste Levy Zones



Source: Department of Environment and Resource Management, Correspondence, 14 September 2011.

Appendix 6 – Waste from other jurisdictions

Total tonnes of regulated waste sourced from other states and disposed of to Queensland landfill in 2010-11.

Code	Description	NSW	Vic	WA	SA	Tas	ACT	NT	Total (tonnes)
A	Plating & heat treatment								0.00
B	Acids	12.48	6.28			0.29		7.47	26.52
C	Alkalis								0.00
D	Inorganic chemicals								0.00
E	Reactive chemicals								0.00
F	Paints, resins, inks organic sludges								0.00
G	Organic solvents								0.00
H	Pesticides								0.00
J	Oils								0.00
K	Putrescible/organic waste								0.00
L	Industrial washwater								0.00
M	Organic chemicals								0.00
N	Soil/sludge	9757.00				20.50			9777.50
R	Clinical & pharmaceutical	20.02							20.02
T	Misc.								0.00
State Totals (tonnes)		9789.50	6.28	0.00	0.00	20.79	0.00	7.47	9824.04

*Source: Department of Environment and Resource Management, Correspondence, 9 September 2011
(Responses to questions taken on notice, public briefing on the Waste Reduction and Recycling Bill 2011)*

Appendix 7 – Letters about the waste levy

LOCAL GOVERNMENT
ASSOCIATION
OF QUEENSLAND LTD.
ABN 11 010 883 293
ACN 142 783 917



Local Government House:
25 Evelyn Street Newstead Qld 4006
PO Box 2230 Fortitude Valley BC Qld 4006
Phone (07) 3000 2222 Fax (07) 3252 4473

9 February 2011

Hon Kate Jones MP
Minister for Climate Change and Sustainability
GPO Box 15155
CITY EAST QLD 4002



Dear Kate,

WASTE DISPOSAL LEVY DEFERRED COMMENCEMENT DATE

Thank you for your recent letter suggesting a deferred commencement date for the waste levy from 1 July 2011 to 1 September 2011. Thank you also for the extension to the consultation date on the draft legislation to the end of February 2011.

With regard to the levy commencement extension, I have given your suggestion consideration and raise with you the following issues that still need to be resolved before the levy commencement date:

1. Local government is yet to be provided with the full draft Waste Reduction and Recycling Bill 2010. Chapters 6-9 of the Act and the entire Regulations have not yet been provided and it is difficult to provide appropriate advice to the government on an incomplete legislation package. The Regulations in particular are of interest to local government as these will provide the operational requirements for administering the waste levy.
2. Local government will be required to collect significant data as a result of the introduction of the waste levy. Information on the data required is yet to be fully discussed with local government. Software and systems need adjusting and consultation with local government and industry has not been given the due attention it deserves.
3. There are hundreds of unstaffed waste facilities within the levy zone and all are operated by local government. These sites need substantial work mostly at local government expense and additional time before commencement of the waste levy would allow this to occur.
4. Illegal dumping has not really been considered yet and requires a substantial commitment from both your government and councils. The Association would be pleased to work with your department to ensure suitable programs and penalties are in place to prevent illegal dumping once the waste levy commences.
5. Almost 90% of local governments in Queensland are now disaster declared as shown in the attached map. All councils in the levy zone are disaster declared. This is hampering the efforts of local government staff to provide comments on draft





legislation and also to prepare applications for the infrastructure funding. Staff in your department would appear unaware of the serious dislocation to local governments and challenges they face in the disaster zone. Indeed, some insensitivity has been evident through unreasonable requests for reports and information prior to approving funding. I ask that, where possible, your department conditions funding to require such reports and information prior to construction and that the applications are not delayed or refused as a result of such documents not being provided. This is particularly relevant to soil reports where councils know that additional footings will be required for weighbridge construction but the soil is currently waterlogged and geotechnical reports are unable to be obtained in time for the funding application to be submitted.

