

Waste Reduction and Recycling and Other Legislation Amendment Bill 2023

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Every Queensland
community deserves
to be a liveable one

09 March 2023

Mr Aaron Harper MP
Chair
Health and Environment Committee
Member for Thuringowa

Via: hec@parliament.qld.gov.au

Dear Mr Harper

RE: LGAQ submission on Waste Reduction and Recycling and Other Legislation Amendment Bill 2023

The Local Government Association of Queensland (LGAQ) is a not-for-profit association representing all 77 local governments across Queensland as the state-wide peak body for our sector.

We thank the Health and Environment Committee (the Committee) for undertaking this inquiry.

Please find enclosed a copy of the LGAQ's submission, on behalf of our members, for your consideration. Individual councils and councillors may also lodge their own submissions as well.

We are comfortable with this submission being made public. As outlined in the submission, we would encourage the Committee to strongly consider the implications of the removal of the blanket exemption of clean earthen material, as well as the proposed changes to the definition of 'misinformation' regarding levy advance payments.

For further information in relation to this submission, please contact Mr Rudolf Pretzler, Lead – Public Health and Waste on [REDACTED].

Yours sincerely,



Alison Smith
CHIEF EXECUTIVE OFFICER



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Waste Reduction and Recycling and Other Legislation Amendment Bill 2023

Submission to the Health and Environment
Committee

10.03.2023

Web: www.lgaq.asn.au

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Contents

About the Local Government Association of Queensland (LGAQ)	3
Partners-in-Government Agreement.....	3
Rural and Remote Councils Compact.....	3
Executive Summary	4
Recommendations /Priorities for Action.....	6
Introduction.....	7
Definition of Waste.....	7
Clean Earth Exemption.....	8
Waste strategy review.....	9
Payments to local government.....	9
Conclusion.....	10
Contact Details	10
Appendix	11
LGAQ Policy Statement.....	11

About the Local Government Association of Queensland (LGAQ)

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association established solely to serve councils and their needs. The LGAQ has been advising, supporting, and representing local councils since 1896, enabling them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting councils to people and places; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and providing them with the means to achieve community, professional and political excellence.

Partners-in-Government Agreement

In February 2023, the LGAQ on behalf of all 77 Queensland local governments signed a three-year partners-in-government-agreement with the State of Queensland.

The Agreement details the key principles underlying the relationship between the state and local governments and establishes the foundation for effective negotiation and engagement between both levels of government.

The agreement acknowledges that local government is the closest level of government to the community, affecting the lives of everyday Queenslanders and acknowledging Local Government as a genuine partner in the Australian government system.

The intent of the agreement was to continue the tradition of working in genuine partnership to improve the quality of life for all Queenslanders to enjoy. By identifying the roles and responsibilities of each party, it provides a solid foundation for effective negotiation and engagement between both levels of government.

The LGAQ is committed to working with the Queensland Government and will continue to be a passionate advocate for councils, to serve our joint jurisdiction for the people of Queensland.

Rural and Remote Councils Compact

The Rural and Remote Councils Compact¹ signed on 25 June 2021, complements the existing Partnership in Partners-in-Government agreement in place between the LGAQ and the Queensland Government to provide a platform to ensure issues of priority for these communities are properly considered by the Government when developing policies, programs, and legislation.

The Rural and Remote Councils Compact, pledges to amplify the voice of and improve outcomes for the state's 45 rural and remote councils and their local communities by enhancing engagement between both levels of government.

¹ <https://knowledgebaseassets.blob.core.windows.net/images/9c61cdc2-3cfa-eb11-94ef-002248181740/Rural%20and%20Remote%20Councils%20Compact%20-%20signed%20copy.pdf>

Waste Reduction and Recycling and Other Legislation Amendment Bill 2023 – LGAQ response

Executive Summary

The LGAQ welcomes the opportunity to provide feedback to the Waste Reduction and Recycling and Other Legislation Amendment Bill 2023.

As key stakeholders in the development of a circular economy, Queensland councils are motivated to ensure households have access to real, workable, financially sensible options to increase resource reuse and recovery and reduce the amount of waste going into landfill.

Local government supports a sensible, streamlined and fair regulatory environment that both protects the environment and provides an economically sensitive, workable solution to growing waste and resource recovery issues across the state without unfairly increasing the financial burden on ratepayers.

While overall, councils welcome simplifications to the process associated with claiming additional advance payment funds contained within the Bill and applaud the introduction of the circular economy principle, the LGAQ hold concerns about some elements contained within it, including the removal of the blanket exemption for clean earth.

