



AGRICULTURE AND ENVIRONMENT COMMITTEE

Members present:

Mr JP Kelly MP (Chair)
Mr JE Madden MP
Mr LL Millar MP
Mr PT Weir MP

Staff present:

Mr G Thomson (Acting Inquiry Secretary)
Ms M Salisbury (Assistant Committee Secretary)
Ms S Stephan (Assistant Committee Secretary)

PUBLIC BRIEFING—INQUIRY INTO THE WASTE REDUCTION AND RECYCLING AMENDMENT BILL 2017

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 12 JULY 2017

Brisbane

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Committee met at 12.31 pm

CHAIR: I call the Department of Environment and Heritage Protection to this public briefing.

HUGHES, Ms Kylie, Director, Waste Policy and Legislation, Department of Environment and Heritage Protection

ROBSON, Mr Geoff, Executive Director, Strategic Environment and Waste Policy, Department of Environment and Heritage Protection

CHAIR: Would either of you like to make an opening statement?

Mr Robson: Before I get into my opening statement on the Waste Reduction and Recycling Amendment Bill, which I will refer to as the 'bill' throughout my comments, I would like to acknowledge the work of my colleagues both in the department and also the numerous stakeholder groups we have engaged with throughout the course of developing this bill. We certainly appreciate the investment of time that the stakeholder groups and their representatives have made and the constructive approach with which they have engaged us.

The bill contains two objectives. The first is to provide a head of power in the Waste Reduction and Recycling Act 2011 for the introduction of two initiatives for Queensland: the Container Refund Scheme and a lightweight plastic shopping bag ban. It also amends provisions in the Waste Reduction and Recycling Act 2011 that relate to the end-of-waste framework.

The Container Refund Scheme will deliver significant environmental and social benefits such as reducing litter, increasing recycling rates and creating new opportunities for employment, communities and social enterprise across Queensland. The plastic shopping bag ban effectively prevents retailers from supplying a banned plastic shopping bag to consumers. This will contribute to the reduction of plastic litter entering our environment. Together, these two initiatives represent practical steps in taking action to prevent plastic pollution from entering the environment and also help raise awareness about single-use products and plastics and how consumption and disposal of these products impact the environment.

The amendments to the end-of-waste framework will enable greater control over the use of waste that could potentially be suitable to be used as a resource when necessary to reduce the potential for environmental harm and to streamline administrative arrangements for end-of-waste approvals. I will make a few comments about each of the three aspects of the bill in turn.

I turn first to the plastic shopping bag ban. The purpose of this part of the bill is obviously to encourage retailers and consumers to consider whether the use of a carry bag is necessary in the first place and to use an alternative in place of a plastic bag. The bill defines a banned bag as a carry bag with handles that is made in whole or part from plastic regardless of whether the plastic is degradable or biodegradable. It applies to a plastic bag of thickness less than 35 microns. Regulations may prescribe a thicker bag as a banned bag. Thirty-five microns is consistent with the bans that are in place in some other states and territories in Australia.

The ban does not include plastic bags typically referred to as barrier bags that are used, for example, for holding unpackaged fruit, veggies or deli products or bread; plastic bags in which frozen vegetables are contained and sealed for sale; and also other barrier bags like nappy bags or the bag to clean up after your dog when you are taking them for a walk. Those are not included in the ban. In drafting the bill, the department obviously did consider how the bans have worked in other jurisdictions. That is why the legislation provides the flexibility to expand the definition of a banned bag through regulation. That deals with that potential issue of what if someone just produces a 36-micron bag, for example?

I turn now to the container refund scheme. The purpose of the scheme being introduced in Queensland is to increase the recovery and recycling of empty beverage containers and to reduce the number of those containers that end up as litter or that are disposed of in landfill. The scheme will also provide employment opportunities and benefits for social enterprise and community organisations and complement existing collection and recycling activities. It also ensures that

beverage manufacturers take a product stewardship responsibility for the empty containers their beverage products are sold in. The scheme provides an incentive for the collection and recycling of empty beverage containers through the 10-cent refund, which can be given in cash or non-cash forms.

The stewardship approach provided in the bill recognises the role of beverage manufacturers in making sure that the containers they put on the market are able to be recycled and in contributing also to the cost of the operation of the scheme including the refund amount. The beverage industry will discharge its stewardship responsibilities for the scheme by forming a product responsibility organisation, or PRO, to administer the scheme. This arrangement is unique to schemes operating in Australia and ensures that, while the scheme is run by industry, there are clear legislative parameters around what is required of industry to ensure that a cost-effective, efficient and accessible statewide scheme is delivered. The bill establishes clear obligations and functions for the PRO around the administration of the scheme. It also requires strong reporting and auditing requirements with associated escalating penalties for non-performance.