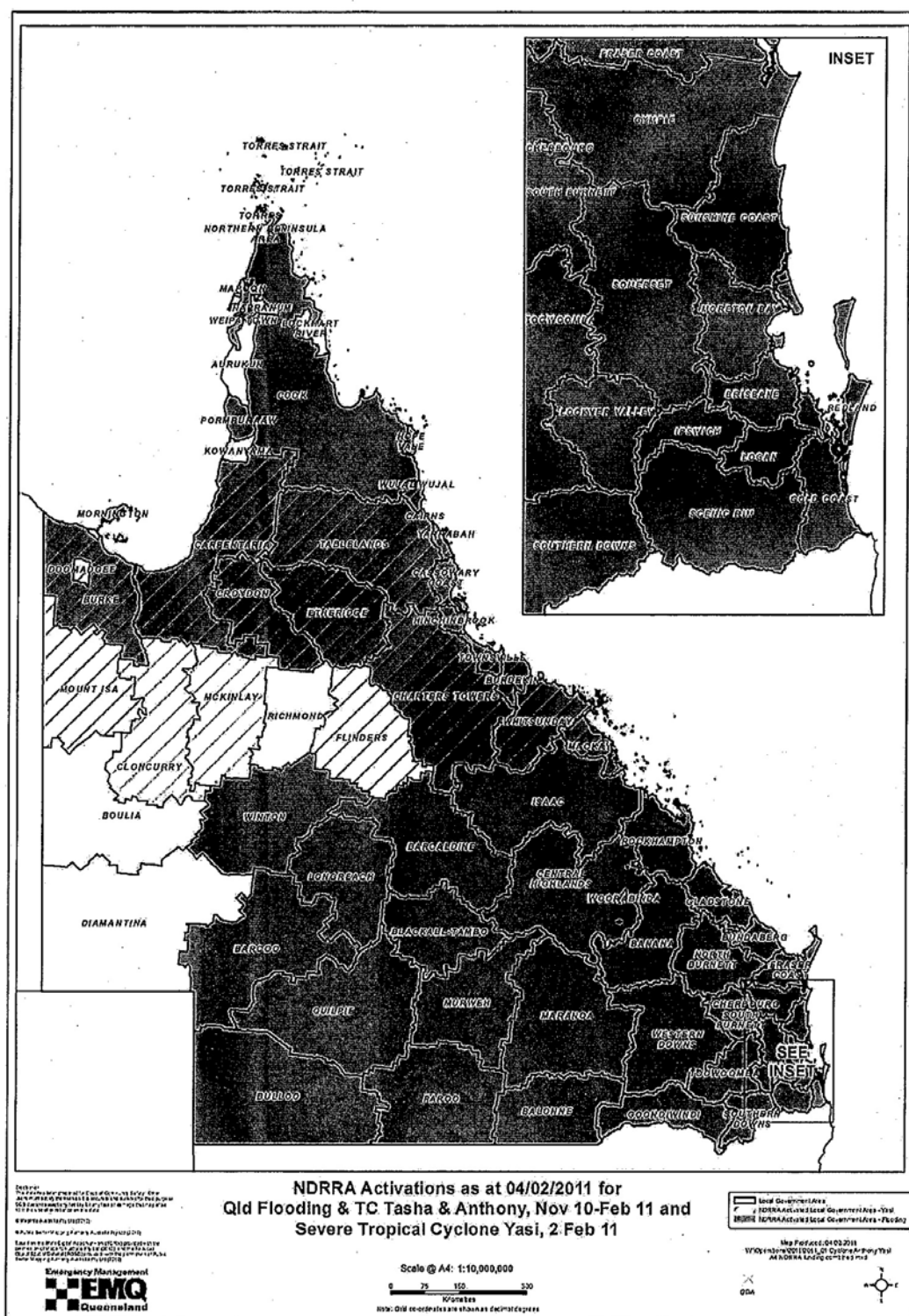
6. Substantial training is to be undertaken of weighbridge attendants, waste managers and finance staff. The training package is yet to be developed and a delayed commencement date for the waste levy will allow time for your department and the Association to develop an effective training package.
7. Some councils are already experiencing issues with town planning applications and need additional time to allow any required Material Change of Use application to be processed. Simply requiring local government to "deem" tonnages is not the preferred method of collecting waste charges or the levy. Local government would prefer, where possible, to install appropriate infrastructure prior to the levy commencement date.