Both local government and industry are dependent on the use of clean earthen material as a readily available feedstock for environmentally sensible and regulatory compliant operations of landfills and resource recovery areas.

While the LGAQ acknowledges that the department is working with local government and industry to clarify the future exemption process for operational purposes, the definition of clean earthen material as a waste is long-term unsustainable and should be reconsidered.

If the Bill proceeds without clarification or without a change to the definition of clean earth, this will also unfairly impact households.

For example, a regional coastal council has estimated that the removal of the blanket exemption without a suitable alternative would add approximately \$40/annum to the rates of each household which is an unacceptable outcome for local communities.

The LGAQ is also concerned with the amendment to the definition of ‘misinformation’ under section 73DE of the Bill.

Previously ‘misinformation’ was defined as a false or misleading statement about:

- (a) the impact of the waste levy on a local government;
- or (b) the purpose of the annual payment;
- (c) the amount of the annual payment paid to a local government.

The Bill proposes to amend this to expand the definition to a false or misleading statement about:

- the effect of the waste levy on the local government **or households in the local government’s local government area;**
- or (b) the amount of the payment;
- or (c) the purpose of the payment.

The broadening of this section was not communicated to the sector ahead of the introduction of the Bill, nor was it explained during the Bill’s introductory speech.

The Palaszczuk Government made a strong commitment during the introduction of the waste levy that households would not have to pay more as a result of the levy.

Indeed, on March 20, 2018, after announcing the waste levy would be re-introduced, Premier Anastacia Palaszczuk told State Parliament:

“Today I give this guarantee: Queensland families will not face the cost of this levy”.

Advance payments to councils were introduced as the mechanism to ensure this guarantee could be kept.

Local government, as the level of government closest to the community and the level of government responsible for imposing the State’s waste levy on its behalf, has been keen to ensure this commitment is met, particularly as the State moves to reduce the amount of advance payments to councils over the next decade, starting from June 30, in exchange for promised funding to build the industry and infrastructure needed to ensure households have access to the options they need to reduce the amount of waste going into landfill.

The LGAQ rejects any attempts to censor councils from making public any concerns about potential impacts as the sector and the State navigate the revised advance payment trajectory. This submission request that this amendment therefore does not proceed.

Recommendations /Priorities for Action

The LGAQ has made four recommendations for the committee's consideration, including:

Recommendation 1: The LGAQ recommends the State Government, in collaboration with local government and industry, revisit the definition of waste conversation to arrive at a simpler, more circular-friendly definition.

Recommendation 2: The LGAQ recommends clean earthen fill be defined as a resource, which does not require an exemption.

Recommendation 3: The LGAQ recommends the State Government provide clear guidance on a suitable, and administratively simple clean earthen fill operational exemption before 1 July 2023.

Recommendation 4: The LGAQ recommends that the state government aligns the review dates of both state strategy and local plans by amending section 126 to also allow a 5-year review cycle.

Recommendation 5: The LGAQ recommends the amendment to the definition of 'misinformation' under section 73DE of the Bill be rejected and that the State Government clarify that section is not intended to limit political expression of elected local government members.

Introduction

Local government, as the level of government closest to the community, is supportive of the State Government's strengthened commitment to provide circular alternatives to all Queensland communities.

The renewed focus on creating a circular economy is welcomed as this is critical to achieving the shared objective of all community leaders to increasing resource recovery and re-use, reducing the amount of waste going into landfill, and improving environmental outcomes for future generations.

Additionally, the ban on the release of lighter-than-air balloons has been strongly supported by local government since the initial discussions on soft plastic bans have commenced.

These materials are unnecessary litter items that create an environmental hazard, and coastal communities will be pleased to have less of these nuisance items to collect on our pristine beaches.

The LGAQ would like to take the opportunity to thank the Department of Environment and Science on their work and previous engagement with both our officers and our members on the majority of the changes proposed in this bill.

However, the LGAQ also wants to highlight a number of concerns the sector has with some provisions contained within the Bill which, if not addressed, will have significant impacts on the viability of local government waste management solutions and potentially disincentivise future local circular economy innovations.

Please refer to the following paragraphs for a more in-depth analysis of these areas of concern.

Definition of Waste

The LGAQ welcomes the changes proposed to the definition of waste under section 8AA, but questions if they go far enough and if the move to the *Waste Reduction and Recycling Act 2011*, through the proposed amendments to the *Environmental Protection Act 1994*, would be an ideal opportunity to investigate the concept further.

