

JANUARY 27, 2011

Queensland Waste Reduction and Recycling Strategy 2010-2020

Response to draft 'Waste Reduction and Recycling Bill 2010,' released December 3, 2010

Page 9, Section 3(d)

Draft "(d) to ensure waste management and resource recovery decisions are considered against the waste and resource management hierarchy;"

The Waste and resource management hierarchy is a useful tool for setting general waste and resource management 'strategy' but can lead to errors when applied in regional Australia. As such it is suggested that site specific life cycle assessment 'LCA' also should be referenced in this clause.

As such we recommend that:

"...hierarchy or a site life cycle assessment;" be added to this subsection.

Page 14, Section 14

Draft "Example of final disposal of a product that is waste — A person would finally dispose of a product that is waste if the person disposed of the product as permanent landfill, or incinerated the product in a process that did not capture any further measurable benefit from the product."

For the first example detailed (above) – clarification is required to establish if ash from an incineration process (say medical waste) will attract a levy when disposed of at a landfill.

For example:

Incinerator operator charges levy but 10% of waste remains as 'ash' and is landfilled. To avoid a double 'levy' this ash should be levy exempt or the levy should only be applied in the 'ash' at the landfill.

Page 23, Section 29

To avoid any doubt it is recommended that this section include a definition for 'domestic waste'.

For example "**Domestic waste** means waste generated from a residential property such as a single dwelling or a 'block' of units."

Page 24, Section 30, Subsection 1

Confirmation is required if this clause is to be revised to include domestic waste 'self-haul' (as previously indicated in the initial draft strategy).

Page 26, Section 32, Subsection (3) (b)

Draft "(b) supported by enough information to allow the chief executive to decide the application."

In the case of waste mentioned in subsection (2) (c) – recycling residues – this information should demonstrate why the recycling residue should be exempt e.g. no access to price increases to recover the levy cost on existing contracts, products sold into international market etc.

As such we recommend that subsection (3) (c) be enhanced to read:

"(c) in the case of waste mentioned in subsection (2) (c) particulars should be presented to demonstrate that levies due from recycling residues from certain contracts cannot be recovered through normal market mechanisms."

Page 26, Section 32, Subsection (2) (b)

Draft "(b) waste required under another law to be disposed of as landfill in a particular way;

Examples-

- asbestos waste
- fire ant waste"

To avoid doubt this subsection should only apply to that portion of the waste covered by the "other law" e.g. fire ant waste.

As such it is suggested that the subsection commence with: "that portion of any..."

Page 26, Section 32, Subsection (2) (c)

Draft "(c) residue waste from recycling activity."

To avoid doubt this subsection should be supported by a definition of 'recycling residual' waste.

For example:

"'Recycling residual' waste comprises of unrecovered material from a recycling facility and may compromise both organic and inorganic materials."

Page 29, Section 36, Subsection (2)

Draft "(2) Without limiting subsection (1), criteria may include any of the following—

- (a) the rate applicable to the levyable waste delivered;
- (b) the weight of the levyable waste delivered;
- (c) the volume of the levyable waste delivered;
- (d) the type of the levyable waste delivered;
- (e) the source of the levyable waste delivered;
- (f) the type of vehicle used to deliver the levyable waste."

The data requested in this subsection is excessive and will lead to an administrative burden at the landfill.

As such it is suggested that the subsection be revised to read:

- (a) the type of levyable waste delivered
- (b) the source of levyable waste delivered
- (c) the rate applicable to the levyable waste delivered
- (d) the weight of levyable waste delivered
- or
- (e) the volume of levyable waste delivered and the type of vehicle (compactor, opentop) which this waste is delivered to the landfill.

Page 30, Section 38, Subsection (1)

Draft “(1) A person who delivers waste to a levyable waste disposal site must give the operator of the site all the help and information the operator reasonably requires to allow the operator to identify, in relation to the waste delivered—

- (a) how much of the waste is exempt waste and how much of it is levyable waste; and
- (b) for any levyable waste—how much is levyable waste for which the applicable rate of waste levy is nil; and
- (c) for levyable waste for which the applicable rate of waste levy is greater than nil—how much levyable waste there is for each prescribed type of levyable waste.

Maximum penalty—00 penalty units.”

This subsection is limited to the ‘information’ required by the landfill operator to determine whether a waste attracts the levy. As the landfill operator is responsible for the payment of the levy evidence may also be required to later confirm that the exempt waste has been correctly identified.

In the absence of this evidence the landfill operator will have no choice but to charge the levy or reject the waste presented.

As a result it is recommended that the subsection be reworded in the third line to read: “...all the help, information and evidence the...”