Taking all of the above into consideration, I request that the waste levy commencement date be deferred to 1 December 2011. This allows sufficient time for your department to undertake much of the work outlined in the above points and also provides time for councils to install infrastructure and system changes where needed.

I look forward to your favourable consideration of this suggested date and would welcome an opportunity to discuss the matter further.

Yours faithfully,

Cr Paul Bell AM
PRESIDENT





Council of Mayors
South East Queensland



8 February 2011

Hon Kate Jones MP
Member for Ashgrove
Minister for Climate Change and Sustainability
GPO Box 2454
BRISBANE QLD 4001

Dear Minister,

I am writing in strong support of the request from the Local Government Association of Queensland (LGAQ) for the granting of several extensions to enable Queensland Councils to appropriately respond to the current waste reform initiatives.

As you will appreciate, many Councils in Queensland including several SEQ Councils are not in a position to adequately review the Draft Legislation and prepare applications for funding assistance or focus on preparing for the introduction of the waste levy. The current focus for Queensland Councils is on high priority recovery operations, cleaning up and managing waste created by the floods. Those Councils not directly affected by the floods are focussing on providing resources to neighbouring Councils that are struggling.

Several SEQ Councils did not hold formal Council meetings during January and the first round of meetings will be dedicated to discuss flood recovery issues, making it extremely difficult to obtain detailed feedback on the waste reform initiatives. Councils' financial and administrative capacity to implement the levy between now and 1 July or even 1 September would be severely stretched.

The Council of Mayors (SEQ) therefore requests that you favourably consider the following requests for extensions of time in order for Councils to adequately respond and prepare:

- A minimum of 1 additional month required for comments to be provided on the Draft Legislation and Regulatory Assessment Statement.
- It is acknowledged that individual Councils are applying for extensions for submitting funding applications for infrastructure, however a blanket extension for all Councils is requested until at least the end of February.
- The commencement of the waste levy should be to at least 1 December 2011.

I look forward to hearing from you regarding this request.

Yours sincerely



John Cherry
EXECUTIVE DIRECTOR

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T (07) 3040 3460 F (07) 3211 5889 www.seqmayors.qld.gov.au
ABN 87 141 329 302

Dissenting report

With respect to those parts of the Bill pertaining to waste

We the undersigned support four out of the five recommendations made by the committee as they will marginally improve the operations of the proposed legislation. However, we dissent from the following recommendation contained in the report put forward by the majority of committee members ("the Report"):

The committee recommends that the Bill proceed subject to the amendments recommended and clarifications by the Minister of points raised in this report.

On 3 August 2011, the House referred the Waste Reduction and Recycling Bill 2011 introduced by Hon Vicki Darling MP, Minister for Environment, to the committee for consideration and report.

The committee's consideration of the Bill has included public submissions, public briefings by the Department of Environment and Resource Management (DERM) and public hearings.

We dissent from the committee's majority recommendation on the following primary grounds.

A. The requirement of price signaling to achieve the objects of the Act

We agree, along with the vast majority of submissions, that the objects of the Act as contained in Clause 3 of reducing waste and increasing the re-use and recycling of waste are commendable. Like numerous submissions, though, we question the need for price signaling to achieve this objective.

Members supporting the majority committee recommendation support the ministerial and departmental advice that "levies are in place in other states and that the imposition of the levy in Queensland is necessary to deter the dumping of waste in Queensland from other states".

When asked to substantiate the amount of cross-border dumping during the public departmental briefings DERM officers acknowledged such was hard to quantify:

*Ms O'Shea: It is somewhat difficult to quantify for materials that are not regulated. We do have information about regulated waste coming across the border. In relation to other more opportunistic decisions that are made, all we have is pretty much anecdotal information in relation to that. We do have data on the tracking of regulated waste though and that is quantified...*⁵⁸

Subsequent presentation of the quantifiable amounts suggest there is hardly a large trade in cross border regulated waste with some 99 per cent of the 9,824 tonnes being soil and sludge from New South Wales. Furthermore, the anecdotal evidence suggested by DERM staff, whilst partly confirmed by the two councils most likely to be impacted by such dumping, is hardly considered a problem.

