**Rating Matter [Waste Collection - LG Waste Management Services]**

MC16/4357 - COMMERCIAL RATEPAYERS ONLY – recycling

Q: Do councils levy a mandatory utility waste management charge on ALL commercial/industrial properties?

<table>
<thead>
<tr>
<th>Council</th>
<th>Contact Officer</th>
<th>Phone Number</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Banana</td>
<td>David Steger</td>
<td>4992 9500</td>
<td>David Steger away – back on Monday 28/11/16. Spoke with Christina 30/11/16</td>
</tr>
<tr>
<td></td>
<td>Mgr Fin Services</td>
<td></td>
<td>• NO RECYLING</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• NO LEVIED MANDATORY UTILITY CHARGE</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Commercial properties have to obtain external recycling contractor if they want that service.</td>
</tr>
<tr>
<td>Barcaldine</td>
<td>Jenny Lawrence</td>
<td>4651 5611</td>
<td>Jenny Lawrence – away til Wed 30/11/16</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• NO RECYCLING</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• NO LEVIED MANDATORY UTILITY CHARGE</td>
</tr>
<tr>
<td>Blackall-Tambo</td>
<td>Kathy Dendle</td>
<td>4657 8811</td>
<td>• For commercial ratepayers only</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• 1 x garbage charge – businesses might but it’s on a user pays basis</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• NO RECYCLING</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• NO LEVIED MANDATORY UTILITY CHARGE</td>
</tr>
<tr>
<td>Burdekin</td>
<td>Kim Olsen</td>
<td>4783 9800</td>
<td>30/11/16</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• NO LEVIED MANDATORY UTILITY CHARGE</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Commercial ratepayers can use an approved contractor for private recycling – Council doesn’t charge extra levy if Council service not taken up.</td>
</tr>
<tr>
<td>Cassowary Coast</td>
<td>Kelly Vic</td>
<td>4030 2214</td>
<td>• General Waste</td>
</tr>
<tr>
<td></td>
<td>Supervisor, Rates</td>
<td></td>
<td>• Bin service x 2 – attached to ALL properties in area – residential and commercial</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• NO RECYCLING</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• No special/separate or other charges levied on commercial ratepayers</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• NO LEVIED MANDATORY UTILITY CHARGE</td>
</tr>
<tr>
<td>Central Highlands</td>
<td>Shelly Fogg</td>
<td>1300 242 686</td>
<td>• NO LEVIED MANDATORY UTILITY CHARGE</td>
</tr>
<tr>
<td></td>
<td>Manager Finance</td>
<td></td>
<td>• Commercial ratepayer has option of using recycling service or going elsewhere (without charge/detriment)</td>
</tr>
<tr>
<td>Douglas</td>
<td>Kirsty Logan</td>
<td>4099 9432</td>
<td>• Only charged if there’s improvements on the land – eg. Restaurant</td>
</tr>
<tr>
<td>Area</td>
<td>Contact Person</td>
<td>Phone No.</td>
<td>Details</td>
</tr>
<tr>
<td>--------------</td>
<td>----------------</td>
<td>-----------</td>
<td>---------</td>
</tr>
<tr>
<td>Fraser Coast</td>
<td>Caleb Wickham</td>
<td>4190 5835</td>
<td>Can opt out of Council collection, with no continued charge from Council. Can keep general waste collection and arrange their own (other contractor) recycling collection. User pays. Flat rate of $197.12 for 6 months (would need to check schedule of charges for different types of properties). <strong>NO LEVIED MANDATORY UTILITY CHARGE</strong>. YES – commercial properties ratepayers will still be charged a minimum charge for recycling whether they use the service or not. $363 / annum. NOTE: Although I explained the scenario to Caleb, he suggested that Council did levy a mandatory charge for recycling – though I question whether he was confused with the Council’s Waste Management Levy (which is a separate charge – NOT a utility charge).</td>
</tr>
<tr>
<td>Hinchinbrook</td>
<td>Dave Tombs</td>
<td>CFO</td>
<td>Away at LGFP conference – Try calling Dave Tombs on Wednesday – 30/11/16 DT to provide email with details. 1/12/16. The commercial property has a choice to pay for their Cleansing charge (garbage removal) through Council or direct through Mann’s Plant Hire. Every rateable property receives a Waste &amp; Environmental Levy on their rate notice. <strong>NO LEVIED MANDATORY UTILITY CHARGE</strong>.</td>
</tr>
<tr>
<td>Livingstone</td>
<td>Darryl Schurmann</td>
<td>CFO</td>
<td>Darryl Schurmann unavailable – Try phoning on Wednesday – 30/11/16 No answer – LR to try again on Thurs 1/12/16 – 30/11/16 - no answer –Tues 6/12/16 – left message voicemail message for him to call me back. Was just advised that Darryl Schurmann no longer works at Council. Andrea Ellis is his replacement. <strong>NO LEVIED MANDATORY UTILITY CHARGE</strong>.</td>
</tr>
<tr>
<td>Lockyer Valley</td>
<td>Dave Lewis</td>
<td>Executive Manager</td>
<td>5462 0318</td>
</tr>
</tbody>
</table>
they have a waste and recycling collection service (this is charged separately). The charge is mandatory in that it forms part of the rates of the property. **NO LEVIED MANDATORY UTILITY CHARGE**

<table>
<thead>
<tr>
<th>Location</th>
<th>Contact Person</th>
<th>Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mackay</td>
<td>Kylie Lamb Manager Fin</td>
<td>1300 622 529</td>
</tr>
<tr>
<td></td>
<td>Services</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Moreton Bay</td>
<td>Denis Crowe</td>
<td>3480 6540</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North Burnett</td>
<td>Camille Summers</td>
<td>4165 7201</td>
</tr>
<tr>
<td>Redland</td>
<td>Noela Barton</td>
<td>3829 8238</td>
</tr>
<tr>
<td>Rockhampton</td>
<td>Alicia Cutler Finance Mgr</td>
<td>4036 8319</td>
</tr>
<tr>
<td>Scenic Rim</td>
<td>Nick Gifford</td>
<td>5540 5361</td>
</tr>
</tbody>
</table>

**Mackay**
- Levies a waste management charge on ALL properties – same for commercial or residential
- User pays basis
- Commercial properties can opt out of council collection and go elsewhere
- **NO LEVIED MANDATORY UTILITY CHARGE**

**Moreton Bay**
- Phone rang out – try calling again Tues/Wed 30/11/16 – Felicity O’Dell to call me back
- Darren Wright emailed details through to me
- User pays system
- **NO LEVIED MANDATORY UTILITY CHARGE**

