

Wednesday, 31 August 2011

The Research Director  
Environment, Agriculture, Resources and Energy Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Attention Mr Rob Hansen,

Dear Sir,

The Waste Contractors and Recyclers Association of Queensland (inc) (WCRAQ) thanks the Environment, Agriculture, Resources and Energy Committee (the Committee) for providing us the opportunity to make a submission in response to it conducting a review into the Waste Reduction and Recycling Bill 2011 (WRR Bill) legislation.

Our submission aims to distil the many issues and concerns association members have raised during the development of the legislation, and to provide a submission that aligns with our understanding of the Committees charter, that being to examine the policy to be enacted as well as the Bill's conformance with fundamental legislative principles set out in s.4 of the [Legislative Standards Act 1992](#). Therefore, while there are many more specific items we could raise we have attempted to limit our scope to key matters.

Our interest in this proposed legislation is paramount as it can directly impact the ongoing sustainability and viability of our members businesses and the essential services they provide to the community. The proposed legislation and the existing Qld Environmental Protection Act 1994 in conjunction with the subordinate legislation (when adopted) represent a significant legislative foundation for how we operate our businesses.

To put our association in perspective, the Waste Contractors and Recyclers Association of Queensland (WCRAQ) represent the interests of more than 85 members operating across Queensland. Membership encompasses large international, state and national corporations, and small businesses, with more than 50% of the members comprising family based operations of less than ten personnel.

Members assets and investments employed across the state exceed two (2) Billion dollars, our contribution to the economy exceeds a Billion (1) dollars annually, and we manage, process, recycle, recover, re-manufacture and dispose more than 6.5 Million tonnes of waste and secondary resources annually in Queensland. WCRAQ members are also pivotal in providing many of the essential service elements relevant to delivering key infrastructure projects such as the NBN including digital switchover and the CSG / LNG industries.

A founding principle that defines the objectives of the Association is for WCRAQ to take the lead role of advocating industry issues to all stakeholders. Our members are committed to pursuing excellence in industry service delivery and member business practices.

Essential to meeting this commitment and achieving this goal is our ongoing commitment to represent to all stakeholders the core needs of the sector and to prepare professional, sound and objective responses when requested and invited.

WCRAQ has been provided the opportunity and has been a participant in the DERM's waste reform process over the past four (4) years, culminating in the Government introducing the WRR Bill. We regard our involvement as having been included and engaged however we cannot view our participation as having achieved the significant outcomes desired by our industry members.

Regardless this involvement, we hold a number of concerns and express our disappointment with the structure of the legislation now before parliament. We are on record concerning this disappointment as to the complex arrangements, as well as the perverse operating and market outcomes contained within the potentially compromised WRR Bill now before the Committee for its review.

Formulating our response to Government on this important legislation has been a very difficult task.

Repeatedly we have raised our 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.

Therefore, we are only able to comment on the sector as it currently operates; and the proposed primary legislation (WRR Bill), given the unknown subordinate legislation which will provide the practical and operational 'mechanics' under which our industry will need to operate.

We submit the following for the committee's consideration.

**Does the Bill achieve the Objects of the Act?**

**No**

| Part 2 Section 3 Objects of Act  | Response Provided  |
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| <p>The objects of this Act are the following—</p> <ul style="list-style-type: none"> <li>a) to promote waste avoidance and reduction, and resource recovery and efficiency actions;</li> <li>b) to reduce the consumption of natural resources and minimise the disposal of waste by encouraging waste avoidance and the recovery, re-use and recycling of waste;</li> <li>c) to minimise the overall impact of waste generation and disposal;</li> <li>d) to ensure a shared responsibility between government, business and industry and the community in waste management and resource recovery;</li> <li>e) to support and implement national frameworks, objectives and priorities for waste management and resource recovery.</li> </ul> | <ul style="list-style-type: none"> <li>• The Bill does not address all forms of disposal. It targets landfill as the single driver, and ignores all other forms of disposal (i.e. 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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 stakeholders, Government (State and Local), Industry, and NGO's.</li> <li>• 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.</li> <li>• 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.</li> </ul> |

The Association thanks the committee for allowing us the opportunity to respond to it with respect its review of this important legislation and we look forward to participating further if provided the opportunity.