⁵⁸ Ms Tamara O'Shea, Department of Environment and Resource Management, *Briefing Transcript*, 24 August 2011, p.3.

When questioned, Mr Fraser of the Gold Coast City Council provided the following response:

Mr POWELL: *Anecdotally, is the Gold Coast concerned about cross-border waste?*

Mr Fraser: *It is, yes, of course. While the disposal rates are higher somewhere else there is always going to be a tendency for people wanting to transport waste to a cheaper location. Obviously, transport costs are significant so there is a limit to how far people will go, but obviously DERM is considering people are coming as far as Tasmania. We obviously need to have systems in place to try to minimise that, but at this stage Gold Coast City Council does not prohibit waste coming from outside the Gold Coast City Council area.*

Mr POWELL: *A simple solution possibly could have been that the Gold Coast City Council could have regulated commercial operators operating cross-border?*

Mr Fraser: *That is correct, yes, and also potentially differential rates. You could have different disposal fees applying to waste from external to the state.*⁵⁹

Similarly, Cr Scheu of Goondiwindi Regional Council gave the following response:

Mr POWELL: *Thank you, Madam Chair. I am Andrew Powell, the shadow minister for the environment. My first question is to Councillor Scheu. Councillor, in your capacity as Mayor of Goondiwindi, one of the reasons that the government has proposed this legislation is concerns about cross-border waste transfer. Given our council sits on the border, can you acknowledge whether there has been significant cross-border waste transfer?*

Mr Scheu: *We have never encountered any problem. I can understand that argument and I had that debate with the people down there. I can understand that closer to the seaboard, but in this western area it is not an issue. It really is a non-issue. The initial thought was that New South Wales was going to expand its waste levy, which I believe under the new government is not going to happen now anyway. For our inclusion in this to be based on a cross-border issue is ludicrous.*⁶⁰

It is clear to us that there are far more simple and location-specific solutions to address cross-border dumping than the imposition of a price signal or waste levy.

The Minister has also claimed in her second reading speech that a waste levy is necessary to “allow Queensland to take serious action on our growing landfill problem”. Again, when DERM officers were asked how many councils are running out of landfill sites the response was:

Ms O’Shea: *The Sunshine Coast council is one, for example. The Redlands has, or will shortly, run out of landfill space. Rockhampton, I understand, is running out of landfill space and is currently looking for new sites. We are not too sure at the moment...We do acknowledge that there are some landfills that will be open for some time, particularly some of the larger ones out in the Ipswich area.*⁶¹

Evidence has been presented to the committee that in a state of 74 local government authorities at most three councils may be experiencing landfill shortages in the near future. And in each of those instances the authorities in question were already exploring regional solutions. A waste levy is unnecessary to achieve the objects of the Bill.

⁵⁹ Mr Matthew Fraser, Gold Coast City Council, *Hearing Transcript*, 7 September 2011, p.21.

⁶⁰ Cr Graeme Scheu, Goondiwindi Regional Council & Downs and Surat Basin Alliance of Councils, *Hearing Transcript*, 8 September 2011, p.3.

⁶¹ Ms Tamara O’Shea, Department of Environment and Resource Management, *Briefing Transcript*, 24 August 2011, p.3.

B. The timing of the waste levy impost

We acknowledge the significant concerns raised by a number of submissions regarding the timing of the proposed waste levy.

