

The Research Director  
Utilities, Science and Innovation Committee  
Parliament House  
George St  
Brisbane, QLD, 4000

Dear Sir/Madam,

**Re. Submission to Utilities, Science and Innovation Committee on *Liquid Fuel Supply (Ethanol and Other Biofuels Mandate) Amendment Bill 2015***

Attached please find a submission from the Australasian Convenience and Petroleum Marketers Association (ACAPMA) in relation to the call for submissions regarding the *Liquid Fuel Supply (Ethanol and Other Biofuels Mandate) Amendment Bill 2015*.

As a key stakeholder in the downstream petroleum industry, ACAPMA is concerned about the potential adverse impacts of the Queensland Government's decision to implement an Ethanol Mandate, particularly as they relate to likely:

- a) Increases in business costs for the many small to medium businesses that comprise the fuel supply chain in Queensland (i.e. wholesale and retail), and
- b) Increases in the costs of transport fuels to Queensland Motorists (i.e. our customers) as a result of increased costs being borne by fuel supply businesses in Queensland.

As stated in our previous submission (Refer Appendix), ACAPMA accepts the Government's right to determine industry policy but does not accept that it is reasonable nor equitable for any Government to force one industry (i.e. fuel supply industry) to bear the market development costs of another (i.e. biofuels industry).

We therefore remain very concerned about the fairness of the Draft Legislation on fuel supply businesses and seek resolution of the issues outlined in this submission.

ACAPMA would be very pleased to provide additional information on this matter if desired.

Yours sincerely,



Mark McKenzie  
Chief Executive Officer

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Submission to Utilities, Science and Innovation Committee

*Comments on Draft Liquid Fuel Supply  
(Ethanol and Other Biofuels Mandate)  
Amendment Bill 2015*

October 2015

# Introduction

## About this paper

This paper constitutes the submission by the *Australasian Convenience and Petroleum Marketers Association (ACAPMA)* to the call by the Utilities, Science and Innovation Committee for comments on the *Liquid Fuel Supply (Ethanol and Other Biofuels Mandate) Amendment Bill 2015*.

This submission comprises two parts, namely:

- **PART A – SPECIFIC COMMENTS ON DRAFT LEGISLATION.** This section provides specific comments on portions of the *Liquid Fuel Supply (Ethanol and Other Biofuels Mandate) Amendment Bill 2015* and the proposed implementation of the aforementioned legislation.
- **PART B, APPENDIX 1 – ACAPMA SUBMISSION TO QLD GOVERNMENT, Towards a Clean Energy Economy: Achieving a biofuel mandate for Queensland (June 2015).** ACAPMA has included with this submission supporting documents on the proposed biofuel legislation.

## Background

### About ACAPMA

The Australasian Convenience and Petroleum Marketers Association (ACAPMA) is the national body representing the interests of the petroleum distribution, petroleum retail and petroleum contractor businesses in Australia.

The scope of our membership extends from 'refinery gate' through to the forecourt of Australia's national network of service stations and petrol convenience outlets – including fuel haulage, fuel distribution, fuel wholesale businesses, fuel retail businesses, fuel equipment providers, and petroleum services businesses.

ACAPMA's members comprise 90% of Australia's fuel distribution and storage businesses who, in turn, supply fuel to around 3500 of the 6400 service station outlets currently operating in the country.

Given the diverse nature of our industry representation, the profile of our membership varies from small Australian businesses, through mid-cap Australian-owned enterprises, to large Australian corporations.

As the committee may be aware, ACAPMA has remained a proactive stakeholder, engaging in all available processes of the consulting process, including;

- Sending a submission in response to the Queensland Government's call for comments on the discussion paper entitled: *Towards a clean energy economy: achieving a biofuel mandate for Queensland (June 2015)*
- Participation in the public forum's held by the Queensland Government on the topic of an Ethanol and Biodiesel Mandate during June 2015
- Participation on the legislative consultative committee between July and September 2015

ACAPMA does not support the implementation of legislative mandates for any fuel (refer to *ACAPMA Public Policies March 2015*).

This position is informed by our analysis of Australian and International experience with the use of fuel mandates which suggests that these initiatives almost always generate significant and unintended adverse consequences for consumers and related industries – the aggregate cost of which far exceeds any benefit to the biofuels and agricultural industries.

Our very strong belief is that Government should utilise a combination of *market-push* mechanisms (i.e. industry development assistance) and *market-pull* mechanisms (i.e. end consumer incentives) to support the growth of alternative fuels as a comprehensive alternative to market mandates.

## Specific comments on Draft Legislation

### 1. Definition of a “Sustainable Biofuel” (Section 4,2)

ACAPMA is seeking clarity on what constitutes a “*sustainable biobased petrol*” and a “*sustainable biobased diesel*” as specified in the draft legislation.

At this point in time our interpretation of the draft legislation is that no ethanol blended petrol (EBP) or biodiesel currently being produced in Queensland can be considered as sustainable as they are *First Generation Biofuels*. First generation biofuels utilise feedstocks that compete with global food supply and some of these manufacturing processes have been assessed as delivering negative GHG outcomes (refer <http://www.sciencedirect.com/science/article/pii/S0301421513008264>)

In the absence of a national sustainable fuel standard, ACAPMA suggests that the Queensland Government consider adoption of the definition of sustainable biofuels from a credible international standards body such as the European Committee for Standardisation (refer to EN590 for biodiesel and EN 228 & EN15736 for Ethanol).