**North Burnett**
- **NO RECYCLING**
- **NO LEVIED MANDATORY UTILITY CHARGE**

**Redland**
- **NO LEVIED MANDATORY UTILITY CHARGE**

**Rockhampton**
- **NO LEVIED MANDATORY UTILITY CHARGE**

**Scenic Rim**
Left message for Nick Gifford at 2.10pm 23/11/16
- 30/11/16 – LR to try calling again on Thurs 1/12/16 – phoned – no answer
- 6/12/16 – no answer – try again on 7/12/16
- 9/12/16 – YES – COUNCIL LEVIES MANDATORY UTILITY CHARGE FOR RECYCLING SERVICE – whether commercial entity uses it or an external recycling contractor.
- Council has a compulsory waste collection charge for domestic and commercial properties. This is for the provision and collection of 2 x 240ltr bins (recycling and general waste).
- Council also offers a bulk service rate for varying size bulk bins. If commercial premises take the bulk bin option then the base charge for wheelie bins is replaced with the bulk bin fee.
<table>
<thead>
<tr>
<th>Location</th>
<th>Contact</th>
<th>Phone</th>
<th>Details</th>
</tr>
</thead>
</table>
| South Burnett| Darryl Kerwitz    | 4189 9116     | • **NO RECYCLING**  
• External contracting used for recycling  
• **NO LEVIED MANDATORY UTILITY CHARGE** |
| Tablelands   | Lyn Meldrum, Manager, Rates | 4089 2489     | • Charge for general waste and recycling bins  
• Same charge for commercial and residential bins/collection  
• Recycling not an extra charge  
• Larger skip bins dealt with by private contractors at commercial ratepayers' own expense  
• **NO LEVIED MANDATORY UTILITY CHARGE** |
| Toowoomba    | Shayne Morris      | 4688 6838     | • Shayne Morris away for 6 weeks.  
• 2IC advised – **NO LEVIED MANDATORY UTILITY CHARGE**  
• Commercial properties can opt in or out of recycling bin collection – no charge or detriment to the Commercial ratepayer |
Thanks for the update Bill. We'll look forward to hearing from you,

Regards

Beverley Homel
Solicitor | Brisbane City Legal Practice
Office of the Lord Mayor and Chief Executive Officer | BRISBANE CITY COUNCIL

Brisbane Square | Level 20, 286 George Street, Brisbane, Qld 4000
Phone: +61-7-3403 6801 | Fax 07 3334 0058
Email: beverley.homel@brisbane.qld.gov.au

Bill Hastie
Manager (Policy)
Department of Infrastructure, Local Government and Planning
Level 11, 101 George St Brisbane QLD 4000
p. 07 3452 8710 | m. | e. bill.hastie@dilqp.qld.gov.au

Customers first | Ideas into action | Unleash potential | Be courageous | Empower people
Hello Bill and Kylie,

Concerning our meeting on August 13 - I believe that you were both going to follow up with your departments concerning your respective legislative agendas, and Bill, that you were going to liaise with Treasury about the competition implications of some of the options under consideration.

Do you have an update for us?

Regards

Beverley Homel
Solicitor | Brisbane City Legal Practice
Office of the Lord Mayor and Chief Executive Officer | BRISBANE CITY COUNCIL

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
Phone: +61-7-3403 6801 | Fax 07 3334 0058
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**************************************************************************************************************************
This email originates from outside of Brisbane City Council.
**************************************************************************************************************************
Bill Hastie

From: Bill Hastie
Sent: Wednesday, 23 September 2015 12:58 PM
To: Beverley Homel; kylie.hughes@ehp.qld.gov.au
Cc: Christine Blanchard
Subject: RE: Residential waste services - expiry of the local government area designation power in the Waste Reduction and Recycling Regulation

Hello Beverley,

Apologies for not responding earlier. Kylie and I are still working through the options. We hope we will be in a position to give you some more definitive advice soon.

I note that the LGAQ has also included this issue as an action item in its 2015-16 Advocacy Action Plan.

Regards

Bill Hastie
Manager (Policy)
Legal, Legislation and Policy Services
Department of Infrastructure, Local Government and Planning
Level 11, 100 George St Brisbane QLD 4000
p. 07 3452 6710 | m. 0414 018 240 | e. bill.hastie@dilgp.qld.gov.au

Customers first | Ideas into action | Unleash potential | Be courageous | Empower people

---

From: Beverley Homel [mailto:Beverley.Homel@brisbane.qld.gov.au]
Sent: Monday, 7 September 2015 1:08 PM
To: Bill Hastie; kylie.hughes@ehp.qld.gov.au
Cc: Christine Blanchard
Subject: Residential waste services - expiry of the local government area designation power in the Waste Reduction and Recycling Regulation

Hello Bill and Kylie,

Concerning our meeting on August 13 - I believe that you were both going to follow up with your departments concerning your respective legislative agendas, and Bill, that you were going to liaise with Treasury about the competition implications of some of the options under consideration.

Do you have an update for us?

Regards

Beverley Homel
Solicitor | Brisbane City Legal Practice
Office of the Lord Mayor and Chief Executive Officer | BRISBANE CITY COUNCIL

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Phone: +61-7-3403 6801 | Fax 07 3334 0058
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Thanks Bill. Appreciate your help – we’d prefer it to stay in EP legislation but EHP seem intent on having it removed.

Christine Blanchard JP (Qual)
Waste Minimisation Manager | Waste and Resource Recovery Services Branch
Field Services Group | BRISBANE CITY COUNCIL

Green Square | Level 2, 505 St Pauls Terrace, Fortitude Valley, 4006
Phone: 07 31788419 Mobile: 0418 415 041 Email: christine.blanchard@brisbane.qld.gov.au

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Hi Christine

No. I have not heard that, but lack of consultation by DEHP is not unknown. I will investigate, but we would be opposed to it being in the LG legislation as the LG legislation is framework legislation not content specific – waste issues belong in waste legislation.

Thanks for the heads-up.

Regards

Bill Hastie
Manager (Policy)
Local Government and Regional Services
Department of Infrastructure, Local Government and Planning
Level 11, 100 George St Brisbane QLD 4000
p. 07 3452 6710 m. 0418 415 041 e. bill.hastie@dilgp.qld.gov.au
We are getting whispers that EHP want to move s7 of the Waste Reduction and Recycling Regulation 2011 to the LG legislation. They feel it’s a LG issue so belongs in that legislation. Can you confirm/deny please?

Ta

Christine

Christine Blanchard JP (Qual)
Waste Minimisation Manager | Waste and Resource Recovery Services Branch
Field Services Group | BRISBANE CITY COUNCIL

Green Square | Level 2, 505 St Pauls Terrace, Fortitude Valley, 4006
Phone: 07 31788419 Mobile: 0408408018 Email: christine.blanchard@brisbane.qld.gov.au

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This email originates from outside of Brisbane City Council.
Hi Bill,

We are getting whispers that EHP want to move s7 of the Waste Reduction and Recycling Regulation 2011 to the LG legislation. They feel it's a LG issue so belongs in that legislation. Can you confirm/deny please?

Ta

Christine

Christine Blanchard  JP (Qual)
Waste Minimisation Manager | Waste and Resource Recovery Services Branch
Field Services Group | BRISBANE CITY COUNCIL

Green Square | Level 2, 505 St Pauls Terrace, Fortitude Valley, 4006
Phone: 07 31788419 Mobile: Email: christine.blanchard@brisbane.qld.gov.au

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Hi Bill

You might have been aware that LGAQ wrote to our Director-General in relation to the expiry of section 7 and Chapter 5A. I’ve attached a copy of the LGAQ letter and our draft response for your information. Basically we’ve decided to extend the expiry of both provisions for another two years so that we can get these issues resolved once and for all. LGAQ should receive this advice shortly and I imagine they will circulate the decision. I’m sure there will be mixed feelings among councils around Chapter 5A – as a number of councils have developed or are well on their way to developing their own local laws. Just a quick question, if they have duplicated the provisions of the regulation and the regulation is no longer going to expire what effect does retention of the provisions have on the validity of the local law – or can the two operate together?