The new powers to allow the chief executive to describe things as not a waste through regulation is dangerous and risks unintended consequences. For example, it will open the door for common by-products to be re-used as materials without having to go through the lengthy end-of-waste code process. However, the standard definition of waste as anything that is left over after industrial, commercial, or domestic activity still includes a multitude of relevant materials, each one of which would require the use of this new power.

While the LGAQ understands the complexity and regulatory implication of such an approach, a system where non-hazardous by- and surplus products are not waste unless they are declared as such would simplify the creation of truly circular economies in Queensland.

Recommendation 1: The LGAQ recommends the State Government, in collaboration with local government and industry, revisit the definition of waste conversation to arrive at a simpler, more circular-friendly definition.

Clean Earth Exemption

The bill proposes to give effect to the decision made by the state government on 11 December 2022 to remove the blanket exemption for clean earth by omitting section 26 paragraph (e) and the definition of clean earth from the schedule. While it is understood that the department is working closely with local government and industry operators to provide an alternative solution, to date there has been no certainty in writing provided by the department. The LGAQ also notes that the intention behind the removal of the blanket exemption is to allow 'higher order uses' to be identified and prioritised for the material. Local government is strongly opposed to the notion that there are higher order uses for clean earthen fill than the environmentally sensible management of waste management facilities.

The definition of clean earthen fill as waste has a range of negative operational implications and local government is not supportive of any changes to current practices that have the potential to put additional financial and/or administrative burden on landfill operators.

Recommendation 2: The LGAQ recommends clean earthen fill be defined as a resource, which does not require an exemption.

Local governments as waste management operators are dependent on the ongoing ability to utilise this material without incurring a levy liability. Local government agrees with industry operators that clean earthen material is not a waste and should not be treated as such and is required for environmental compliance of waste disposal sites. This includes activities such as daily cover, interim cover, final capping and as construction material for access roads, bunds or additional landfill cells.

Should there be no appetite to reconsider the definition of clean earthen material, local government and industry operators of landfill and resource recovery areas require, before the due date of 1st July 2023, a clear pathway to an operational exemption that can be granted for all current uses. As has been made clear before, the use of clean earthen fill is an operational imperative and therefore cannot be substituted with other material already in place at a landfill.

To exemplify this, a regional council on the coast has estimated that the removal of the blanket exemption without a suitable alternative will add approximately \$40/annum to the rates of each household, which would be unsustainable within the current cost of living crisis and make further resource recovery improvements in this council unreasonable to implement within the coming decade.

Recommendation 3: The LGAQ recommends the State Government provided clear guidance on a suitable, and administratively simple, clean earthen fill operational exemption before 1 July 2023.

Waste strategy review

The LGAQ agrees with the amendment of section 20, as reviews of the waste strategy every three years are unsustainable and would not allow for key outcomes to be realised and captured. However, as the current review process will be postponed to 2024 to align with the new timeline, the LGAQ wants to ensure that previous feedback provided in July 2022 will be included in any internal review process before a new draft strategy is released.

Additionally, under section 123 of the *Waste Reduction and Recycling Act 2011*, local governments are obligated to ensure that ‘all aspects of waste management in its local government area are comprehensively addressed by one or more waste reduction and recycling plans;’. Under section 126, these plans need to be reviewed every three years. Under the current review cycle of the state waste strategy, this allowed changes to easily flow on from the state strategy to individual plans as appropriate.

Recommendation 4: The LGAQ recommends that the state government aligns the review dates of both state strategy and local plans by amending section 126 to also allow a 5-year review cycle.

Payments to local government – Chapter 3, Part 7

Amendments contained within the Bill to make it easier for changes to be made to advance payments is much welcomed by the LGAQ.

Following the June 2022 payment of advance payments to councils for four financial years, the department, and the LGAQ, have been contacted by several members looking to adjust their individual payments due to identified inaccuracies.

We welcome the proposed changes to the act to allow for a more streamlined, and clearly defined approach to rectify potential shortfalls into the future.

However, local government is concerned that the changes to section 73D (5) – (8) (re-classified as section 73DD in the bill), are unwarranted and will create undue pressure on local government officials to self-censor in cases of potential advance payment disputes.

The LGAQ is concerned with the amendment to the definition of ‘misinformation’ under section 73DE of the Bill.