Yours Sincerely

**Waste Contractors and Recyclers Association of Queensland (inc)**



**Rick Ralph**  
Executive Director

**Section 5 - Approach to achieving the Objects of the Act**

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| <p><b>Type of Amendment</b></p> | <p>Sub set item (c) Remove this clause in its entirety from the WRR Bill.</p> <p>We submit that a full economic analysis be conducted by an independent third party to determine:</p> <ul style="list-style-type: none"> <li>• the impacts on the Queensland business community</li> <li>• the likelihood of future secondary resources sector investment</li> <li>• the likely impacts on all Government department budgets and projects financially committed to and already funded</li> <li>• the full costs to be incurred by Local Government as well as Private sector owners and operators of landfills</li> </ul> <p>of the combined impact that the waste levy coupled with the <u>Federal Carbon Tax will have in Queensland.</u></p> <p>All of these new Government Taxes are substantive and all recovery of the costs will have to be passed through the economy as result.</p>   |
| <p><b>Content</b></p>           | <p>price signalling, including through the introduction of a levy on waste disposal</p>  |
| <p><b>Rationale</b></p>         | <p>A combined Waste Levy plus the Carbon Tax will result in very substantive increases in waste disposal costs for all Queensland communities. In SEQ the waste levy application alone will lead to increases of between 200% and 300% for wastes to wit the levy applies on December 1. The adopted waste strategy and its accompanying business plan promote the introduction of a price signal including the future waste levy model as a means of driving change in the communities waste generation behaviour. The State Government has targeted the delivery of its future levy model to all owners and operators of landfills. Subsequent to political agreements made with Local Government the system to be introduced is commercially compromised and will become divisive in the community. Its complexity will certainly will lead to system failures from the beginning. The cost burden to operators in managing new business systems to recover and comply with the price signal on select streams is considered a significant new business cost all of which will be passed through to the market.</p> <p>Federal Government intends to introduce a carbon tax on July 1 2012. Captured in its legislation are many landfill operations. The impacts of this are still being assessed but as a minimum will likely result in:</p> <ul style="list-style-type: none"> <li>• Nearly every Local Government Council in the future levy zone that has a landfill operation will be significantly impacted. Current estimates are between 25 – 40 landfill facilities affected directly.</li> <li>• Private sector landfill costs are expected to increase substantially. Councils operations affected will also incur these additional costs as a minimum. All of which will have to be recovered by each and every local community.</li> <li>• All waste types will be captured as result of this Federal Tax, Municipal Solid Waste, Commercial and Industrial Waste, Construction and Demolition wastes, including all residues from all recycling operations in the state.</li> </ul> <p>Introducing the Waste levy without understanding the impacts of the Carbon Tax coupled with it will lead to a very significant financial burden to business and the community. These financial implications that will be passed through the community must be assessed as a priority.</p> |

**Page 25**  
**Division 2 Key Concepts and Definitions**

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| <b>Type of Amendment</b> | Inclusion of additional wording to align the Objects and Waste Hierarchy statements.  |
| <b>Content</b>           | <p>(2) In practical terms, a primary outcome arising from the implementation of this Act’s provisions is intended to be a reduction in the amount of waste that permanently, or at least indefinitely, effectively becomes incorporated into land, commonly referred to as becoming landfill.</p> <p>(3) Accordingly, in this Act, a reference to <b>disposal</b> 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.</p>   |
| <b>Rationale</b>         | <p>The concepts of disposal as described only targets the deposit of waste into or onto land. It therefore assumes all other permanent disposal options including incineration and thermal treatment where there is no resource recovery benefit have less overall benefit. It is not expected that a desired outcome from the Act is to enable incineration without accompanied resource recovery benefit</p> <p>To align to the Objects of the Act and Resource Management Hierarchy of the bill we offer the following words be included in items 2 and 3 above after the word landfill (2) and after onto land (3)</p> <ul style="list-style-type: none"> <li>• <i>‘or waste being used as an input to a process that does not derive a measurable resource recovery benefit (eg energy)</i></li> </ul> |