Page 31, Section 39, Subsection (3)

Draft “(3) The operator of a levyable waste disposal site must display, on any tax invoice, receipt or similar document given to a person delivering levyable waste to the site for disposal, information clearly setting out the waste levy rates set by regulation under this chapter.

Maximum penalty—00 penalty units.”

A clarification is required in respect to this subsection as it is clearly inconsistent with communication from DERM that the levy is not subject to GST. In the event that the levy is GST exempt then the actual levy will need to be stated on the invoice so the GST and non-GST charges can be reconciled.

Page 32, Section 40

As the waste industry generally collects its ‘account’ customer debts at plus 60 days it is respectfully requested (to avoid the introduction of the levy impacting on landfill operator’s cash position) that the levy remittance be extended to 86 days.

Page 33, Section 41 Subsection (2)

Draft “(2) Subsection (1) does not apply to the operator of a levyable waste disposal site if the operation of the site, or any aspect of its operation, is in contravention of this Act or the Environmental Protection Act.”

To avoid abuse of the intent of this clause it is requested that ‘significant’ be added before ‘contravention’ in the third line.

Page 33, Section 41 Subsection (4) (c)

Draft “(c) 2 years elapse after the commencement of this section.”

As this ‘act’ is to promote recycling and resource recovery the provision set out in subsection (4) (c) appear in conflict with the overall rational of the Waste reduction and Recycling Bill.

As such it is respectively requested that subsection (4) (c) be deleted so that resource recovery, where appropriate, can continue at landfill sites across Queensland.

Page 34, Section 42, Subsection (2) (a)

Draft “(2) Subject to subsection (3), the deduction applies to the relevant quantity to the extent that, after delivery at the levyable waste disposal site, it is –

(a) both –

- (i) at the site, the subject of recycling or another recovery process; and
- (ii) transported to another place for a lawful use;”

It is assumed that these deductions are on a one for one basis by weight. For clarity we suggest that “one for one basis by weight” be inserted between the words ‘relavant’ and ‘quantity’ in the first line.

The wording of this subsection will prevent resource recovery of material for use at the landfill – e.g. daily cover, drainage aggregate, road materials and landscaping supplies.

As a result it is suggested that point (ii) be reworded to read “utilised on-site or transported to another place for a lawful use;”

Page 34, Section 42, Subsection (3)

Draft “(3) However, a regulation may provide for criteria for calculating the amounts of deduction that are applicable for particular types of waste.”

Clarification is required regarding the intent of this subsection. For example is it intended for calculating mulch and compost volumes.

As such it is suggested the word ‘organic’ replace ‘particular’ in the second line.

Page 35, Section 44, Subsection (1)

Draft “(1) The chief executive may require the operator of a levyable waste disposal site to provide financial assurance to guarantee, or otherwise secure, payment of waste levy amounts becoming payable from time to time by the operator.”

To avoid the creation of competitive disadvantage to some sections of the market it is recommended that financial assurances (if required) be adopted across the whole market. As such it is recommended that the subsection be varied to: “...the operators of all levyable waste disposal sites...”

Page 35, Section 45

This section is relevant only to the landfill operator but misses the point that the waste generators may also attempt to deceive or defraud the landfill operator to evade payment of the levy.

As such it is suggested that penalties for attempts to deceive or defraud by the generator be dealt with under section 38.

Page 37, Section 46, Subsection (4)

Draft “(4) The chief executive may waive, entirely or partly, payment of the amount if the chief executive is satisfied that there are extenuating circumstances that warrant the waiver or that the waiver is otherwise appropriate in the circumstances.”

This subsection is extraordinary open and should be subject to control through the regulations.

As such it is suggested that “is otherwise appropriate” is replaced by “is a provided in the regulations”

Page 43, Section 54

Draft “The object of the Waste and Environment Fund is to provide funding for waste management initiatives and environmental initiatives.”

It is believed priority should be given to the use of the fund to improve waste generator education and to create markets for recovered materials.

As such it is suggested that “that improve waste generator education and to create markets for recovered materials” be inserted after “initiatives” in the second line.

Page 45, Section 56, Subsections (3) and (4)

Draft “(3) Subsection (4) applies if—

(a) the chief executive is authorised under subsections (1) and (2) to make a payment to a local government or another entity, other than the State, in the entity’s capacity as a levyable waste disposal site operator; and

(b) the entity has failed, and has not rectified the failure, to meet its obligations—

(i) for strategic waste management planning under this Act; or

(ii) for payment of waste levy amounts for 2 or more due dates for payment of the amounts; or

(iii) for providing data, as required under this Act, including under a regulation, relating to waste management and resource recovery.

(iv) The chief executive may, with the approval of the Minister, and for the period approved by the Minister, withhold the payment.”

Clarification of wording required as intent is unclear.

Max Spedding
Secretary