In its submission the Waste Contractors and Recyclers Association of Queensland Inc (WCRAQ), Queensland's peak waste industry body, stated:

We submit that a full economic analysis be conducted by an independent third party to determine:

- *The impacts on the Queensland business community;*
- *The likelihood of future secondary resources sector investment;*
- *The likely impacts on all Government department budgets and projects financially committed to and already funded;*
- *The full costs to be incurred by local government as well as private sector owners and operators of landfills of the combined impact that the waste levy coupled with the Federal Carbon Tax will have in Queensland.*

All of these new Government Taxes are substantive and all recovery of the costs will have to be passed through the economy as [a] result.⁶²

Similarly, the Chamber of Commerce and Industry Queensland (CCIQ) states the industry waste levy will threaten business viability in Queensland:

due to ongoing depressed economic conditions... many businesses do not have the financial capacity to absorb additional waste costs nor do they have the resources to investigate and make changes to their waste practices and systems...with minimal likelihood of being able to pass costs onto customers at present the additional cost will significantly affect the profitability and viability of many Queensland businesses.

The Queensland Commercial Waste Levy is inconsistent with other emerging environmental policies...advice from the waste industry suggests that the introduction of the levy and the proposed carbon price will represent a 200 per cent increase for C&I and a 300 per cent increase for C&D waste charges passed onto Queensland businesses from July 2012.

CCIQ urges the Queensland Government to reconsider the introduction timeframes for the commercial waste levy until after the Australian Government has finalized details on how the carbon pricing mechanism is to operate and its applicability to waste emissions to avoid any unsustainable cost impact on Queensland businesses...DERM should be requested to undertake additional cost modelling (including the impact of a carbon price) prior to the passage of the Bill through parliament and the introduction of the commercial waste levy.⁶³

Given the uncertainty of the impending federal government Carbon Tax we question whether sufficient modeling has been undertaken to determine the full flow on effect of the combined waste and carbon taxes on Queensland's small and medium businesses and their customers.

C. The complexity of the waste levy

It is clear for policy reasons alone the Government has negotiated a horrendously complex series of exemptions, \$0 levy applications and temporary levy rates. The result has the potential to achieve the opposite of what the Bill intends – discouraging

⁶² Waste Contractors and Recyclers Association of Queensland Inc, *Submission No. 4*, p.4.

⁶³ Chamber of Commerce and Industry Queensland, *Submission No. 5*, pp.1-2.

operators from undertaking world class recycling, driving creep into domestic kerbside waste collection and destroying local businesses.

During his presentation to the committee, Mr Michael Kennedy of Kennedy's Timbers stated:

Mr Kennedy: *What will happen is if we have to pay the levy on our residual, given the fact that when we cut a round pole into square pieces our recovery is somewhere less than 60 per cent—it is around about 30 to 45 per cent—that is our recovery. The rest is residual. If it is treated, we cannot dispose of that through conventional means like animal bedding, chip, mulch, particle board production. That will have a diametrically perverse effect on the market for our products...The amount of timber that is going into landfill that could possibly be recycled, you will see that increase...What will happen at the moment is that for someone like me who has invested millions and millions of dollars in a facility, come 1 December, the best financial outcome for me is to stop taking poles off Energex, Ergon, Q-Rail, Main Roads and to buy all my timber from the rainforests of South-East Asia. How stupid is that?*⁶⁴

In instances, such as in Cairns and the Tablelands, the levy in its current form has the potential to undo investment in alternate waste technology – the kind of technology the Bill intends to promote. Mr Nigel Crumpton of Cairns City Council informed the committee of the following:

Mr Crumpton: *Cairns Regional Council delivers all municipal solid waste and Tablelands Regional Council delivers a portion of municipal solid waste to the Bedminster facility, where the waste is aerobically composted and diverted from landfill, hence eliminating a generation of greenhouse gases. This kind of facility is unique in Queensland. Both councils already pay a premium to recover and divert waste from landfill via the Bedminster facility.*

By potentially imposing a commercial/industrial levy on the municipal solid waste residual component, council will be significantly financially disadvantaged, so we believe in implementing innovative resource recovery technologies. Levying the municipal solid waste residual component at the commercial/industrial waste levy of \$35 a tonne would equate to additional costs to Cairns Regional Council of approximately \$1 million per year and to Tablelands council of approximately \$110,000 per year. While state government officers acknowledge it is an unintended outcome, even if a proposed discount on the commercial/industrial levy of 50 per cent or \$17.50 per tonne was granted through a provision, Cairns Regional Council would still have significant additional costs of approximately \$500,000 per annum.