**ACAPMA believes that there is an absolute need to clarify what constitutes a ‘Sustainable Biofuel’ prior to the final implementation of this legislation, given that this definition will have a direct bearing on current and future supply volumes.**

### 2. Liability of Fuel Wholesalers (Section 35B)

ACAPMA wholly supports the underlying principle of the Queensland Government’s Draft Legislation that consumer choice be maintained on the forecourts of the State’s retail fuel outlets, with respect to the purchase of regular unleaded petrol and ethanol blended petrol.

ACAPMA’s support is based on our observations of the NSW experience that revealed *consumer disadvantage* (refer [https://www.utexas.edu/cola/files/ms37643/NOEL\\_regulated.pdf](https://www.utexas.edu/cola/files/ms37643/NOEL_regulated.pdf)) and *distortion of market competition* (refer <http://competitionpolicyreview.gov.au/final-report/>) occurs when consumer choice is removed.

As a consequence of this decision, achievement of the mandate will rely on ensuring that liable fuel retailers make *Ethanol Blended Petrol* (EBP) available on their forecourts as an alternative to regular unleaded petrol - and that a sufficient number of consumers purchase EBP (likely encouraged to do so via a government funded marketing campaign).

Given the above, ACAPMA can see no reason why fuel wholesalers should be made liable for achievement of the mandate for EBP given that they are one step removed from the end-consumer (as opposed to biodiesel where the wholesaler may be supplying directly to an agricultural or resource business).

While some stakeholders may argue that wholesaler liability is necessary to ensure that sufficient supply of EBP is made available to fuel retailers, ACAPMA believes that any mechanism forcing liability of fuel wholesalers risks breach of Australian Competition Law with respect to *third line forcing*.

ACAPMA therefore suggests that the objectives of this Bill would be better served by Government monitoring the supply-demand balance and seeking feedback from fuel retailers about the adequacy of EBP supply, following the first year of operation of the mandate.

ACAPMA is firmly of the view that fuel wholesalers cannot reasonably be made liable for the EBP volume mandate.

**ACAPMA believes that Fuel Wholesalers should be excluded from liability for EBP under the proposed legislation.**

### **3. Threshold for liability of fuel retailers (clause 35A)**

ACAPMA notes that the draft legislation proposes that fuel retailer businesses with less than 10 sites - and selling more than 1M litres of petrol per annum at an individual site - would be liable under the biofuel mandate.

The proposed threshold rate is four times higher than ACAPMA suggested in its original submission – that is, 1ML per annum proposed in the draft Bill versus ACAPMA’s original suggestion of 4ML per annum.

Our position was informed by the observation that if the threshold was set too low then a large number of small to medium businesses would be faced with a capital investment in new ethanol storage and dispensing infrastructure in excess of \$100,000 - and potentially as high as \$900,000 – in order to comply with the legislation.

Given that the draft legislation makes provision for exemptions on the grounds of associated investment marginalising fuel retail businesses, ACAPMA believes that the current low level threshold will result in a large number of applications for exemptions and therefore impose an unnecessary compliance burden on industry and government alike.

Accordingly, ACAPMA believes that the threshold should initially be set at a higher level with provision made for this level to be lowered via regulation if required in the future (i.e. if the desired biofuel targets are not achieved and there is a need to expand the number of fuel retail outlets that are liable).

It is therefore recommended that the minimum volume threshold outlined in section 35A,5 (b) be lifted to at least 500,000L per quarter – that is, 2ML of petrol per annum per site.

**ACAPMA proposes that the threshold amount set in section 35A, 5(b) be raised to the equivalent of 500,000L of petrol fuel in a calendar quarter.**

Note:

*Based on our interpretation of the legislation and the supporting Explanatory Memorandum, ACAPMA understands that the extent of the volume liability of a fuel retail business with one site exceeding the nominated threshold is calculated on the volume sold by the site exceeding the threshold only – not the total volume of petrol sold by all other sites operated by the business. If this is incorrect, then ACAPMA opposes Section 35A. 39(b) outright.*

## Further Information

Further information about ACAPMA's position in respect to the development of a biofuels mandate for Queensland can be found in Appendix 1 which has been submitted with this document.

Additional information can be gathered by contacting either member of the Association's National Secretariat:

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## Appendix 1

Refer to attached document entitled: *ACAPMA Submission to Queensland Ethanol Mandate Consultation*



Friday, 3 July 2015

The Project Manager  
Queensland Biofuel Mandate  
Department of Energy and Water Supply  
PO Box 15456, City East  
QUEENSLAND, 4002

By email: [biofuels@dews.qld.gov.au](mailto:biofuels@dews.qld.gov.au)

Dear Sir/Madam,

**Towards a clean energy economy: achieving a biofuel mandate for Queensland (June 2015)**

Attached please find a submission from the Australasian Convenience and Petroleum Marketers Association (ACAPMA) in relation to the Queensland Government's request for comments on the above Discussion Paper.