See you next week

Cheers

Kylie

Kylie Hughes
Manager
Waste Policy and Legislation | Strategic Environment and Waste Policy
Department of Environment and Heritage Protection
P 07 3330 5020
 lvl 10, 400 George Street, Brisbane
 PO Box 2454, Brisbane, QLD, 4001

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31 August 2015

Mr Jon Black  
Director-General  
Department of Environment and Heritage Protection  
GPO Box 2454  
BRISBANE QLD 4001

Dear Mr Black,

Re: Section 7 of the Waste Reduction and Recycling Regulation 2011 and Chapter 5A of the Environmental Protection Regulation 2008

In relation to the above regulations, which are both due to expire on 1 September 2016, I will address the two issues in turn:

Section 7 of the Waste Reduction and Recycling Regulation 2011

On 29 August 2014, the Environmental Protection (Waste Management) Regulation 2000 was repealed. The waste management section of this regulation included provisions relating to the placement and use of bins as well as a "head of power" to allow councils to designate general waste or green waste collection areas. The waste management provisions were temporarily moved to Chapter 5A of the Environmental Protection Regulation 2008 to allow local governments to put alternative measures in place to deal with local waste management issues, with a 1 September 2016 expiry date placed upon them.

At the same time, the "head of power" to designate a waste collection area was moved into Section 7 of the Waste Reduction and Recycling Regulation 2011. A sunset clause of 1 September 2016 was also placed on this section.

The purpose of this letter is to request the omission of Section 7A of the Waste Reduction and Recycling Regulation 2011 and, by inference, the expiry of the "head of power" in Section 7 on 1 September 2016, thereby preserving the status quo.

The LGAQ is not aware of any local government that has replicated Section 7 in a local law. In fact, the LGAQ understands that legal advice obtained by some councils has indicated that the inclusion in a local law of a "head of power" type provision analogous to Section 7 may be subject to legal challenge and that such a challenge would have reasonable prospects of success.

Councils are also concerned that removing the head of power from state legislation could make it more difficult to enforce waste collection services. This is particularly true for councils with rural areas, including in South-East Queensland, where the expansion of waste collection services is often met with resistance.

Furthermore, making a local law is a significant process for local governments whereas the deletion of Section 7A is a simple Regulation amendment which requires no parliamentary approval.

Deputy Director-General Tony Roberts indicated to the LGAQ Waste and Environmental Health Reference Group at its 21 May 2015 meeting that the Government may be willing to consider retention of Section 7 should the LGAQ request this in writing. I trust this letter provides you with the grounds on which to act to remove the 1 September 2016 expiry date.
Chapter 5A of the Environmental Protection Regulation 2008

The LGAQ also requests that consideration be given to retaining Chapter 5A of the Environmental Protection Regulation 2008, which includes provisions relating to the placement and use of bins and other waste management matters, by removing the 1 September 2016 expiry date in Section 81ZU.

The LGAQ understands the placement of an expiry date on these provisions was driven by a desire to reduce red tape. However, the LGAQ contends that forcing 77 councils to each make a local law with provisions that were previously contained in a single piece of state legislation amounts to a significant increase in red tape. The retention of the existing state legislation would alleviate undue cost and burden on councils and the need for the creation of 77 individual local laws across Queensland.

There is a risk that the creation of multiple local laws pertaining to waste management between council areas will lead to different regulatory requirements and service offerings. This may lead to confusion, not just for the domestic householder moving from one area to another, but also businesses, particularly those operating sites across different council areas, and the waste management industry itself, who will have to provide unique service offerings for each area (beyond the current variances).

The LGAQ is only aware of one council that has made a local law to replace Chapter 5A for its area (Brisbane City Council). Other councils have been reluctant to go down this path because they would prefer to see Chapter 5A retained. The development of a model local law is unlikely to meet the needs of local governments either, as Brisbane City Council has demonstrated by opting to amend an existing local law rather than developing a new one.

The concerns I cited earlier around enforcement apply equally to the Chapter 5A provisions. Councils are concerned that placing the Chapter 5A provisions in local laws could lead to detrimental environmental outcomes because of enforcement difficulties.

As mentioned earlier, making a local law is a significant process. In light of the local government elections to be held in March 2016, local governments would need to start the process as soon as possible to be confident that a local law is in place in time for the 1 September 2016 expiry date of the Chapter 5A provisions. I am aware three SEQ councils have commenced drafting a local law, but reluctantly and only because of these time constraints.

I urge you, therefore, to provide clarity to councils by removing this expiry date and thus retaining Chapter 5A of the Environmental Protection Regulation 2008.

The LGAQ requests a meeting with you to discuss the two aforementioned issues as soon as practicable.

Should you wish to discuss any of these matters further, please do not hesitate to contact me directly or Robert Ferguson, Senior Advisor – Environmental and Public Health (telephone (07) 3000 2212 or email Robert_Ferguson@lgaq.asn.au).

Yours sincerely

Greg Hoffman PSM
GENERAL MANAGER-ADVOCACY
Dear Mr Hoffman

Thank you for your letter dated 31 August 2015 concerning regulatory provisions relating to local government waste management.

I have noted your concerns in relation to the expiry of both Section 7 of the Waste Reduction and Recycling Regulation 2011 and Chapter 5A of the Environmental Protection Regulation 2008.

In relation to Section 7, I understand that this section provides the ability for local governments to designate areas within the local government for the collection of general waste as a service provided or contracted by the local government. It also allows the local government to determine the collection frequency of such services.

The Department of Environment and Heritage Protection (department) is currently seeking further advice on this issue. It is our current understanding that local governments may make a local law in relation to these matters. However, there remains a question around whether the provision is anti-competitive as it is conferring a power on local government broadly to conduct a general and green waste collection service. This is a question for the regulation as much as for a local law. Departmental officers are currently working with officers of the Department of Infrastructure, Local Government and Planning to resolve the issue.

Several options are being investigated, including retention of this section in the Waste Reduction and Recycling Regulation 2011 or moving it into the Waste Reduction and Recycling Act 2011 and clarifying that its application is for the designation of domestic or household waste, recyclable waste or green waste collection areas.

As consideration of the options could take some time, the department has decided to extend this section until 1 September 2018 to allow time for full consideration of the issues.
and legislative amendment where necessary. This extension will also be applied to the provisions of Chapter 5A.

I am happy to meet with you should you wish to further discuss the issues of concern for local governments.

Should you or your staff have any further enquiries, please contact Ms Kylie Hughes, Manager, Waste Policy and Legislation on telephone 07 3330 5020.

Yours sincerely

Jonathan (Jon) PC Black
Director-General
Hi Bill

That all looks good – thanks for organising this. The only day in the first week of October that I’m available is Tuesday 6th (Monday is a public holiday) – unless Louise is free on 1 or 2 October.

Cheers

Kylie

Kylie Hughes
Manager
Waste Policy and Legislation | Strategic Environment and Waste Policy
Department of Environment and Heritage Protection
P: 07 3330 5020
M: 0416 356 433
Lvl 10, 400 George Street, Brisbane
PO Box 2454, Brisbane, QLD, 4001

From: Bill Hastie [mailto:Bill.Hastie@dilgp.qld.gov.au]
Sent: Thursday, 24 September 2015 11:31 AM
To: HUGHES Kylie
Subject: RE: Residential waste services - expiry of the local government area designation power in the Waste Reduction and Recycling Regulation

Hi Kylie

As discussed yesterday I am arranging the meeting with the Queensland Treasury to discuss this issue. One of their key people, Louise Dunne, is away until the first week of October so I will schedule the meeting for that week.

