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

Dear Sir

**Submission – Review of Waste Reduction and Recycling Bill 2011**

Please find attached a submission from Moreton Bay Regional Council on the Review of the Waste Reduction and Recycling Bill 2011.

Thank you for the opportunity to make a submission on the proposed legislation.

If you require any further assistance, please contact Council's Manager Waste Services, Mr Pat Pathmanathan on telephone 3480 6708 or email [pat.pathmanathan@moretonbay.qld.gov.au](mailto:pat.pathmanathan@moretonbay.qld.gov.au).

Yours faithfully



Chris Teitzel  
**Director Community & Environmental Services**

# Review of Waste Reduction and Recycling Bill 2011

## Chapter 1 Preliminary

### **Section 3 Objects of Act**

The objects of Act does not recognise the principles of ESD (Ecological Sustainable Development) which takes into account the economic, social and environmental implications of the impacts of this new legislation. The principles of ESD are recognised in the objectives of the Environmental Protection Act. Therefore this 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 recognised in this Act as these principles are recognised in the Strategy.

### **Section 5 'Approach to achieving Act's objects'**

#### *(c) 'price signalling, including through the introduction of a levy on waste disposal'*

The introduction of a waste disposal levy will have major cost implications for Council, firstly for the actual payment of the levy for the disposal of commercial and probably domestic waste in the future. In addition to these costs, Council will also be required to install additional infrastructure and cover the administration costs required for the collection and administration of the levy. In order to minimise the impact of these additional costs on ratepayers Council believes that the State should consider a mechanism to compensate Council for all of the additional infrastructure and administration costs.

#### *(d) 'providing for the preparation of State, local government and industry strategic waste management plans'*

It is assumed 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.

#### *(e) 'providing for reporting requirements for the State, local governments and business and industry'*

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.

#### *(f) 'banning particular waste disposal'*

It is recommended 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.

#### *(j) 'waste tracking requirements'*

This 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.

#### *(k) 'granting approvals of resources for beneficial use'*

Often 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.

### **Section 6 ‘Act binds all persons’**

*‘(2) However the Commonwealth or a State can not be prosecuted for an offence against this Act.’*

The State will therefore hold Councils accountable and will prosecute Councils and Council officers. However, the officers working for the State will not be held accountable for non-compliance. This sets double standards and indicates that the State won't be responsible for complying with the Act.

### **Section 8 ‘The concept of disposal’**

*“(2) .... 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.’*

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 State needs to provide evidence of practical alternatives before it implements legislative changes.

### **Section 9 ‘Meaning of waste and resource management hierarchy’**

*‘(a) REDUCE and AVOID unnecessary resource consumption and waste generation;  
(b) RE-USE waste resources without further manufacturing;’*

Subsections (a) and (b) relate to dealing with waste at the source of generation and to ensure that the most effective approach is utilised, it is recommended that this 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.

### **Section 12 ‘Meaning of proximity principle’**

*‘The **proximity principle** is the principle that waste and recovered resources should be managed as close to the source of generation as possible.’*

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.

## **Chapter 2 Management documents**

### **Section 14 ‘Waste management strategy’**

*‘(1) This part provides for the making of a waste management strategy for the State to help in achieving the objects of this Act.*

*(2) The waste management strategy is intended as a long-term strategy for—  
(a) achieving waste avoidance, sustainable consumption, industry investment in innovation and new infrastructure, strategic regional infrastructure planning, and product stewardship;’*

It is recommended that the State should assist in the development and promotion of improved resource recovery practises 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.

### **Chapter 3 Waste levy**

#### **Section 25 ‘ Definitions for Ch 3’**

*‘Levyable waste means waste other than exempt waste’*

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.

However, in the State’s Waste Reduction and Recycling Strategy it is proposed that municipal solid waste / domestic waste will attract a \$0 levy charge intimating that in the future a levy charge will be applied to municipal solid waste / domestic waste.

Therefore it is requested that municipal solid waste/ domestic waste is included either under *‘exempt waste’* within the terms of the Act or it is prescribed under a regulation to be exempt waste.