As a key stakeholder in the transport fuels market, ACAPMA is very concerned to ensure that any decision to implement a biofuels mandate in Queensland is only taken after careful consideration of the potential adverse impacts on the many small businesses that comprise the Queensland fuel industry – and the consequent adverse flow on effects to fuel consumers.

ACAPMA would be pleased to provide further information to support the position outlined in this paper at your convenience.

Yours sincerely,



**Mark McKenzie**  
Chief Executive Officer

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## Submission to QLD Government

*Towards a Clean Energy Economy: Achieving a  
biofuel mandate for Queensland (June 2015)*

July 2015

## About this paper

This paper constitutes the submission by the *Australasian Convenience and Petroleum Marketers Association (ACAPMA)* to the call by the Queensland Government for comments on the formulation of legislation to develop a biofuels mandate and has been prepared on behalf of the downstream petroleum industry in Queensland.

This submission comprises two parts, namely:

- **PART A - GENERAL COMMENTS AND STATEMENT OF POSITION.** This section provides an overview of ACAPMA and provides a clear statement of ACAPMA's position with respect to the development of a biofuels mandate in Queensland.
- **PART B - SPECIFIC COMMENTS ON DISCUSSION.** This section provides specific comments on the questions posed in the Queensland Government's discussion paper entitled: *Towards a clean energy economy: achieving a biofuel mandate for Queensland (June 2015)*.

## **Part A: General comments and statement of position**

### **1. About ACAPMA**

ACAPMA is the national peak body representing the interests of the petroleum distribution and petrol convenience retail industry. The scope of our membership extends from 'refinery gate' through to the forecourt of Australia's national network of service stations and petrol convenience outlets – including fuel haulage, fuel distribution and fuel retail businesses.

ACAPMA's members comprise 90% of Australia's fuel distribution and storage businesses who, in turn, supply fuel to around 3500 of the 6400 service station outlets operating in the country.

The profile of our membership varies from small Australian businesses, medium Australian-owned enterprises, to large Australian corporations.

As many stakeholders will be aware, ACAPMA led a high profile and sustained campaign seeking reform of the NSW Ethanol mandate given that the mandate was:

- damaging the viability of the many small to medium businesses (many of them regional) that sell fuel under commercial agreements with the major oil companies
- distorting competition in some areas by compelling some outlets to sell E10 in lieu of regular unleaded while others with exemption from the mandate (and in some cases literally across the road) were enjoying increased custom from the substantial proportion of motorists who preferred not to purchase ethanol blended fuels
- increased costs for motorists who felt that they had no choice but to pay more to purchase premium fuels in lieu of E10 – a decision that delivers no benefit to service stations who are typically payed on a volumetric basis only.

It is a matter of record that, the above campaign, coupled with the actions of other agricultural associations resulted in a rethink by the NSW Government and ultimately, a cessation of the proposed prohibition of regular unleaded petrol (RULP) and a stay in the expansion of the mandate.

## 2. Statement of ACAPMA's position

Given that existing infrastructure for distribution and storage of fuels is largely compatible with biodiesel - but not with ethanol - ACAPMA has a different position with respect to setting targets for the sale of both ethanol and biodiesel.

ACAPMA believes that state legislation for an ethanol mandate may be practical from 1 July 2016, provided the legislation:

- a) Is developed around achievement of a 2% target for sales of ethanol as a proportion of regular unleaded petrol (RULP) only, with no provision for any escalation beyond this level until such time as a detailed assessment of the costs of extending the target beyond this level has been completed – and not before the first year of operation of the legislation. This assessment should be undertaken by an expert panel comprising government and industry representatives (as appointed by the relevant Minister)
- b) Stipulates a requirement for E10 to be made available on the forecourt of service stations selling more than 4 million litres of fuel per year, with no stipulation of the volume to be sold (given inherent legal and commercial constraints on same)
- c) Does not place any liability on the fuel wholesaler for biofuel sales but rather, relies on the demand created by the provision of E10 infrastructure on the sites of eligible fuel retailers
- d) Provides for exemptions of liability for fuel retailers where eligible fuel retailers either:
  - i. Are likely to experience financial hardship as a result of the capital costs associated with compliance, with automatic exemption in cases where the required investment will reasonably exceed \$50k (with investment burdens below this level considered on a *case by case* basis)
  - ii. Cannot reasonably source E10 at a competitive wholesale price benchmarked to RULP
- e) Makes provision for mandatory reporting of annual fuel volumes for all retail fuel outlets operating in the state as at 1 July 2016, with a view to developing a database to support assessment of the net benefits to the Queensland community from future escalation above the initial 2% target
- f) Makes provision for the conduct of a government funded marketing campaign to address inherent community concerns about the use of E10. Such a campaign should be informed by market research to better understand the full extent of consumer concerns with respect to E10. ACAPMA firmly believes that current consumer concerns with E10 are not singular (i.e. engine damage) but are motivated by a number of different factors.
- g) Stipulates a reasonable target for biodiesel that does not result in a supply squeeze (and subsequent price escalation) and also is capped at a maximum of 5% V/V composition – as per the specifications published by manufacturers of diesel vehicles and diesel powered machinery.