With the meeting invitation I wanted send them some background on the issue. I have prepared the following text and I have also extracted a copy of section 7 of the Regulation and an extract from the Explanatory Notes when section 7 was inserted into the Waste Reduction and Recycling Regulation 2011 in 2013 (see attached documents). Are you happy with this text? Do you want to make any changes or make any additions?

Section 7 was inserted into the Waste Reduction and Recycling Regulation 2011 in 2013. Section 7 allows a local government to designate areas within its local government area in which the local government may conduct general waste or green waste collection. It also allows a local government to decide the frequency of general waste or green collection in the designated areas. Section 7A was inserted into the Regulation in 2014 and provides for the expiry of the section on 1 September 2016.

Both Brisbane City Council and the Local Government Association of Queensland have expressed concern about the expiry of section 7 and have requested that the provision be retained.

The Department of Environment and Heritage Protection and the Department of Infrastructure, Local Government and Planning are considering whether section 7 should be retained and have concerns that section 7 may be regarded as a possible anti-competitive provision. We would like to discuss these concerns with Queensland Treasury.

A copy of section 7 and an extract from the Explanatory Notes when section 7 was inserted into the Waste Reduction and Recycling Regulation 2011 in 2013 is attached for your information.
Thanks

Bill Hastie  
Manager (Policy)  
Legal, Legislation and Policy Services  
Department of Infrastructure, Local Government and Planning  
Level 11, 100 George St Brisbane QLD 4000  
p. 07 3452 6710  |  m. e. bill.hastie@ dilq p.qld.gov.au  
Customers first | Ideas into action | Unleash potential | Be courageous | Empower people

-----Original Message-----  
From: HUGHES Kylie [mailto:Kylie.Hughes@ehp.qld.gov.au]  
Sent: Monday, 14 September 2015 1:42 PM  
To: Bill Hastie  
Subject: Re: Residential waste services - expiry of the local government area designation power in the Waste Reduction and Recycling Regulation  

Hi Bill  
I'm in Sydney today but will give you a call in the morning. And sorry, I got your message last week just before I jumped on a plane to Cairns for the rest of that week.  

Cheers  
Kylie  

Sent from my iPhone

On 14/09/2015, at 1:37 PM, "Bill Hastie" <Bill.Hastie@dilgp.qld.gov.au> wrote:  
Hi Kylie  
Can you give me a call about this please.  

Thanks  
Bill Hastie  
Manager (Policy)  
Legal, Legislation and Policy Services  
Department of Infrastructure, Local Government and Planning Level 11, 100 George St Brisbane QLD 4000  
p. 07 3452 6710  |  m. e. bill.hastie@dilgp.qld.gov.au  
Customers first | Ideas into action | Unleash potential | Be courageous | Empower people

From: Beverley Homel [mailto:Beverley.Homel@brisbane.qld.gov.au]  
Sent: Monday, 7 September 2015 1:08 PM  
To: Bill Hastie; kylie.hughes@ehp.qld.gov.au  
Cc: Christine Blanchard  
Subject: Residential waste services - expiry of the local government area designation power in the Waste Reduction and Recycling Regulation  

Hello Bill and Kylie,
Concerning our meeting on August 13 - I believe that you were both going to follow up with your departments concerning your respective legislative agendas, and Bill, that you were going to liaise with Treasury about the competition implications of some of the options under consideration.

Do you have an update for us?

Regards

Beverley Homel
Solicitor | Brisbane City Legal Practice
Office of the Lord Mayor and Chief Executive Officer | BRISBANE CITY COUNCIL

Brisbane Square | Level 20, 266 George Street, Brisbane, Qld 4000
Phone: +61-7-3403 6801 | Fax 07 3334 0058
Email: beverley.homel@brisbane.qld.gov.au

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From: HUGHES Kylie <Kylie.Hughes@ehp.qld.gov.au>
Sent: Thursday, 24 September 2015 12:21 PM
To: Bill Hastie
Subject: RE: Residential waste services - expiry of the local government area designation power in the Waste Reduction and Recycling Regulation

Great – between 10 and 12 on 13 or 15 are fine for me or anytime on 16.

Cheers

Kylie Hughes
Manager
Waste Policy and Legislation | Strategic Environment and Waste Policy
Department of Environment and Heritage Protection
P 07 3330 5020
lvl 10, 400 George Street, Brisbane
PO Box 2454, Brisbane, QLD, 4001

From: Bill Hastie [mailto:Bill.Hastie@dlgp.qld.gov.au]
Sent: Thursday, 24 September 2015 12:19 PM
To: HUGHES Kylie
Subject: RE: Residential waste services - expiry of the local government area designation power in the Waste Reduction and Recycling Regulation

Hi Kylie

I will try for the 6th October, otherwise the following week.

Thanks

Bill Hastie
Manager (Policy)
Legal, Legislation and Policy Services
Department of Infrastructure, Local Government and Planning
Level 11, 100 George St Brisbane QLD 4000
p. 07 3452 6710 | m. 0434 798 803 | e. bill.hastie@dlgp.qld.gov.au

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From: HUGHES Kylie [mailto:Kylie.Hughes@ehp.qld.gov.au]
Sent: Thursday, 24 September 2015 12:13 PM
To: Bill Hastie
Subject: RE: Residential waste services - expiry of the local government area designation power in the Waste Reduction and Recycling Regulation

Hi Bill

That all looks good – thanks for organising this. The only day in the first week of October that I'm available is Tuesday 6th (Monday is a public holiday) – unless Louise is free on 1 or 2 October.

Cheers
Hi Kylie

As discussed yesterday I am arranging the meeting with the Queensland Treasury to discuss this issue. One of their key people, Louise Dunne, is away until the first week of October so I will schedule the meeting for that week.

With the meeting invitation I wanted send them some background on the issue. I have prepared the following text and I have also extracted a copy of section 7 of the Regulation and an extract from the Explanatory Notes when section 7 was inserted into the Waste Reduction and Recycling Regulation 2011 in 2013 (see attached documents). Are you happy with this text? Do you want to make any changes or make any additions?

Section 7 was inserted into the Waste Reduction and Recycling Regulation 2011 in 2013. Section 7 allows a local government to designate areas within its local government area in which the local government may conduct general waste or green waste collection. It also allows a local government to decide the frequency of general waste or green collection in the designated areas. Section 7A was inserted into the Regulation in 2014 and provides for the expiry of the section on 1 September 2016.

Both Brisbane City Council and the Local Government Association of Queensland have expressed concern about the expiry of section 7 and have requested that the provision be retained.

The Department of Environment and Heritage Protection and the Department of Infrastructure, Local Government and Planning are considering whether section 7 should be retained and have concerns that section 7 may be regarded as a possible anti-competitive provision. We would like to discuss these concerns with Queensland Treasury.

A copy of section 7 and an extract from the Explanatory Notes when section 7 was inserted into the Waste Reduction and Recycling Regulation 2011 in 2013 is attached for your information.

Thanks

Bill Hastie
Manager (Policy)
Legal, Legislation and Policy Services
Department of Infrastructure, Local Government and Planning
Level 11, 100 George St Brisbane QLD 4000
-----Original Message-----
From: HUGHES Kylie [mailto:Kylie.Hughes@ehp.qld.gov.au]
Sent: Monday, 14 September 2015 1:42PM
To: Bill Hastie
Subject: Re: Residential waste services - expiry of the local government area designatoin power in the Waste Reduction and Recycling Regulation

Hi Bill

I'm in Sydney today but will give you a call in the morning. And sorry, I got your message last week just before I jumped on a plane to Cairns for the rest of that week.