In addition the meaning of municipal solid waste is no longer in the Bill. In the consultation draft for the Bill, domestic self-hauled waste was not included in the definition for municipal solid waste. In the State’s Waste Reduction and Recycling Strategy 2010-2020 municipal solid waste and domestic waste are defined in the glossary as follows:

*‘Municipal solid waste (MSW):- Domestic waste, and waste generated by the provision of local government municipal services, such as maintenance of parks, gardens and street bins, and residues from local government sewage and water treatment plants.*

*Domestic waste:- Waste arising from domestic premises that is collected by or on behalf of the local government through the provision of a regular kerbside bin service.’*

However, in Section 2 of the Strategy report it states the following *‘Municipal solid waste, which includes household kerbside and self-haul waste, and wastes from park and street bin maintenance, will not attract levy payments.’*

As such there is an inconsistency with the definition of the term municipal solid waste in the State’s Strategy. It is requested that as self-hauled domestic waste is a part of the domestic waste stream and it is collected as a regular part of local government operations it is essential to include self-hauled waste when classifying municipal solid waste / domestic waste in the Act or the regulation. The definitions will also require details in specifying what domestic premises / residential property types are to be recognised as domestic.

#### **Section 28 –‘Application for approval of waste as exempt waste ‘**

An application can be made to the chief executive to approve the following category of waste as an exempt waste:

*'waste to be used at a levyable waste disposal site for progressive capping, batter construction, final capping, profiling and site rehabilitation'*

where the definition of progressive capping only is included in Section 25 as follows:

*'**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'*

Firstly more definitions of the terms used (i.e batter construction, final capping, profiling and site rehabilitation) should be provided to ensure the legislation is clear.

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.

It is also believed that materials used in the construction (eg roads, hardstands and landfill cells), remediation (final capping, site rehabilitation) and day to day operation (eg progressive capping, batter construction, profiling, daily cover material) of a landfill should all be exempt from the levy, without the need to apply for an exemption.

If these materials can not be used for the above purposes without being exempt from the levy landfill operators are being penalised for using best practice environmental procedures and for using recycled waste rather than virgin materials for these activities. For example buying in a virgin material such as gravel could actually cost less than using crushed waste concrete for the construction of internal roads and hardstands.

In addition if best practice environmental procedures are not utilised to save paying the levy on materials used for the construction and operation of a landfill the integrity of the landfill may be compromised, which may increase the risk of environmental harm.

### **Section 36 'Imposition of waste levy'**

*'(1) The operator of a levyable waste disposal site is liable to pay the State a levy (the **waste levy**) on all levyable waste that is delivered to the site ...'*

*'(2) Also, the operator of a levyable waste disposal site inside the waste levy zone is liable to pay the State a levy (also the **waste levy**) on all stockpiled waste at the site, whenever stockpiled, that is disposed of to landfill at the site unless—*

*(a) a waste levy amount payable at a rate of other than nil became payable on its delivery to the site under subsection (1)'*

The operator of a levyable waste disposal site is therefore required to pay the levy on all material taken from a stockpile and disposed of to landfill. This will include remnant material from the metal recovery, greenwaste, concrete and timber recycling pads/areas. If this material was domestic in origin and it was landfilled upon delivery and not stockpiled it would incur a \$0 levy charge (as per State's Waste Reduction and Recycling Strategy). However if it is landfilled after it is stockpiled a levy charge of \$35/tonne will now apply. This system will not encourage the recovery of domestic recyclables.

Even if a material is going to be exported off site for recycling purposes and not landfilled, because the levy is payable when the material is stockpiled, this will result

in an upfront levy payment that won't be reimbursed until the material is exported off site (unless the stockpiles are within an Resource Recovery Area as per Section 60).

However if the stockpiled waste is within a Resource Recovery Area (RRA) then a levy payment is only required if the material is disposed of to landfill. This is therefore making it mandatory, especially for smaller Councils, to set up RRAs if there is either insufficient waste material to process or contractors are not available to remove the material every month. To set up and operate an area as an RRA with the requirements specified in Chapter 3 Part 5 'Resource recovery area' of the Bill will incur additional upfront and ongoing costs.