The PRO will be required to enter into agreements with beverage manufacturers to ensure that manufacturers meet their funding obligations for the scheme. The PRO will also be required to enter into agreements with container refund points and material recovery facility operators regarding the collection of containers and the payment of refund amounts and handling fees to these entities. While the bill prescribes what the company as the PRO has to do and achieve, the PRO will have flexibility in how it undertakes its obligations and functions and how it can achieve the performance targets for the scheme. It will be a company registered under the Corporations Act that is carried on other than for profit or gain, so it cannot distribute a profit to its individual members.

The bill also allows the regulations to prescribe things in relation to the scheme such as access targets and statewide accessibility for the scheme. We will continue to work closely with key stakeholders through the implementation advisory group in the development of regulations and also with the beverage industry particularly around requirements for the PRO.

I will turn now to the end-of-waste framework and the amendments relating to that. The framework for end of waste allows a waste to be reclassified as a resource if there is an acceptable end use for that waste. The amendments proposed in the bill give the department the discretion to impose conditions or requirements on the end user of a resource. This discretion is important as without this ability, the quality standards that are required to be in place on a waste before it can be classified as a resource must be more stringent in order to minimise the potential for environmental harm to occur as a result of the use of the waste. This could significantly inhibit the beneficial use of the material because if the quality standards can only be imposed on the generator of the waste rather than on the user of the waste, that might actually restrict the ability to actually take advantage of these provisions in a way that minimises harm on the environment.

The bill also inserts a new section that provides the department with the discretion to develop an end-of-waste code at any time without first inviting the public to nominate potential end-of-waste codes for development. This is important for flexibility. It enables the department to develop new end-of-waste codes when needed, for example, when an existing end-of-waste code is due to expire. That is an example of the sort of streamlining and flexibility that is introduced in the new amendments.

In closing, I would like to reiterate my thanks again to the members of the implementation advisory group for the work that they have done on the implementation of the Container Refund Scheme and also to all those who have made submissions in respect of the discussion papers that have gone out on these subjects. Thanks for letting us make this opening statement. We are happy to take the committee's questions.

CHAIR: What would your response be to the concerns that were raised by the Waste Recycling Industry Association's concerns around the speed with which the end-of-waste aspect of this bill and the concerns in relation to the regulations that are proposed?

Mr Robson: I would like to address that by presenting the context in which the provisions have been developed. There was consultation occurring on the end-of-waste framework more broadly and the development of regulations for the end-of-waste framework towards the end of 2016. Around September 2016 we had some targeted consultation with stakeholders on elements of the end-of-waste framework with a view to developing regulations to put in place for the framework.

The feedback we got at that time did raise some concerns with respect to what was being considered for inclusion in regulations. We obviously carefully considered those concerns. At the time it was determined that there would be a need to draft an exposure draft of the regulations. That decision was made in around November 2016 if I recall correctly. After that time we started working on an exposure draft for the regulations.

During that time it became clear that it would be difficult to address some of the concerns that were raised a few months earlier in September of 2016 in regulation without some amendments to the primary legislation. I go specifically to this issue of whether or not you can place conditions on the end user of a resource in an end-of-waste code. Under the legislation as it is currently drafted, in an end-of-waste code the department cannot place conditions on the end user of a resource. Through the feedback and through the department's additional investigation or analysis of these issues it became clear that that could mean that the generators of a resource, as I indicated in my opening remarks, might need to meet such a stringent quality standard before you could be assured that the waste could be used as a resource under a code such that the stringency of those quality standards would mean there was a lack of an incentive for a generator to actually make them available for a resource as a code.

When it comes to using a waste as a resource, it does depend on the nature of the waste stream itself as to whether it is appropriate to have conditions placed on the generator of the waste or appropriate to have conditions placed on the user of the waste with respect to suitability and risk to the environment. Sometimes it might be appropriate to place conditions on both the generator and the end user. In the context of looking at how we would deal with that in regulations it became clear that to deal with some of that feedback we had received we would need to look at amendments to the primary legislation. Around April this year we started work in earnest on what those amendments may look like. We undertook some targeted consultation in April of this year, sketching out the possibility of amendments to the primary legislation. Some of that targeted consultation occurred also into May. There was also the availability for some of the stakeholders to look at an exposure draft towards the end of May or in June. Yes, that was obviously getting close to the time it was to be introduced.