Cheers
Kylie

Sent from my iPhone

On 14/09/2015, at 1:37 PM, "Bill Hastie" <Bill.Hastie@dilgp.qld.gov.au> wrote:

Hi Kylie

Can you give me a call about this please.

Thanks

Bill Hastie
Manager (Policy)
Legal, Legislation and Policy Services
Department of Infrastructure, Local Government and Planning Level 11, 100 George St Brisbane QLD 4000 p. 07 3452 6710 | m. 07 3452 6710 | e. bill.hastie@dilgp.qld.gov.au

-----Original Message-----
From: Beverley Hamel [mailto:Beverley.Hamel@brisbane.qld.gov.au]
Sent: Monday, 7 September 2015 1:08 PM
To: Bill Hastie; kylie.hughes@ehp.qld.gov.au
Cc: Christine Blanchard
Subject: Residential waste services - expiry of the local government area designatoin power in the Waste Reduction and Recycling Regulation

Hello Bill and Kylie,

Concerning our meeting on August 13 - I believe that you were both going to follow up with your departments concerning your respective legislative agendas, and Bill, that you were going to liaise with Treasury about the competition implications of some of the options under consideration.

Do you have an update for us?

Regards

Beverley Hamel
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### Deputy Premier, Minister for Infrastructure, Local Government & Planning

**Correspondence action sheet**

**DILGP - Date rec. in DPO/ODG:** 1/1/2016

**Date due:**

**Date received by DLO:** 1 NOV 2016

**Tracking ref.:** D2/3254

**File No.:**

**Deputy Premier, Minister for **

---

**Corro type**

- Deputy Premier
- Director-General

**Triage category**

- 1. DDO to respond immediately (NRN, call, email or template letter); OR 1 formal ESU referral
- 2. Operational corre - relevant ED (or LGRS Director) to action (DFAA, call, email or response letter). Escalate if necessary.
- 3. DG office signatory (DG delegation; statutory requirement; from DG/CEO; strategic or contentious)
- 4. DP office signatory (DP delegation; statutory requirement; from minister, mayor or MP; strategic or contentious)

**Copies of incoming to:** (ESU to organise - e.g. corre from peak bodies, mayors, ministers, MPs etc)

- Deputy Premier
- CoS
- Assistant Minister
- AM Advisor
- DP Media
- DP’s EA (for invites etc)
- Senior Infrastructure / BQ Advisor
- Senior Planning Advisor
- Senior Economic Advisor
- EDQ / S8 / RNA Act / Resorts Leg. Advisor
- Senior LG / Resilience / Veg. Man. Advisor
- QRA Advisor / CLO
- DG
- Director, ODG
- Director, Strategic Policy
- LGRS
- DDG / Strategic
- Other
- Other

**Action required**

- No response req. – file & note
- Ack - courtesy & final (ESU)
- Councillor(s) complaint
- Ref to other Minister(s) (list)
- Response letter / email
  - Interim (ESU to coordinate)
  - Priority - 5 days
  - Standard - 10 days
  - Complex - 15 days
  - Other / MALPI 20 days
  - Other
- Signatory:
  - Deputy Premier
  - Assistant Minister - LG
  - CoS
  - Director-General / CEO
  - ED / Director (or DDG if appropriate)
- Contact person: (for letter)
  - CoS
  - Director-General / CEO
  - Other

**Briefing note required?**

- Decision
- Meeting
- Noting
- If dept. deems necessary

**Allocation** (allocate to one only - that area to liaise with other divisions as necessary)

- Office of the DG
- SGR
- LGRS
- Planning
- EDQ
- IPP
- BQ
- South Bank
- DSD (SLA)
- QRA

**Drafting instructions for the department**

---

**Name/signed:**

**Date actioned by DLO:** 1 NOV 2016

---

**Registered lobbyist?**

**Staff complaint?**

**Correspondence finalised?**

---

**RTIP1617-038 (part 1) page number 31**
Dedicated to a better Brisbane

28 October 2016

Mr Frankie Carroll
Director-General
Department of Local Government Infrastructure and Planning
PO Box 15009
CITY EAST QLD 4002

Dear Mr Carroll

Proposed Repeal of Section 7 of the Waste Reduction and Recycling Regulation 2011

As you are aware, the domestic waste and collection services of Council rely upon the statutory head of power contained in Section 7 of the Waste and Reduction Recycling Regulation 2011 and Chapter 5A of the Environmental Protection Regulation 2008.

Both of these sections are currently set to expire on 1 July 2017.

Council believes that its centralised control of domestic waste and recycling services still represents the most beneficial and effective way of providing those collection services.

Council is currently undertaking a procurement process for a new waste contract and it will be unable to guarantee the long term exclusive right to undertake domestic waste and recycling collections if Section 7 of the Waste and Reduction Recycling Regulation 2011 and Chapter 5A of the Environmental Protection Regulation 2008 are allowed to expire.

Your assistance to ensure that none of these sections expire is requested.

If there is a concern at the proper place in a regulation for domestic waste services, I would request that active consideration be given to placing these provisions in the City of Brisbane Regulation 2012.

Yours sincerely,

Colin Jensen
CHIEF EXECUTIVE OFFICER
2 2 NOV 2016

Mr Colin Jensen
Chief Executive Officer
Brisbane City Council
GPO Box 1434
BRISBANE QLD 4001

Dear Mr Jensen,

Thank you for your letter of 28 October 2016 about the proposed repeal of section 7 of the Waste Reduction and Recycling Regulation 2011 and Chapter 5A of the Environmental Protection Regulation 2008.

The Department of Infrastructure, Local Government and Planning (DILGP) recognises that centralised control of domestic waste and recycling services by local governments often represents the most effective way of providing these collections services and acknowledges your concerns about the proposed repeal of these legislative provisions.

DILGP officers have been consulting with the Department of Environment and Heritage Protection (DEHP) about this matter. DEHP has advised it intends to establish a working group of local governments to discuss the possible continuation of these provisions. The first meeting of this working group is likely to be held in December 2016. DILGP has advised DEHP that it wishes to be represented on this working group and it is understood that the Brisbane City Council will be invited to participate.

If you require further information, I encourage you to contact Mr Stephen Johnston, Deputy Director-General, Local Government and Regional Services in DILGP on 3452 6789 or by email at stephen.johnston@dilgp.qld.gov.au.

Yours sincerely,

Frankie Carroll
Director-General
Thanks Bill. No, not yet. Arron believed that that meeting had been held between Kylie, LGAQ, GCCC and SCRC (and BCC). You weren’t there, hence our request to meet with you. But if you believe that meeting is yet to occur then we are happy to wait for that.

Christine Blanchard  
Waste Minimisation Manager | Waste and Resource Recovery Services Branch 
Field Services Group | BRISBANE CITY COUNCIL

Hi Christine

Kylie Hughes from DEHP was proposing to set up a meeting with councils some time in December to discuss section 7. We proposed to attend that meeting as well. Have you heard anything yet from Kylie about this meeting?

Thanks

Bill Hastie 
Manager (Policy) 
Local Government and Regional Services 
Department of Infrastructure, Local Government and Planning 
Level 12, 1 William Street Brisbane QLD 4000 
p. 07 3452 6710 | m. 0414590651 | e. bill.hastie@dilgp.qld.gov.au

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Any chance we could meet you please to have a chat about s7 and the importance of retaining this clause for Brisbane City Council and local government? Arron Lee (my manager) is keen to see this section retained and we are worried that you don’t understand the importance of it.

Happy to meet at a time that works for you.