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.

### **Section 38 'Resource recovery deduction'**

*'(1) The operator of a levyable waste disposal site is entitled to claim a deduction against the total of waste levy amounts payable under this chapter in a month for a quantity of stockpiled waste that is exported from the site in that month for the purposes of—*

*(a) carrying out a recycling activity; or*

*(b) sale, after processing on the site has been performed; or*

*(c) if the exporting happens before 1 July 2012—inclusion in a resource recovery area; or*

*(d) a lawful use prescribed under a regulation.'*

As mentioned above levyable construction and demolition waste (eg concrete) is delivered to Council landfills and reused at the landfill (eg crushed concrete used for road construction). 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. It is thought that this approach should be encouraged and as mentioned above it should therefore be exempt and not attract the levy.

It is unclear what will happen if a large quantity of stockpiled recyclables (not within a RRA) are exported off site for recycling purposes in the same month and the resource recovery deduction causes the levy amount payable that month to be negative. Will this result in a levy credit?

It is also unclear if a given weight of recyclable waste that was delivered to a levyable site is then exported off site for recycling (with no residual waste) if this will create a zero net levy payment required for the given waste. This may be provided in the regulation with the procedures to calculate the levy and resource recovery deduction, however the concept of a possible zero net levy or that the resource recovery deduction doesn't have a reduced weight should be provided in the Act.

### **Section 40 'Person delivering waste to levyable waste disposal site to give information as required by operator of site'**

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 operator (Council) to prosecute the driver.

**'(1) (a) how much is exempt waste and how much of it is levyable waste'**

There will be issues with mixed loads and a requirement for Council to sort mixed loads e.g. soil and greenwaste and not charge a levy amount on the greenwaste. Council will lose control once the vehicle moves off the weighbridge.

### **Section 41 'Remitting waste levy amounts to State' and Section 51 'Submission of waste data returns'**

With the remittance due by the last day of the "prescribed period after the end of a levy period" i.e 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. This would allow sufficient time for processing, both the data and the payment sides, while reducing the reporting commitments of the levy. Quarterly reporting would also provide better integration with Council's existing internal reporting requirements, therefore helping to reduce additional reporting commitments and the associated additional administrative costs.

### **Section 43 Measurement of waste by weighbridge**

*'(2)The operator of the site must ensure that the weighbridge is used to measure and record—*

- (a) amounts of waste delivered at the site; and
- (b) amounts of stockpiled waste moved to landfill at the site; and
- (c) amounts of stockpiled waste moved to a place outside the site at any time after its delivery to the site; and
- (d) amounts of waste the subject of any other movement to, from or within the site if the movement of the waste is prescribed under a regulation.'

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. The following points are Council's interpretation of this section's requirements.

Currently all clean fill used during daily operation eg daily cover or crushed concrete used for construction purposes on the landfill site is considered stockpiled waste moved to landfill and as such these movements need to be weighed over the weighbridge as per Section 43 (2) (b).

As mentioned above, clean fill should be exempt from the levy and therefore no stockpile measuring should be required.

Other waste materials that have been processed for recycling eg mulch and crushed concrete that are used on site, as mentioned above, should also be levy exempt. However the removal of this portion of material for use on site will still need to be accounted for (added into Section Chapter 3, Part 3, Section 38 Resource Recovery Deduction) and therefore the requirement to weigh this material is still necessary. However vehicle weighing devices should be able to be used rather than just the weighbridge, to facilitate efficient operations.

With the legislation as it currently stands the weighing of stockpiled materials used on site would result in large increased traffic movements over the weighbridge and the need to reconstruct entry roads, if there is sufficient space, to provide turn around areas for trucks. Alternatively these vehicles will have to leave the site and then return, waiting in the queue of customers entering the site. This would put a huge delay of performing landfill operations to the possible detriment of the environment. Increased traffic movements across the weighbridge will slow down customer service and may require an increase in the number of staff needed to reduce traffic congestion on roadways surrounding the facility. In addition due to the extra time

required to perform the above Council contractors may request a variation to the charges due to this extra work.