CHAIR: In relation to the PRO, if that organisation is not meeting its targets or is not meeting its key selection criteria and its obligations, what could the department do under the bill to either get that organisation to comply or take other action?

Mr Robson: The bill gives the department and the government the ability to essentially impose escalating penalties. The first step, though, is to get some information. The principle of transparency for the operation of the scheme is embedded throughout the provisions of the bill. The department will be in the position to receive detailed information from the PRO around the performance of the scheme. That is the necessary starting point. Show cause notices can then be issued to a PRO if it is considered that there is a lack of performance in areas. Ultimately, that can escalate through fines and an ultimate sanction of being able to step in, remove the PRO's ability to operate the scheme and appoint an administrator.

Mr WEIR: My question relates to useful waste and biosolids in particular. As you know, they are used in certain sections of agriculture. You said that you cannot place conditions on the end user. I would imagine that you would have to, to an extent. The provider has certain guidelines, but the end user must have certain guidelines in the use of that product.

Mr Robson: That is exactly the concern that led to proposed amendments in this bill. At the moment, for an end-of-waste code, the department does not have the ability to place those conditions on the end user. Biosolids is an example of a waste stream where it would be appropriate, in our view, for those conditions to be placed on the end user.

One of the problems that we may see as we go towards developing an end-of-waste code for something like biosolids is, to make the use of them safe—if there are no conditions on the end user—you have to make the quality requirements for the resource so stringent on the generator that it may not be cost effective for the generator to do so. They will find another way to dispose of the waste rather than see it used as a resource. These amendments will give the department a head of power, essentially, so that end-of-waste codes can impose conditions as appropriate on the generator or the end user, or a mixture of both.

I should point out for the sake of clarity that we are transitioning to this framework. At the moment, beneficial use approvals are in place and they transition over the course of next year. The department is doing the preparatory work to develop end-of-waste codes that will ultimately be replacing the approvals that exist now. It has been in the context of thinking about how we will develop those codes that we started getting the feedback from the industry that revealed this problem that the lack of the ability to condition the end user of resource may create for some waste streams, anyway—not necessarily for all.

I should point out, too, that these amendments would not mean that the department is required to place conditions on the end user in a code. It depends on the nature of the waste and what is appropriate for each different waste stream. One example that we give is, say, recycled aggregates,

which is concrete and so forth. Maybe as we do the work—and the work is still to be done, so I do not want to pre-empt what the position may be—that is an example where perhaps it could be appropriate to have an end-of-waste code that just conditions the generation of the waste and then there are no concerns following that. Biosolids is the alternative example, where it is highly likely to be appropriate for end-user conditions to be placed on the use of that waste before it becomes a resource.

Mr MADDEN: I thank both of you very much for coming in today. My question relates to this plastic bag. It held excellent Queensland mandarins from my local IGA. When I got this one I noticed for the very first time that it states, 'Everyone digs me.' Below that it says, 'Envirogreen biodegradable' and 'Degradable by oxidation, heat or sunlight.' This is what you term a barrier bag, is it not?

Mr Robson: Yes, that is right.

Mr MADDEN: That is not banned by this legislation?

Mr Robson: That is correct.

Mr MADDEN: When I buy my fruit and vegetables, I will still get these bags. The question I have is about this use of the word 'biodegradable'. Do you think that the legislation sufficiently differentiates between organic biodegradable as opposed to inorganic biodegradable? By that I mean does it differentiate between plastic bags that can be made from petroleum products versus plastic bags that can be made from organic products like starch? I have no concern about plastic bags that are made from organic material. In fact, my IGA used to have bags made from starch. Sometimes they degraded a bit quicker than I would have liked them to degrade. Do you think that the legislation sufficiently differentiates between the two types of biodegradable plastic bags?

Mr Robson: The issue that the legislation tries to deal with respect to a shopping bag—and you are quite rightly point out that that is a barrier bag that is not banned by this legislation—is that the evidence indicates that biodegradable shopping bags still potentially pose a threat to wildlife if they get into the environment.

Mr MADDEN: Inorganic biodegradable plastic bags. This is the issue I am raising.

Mr Robson: Sure.

Mr MADDEN: We use this term 'biodegradable' but it is really inappropriate. Starch bags return to elemental materials—oxygen and all of that sort of stuff—but inorganic biodegradable returns to simply smaller pieces of plastic. The question that I am asking is: do you think that the legislation sufficiently differentiates between the two types of biodegradable materials?