### 3. Rationale for ACAPMA's position

ACAPMA's position in relation to the Queensland Government proposal for introduction of a biofuels mandate in Queensland (see below) is developed around the following principal considerations:

- a) It is neither commercially practical nor legally possible to direct *Fuel Wholesalers* (including Fuel Distributors) to require *Fuel Retailers* to sell any product (including biofuels) on their forecourts, given that the vast majority of Fuel Retailers are small to medium business that are independent of fuel Wholesalers. As a consequence, ACAPMA does not believe that Fuel Wholesalers (including Fuel Distributors) can be made liable for the achievement of a biofuel mandate in any Australian State or Territory.
- b) It is unclear how the Queensland State Government – and in fact any government – can compel *Fuel Retailers* to sell a fixed proportion of any product (including Biofuels) to their customers, whilst simultaneously holding to the proposition that customer choice must be maintained on the service station forecourts. As an aside, any decision to constrain customer choice on a selection of service station sites will create adverse competition and consumer pricing impacts – as demonstrated by the NSW experience.
- c) Any government decision to limit customer choice of regular unleaded petrol on any of the forecourts of the State's 1380 service stations will likely result in an unacceptable distortion in market competition. ACAPMA notes that, in its recent contribution to the Federal Government's Competition Review (Harper 2015), the Australian Competition and Consumer Commission (ACCC) noted:

*"The ACCC submits that the New South Wales government mandate requiring that a certain proportion of petrol sold in the State should contain ethanol is an example of regulation that limits competition and imposes costs on society (sub 1, page 40). The ACCC submits that the mandate has not only failed to achieve its industry assistance goals, but also diminished consumer choice and lead to consumers paying higher prices as they switch to premium fuels to avoid ethanol"*

pp 291 (Harper 2015)

- d) A significant proportion of NSW motorists demonstrated a clear aversion to the purchase of E10 in lieu of conventional petroleum – and there is no reason to believe that Queensland motorists will be any different. Consequently, this issue will need to be fundamentally addressed by government for biofuels demand to grow sustainably in the future.
  - ACAPMA notes the NSW experience with ethanol mandates that saw consumer aversion to E10 resulting in 3 out of every 5 consumers who lost access to RULP switching to premium in 2012, delivering a doubling of sales of premium fuels in the period following introduction of the mandate (Noel & Travis 2014) – with consumers choosing to pay an extra 12cpl of fuel. Such behaviour runs contrary to the typical price sensitive consumer behaviour of fuel markets in Australia, pointing to a relatively deep-seated consumer aversion to E10 amongst a sizeable proportion of the retail fuel market.
- e) Any escalation of the use of ethanol above 2% of RULP will impose adjustment costs on the fuel retail industry. These costs are substantial and run as high as an estimated \$272M for a scenario that would require all 1380 service stations in Queensland to sell E10 on their

forecourts. More importantly, the majority of this development cost will be borne by small to medium fuel enterprises (not fuel and grocery majors) who are simply not capable of absorbing up to \$900k in capital costs per site.

- It would be reasonable to assume that these small to medium businesses (in the absence of any opportunity to diversify their product set) would need to recover this capital cost by increasing prices to consumers. Based on the average fuel retail margin and average fill for a typical service station selling 2 million litres per annum (as interpreted from ACCC 2014), the increased cost to the consumer of 9cpl per site (for a 5 year payback at 0% discount rate). The key question is whether this action would result in a lift in the retail price across the entire market, a localised market, or simply result in the demise of the fuel business owing to their fuel price being uncompetitive.
- f) ACAPMA believes that it is unprecedented (and manifestly unfair) to ask one industry to fund the development cost of another industry – regardless of any community good that may be realised by the development of the other. In the event that the development of an industry (e.g. biofuels) will likely deliver community good benefits, then ACAPMA believes that it is rightly the role of government to bear this market development burden on behalf of the community.
- g) ACAPMA believes that any decision to set an escalation for growth in the biofuel target beyond an initial starting point of 2% of RULP sales, should only be made after careful consideration of the substantial body of literature showing that past government investment in the development of a biofuels industry has delivered sub-optimal returns to Australian taxpayers.
- The GHG and air quality claims are frequently overstated by the ethanol industry and to date, the industry has failed to even get close to forecast GHG benefits by reason of scale, insufficient controls around feedstock production, and use of production processes with high levels of energy intensity relative to conventional fuels production (Biofuels Task Force 2005, CSIRO 2007, DRET 2011, BREE 2014, ANAO 2015)
  - The forecast quantum of regional economic, employment, public health and community benefits have never been realised by more than 12 years of Government investment in the fledgling biofuels industry in Australia. In a report prepared by the Australian National Audit Office earlier this year (ANAO 2015), the office stated that:  
*“The Australian Government’s recent decision to close the EPGP was informed by a consistent body of analysis and advice—provided to successive governments since the program’s earliest days—drawing attention to shortcomings in the overall policy approach and the likelihood that program costs would exceed benefits. Prior to the EPGP’s establishment and at key decision points, the administering department and central co-ordinating agencies offered candid advice on value for money, drawing on past Australian and international experience and the findings of two key reviews (in 2008 and 2014) which had concluded that the benefits of the program were modest and had come at a high cost. These assessments of value for money are underlined by the program’s limited success in achieving key objectives and outcomes. After 12 years of operation and some \$895 million in government support directed towards improving the long-term viability of the domestic ethanol industry, in 2014 only three domestic producers (up from two in 2002) were operating and an expanded Australian ethanol industry based on market priced feedstock was considered unlikely to be commercially viable in the absence of the EPG rebate”*  
**Pp17 (ANAO 2015)**
  - Despite estimates of substantial net economic benefit from future investment in establishment of a biofuels and bio manufacturing industry in Queensland (Deloitte Economics 3024), there are numerous reports that point to the very substantial market and commercialisation barriers associated with the practical realisation of this potential – most of which appear to suggest that such a benefit is largely unachievable without very substantial government investment (CSIRO 2007, DRET 2011, ANAO 2015 ). In fact, the ANAO noted recent advice provided by the Bureau of Resource and Energy Economics (BREE) on the future outlook for the ethanol industry in Australia, reporting that:

*“In 2014, BREE considered that an expanded Australian ethanol industry based on market priced feedstock was considered unlikely to be commercially viable in the absence of the EPG rebate. The BREE further concluded that realisation of expected indirect benefits—including regional development, environmental and health benefits—has been modest at best, and/or at a much higher cost than could be achieved using more direct forms of government support.”*

Pp19 (ANAO 2015)



## **Part B: Specific comments on Discussion Paper**

### **1. Current Policy Environment**

With the Australian Government already having actioned legislation to cease the *Ethanol Production Grants Program (EPG)*, the Australian Government recently passed legislation that will see the effective increase of excise on ethanol from the current 0cpl to 12.5cpl by 1 July 2020 – albeit that this level will increase slightly with any future increase in the excise levied on conventional fuels.

These foreshadowed changes in the excise levied on biofuels are likely to result in an increase in the cost of ethanol blended fuels to consumers from 1 July 2016 - unless these costs are able to be absorbed by biofuels producers.

ACAPMA believes that any such increase will further reduce the attractiveness of ethanol to consumers against the background of an already demonstrable consumer aversion to the purchase of this fuel in the first place (Noel & Travis 2014).

The only option practical option available to the Queensland Government to mitigate against this price increase would be for the Government to subsidise the purchase of E10 via the provision of some form of shadow payment to fuel wholesalers – which would be reflected in a reduction in wholesale prices charged to fuel retailing businesses.

It is suggested, however, that the Queensland Government should exercise care in assessing the merits of this option given the past experience of the Australian Government in providing \$895M in financial support to the Australian Ethanol Industry via the EPGP over the past 12 years - yet still failing to catalyse a sustainable industry with only 3 operators established against a target minimum of 6 producers (ANAO 2015).

The ANAO report was preceded by an assessment of the net benefit derived from the EPGP prepared by the Australian Bureau of Resource and Energy Economics (BREE 2014) that determined that the net environmental, regional economic and consumer benefits from this programme came at a significantly high cost to Australian taxpayers.

**ACAPMA therefore believes that any Queensland Government action to mitigate against likely future increases in biofuels associated with recent changes in Federal Excise Legislation, should be informed by a comprehensive appreciation of the past Australian Government efforts to catalyse the biofuels industry in Australia.**

## 2. Proposed Biofuel Mandate

ACAPMA believes that a target of 2% ethanol sales (as a percentage of RULP only) could likely be achieved by the fuel retail industry with a manageable adjustment cost.

This observation is based on the fact that in 2012, when industry believed that an ethanol mandate in Queensland was imminent, there were an estimated 465 sites selling E10 in Queensland.

Today, changes in the ownership of retail fuel outlets and diminished consumer demand for E10 has seen a reduction in the number of sites currently selling E10 - to an estimated 323 sites only.

Comparing the current number of sites selling E10 today (323 sites) with the number of sites selling E10 in 2012 (465), reveals that there are approximately 142 sites that could readily be reconfigured to sell E10 in the near term - at an estimated unit capital cost of between \$25k and \$30k per site (amounting to a total adjustment cost of \$4.3M (refer Table 1).

This action - coupled with a consumer marketing campaign - potentially constitutes a relatively low cost pathway to achievement of 2% substitution of RULP sales in Queensland, given that:

- The monthly average of E10 sales in Queensland during the 12 months period ending 31 March 2015 was 30.6ML - compared with 208.8ML of RULP (APS 2015) – suggesting a current substitution rate of 1.3% of RULP with ethanol in Queensland
- Extrapolation of the current rate of market penetration of E10 to incorporate a total of 465 sites (i.e. 43% increase) would likely see E10 sales increase to 43.8ML, yielding a new ethanol substitution rate of 1.8% of RULP
- It would be reasonable to suggest that the remaining 0.2% substitution required to deliver the 2% target could be achieved by the implementation of a broad consumer marketing campaign

Estimation of the capital cost associated with the remainder of the States' 915 sites is problematic, owing to the fact that there is a need to better understand the nature of existing underground fuel storage infrastructure at all of these sites - and the degree to which such infrastructure is compatible with E10 operation.