When a waste material has been given an exemption under Section 28 (eg clean fill or mulch utilised for rehabilitation purposes), it is unclear if this material will need to be weighed when it is removed from a stockpile and used. Will this be covered by Section 43 (2) (d).

#### **Section 46 'Volumetric surveys on levyable waste disposal site'**

'(1) From 1 June 2012, the operator of a levyable waste disposal site located within the waste levy zone must....'

'(a) in June of each year, ensure that a volumetric survey is carried out for—

- (i) each landfill cell where waste has been disposed of since the last volumetric survey required under this Act was performed; and
- (ii) all stockpiled waste at the site;'

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.

#### **Section 49 'Keeping of results of volumetric survey'**

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.

This Section should be changed to have similar wording to Section 52 from '..... in hard copy form at the levyable waste disposal site ....' to 'in hard copy form or an electronic copy either at the levyable waste disposal or at another place agreed to by the chief executive and the operator....'.

#### **Section 51 'Submission of waste data returns'**

(2) (a) Requires details on 'who' delivered the waste. Therefore this would require the operator to find out the name of the person who delivered the waste. As all waste is required to be accounted for (Section 43) 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.

#### **Section 60 'Resource recovery area'**

*'The operator of a levyable waste disposal site forming the whole or part of a waste facility may declare an area at the facility as a **resource recovery area** if—*

*(a) only the following activities are carried out in the area—*

- (i) storing waste for transport to another place for reprocessing or recycling;*
- (ii) sorting waste to extract resources for transport*
- (iii) an activity that is ancillary to sorting of waste;*

*Example of activity ancillary to sorting—*

*baling sorted waste*

*(iv) another activity prescribed under a regulation; ...'*



'(c) a physical barrier separates the area from the rest of the facility with not more than 3 points of access to and from the rest of the facility;'

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.

It is unclear if certain facilities within a levyable site will be treated like a Resource Recovery Area (RRA), stockpiles or the tip face.

#### Scenario 1

If MSW/domestic waste is delivered to a levyable site and;

- (a) the waste goes straight to the tip face for disposal - a \$0 levy charge is applied upon delivery of the waste and no levy will then be applied when it is landfilled – recyclable items can be removed from the tip face – a resource recovery deduction can not be claimed which is understandable
- (b) the waste is stockpiled, recyclable items are removed and the residual waste landfilled – a \$35/tonne levy is applied to all the waste when it is stockpiled, however a resource recovery deduction can be claimed – resulting in a \$35/tonne levy charge on the residual waste to landfill
- (c) the waste goes to a RRA, recyclable items are removed and the residual waste landfilled – a \$35/tonne levy is applied on the residual waste when it is landfilled

#### Scenario 2

If commercial waste is delivered to a levyable site and;

- (a) the waste goes straight to the tip face for disposal - a \$35 levy charge is applied upon delivery of the waste and no additional levy will then be applied when it is landfilled – recyclable items can be removed from the tip face – a resource recovery deduction can not be claimed – but should be able to be claimed
- (b) the waste is stockpiled, recyclable items are removed and the residual waste landfilled – a \$35 levy charge is applied upon delivery of the waste and no additional levy will then be applied when it is landfilled - a resource recovery deduction can be claimed - resulting in a net \$35/tonne levy charge on the residual waste to landfill
- (c) the waste goes to a RRA, recyclable items are removed and the residual waste landfilled – a \$35/tonne levy is applied only on the residual waste when it is landfilled

If waste is delivered to a transfer station facility within the landfill site i.e within the levyable site is this to be treated like (a) tip face, (b) stockpile or (c) RRA.

If waste is delivered to Council's Treasure Markets (places where waste items are sold to the general public for reuse) within the landfill site i.e within the levyable site is this to be treated like (a) tip face, (b) stockpile or (c) RRA.