*Not only will imposing the commercial/industrial levy on the municipal solid waste residuals be a significant financial burden for Cairns Regional Council, it also appears to contradict the intent of the waste disposal levy outlined in the bill and acts as a disincentive for other councils considering implementing resource recoveries of this kind. The levy of municipal solid waste residuals at the Bedminster process places Cairns Regional Council residents at a significant disadvantage to residents in other council areas where municipal solid waste is not levied.*⁶⁵

And the exclusion of domestic self haul waste will have the perverse effect of severely disadvantaging recycling-focused small businesses such as Rubbish Removers, operated by Mr John Erhard:

Mr POWELL: *Mr Erhard, I have a quick question. With the impost of the \$35 a tonne waste levy, with the impost of a carbon tax, with the impost of 10c a litre fuel tax, is your business sustainable?*

Mr Erhard: *It is really 'watch this space'. My wife and I have worked very hard to get where we are. We care about our employees and that is why I am here today. We are very positive people. We work very hard. We always try to see the opportunities in things that come our way. We do not look negatively. We believe we are glass-half-full not glass-half-empty people. We can only hope that the*

⁶⁴ Mr Michael Kennedy, Kennedy's Classic Aged Timbers, *Hearing Transcript*, 7 September 2011, p.14.

⁶⁵ Mr Nigel Crumpton, Cairns Regional Council, *Hearing Transcript*, 8 September 2011, p. 2.

*changes to this legislation will be done right. We welcome it, like I said. We want it to happen. We believe it needs to happen. But we also believe it needs to happen right. If it is done right, our business will not only succeed; it will thrive and I believe that there will be great benefits to the community because of it. If this legislation is not brought in correctly, I do not believe our business will survive.*⁶⁶

Based on the submissions received and our studies of the legislation as it stands we believe the levy will create a bureaucratic quagmire that will achieve little in the way of the Bill's intended objectives, and may actually achieve the opposite.

The committee's attention was also drawn to the Bill's conformance with fundamental legislative principles (FLPs). Whilst DERM was provided opportunity to respond to the identified FLPs, we remain concerned that several of the FLPs have not been adequately addressed – particularly the scale of penalties potentially imposed and their retrospective application.

Through the deliberations of the committee it is apparent that there is sufficient and sizeable evidence that the introduction of this Bill will not achieve the desired outcomes and indeed may create a disincentive for the use of recycling and waste reduction strategies. Many of the above matters have not been canvassed in the body of the majority committee report.

Therefore, we recommend that the Bill not proceed in its current iteration and submit that the majority report does not fully reflect the deliberations of the committee and the evidence provided to it in respect of the introduction of a waste levy.

With respect to those parts of the Bill pertaining to the National Water Initiative

Part 9 of the Bill proposes amendments to the *Water Act 2000*. The majority committee report briefly explains that the National Water Initiative (NWI) is a water reform policy of the Commonwealth Government. The amendments in this Bill seek to insert into the Water Act, a framework to facilitate the payment of compensation to water entitlement holders for reductions in the value of water available to them as resulting from the implementation of the NWI.

Furthermore, the proposed amendments seek to make it clear that the Commonwealth Government will be financially liable for the compensation to those water entitlement holders for the reductions in the value of water available to them resulting from the implementation of the NWI. To avoid the liability, Queensland must implement the framework before the commencement of the Commonwealth's Murray – Darling Basin Plan in 2012.

As the majority committee report points out, failure to adopt the framework through the proposed amendments could make Queensland liable for the compensation, which could amount to hundreds of millions of dollars. Indeed, the committee was advised by DERM during its public briefing on the bill, that the Commonwealth had made over \$500 million available through the NWI for purchasing water entitlements in that part of the Murray – Darling Basin (MDB) inside the state of Queensland.⁶⁷

⁶⁶ Mr John Erhard, The Rubbish Removers, *Hearing Transcript*, 7 September 2011, p.10.