Thanks,

Christine

Christine Blanchard JP (Qual)
Waste Minimisation Manager | Waste and Resource Recovery Services Branch
Field Services Group | BRISBANE CITY COUNCIL

Green Square | Level 2, 505 St Pauls Terrace, Fortitude Valley, 4006
Phone: 07 31788419 Mobile: 
Email: christine.blanchard@brisbane.qld.gov.au

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This email originates from outside of Brisbane City Council.
Hi Bill,

Any chance we could meet you please to have a chat about s7 and the importance of retaining this clause for Brisbane City Council and local government? Arran Lee (my manager) is keen to see this section retained and we are worried that you don’t understand the importance of it.

Happy to meet at a time that works for you.

Thanks,

Christine

Christine Blanchard JP (Qual)
Waste Minimisation Manager | Waste and Resource Recovery Services Branch
Field Services Group | BRISBANE CITY COUNCIL

Green Square | Level 2, 505 St Pauls Terrace, Fortitude Valley, 4006
Phone: 07 31788419 Mobile: 0414 579 599 Email: christine.blanchard@brisbane.qld.gov.au

______________________________
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Hi Bill

Does next Wednesday at 10 suit? I can come down there - give me a chance to see the shiny new building :)

Cheers

Kylie

Sent from my iPhone

> On 18 Oct 2016, at 18:50, Bill Hastie <Bill.Hastie@dilgp.qld.gov.au> wrote:
> Hi Kylie
> Friday will not be a good day for me. We are moving to 1 William Street over the weekend so Friday will be a mess with packing etc. Some-time next week would be fine for me.
> All we have is a cc of the LGAQ's letter to your Minister with the submission attached - this was sent to us by the LGAQ.
> The DP's office have not advised us that they have been talking to your Minister's office, but it would not surprise me.
> Thanks
> Bill Hastie
> Manager (Policy)
> Local Government and Regional Services Department of Infrastructure,
> Local Government and Planning Level 11, 160 George St Brisbane QLD
> 4000 p. 07 3452 6710 | m. 0412 646 268 | e. bill.hastie@dilgp.qld.gov.au
> Customers first | Ideas into action | Unleash potential | Be courageous | Empower people
> -----Original Message-----
> From: HUGHES Kylie [mailto:Kylie.Hughes@ehp.qld.gov.au]
> Sent: Tuesday, 18 October 2016 5:41 PM
> To: Bill Hastie
> Subject: Re: LGAQ Submission on waste management services
> Hi Bill
> I'm back on Friday - do you have time on Friday morning around 11am to meet? Would you be able to come down to 400 George Street? And lastly, do you have a copy of what he gave the DP? I know he's been talking to someone in her office - or so he tells us - but haven't seen what's been provided.
> You may know that we extended the expiry of the provisions until 1 July 2017 and we are looking to get a working group together shortly to discuss the LG and waste sector issues before proposing any Reg amendments. We'll keep you in the loop on this and can talk further when we meet.
> Cheers
Hi Kylie

The LGAQ sent a copy of the letter and submission on waste management services that they sent to your Minister to the Deputy Premier.

I would like to arrange a meeting with you to discuss the issues when you are back in Brisbane.

Regards

Bill Hastie
Manager (Policy)
Local Government and Regional Services Department of Infrastructure,
Local Government and Planning Level 11, 100 George St Brisbane QLD
4000 p. 07 3452 6710 m.
bill.hastie@dilgp.qld.gov.au

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courageous | Empower people
Hi Bill

I'm back on Friday - do you have time on Friday morning around 11am to meet? Would you be able to come down to 400 George Street? And lastly, do you have a copy of what he gave the DP? I know he's been talking to someone in her office - or so he tells us - but haven't seen what's been provided.

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Cheers

Kylie

Sent from my iPhone

On 18 Oct 2016, at 16:06, Bill Hastie <Bill.Hastie@dilgp.qld.gov.au> wrote:

Hi Kylie

The LGAQ sent a copy of the letter and submission on waste management services that they sent to your Minister to the Deputy Premier.

I would like to arrange a meeting with you to discuss the issues when you are back in Brisbane.

Regards

Bill Hastie
Manager (Policy)
Local Government and Regional Services
Department of Infrastructure, Local Government and Planning
Level 11, 100 George St Brisbane QLD 4000
p. 07 3452 6710  m. 13 406 412 302
e. bill.hastie@dilgp.qld.gov.au

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13 October 2016

The Honourable Dr Steven Miles MP
Minister for Environment and Heritage Protection
Minister for National Parks and the Great Barrier Reef
GPO Box 2454
BRISBANE QLD 4001

Dear Minister,

Waste Management Services and Charging Arrangements

I refer to the recent amendments to Section 7A of the Waste Reduction and Recycling and Other Legislation Amendment Regulation (No. 1) 2016 that brings-forward the expiry date of the section to 1 July 2017.

This section provides a ‘head of power’ for local governments to designate waste collection areas and is of fundamental importance to councils’ existing waste strategies, operations and practices. In essence, the current legislative framework allows Councils to decide the most appropriate manner in which they provide waste management services and levy utility charges for such services with appropriate consideration given to the individual circumstances and waste strategies relevant to their communities.

The LGAQ is disappointed the amendment occurred despite a previous written extension commitment by the department and without prior consultation with the LGAQ, or councils, and prior to any analysis of consequences or assessment of options.

The LGAQ is aware the waste industry has raised concerns that current arrangements do not allow commercial operators from operating in these precincts and as such have requested a review of these arrangements. The waste industry claims that councils have a monopoly over bulk waste services and that the pricing of these services provides councils with a competitive advantage and prevents the waste industry from competing for the provision of waste services in an equitable manner.

These industry concerns are well known to the LGAQ with multiple incongruous complaints being made in the past five (5) years to various agencies, including the Queensland Competition Authority, the Australian Competition and Consumer Commission, the Queensland Ombudsman, and the State Auditor-General. The LGAQ has resolutely maintained that there should be no interference with the autonomy of local governments in the establishment of facilities, the provision of services and the related setting of rates and charges. The LGAQ also believes that the State Government should utilise its policy and regulatory levers for the greater public good and community wide benefit rather than the interests of a single sector.

In response to the concerns of Industry and local government and with the aim of permanently resolving this matter, the LGAQ engaged consultant, AEC Group, to undertake an impartial impact assessment to assist in understanding the full implications for councils and their ratepayers caused by possible changes to the rating powers for waste management services. The report also demonstrates that waste management charging practices across Queensland vary considerably and the use of waste management service areas and utility charges on non-domestic properties are not limited to one or two councils contrary to recent industry complaints.
Please find enclosed the AEC Group report 'Review of rating of non-domestic properties for waste services'. The report highlights several key considerations impacting residents and councils if the Section 7A provisions expire due to subsequent impacts on waste management services currently offered by councils. Most significantly, these include the:

- Increase in domestic waste management utility charges by 10%-20% ($28-$56) per household;
- Increase in disposal fees by 20%-30% ($25-$37.50 per tonne);
- Reduction in the certainty regarding ensuring all domestic and non-domestic properties have access to appropriate, affordable and convenient services;
- Introduction of inefficiencies in collection services;
- Reduced ability to control and regulate collection activities and the resultant negative impacts on public health, safety and amenity;
- Reduced ability to fund waste management activities of broader community and environmental benefit;
- Loss of ability to effectively influence and drive local resource recovery and waste diversion for non-domestic properties;
- Reduced certainty surrounding waste service numbers and processing/disposal volumes in negotiating contracts and establishing facilitating infrastructure;
- Potential for conflicts of interest with collection service contractors providing contracted services on behalf of Council and also competing for such services; and
- Potential implications for the provision of other utilities to non-domestic properties, such as water and sewerage.