Mr Robson: The legislation recognises that, with respect to biodegradable shopping bags, it is the speed at which they break down that can be the threat to wildlife. With respect to the differentiation between the different types of biodegradable bags, that is something that we have looked into. The experience has been in the past that a lot of bags that are denoted as biodegradable still break down at a relatively slow rate and there is the potential for the threat to wildlife to be created. I will see if Kylie Hughes wants to add any comments around the evidence that the department has drawn on with respect to the consideration for including biodegradable bags in this ban. You are right: biodegradable bags can be made from different materials and can break down at different speeds. Generally speaking, the ban includes biodegradables, because they do not break down at a speed that is safe for wildlife.

Ms Hughes: Yes. For the banned bag as a shopping bag, we have not differentiated between an organic or a cornstarch biodegradable bag, a hydrocarbon biodegradable bag or an oxo-degradable bag, basically for the reasons that the biodegradable bags really only biodegrade in a compost situation. When they get out in the environment, they still act like a normal plastic bag. The turtle eats it. The turtle can die. The evidence is showing more and more that much more work needs to be done around what is meant by 'biodegradable'. There is a lot of confusion in the community about biodegradable bags. Certainly, the responses to our discussion paper showed that there was quite a lot of confusion. We have allowed in the bill for the potential for biodegradable bags, or certain other bags, not to be banned if they are shown that they are not a risk, but we certainly need to do more work.

Mr MADDEN: That is provided in the bill? The potential to differentiate between organic and inorganic?

Ms Hughes: Yes.

Mr MADDEN: But under the current legislation, we are still banning all biodegradable bags?

Ms Hughes: That is right, yes, as a shopping bag.

Mr MADDEN: As a shopping bag?

Ms Hughes: The barrier bag is still fine.

Mr MADDEN: This has 'Dig it in.' I presume that this is the organic form of bag.

Ms Hughes: Yes. As a compostable bag, that is a perfectly good way of dealing with it—in compost, or in your home compost, or dig it into the ground. As a free-ranging bag, it is not so good.

Mr MADDEN: Are you confident that the use of the word 'biodegradable' in the legislation sufficiently differentiates between organic and inorganic biodegradable?

Ms Hughes: It is not intended to. We have basically said that a degradable bag includes a biodegradable bag, so it covers the two: organic and inorganic.

Mr MILLAR: Mr Robson, you mentioned in your opening statement that you had been doing targeted consultation and that an exposure draft was available. I have talked to the Brisbane City Council and I have talked to the Southern Downs Regional Council and there are still a lot of questions that they need answered in regard to the budgetary process, their obligation and how it is going to be achieved. If you talk to Rob Kelman and Rick Ralph, there are some real concerns about the regulation part of this legislation. Is this bill being rushed? Is there a concern that you have not consulted enough with those key people?

Mr Robson: The advisory group was established to, first of all, investigate a scheme for Queensland and then, once the government announced support for a scheme last year, it switched to implementation mode. That was first established in July 2015. The consultation on the container refund scheme has been quite extensive. We recognise, though, that there is further work to be done. The people who spoke earlier indicated the significance and importance of the regulations that will follow in development.

Many of the matters that will be dealt with in regulation have already begun to be a topic of conversation and discussion at the implementation advisory group. One of the significant examples of that is around the access targets and the accessibility of the scheme across the state. We have engaged some demographers to do some work on that. They are looking at the population density across Queensland and that will help inform what the appropriate access targets are for the scheme. That is a very key element of the regulations. That is an ongoing discussion with the implementation advisory group.

Certainly, we recognise that there is more work to be done, but we also consider that there has been really constructive engagement to date from each of the stakeholder groups. Some people might think that the 1 July 2018 implementation date, because it is the middle of next year, is some way off. We do not consider that to be way off in the distance. We consider that to be a significant deadline that requires a lot of carefully scheduled work to be completed beforehand. With the way the implementation advisory group has been operating to date—certainly, to get to this point where there is a detailed bill before the House for consideration—that reflects the outcome from all parties of the very constructive way they have engaged with us through the consultation process. We are confident, but not complacent about meeting the deadlines going forward.

CHAIR: There were a number of questions taken on notice during the course of the morning and we need to have a response to those by close of business next Wednesday. I thank the departmental representatives very much for their appearance here today. I thank our Hansard reporters. A transcript of these proceedings will be available on the committee's parliamentary web page in due course. I declare this committee's inquiry into the Waste Reduction and Recycling Amendment Bill closed.

Committee adjourned at 12.57 pm