If Council's Treasure Markets are to be treated in the same way as a stockpile of recyclable waste it will be impractical to weigh items sold (i.e items exported off site for recycling purposes must be weighed Section 43) as an item could be so small (eg child's toy) that it would not register on the weighbridge. If Council's Treasure Markets are treated like RRAs then items that are not sold and go to landfill will incur the levy charge. However as in scenario 1(a) above if the domestic waste is taken straight to the tip face and recyclable items are retrieved from the tip face for sale at the Treasure Market then there will be no levy charge for the items delivered that

could not be sold through the market. This system is archaic and is not encouraging the residents themselves to recycle. Rather it is relying only on Council or the operators of the waste facilities to recycle.

In addition recyclable items delivered to a treasure market will be from mixed loads and as such the separate weight for domestic and commercial is not known for this waste stream. As such should a resource recovery deduction (Section 38) be able to be claimed for the sale of commercial waste from the markets it will be impossible to determine when something is sold if it was commercial or domestic waste in origin. One way to clearly differentiate between the domestic and commercial waste streams would be to have separate markets for each, which would be very inefficient.

A separate type of facility/area should to be included in the Act and could possibly be called a Resource Processing Area (RPA) and it would apply to facilities such as internal transfer stations and treasure markets. An additional part of the Act would be required similar to that for the Resource Recovery Area (RRA) in Part 5 of Chapter 3. It could have the same requirements as a RRA however the following would apply:

Domestic waste delivered to the RPA – a \$0 levy charge is applied upon delivery of the waste and no levy will then be applied when it is landfilled – recyclable items can be removed from the RPA – a resource recovery deduction can not be claimed

Commercial waste delivered to the RPA – a \$35 levy charge is applied upon delivery of the waste and no levy will then be applied when it is landfilled – recyclable items can be removed from the RPA – a resource recovery deduction can be claimed - resulting in a net \$35/tonne levy charge on the residual waste to landfill

If MSW/domestic waste is to incur a \$0 levy charge, it should be exempt no matter how you process it. The waste levy should therefore only be applied to commercial waste that is actually landfilled.

The term stockpile needs to be defined in the Act. For example - A stockpile of waste is an accumulation or pile of waste stored for a given length of time for future handling when it is either landfilled or recycled and excludes RRAs and RPAs i.e sorting and processing areas like internal transfer stations and resale markets (eg Council's Treasure Markets).

#### **Section 69 'Payment amounts into Waste and Environment Fund'**

All levy amounts to be paid into the Waste and Environmental Fund

#### **Section 70 'Payment amounts from Waste and Environment Fund'**

Payment from the Fund is for

- the administration of the levy fund
- implementation of WMS business plan
- providing funding at the Minister's discretion that is consistent with the objects of the fund
- paying other amounts required or permitted under this Act to be paid out of this fund.

As mentioned above the costs incurred to collect and administer the waste disposal levy should be funded from the waste levy fund.

#### **Section 100 'Prohibition on disposal of disposal ban waste'**

*'The operator of a waste facility who is required to hold a registration certificate in relation to the disposal of waste at the facility must not dispose of disposal ban waste at the facility.'*

This may be a concern when ban waste is mixed with other waste and it is not declared when disposed of at the landfill. Local governments collect waste from many sources and then dispose of that waste on behalf of these sources to landfill. 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.

## **Chapter 5 Offences relating to littering and illegal dumping**

### **102 General littering provision**

*'(4) Despite subsection (3), a person who deposits at a place on a road an amount of waste of less than 200L in volume (also the **relevant waste**)—*

*(a) commits an offence under subsection (1) even if the person is an occupier of the place, or deposits the relevant waste with the consent of an occupier of the place;*

Section 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.

## **Chapter 15 Transitional provisions**

### **286 Application for approval of residue waste as exempt waste for transition period**

*'(1) An entity that conducts a recycling activity may, not later than 30 June 2012, make an application (a **transition period exempt residue waste application**) to the chief executive asking the chief executive to approve that residue waste identified in the application is exempt waste in the transition period.*

*(2) A transition period exempt residue waste application must be an application for an approval having effect for a period ending not later than 30 June 2014.'*

Residual waste from a Materials Recovery Facility (MRF) utilised to recycle MSW/domestic recyclable waste collected from a kerbside collection is considered a levyable waste, even though it is capable of being declared as exempt in the transition period. 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.