⁶⁷ Mr Greg Claydon, Department of Environment and Resource Management, *Briefing Transcript*, 24 August 2011, p.24.

We agree that the Commonwealth ought to be financially liable for the compensation to those water entitlement holders for the reduction in the value of the water available to them as a result of the implementation of the NWI. However, the framework that is proposed to be inserted into the Water Act by the amendments in this Bill do not provide for the Commonwealth to be financially liable for any other costs that result from the withdrawal of those water entitlements under the NWI.

The amendments propose to make the Commonwealth financially liable to compensate water entitlement holders for the reduction in value of the water entitlements only. Nothing in the bill indicates the Commonwealth will be liable for the value of lost agricultural production, the subsequent job losses, reductions in land values, or any other associated costs that result from the withdrawal of over \$500 million in water entitlements from the MDB in Queensland.

So while the amendments in this Bill will establish a framework for compensation to be paid by the Commonwealth for the reduction in the value of water entitlements in the MDB in Queensland, as a result of the NWI being implemented, the framework does not provide for the Commonwealth to be financially liable for any other costs associated with this federal water reform policy. This is of grave concern to us and we consider it to be a major shortcoming of the Bill.

It is clear that DERM has not attempted to determine what the subsequent costs of withdrawing more than \$500 million of water entitlements from the MDB in Queensland will be. The committee was advised by DERM (see extract from transcript below) that any broader impacts on the community as a result of loss of water access entitlements was outside the basin plan process.

Mr CRIPPS: *So that statement simply refers to the fact that the Commonwealth will assume liability for any compensatory amounts that need to be paid as a result of the loss of the water rights by those people who currently hold those rights?*

Mr Claydon: *Yes. It indicates where that has come about as a result of that basin planning process and new knowledge that has been put into that process.*

Mr CRIPPS: *It does not take into account any cost benefit analysis that may need to be done to ascertain the loss of productivity through the loss of those water resource entitlements?*

Mr Claydon: *The matter of if, for example, there is broader community impacts as a result of those water access entitlements not being used is outside of the actual basin plan process*⁶⁸.

Non-government members of the committee consider any impacts on the wider community ought to be central to the basin plan process. The failure of DERM to recognise this and of the Minister to introduce a Bill that takes this major issue into consideration, or at the very least offers an explanation to Parliament about how it will be overcome, is unacceptable and an abrogation of their responsibilities.

In Queensland, the Murray-Darling Basin consists of the catchment of the Condamine-Balonne, the Warrego and the Paroo rivers. For the relatively modest amount of water Queensland draws from the Murray-Darling Basin, southern inland Queensland is a vibrant and productive region, sustaining many vibrant and productive communities. The key economic activity in this region, irrigated agriculture, is dependent upon water as a critical input into production.

⁶⁸ Mr Greg Claydon, Department of Environment and Resource Management, *Briefing Transcript*, 24 August 2011, p.26.

Agricultural industries are the most significant employer in the region. The productive capacity, earnings potential and expenditure patterns of irrigated farms are directly related to the water supplies available to them. There is no indication in the Bill, its explanatory notes, the Minister's introductory speech, or any information forthcoming from DERM during the committee's consideration of the Bill, of what the impact of withdrawing \$500 million of water entitlements from the MDB in Queensland, will be.

The amendments in this Bill will provide for the Commonwealth to be financially liable for the reduction in value of water entitlements as a result of the implementation of the NWI in the MDB in Queensland. However, the potential for other significant financial costs to be incurred as a result of the NWI has not been considered. How many agricultural production enterprises will not be possible, how many jobs will be made unviable and how will land values be affected in communities in Queensland's MDB?

We believe that the Commonwealth should also be financially liable for these and any other potential costs, that will occur as a result of its water reform policy. In the absence of any other provision or explanation, it has not been demonstrated that the framework proposed by the amendments provides an adequate mechanism to compensate Queensland for any reduction in water entitlements as a result of the implementation of the Commonwealth's NWI.



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