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| <p><b>Page 28</b><br/><b>Chapter 2 Part 1 Waste Management Strategy</b></p> | <p>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 independent financial analysis of the impacts of both the introduction of the waste levy and carbon tax then the following applies;</p> <ul style="list-style-type: none"> <li>• Inclusion of Municipal Solid Waste and Self Haul Waste as being levyable wastes</li> </ul> <p>The WRR Bill identifies in sections 5, 9, 10 and 11 the critical drivers to achieving the Acts objects. The Queensland Waste Strategy that becomes law once the bill is passed contains significant counter intuitive measures that will actually work against the Acts objects. Two undermining omissions now enshrined within strategy must be addressed if the integrity of the Acts charter is to be upheld or even deliverable.</p> <ul style="list-style-type: none"> <li>• Section 5 Page 24 item (c) price signalling, including through the introduction of a levy on waste disposal.</li> <li>• The Queensland Government will introduce a waste disposal levy as a price signal to change disposal behaviour.</li> </ul> <p>An initial rate of \$35 per tonne of waste disposed applies only to commercial and industrial waste, construction and demolition waste, and contaminated and acid sulphate soils. Municipal solid waste, which includes household kerbside and self-haul waste, and wastes from park and street bin maintenance, will not attract levy payments</p>  |
| <p><b>Type of Amendment</b></p>   | <p><b>Self-Haul Waste.</b> DERM's Cost Benefit Analysis (October 2010) concludes that excluding Self Haul waste will have an adverse impact on the competitiveness of the skip industry compared to free council kerbside collection or Self Haul. By Parliament passing the legislation without amending the waste strategy to include Self Haul as being levyable allows for the retention of a \$ 0 value on Self Haul waste. This decision will result in a significant market distortion and failure in the sector that will lead to a loss of jobs and small operator business closures. Self Haul Waste must be included as a levyable waste in the strategy.</p> <p><b>Municipal Solid Waste.</b> The decision by Government to put a \$ 0 levy on waste streams that actually contribute more than 30% of the state's total waste generation is a fundamental flaw. Evidence reported from all other Australian jurisdictions where much smaller pricing differential amounts occurred between waste streams, shows the differential resulted in a change of community behaviour that lead to higher levyable wastes moving to lower levyable disposal systems. Queensland's decision to start with a rate of \$ 35 tonne waste levy and by agreeing to exclude Municipal Solid Wastes (MSW) will result in all Councils within the levy zone incurring substantive increases in waste costs, an increase in contractor conflicts, and will see an increase in MSW being reported as being landfilled. Passing the WRR Bill with this fatal flaw remaining in the strategy fails all the core principles for introducing a price signal and conflicts with delivery of the strategy goals and user pays principles. Municipal Waste must be included as a levyable waste if the strategy is to have any reasonable measure of delivering some of the targets.</p> |
| <p><b>Rationale</b></p>   |  |

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| <b>Page 38</b><br><b>Application for approval of waste as exempt</b> |  |
| <b>Type of Amendment</b>   | Re inclusion of Draft Bill wording   |
| <b>Content</b>   | Residue waste from recycling activity has been removed   |
| <b>Rationale</b>   | Re inclusion of the wording residue waste from recycling activity as drafted in the original version.  |
| <b>Page 45</b><br><b>Part 4 Obligations about the waste levy</b>     |  |
| <b>Type of Amendment</b>   | Inclusion of additional wording to expand the parties responsible for providing information  |
| <b>Content</b>   | Persons delivering waste to a levyable facility. The provisions within the act for waste levy offences and evasion seem to apply only to levyable site operators as they relate to providing information to the Chief Executive. This section appears to place no responsibility on the person delivering waste to be accountable for the information provided to the facility operator. In this instance the information is provided by the person transporting the waste to the facility operator not the Chief Executive. |
| <b>Rationale</b>   | Our concern is site operators may be treated as guilty until proven innocent based on information from the person delivering the waste. We offer that a new subsection be added to section 35 providing that "Information given to a levyable waste disposal site operator is taken to be information given to the Chief executive for the purposes of waste levy offences".   |
| <b>Page 46</b><br><b>Remitting Waste levy amounts to State</b>       |  |
| <b>Type of Amendment</b>   | Inclusion to waiver levy payable on significant 'Bad Debts'  |
| <b>Content</b>   | 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.  |
| <b>Rationale</b>   | 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 money's owed or seek a waiver of these for that specific bad debt.  |

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| <b>Page 53</b><br><b>Submission of waste Data Returns</b>           |   |
| <b>Type of Amendment</b>  | Inclusion of new provision to protect data information provided as 'Commercial in Confidence'   |
| <b>Content</b>  | The Bill requires levyable waste site operators to provide data returns which contain very detailed information about the delivery and movements of individual waste loads to a facility. The Bill provides for no commercial protection for any operators business that the information provided to Government will be treated in absolute confidence, how the data will be held and used, who will have access to it and how it will be treated. Information of the detailed calibre required under law will be supplied by both privately owned and as well as publicly listed companies. There is very high level of commercial risk 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 party or other interests. |
| <b>Rationale</b>  | 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 the 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.  |
| <b>Page 62</b><br><b>Extension of Time to Pay Waste Levy Amount</b> |   |
| <b>Type of Amendment</b>  | Remove clause   |
| <b>Content</b>  | Section 57 Part 8 recognises formally that unlicensed companies will be allowed to operate and may collect the levy. It is inappropriate that the Bill give any recognition for a landfill to open and operate other than to prohibit such an activity to establish in the first place. Making allowance in the bill for someone not holding a registration certificate to be denied an extension of time to pay monies owing is by default acknowledging their legitimacy to operate in the first place. This is an unlawful operation and thus should be treated as same.   |
| <b>Rationale</b>  | WCRAQ has a strong view that where a levyable waste disposal site does not hold the appropriate licenses the existence of such sites should not be formally recognised in this act other than to apply additional penalty costs as associated with the levy recover.  |