The removal of the ability for Councils to levy waste management service charges, designate waste management service areas and/or control the type of bin and frequency would have significant and long-lasting effects on Councils and their communities. These impacts represent a clear cost shift to local communities to the sole benefit of the private sector.

In light of these outstanding concerns, the LGAQ requests an urgent meeting with you and your office to discuss the implications for councils and their local communities with an aim to provide a permanent solution.

Should further information be required in regard to this matter, please feel free to contact Mr Luke Hannan, Manager Planning Development and Environment on (07) 3000 2226 or Luke_Hannan@lgaq.asn.au.

Yours sincerely

GREG HALLAM PSM
CHIEF EXECUTIVE OFFICER

Cc The Honourable Jackie Trad, Deputy Premier, Minister for Infrastructure, Local Government and Planning and Minister for Trade and Investment.
REVIEW OF LOCAL GOVERNMENT RATING OF NON-DOMESTIC PROPERTIES FOR WASTE SERVICES
LOCAL GOVERNMENT ASSOCIATION OF QUEENSLAND
OCTOBER 2016
**REVIEW OF RATING OF NON-DOMESTIC PROPERTIES FOR WASTE SERVICES**

**DOCUMENT CONTROL**

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<td>Client:</td>
<td>Local Government Association of Queensland</td>
</tr>
<tr>
<td>Client Contact:</td>
<td>Robert Ferguson</td>
</tr>
<tr>
<td>Project Manager:</td>
<td>Gavin O'Donovan</td>
</tr>
<tr>
<td>Email:</td>
<td><a href="mailto:gavinodonovan@aecgroupltd.com">gavinodonovan@aecgroupltd.com</a></td>
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<td>Telephone:</td>
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EXECUTIVE SUMMARY

Many Queensland Councils presently levy mandatory waste management utility charges on non-domestic properties located within designated waste collection service precincts/areas. Waste Recycling Industry Queensland (WRIQ) is opposed to Queensland Councils having the capacity to levy waste management utility charges on non-domestic properties and has made approaches to numerous regulators and government authorities in an attempt to change the rating practices and waste collection service strategies of Queensland Councils (with a focus on Sunshine Coast Regional Council’s recycling and cardboard bulk bin services).

Under the Local Government Act 2009, Local Government Regulation 2012, City of Brisbane Act 2010 and City of Brisbane Regulation 2012, Queensland Councils have the power to levy utility charges for waste management services, facilities or activities on any basis they consider appropriate. The right to designate waste collection service areas and services lies within provisions contained within the Waste Reduction and Recycling Regulation 2011 and Environmental Protection Regulation 2008, which initially had an expiry date of 1st September 2016 but the expiry date has since been extended to 1st July 2017. DEHP has indicated that it would be consulting with local governments through to mid-2017 on the amended framework.

In essence, the current legislative framework allows Councils to decide the most appropriate manner in which they provide waste management services and levy utility charges for such services with appropriate consideration given to the individual circumstances and waste strategies relevant to their jurisdictions.

Following a review of the revenue strategies of around half of all Queensland Councils, a significant proportion of Councils were found to levy mandatory waste management utility charges on non-domestic properties. Even if no more Councils outside of those identified from the sample assessment levied such charges (a dangerous assumption to make), at least 10% of Queensland Councils currently levy mandatory waste management utility charges (related to the provision of waste collection services) on non-domestic properties with this proportion increasing to between 15% and 20% when Councils levying utility charges on non-domestic properties to fund non-collection waste services are included.

Waste collection is facilitated by these Councils as a valid exercise of a statutory function and to ensure a number of outcomes are achieved that would not otherwise be achievable if waste collection services were left to the market, including the ability to achieve enhanced waste diversion outcomes from the commercial and industrial sector, minimising traffic movements and noise, maximising public safety, achieving greater economies of scale in the provision of high quality services to all ratepayers irrespective of location and size, increased certainty to inform contractual arrangements, and ability to fund waste management activities of broad community benefit.

Consequently, any change in the legislative provisions underlying the levying of waste management utility charges on non-domestic properties would represent a significant policy shift that would have considerable upfront and ongoing financial and operating cost implications across a substantial portion of the local government sector. Anticipated impacts are summarised below:

- A reduction in the certainty regarding ensuring all domestic and non-domestic properties have access to appropriate, affordable and convenient services irrespective of their location or size and the removal of postage stamp pricing.
- Introduction of inefficiencies in collection services from duplicated/triplicated truck runs increasing direct service costs and increased unit costs per service as a result of having to spread fixed waste management function costs over a smaller customer base that will result in higher aggregate service costs for the community.
- Reduced ability to control and regulate collection activities and the resultant negative impacts on public health, safety and amenity from a considerable increase in truck movements, lack of coordinated collection in each area, lack of consideration regarding collection times and visual amenity in bin servicing.
- Loss of ability to effectively influence and drive local resource recovery and waste diversion for non-domestic properties, meaning that local and state waste reduction and recycling strategy targets are unable to be reached – in fact, it is estimated that the level of recycling of kerbside waste generated by non-domestic properties would be likely to drop to 5% (consistent with industry outcomes where mandated bundled services are not in place) from around 20% under the status quo.
REVIEW OF RATING OF NON-DOMESTIC PROPERTIES FOR WASTE SERVICES

- Impact on throughput and viability at regional materials recovery facilities.
- Reduced certainty surrounding waste service numbers and processing/disposal volumes in negotiating contracts and establishing facilitating infrastructure.
- Reduced ability to fund waste management activities of broader community benefit from non-domestic properties which benefit from such activities.
- Potential for conflicts of interest with collection service contractors providing contracted services on behalf of Council and also competing for such services – and leveraging of the Council contract's economies of scale as a barrier to entry to other potential providers (albeit noting that there are few providers that provide waste collection services anyway).
- As a result of the lost contribution to the fixed costs of the waste management function by non-domestic properties and the potential disposal of waste to non-Council facilities, the financial impacts fall on residents in affected local government areas are estimated at:
  - An increase in domestic waste management utility charges by 10%-20%, equating to $28-$56 when applied to the average domestic waste management utility charge for large Councils in Queensland in 2015/16.
  - An increase in waste disposal fees for self-haul loads by 20%-30%, equating to $25-$37.50 when applied to the average disposal fee for large Councils in Queensland in 2015/16.
- Potential implications for the provision of other utilities to non-domestic properties, such as water and sewerage.

It is unclear as to the options being considered to amend or replace the existing legislative provisions. However, if legislation was revised to only include the power for Councils to designate domestic household waste, recyclable waste or green waste collection areas, it is important to note that there are ambiguities in service provision and responsibilities in defining domestic versus non-domestic, given both domestic and non-domestic premises often exist in mixed use developments and multi-occupancy dwellings and will share the same bulk bins and the existence of domestic components within land uses such as aged care/retirement villages, caravan parks, visitor accommodation, etc.

The diversity of Queensland ensures that a 'one size fits all' approach simply does not work and a range of approaches are needed to respond to these local challenges. In addition, population density, geographical diversity and remoteness, significant weather events and natural disasters have required a range of approaches to waste collection services.