Previously ‘misinformation’ was defined as a false or misleading statement about:

- (a) the impact of the waste levy on a local government;
- or (b) the purpose of the annual payment;
- (c) the amount of the annual payment paid to a local government.

The Bill proposes to amend this to expand the definition to a false or misleading statement about:

- the effect of the waste levy on the local government or households in the local government’s local government area;
- or (b) the amount of the payment;
- or (c) the purpose of the payment.

The State and local government are at a critical junction in the shared desire to foster a circular economy and provide household with genuine options to reduce the amount of municipal waste ending up in landfill.

Councils are keen to ensure both the sector and industry are supported throughout this period in a genuine partnership with the State Government. They are also keen to ensure any changes to the waste levy and to advance payments do not unfairly impact households, in line with the Palaszczuk Government's commitment that households would not face the cost of the levy.

Recommendation 5: The LGAQ recommends the amendment to the definition of 'misinformation' under section 73DE of the Bill is rejected and that the State Government clarifies that this section is not intended to limit political expression of elected local government members.

Conclusion

Overall, the LGAQ is supportive of many of the proposed changes and welcomes the clear realignment of the State Government with circular economy principles. Councils look forward to continuing the strong partnership formed with the state government through the development of the Regional Waste Management Plans to assist in creating truly circular communities, and to achieve the ambitious resource recovery goals as stated in the current state waste strategy.

However, the removal of the blanket exemption for clean earthen fill, the changes to the definition of waste and the changes to section 73DD will require some further consultation, clarification, and amendment to avoid unintended consequences.

Contact Details

Please do not hesitate to contact Rudolf Pretzler – Lead, Public Health and Waste on [REDACTED] if you have any further question.

Appendix

LGAQ Policy Statement

The LGAQ Policy Statement² is a definitive statement of the collective voice of local government in Queensland. The relevant policy positions of local government in the context of waste management are as follows:

5.4.1 Waste Management Strategy and regional waste plans

5.4.1.1 Local government supports the development of regional waste management plans underpinned by a comprehensive Waste Management and Resource Recovery Strategy for Queensland.

5.4.1.2 Local government supports the development and implementation of a comprehensive strategy for the development of the waste and secondary resource industry that is complementary and integrated with the Waste Management and Resource Recovery Strategy for Queensland.

5.4.1.4 Local government supports the development of regional waste management plans to deliver waste and resource recovery outcomes across Queensland. These plans will assist, to guide the allocation of Federal and State government investment and 'fit for purpose' funding to assist both local government and industry.

5.4.1.5 Goals and targets should be jointly developed between the State and local government to provide direction and enable outcomes to be measured. Improved measurement against goals and targets will enable better monitoring of policy and strategy to ensure continuous improvement.

5.4.4 Waste Levy

5.4.4.1 Managing the transition to ensure the imposition of a State Waste Levy on the collection of domestic kerbside waste does not impact on Queensland households

5.4.4.2 A waste levy should:

- Directly target problem waste streams or those where there is potential for considerable gains in terms of recycling; and
- Provide industry with the confidence to invest in new waste management and recycling infrastructure and technology knowing that there will be consistent application of principles and standards.

5.4.4.3 Waste Levy revenue should be fully returned to waste management and resource recovery activities delivered by local government and industry.

5.4.4.4 Local Government supports offsetting the impacts of the Waste Levy to minimise burden on households, until appropriate infrastructure is developed.

² <https://www.lgaq.asn.au/downloads/file/183/2019-lgaq-policy-statement>

5.4.9 Landfill Management

5.4.9.1 Local government supports improved actions to divert materials from landfill to conserve valuable landfill airspace.

5.4.9.2 The development of landfill licence conditions and standards should involve genuine consultation with local governments.

5.4.9.3 The implementation of higher standards of landfill management should be phased in over time to allow for long term financial planning.

5.4.9.4 A 'one size fits all' approach to landfill licensing is inappropriate. Appropriate regulations to drive improved waste management outcomes and consumer behaviour should be developed in recognition of the diverse needs and circumstances of Queensland communities.

5.4.9.5 For regulations to be effective there must be public recognition that they are realistic, relevant, appropriate to the circumstances, achievable and able to be implemented by the responsible agencies.

5.4.9.6 Planning for the provision of landfill sites and the location for alternative waste technology facilities require greater priority in regional planning processes including the need for appropriate zoning, buffering and transport networks for both new and existing sites.

5.4.10 Single Use Plastic items

5.4.10.1 Local government supports a ban on the use of single use plastic items in Queensland.