For ease of analysis, ACAPMA estimates that 637 of the remaining 915 sites would likely require moderate adaptation of fuel storage and fuel dispensing infrastructure at a unit capital cost of between \$80k and \$120k – resulting in an industry adjustment cost of up to \$76.4M.

Based on experiences with some sites in NSW, the remaining 276 sites would require major works associated with the replacement of underground storage tanks at a capital cost of between \$500k and \$900k (capital costs only) – resulting in an industry adjustment cost of up to \$248M.

Considering all of the figures cited above, a decision to require all 1380 of the States' retail fuel sites to sell E10 would result in a total adjustment cost of between \$213M and \$319M (refer Table 1).

**Table 1:** Estimation of industry adjustment cost (All sites eligible scenario)

Type of site	Unit cost (Assumed)	No. of sites (Estimated)	Adjustment cost (Estimated)
Sites currently selling E10	\$0	323	\$0
Sites previously selling E10	\$25k-\$30k	142	\$3.6M to \$4.3M
Sites requiring moderate adaptation	\$80k-\$120k	639	\$51.1M to \$76.7M
Sites requiring major adaptation	\$500k to \$900k	276	\$138.0M to \$248.4M
<b>Total adjustment cost of 'All in' Scenario</b>		<b>1380</b>	<b>\$192.7M to \$329.4M</b>

Most importantly, the majority of these costs would be shouldered by the large number of small to medium business' that operate in the retail fuel market – not the oil and grocery 'majors' – in the absence of any government assistance with the associated capital costs.

Given that these investments will not yield additional revenue – and given the ACCC 2014 data that shows the average margin of fuel sales is around 1.1 cpl – it is difficult to see how this cost could be shouldered by the fuel retail industry without resulting in:

- increased consumer fuel prices (estimated at up to 9cpl at a typical suburban retail site based on amortisation of capital over 5 years at 0% discount rate)
- closure of retail outlets resulting in reduced accessibility to fuel for consumers
- a combination of both impacts

The most significant comment to be made in relation to this discussion is the question of “Who Pays?” the adjustment cost.

If the above costs are not fully funded by the Government as part of the legislative programme to promote biofuels in Queensland, then the costs will ultimately be borne by the fuel retail industry and ultimately passed on to consumers in the form of higher prices for all fuel products.

Given that the above cost represents a cost of developing a biofuels market, ACAPMA believes that this cost should be borne by the biofuels industry – unless the government believes that the public good dividend derived from development of such an industry justifies use of taxpayer funds.

Unlike ethanol there are no significant adjustment costs associated with the supply and sale of biodiesel as it is effectively a ‘drop-in’ fuel for existing fuel storage and transportation infrastructure.

Discussions with heavy vehicle manufacturers however, suggest that manufacturers of current diesel vehicles and diesel equipment typically recommend a maximum blend of 5% diesel by volume. Accordingly, ACAPMA believes that any mandate on biodiesel should not exceed 5%.

ACAPMA therefore believes that:

- A 2% substitution of RULP with ethanol in Queensland can be achieved with a modest adjustment cost (approximately \$4M) to the fuel retail industry – a cost that should be funded by either the biofuels industry directly or the Queensland Government
- Any increase above 2% substitution would impose substantial adjustment costs to industry ranging between \$51M (80% of sites) and \$324M (100% of sites). Such costs should also be borne by either the biofuels industry or the Queensland Government.
- Given the likely substantial cost to small and medium fuel retail businesses associated with the achievement of an ethanol substitution target above 2% of RULP, no such increase should be set until such time that the government has completed a comprehensive assessment of costs and developed a funding approach that mitigates against these costs being borne by the fuel retail industry. Ideally, this would be achieved via the formation of a joint government-industry expert group that would prepare an analysis of the costs of moving beyond an initial target of 2% of RULP substitution with ethanol.
- A maximum 5% substitution of biodiesel would appear to be achievable. The timeframe for implementation of this target should take account of the timing of availability of supply to minimise the risk of rapid price escalation (i.e. owing to tightness of supply)

### 3. Liable Parties

ACAPMA is opposed to any mandate which is designed around a party being deemed liable by the number of sites they operate, as this will likely have the unintended consequences of creating:

- a disincentive to business growth in an industry that operates on a high volume-low margin basis, where scale is typically important to achieving long term economic viability
- distortions in competition as two businesses with 10 sites could have vastly different revenue and profit characteristics based on substantial differences in the volume of fuel sold per site. A business with 10 rural sites, for example, would earn far less than a business with 10 sites in metropolitan Brisbane – yet both businesses would shoulder similar site adjustment costs.

Essentially, any future mandate should be designed around the principle of all fuel retailers being included under the mandate with a fixed exemption criterion that is primarily developed around a volumetric requirement (i.e. annual fuel sales).

It is suggested that liable parties be limited to fuel retail operators selling more than 4 million litres of automotive fuel per year (assessed on a prior year basis). Retail operators could be captured via a simple declaration process that could be later verified by compulsory reporting requirements (see section 4 below).