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| <b>Page 69</b><br><b>Object of Waste and Environment Fund</b>                |  |
| <b>Type of Amendment</b>   | Align the stated objects of the Fund to delivery of the Acts Objects   |
| <b>Content</b>   | The stated object of the Waste and Environment Fund is inconsistent with the object of the Act. The object of the fund should be to deliver the objects of the act as defined in Part 2 Section 3  |
| <b>Rationale</b>   | The WARE Fund will be used for both delivery of the Business Plan and contribution to the DERM's operational budget. The statement should be amended to reflect the actual object of the fund itself not simply to reflect funding of 'motherhood' statements  |
| <b>Page 70</b><br><b>Payments of amounts from Waste and Environment Fund</b> |  |
| <b>Type of Amendment</b>   | More prescriptive definitions be provided for amounts to be paid from the fund   |
| <b>Content</b>   | Clause 70 provides for payments to be made from the fund. The clauses provide for no governance arrangements and are non-prescriptive.   |
| <b>Rationale</b>   | The governance arrangements must be more prescriptive and must be transparent and consistent. The clauses should reflect more definitively what expenses will be allowed to be paid from this fund, and on what grounds.<br><br>Remove Clause 2 (b) The fund should not allow for performance payments to be made from it based on regulations that are unknown. |

**Page 106**  
**Part 2 Local government strategic planning for waste**

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| <b>Type of Amendment</b> | Remove Section 122 (2) –(a) – (iii)  |
| <b>Content</b>           | Other waste generated in the local government’s local government area other than by a local government   |
| <b>Rationale</b>         | <p>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. In all leviable Council zones commercial waste operators compete in the delivery of waste and recycling services. These companies rely on and ultimately control the management of the service types offered based on the company services offered. Typically this involves conducting one or more of the following, solid waste recovery, liquid waste operations, bathroom and other hygiene services, numerous product single stream or mixed recycling options other than just for bottles and cans and newspapers, linked to in many cases very complex national and international contracts, project management services and an array of other waste and recycling business solutions all which are significantly more complex and aligned to the commercial and industrial sector than just offering a weekly refuse service. Supporting this system are significant financial investments in assets and infrastructure, and employees. Companies do so in the knowledge of maintaining a viable commercial business model that is more competitive, more efficient and offers the business community a wider and more flexible service than those provided by Councils. Companies manage all streams generated not simply select simple streams that are easy to access.</p> <p>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 agenda’s influencing such agenda’s this makes for a huge risk to the private sector’s operating investments and all business operations.</p> <p>If the intent of this section is for local government to have total control of all waste activities then the act should be explicit in declaring this. The landscape is then known and private sector companies and operators can make business decisions including significant investment decisions accordingly. Under that model private sector operators become the servants of local government and would be anticipated to make investments only when local government are involved to ensure certainty for these investments.</p> <p>As it stands at the moment private sector operators remain uncertain about the landscape they are expected to operate within and of the future</p> |

services they are to provide in support of the bill's intent. 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 behaviour. The requirements for local government plans must include provisions in the bill that specifically exclude local governments' 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 over all waste then local government should not have responsibility to plan for the management of all waste within their respective regions. If this is so then 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 for wastes that are open to competition, such planning should become the responsibility of the state and not that of local government. The current draft of the act (Division 3) does give the Chief Executive the ability to prepare such plans.

We propose the questions outlined above need to be addressed and this chapter of the act be re-written based on the decisions made.

In support of this submission please find enclosed the following documents that provide background detail. These documents are the submissions that the WCRAQ has provided Government in responses to it of preparing the waste strategy and WRR Bill .

- The WCRAQ's response to the draft Qld Waste Strategy document – July 2010
- The WCRAQ's response to the Regulatory Assessment Statement (RAS) and the WRR Bill First / partial Draft of legislation – 26<sup>th</sup> February 2011
- The WCRAQ's response to the WRR Bill Final Draft – 30<sup>th</sup> June 2011

We look forward to having the opportunity to discuss these issues as noted above to the Committee as part of its review of the WRR Bill 2011.