There will, however, be a need to apply two additional exemptions for retail sites exceeding 4 million litres where:

- The capital costs associated with converting the site to accommodate E10 will cause hardship to the business, with automatic exemption granted where the costs exceed \$50k (and provision for exemptions below this level on a case-by-case basis that would be assessed by a joint government-industry expert panel appointed by the Minister
- The retail operator is unable to secure E10 product at a competitive price relative to RULP.

The latter exemption would double as a consumer safeguard against escalation of E10 product prices as a result of the Queensland market being vulnerable to a small number of ethanol producers.

It is suggested that the burden of compliance cannot reasonably be levied on the fuel wholesaler (or Distributor) as these businesses have limited/no ability to influence what a retail business sells on its forecourt unless it owns the business – or utilises a Commission Agent agreement.

In considering any option to impose liability on the fuel wholesaler, it is suggested that the Queensland Government acquaint itself with the OilCode and relevant provision of Australian Competition legislation with respect to *third line forcing*.

ACAPMA therefore believes that:

- Liable parties should be limited to fuel retailers selling more than 4 million litres of liquid fuels per year (i.e. all products) with provision for exemptions where:
  - a) The capital cost imposed on the fuel retailer is reasonably likely to exceed \$50k, with provision for consideration of exemptions below this level on a case-by-case basis where financial hardship can be demonstrated by the fuel retailer
  - b) The fuel retailer cannot secure supplies of E10 at a wholesale cost that is reasonably competitive with RULP (This criterion also doubles as a consumer safeguard against high price escalation of E10 product)

#### 4. Reporting Requirements

ACAPMA concedes that in order to better understand the nature of the downstream industry - and to identify how best to design a mandate that minimises the potential market risks – that there will likely be a need for regular reporting of key areas of activity by all of the State's 1380 fuel retail sites.

The information collected via this process could then be used to inform an analysis of the likely costs associated with the achievement of an ethanol mandate above 2% of RULP.

The nature of the data that would likely be required for this purpose would include:

- Details of the current product offerings on the forecourt (i.e. E10, RULP, 95RON, 98RON, Diesel and LPG) of each site
- Nature of existing storage infrastructure (and compatibility with E10)
- Annual fuel volumes sold at each site

Given the strong consumer and industry requirements for maintenance of a competitive fuel retail market, however, it is vital that this industry be treated with absolute sensitivity and appropriate safeguards be put in place to prevent this information falling into the wrong hands.

ACAPMA proposes that, unless absolutely necessary, this data not be released to the public. In cases where release of this data is required, this data should be reported as a percentage of fuel sold and not on a 'site by site' basis – as is the practice adopted by the NSW Government.

ACAPMA believes that:

- The government will likely need to introduce reporting requirements that will assist in the preparation of an analysis of the likely costs associated with moving beyond a target of 2% substitution of RULP with ethanol (i.e. products sold, nature of existing fuel storage infrastructure and annual volumes of product sold).
- Once the initial assessment is completed, there will be a need for businesses to continue to report annual volumes of liquid fuels sold to government with a view to maintaining integrity of the proposed exemption process

## 5. Exemptions

This issue is addressed in our response to the questions pertaining to *Liable Parties* as detailed in Section 3 above.

## 6. Penalties

As outlined in earlier sections of this paper, ACAPMA does not believe that it is possible for a fuel retailer to achieve a mandated percentage of sales of E10 as they have limited ability to influence a consumer's choice of product – other than by pricing strategies.

Accordingly, the focus of government should be on simply ensuring that eligible fuel retailers have E10 constantly available on their forecourts with provision for escalating actions by government in the case of repeated non-compliance by individual businesses.

ACAPMA does not support the imposition of penalties on retail operators to enforce compliance with a volumetric mandate of any form owing to the fact that such an approach could not be legally enforced and would be open to legal challenge with respect to the degree of control that could reasonably be executed by a retailer over their customers.

## 7. Expert Panel/Implementation Board

The issues associated with the implementation of an ethanol mandate are complex and have the potential to affect a broad range of stakeholders.

Accordingly, ACAPMA believes that the Queensland Government should establish a broad panel of experts to monitor the operation of the mandate in its' formative years and advise the Minister on potential opportunities for improvement.

This panel should be reflective of all primary stakeholder interests, including the fuel retailing industry, in order to ensure credibility.

The operation of the Panel should be clearly defined by a Charter that is jointly developed by all participating stakeholders immediately following establishment of the Panel.

While the Panel will undoubtedly be required to provide advice on some applications for exemption, the criteria for exemption should be designed in such a way as to minimise the need for subjective assessment (Ideally, using the exemption framework outlined in Section 3 of this document).

ACAPMA believes that the Queensland Government should establish a panel to oversee the early years of implementation of the mandate. The composition of the panel should be representative of all of the key stakeholders – including biofuel producers, fuel wholesalers (and Distributors), fuel retailers, consumers and government – and should ideally undertake the following activities:

- a) Preparation of an assessment of an economic and market implications (i.e. costs and benefits) of implementing an ethanol target above 2% of RULP, including recommendations on financing of any associated adjustment costs and timing to achievement of same
- b) Deliberate on exemptions pertaining to financial hardship, as detailed in Section 3. Ideally, however, the exemptions should be clear to minimise the need for the panel to make subjective assessments of liability (i.e. a significant requirement for subjective interpretation of eligibility requirements will ultimately diminish the credibility of the legislation in the eyes of industry

## 8. Environmental Protection

ACAPMA notes that many of the claims that have been made by advocates of a mandate in Queensland (including commentary included in the Government's Discussion Paper) run contrary to a substantial body of evidence that questions the net community benefit derived from increased market adoption of biofuels.

Any objective analysis of available literature (CSIRO 2007, DRET 2011, and BREE 2014) gives rise to the inalienable conclusion that the environmental performance of biofuels is highly variable owing to:

- the typical sub-optimal scale of bio-refineries relative to conventional fuel production facilities

- variations in the embodied energy of available feedstocks – particularly agricultural ‘first generation’ feedstocks – as a result of variations in soil cultivation procedures and fertilizer use
- variation in the energy intensity of different biofuels production processes

Accordingly, it is suggested that the Queensland Government will need to develop guidelines and best practice frameworks to maximise the environmental outcomes of increase biofuels industry development – and minimise the risk of negative GHG outcomes.

ACAPMA believes that:

- the Queensland Government will need to develop a comprehensive framework for the sustainable production of biofuels in Queensland, in order to realise stated environmental (i.e. GHG objectives). This framework should articulate best practice for all stages of the biofuels production process – from feedstock production and harvesting through to transport of fuels to terminals and associated blending processes.
- the most effective way to enforce this framework would be through a *Compact* established between biofuels producers and the Queensland Government, and in cases where a breach occurs, that penalties are enforced in line with existing environmental protection legislation.

## 9. Maintaining Choice

Any strategy to promote ethanol blended fuels should first recognise that a significant proportion of Australian fuel consumers (including Queenslanders) appear to have an aversion to the purchase of biofuels – particularly ethanol blended fuels.

ACAPMA notes the NSW experience with ethanol mandates that saw consumer aversion to E10 resulting in 3 out of every 5 consumers who lost access to RULP switching to premium in 2012, delivering a doubling of sales of premium fuels in the period following introduction of the mandate (Noel & Travis 2014).

In short, the NSW experience showed that a significant proportion of consumers actually chose to pay an extra 12cpl for premium fuels where RULP was not available, rather than purchase E10.

Such behaviour runs contrary to the typical price sensitive consumer behaviour of fuel markets in Australia, pointing to an apparent deep-seated aversion to the purchase of E10 amongst a sizeable proportion of Australian motorists.

A related consideration with respect to choice relates to the risk of creating distortion of competition within the retail fuel market where choice is not provided and some retailers are exempted from making E10 available.

In such circumstances, the current consumer aversion of the purchase of E10 means that fuel retailers excluded from the sale of RULP suffer a competitive disadvantage (refer ACCC comments in Harper 2015)



ACAPMA believes that choice must be maintained on a 'forecourt by forecourt' basis in order to prevent any potential distortion of competition created through differences in product offerings and minimise adverse consumer impacts associated with increased fuel prices arising from lack of choice of RULP

## 10. Consumer Protection

It is suggested that the biggest risk of implementing a mandate in the current environment is that it will result in the creation of a 'legalised duopoly' in ethanol supply in the immediate term.

While ACAPMA is aware of other proposals for new biofuel refineries in Queensland, it is fair to say that a number of these have been in the 'pipeline' for a number of years and are still subject to a considerable level of investment uncertainty (in much the same way as has occurred with respect to investment in underground natural gas projects in Queensland of late).

This concentration of supply creates a substantial risk by creating critical levels of supplier vulnerability for the biofuels market in Queensland and ACAPMA believes that there is substantial risk of upward price pressure in the near term operation of any mandate.

One solution for the creation of an appropriate safeguard would be to exempt eligible fuel retailers from selling E10 where they cannot source E10 at a price that is competitive with RULP.

In this way, a fuel retailer could legally elect to 'run dry' where they have been unable to secure a contract price that is compatible with that of RULP. Such a mechanism would likely need to be overseen by the proposed Expert Panel (refer Section 7 of this paper) and the relevant government Department.

ACAPMA believes that consumer protections could be afforded during the early years of operation of the mandate by exempting fuel retailers from being required to make E10 available on their forecourts where the product cannot be provided at a price that is reasonably competitive with RULP. Such an approach would likely protect against unacceptable increased in ethanol prices during periods of 'short supply'.

## 11. Food Supplies

ACAPMA is aware of a substantial body of international literature that suggests that biofuel mandates involving the use of 'First Generation' biofuels have apparently contributed to substantial increases in some food prices and livestock feed prices.

ACAPMA further notes international literature that suggests these issues can be overcome by ensuring rapid transition from the use of 'first-generation' biofuel production to second-generation biofuel production.

## Further information

Further information about ACAPMA's position in respect of the development of a biofuels mandate for Queensland can be secured by contacting either of the following members of the Association's National Secretariat:

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