Regarding the ability for Councils to leverage off competitive forces to minimise waste management charges levied, it is believed that waste collection services are most efficiently undertaken by a single service provider in a coordinated manner that maximises logistical efficiency and ensures no duplication of service runs. Where Councils select waste collection service providers from the market via an open, competitive tender process, the benefits of economies of scale and competitive market forces are internalised in the contract rates tendered by each private sector operator. Allowing non-domestic properties to 'opt-out' of Council waste management utility charges and services will not produce an overall cost saving to local communities, but will instead see non-domestic properties opt for (and the market provide) waste collection services that are least cost rather than considering the community and environmental implications associated with waste disposal.
REVIEW OF RATING OF NON-DOMESTIC PROPERTIES FOR WASTE SERVICES

REFERENCES ........................................................................................................... 27
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1. INTRODUCTION

Many Queensland Councils presently levy mandatory waste management utility charges on non-domestic properties located within designated waste collection service precincts/areas. Waste Recycling Industry Queensland (WRIQ) is opposed to Queensland Councils having the capacity to levy waste management utility charges on non-domestic properties and has made approaches to numerous regulators and government authorities in an attempt to change the rating practices and waste collection service strategies of Queensland Councils (with a focus on Sunshine Coast Regional Council’s recycling and cardboard bulk bin services).

With selected legislative provisions in the Waste Reduction and Recycling Regulation 2011 and Environmental Protection Regulation 2008 expiring on 1st July 2017 (recently extended from 1st September 2016), AEC was commissioned by the Local Government Association of Queensland (LGAQ) to undertake an assessment of the implications for Queensland Councils from the potential removal or amendment of powers to levy waste management utility charges on non-domestic properties.

The overarching objective of the study is to provide a clear impact assessment and position paper on the issue, including the identification of implications for ratepayers from any removal or amendment of Council powers to levy waste management utility charges on non-domestic properties.

The approach to the assessment is as follows:

- Review of legislative and regulatory environment.
- Identification of Councils levying mandatory waste management utility charges on non-domestic properties within selected or all designated waste collection service precincts/areas.
- Summary of challenges made to the status quo.
- Assessment of impacts associated with the removal or amendment of current powers.
2. LEGISLATIVE/REGULATORY ENVIRONMENT

2.1 RATING POWERS

2.1.1 Services Funded via Utility Charges

Section 94 (1b) of the Local Government Act 2009 provides Queensland local governments the power to levy utility charges, with Section 92 (4) of the Local Government Act 2009 identifying that utility charges are for a service, facility or activity that includes waste management. For Brisbane City Council, Section 96 (1b) of the City of Brisbane Act 2010 provides it with the power to levy utility charges, with Section 94 (4) of the City of Brisbane Act 2010 identifying that utility charges are for a service, facility or activity that includes waste management (including recycling).

The term 'waste management' is not defined and therefore can be taken as its broad meaning which would extend to a range of general waste management services including the collection and disposal of domestic waste, commercial waste and recyclable or recoverable waste as well as other waste management services of broader community benefit.

2.1.2 Basis for Utility Charges

Section 99 (1) of the Local Government Regulation 2012 indicates that a local government may levy utility charges on any basis the local government considers appropriate. For Brisbane City Council, Section 92 (1) of the City of Brisbane Regulation 2012 provides it with the power to utility charges on any basis it considers appropriate.

2.2 DESIGNATION OF WASTE COLLECTION SERVICE AREAS

2.2.1 Historical Head of Power

Subdivision 1 of the (now repealed) Environmental Protection (Waste Management) Regulation 2000 included provisions relating to the placement and use of waste bins, as well as a head of power to allow Queensland Councils to designate general waste or green waste collection areas.

2.2.2 Initial Transitional Head of Power

On 29th August 2014, the Environmental Protection (Waste Management) Regulation 2000 was repealed, with the provisions temporarily moved to Chapter 5A of the Environmental Protection Regulation 2008 with an expiry date of 1st September 2016. The aim was to allow Councils to introduce alternative measures to deal with local waste management issues. At the same time, the head of power to designate a waste collection area was moved into Section 7 of the Waste Reduction and Recycling Regulation 2011 with an expiry date of 1st September 2016. This part expired on 1st September 2016.

Councils therefore have the right to designate waste collection services within their boundaries under Part 2A of the Waste Reduction and Recycling Regulation 2011, with the relevant extract outlined below.

7 Designation of areas

A local government may—
(a) by resolution, designate areas within its local government area in which the local government may conduct general waste or green waste collection; and
(b) decide the frequency of general waste or green waste collection in the designated areas.

Note:
If a local government conducts general waste or green waste collection as a significant business activity, see the Local Government Act 2009, chapter 3, part 2, division 2 (Business reform, including competitive neutrality) and the City of Brisbane Act 2010, chapter 3, part 3, division 2 (Business reform, including competitive neutrality).

7A Expiry

This part expires on 1 September 2016.
Schedule 9 of the Waste Reduction and Recycling Regulation 2011 defines general waste and green waste as follows:

- general waste means waste other than regulated waste.
- green waste means grass cuttings, trees, bushes, shrubs, loppings of trees, bushes or shrubs, or similar matter produced as a result of the ordinary use or occupation of premises.

Section 81ZE of the Environmental Protection Regulation 2008 defines a serviced property for the provision of a waste collection service as a property located in an area designated by the local government under Section 7 of the Waste Reduction and Recycling Regulation 2011 (i.e. an area in which the local government may conduct waste collection or the local government requires the owner or occupier to arrange for the removal of general waste from the property).

Section 81ZF of the Environmental Protection Regulation 2008 states the owner or occupier must supply enough standard waste containers to contain the general waste produced at the premises or enough other waste containers if required by the local government under local law, resolution or development approval. Where a local government supplies the number of standard general waste containers to the premises, the reasonable cost of supplying the container/s are considered a debt payable by the owner or occupier to the local government. Section 81ZU of the Environmental Protection Regulation 2008 indicates that the chapter expires on 1st September 2016.

Schedule 12 of the Environmental Protection Regulation 2008 defines general waste (chapter 5A, part 2 is the applicable definition for local governments) as follows:

- general waste means—
  - (a) generally, waste other than regulated waste; or
  - (b) for chapter 5A, part 2, any of the following—
    - (i) commercial waste;
    - (ii) domestic waste;
    - (iii) recyclable waste.

- recyclable waste, for a local government’s area, means clean and inoffensive waste that is declared by the local government to be recyclable waste for the area. Examples of waste that may be declared to be recyclable waste—glass bottles, newspaper, cardboard, steel and aluminium cans, and green waste.

- standard general waste container means a container of a type approved by a local government for storing domestic waste, commercial waste or recyclable waste at premises in the local government’s area.

2.2.3 Revised Transitionary Head of Power

LGAQ wrote to the Department of Environment and Heritage Protection (DEHP) on 31st August 2015 to request preservation of the status quo on the basis that the proposed expiry of Section 7 of the Waste Reduction and Recycling Regulation 2011 and Chapter 5A of the Environmental Protection Regulation 2008 would:

- Increase uncertainty surrounding the ability of Councils to effectively manage waste, enforce waste collection services and promote environmental outcomes within their local areas, given that the inclusion of such head of power type provisions in local laws may be subject to (successful) challenge.
- Increase red tape across Queensland by requiring 77 Councils to introduce local laws (which are a significant process for Councils) as opposed to the current provisions contained within legislation.
- Increase complexity in understanding for residents moving from one jurisdiction to another and businesses operating in different jurisdictions given the existence of 77 different local laws.

In response, DEHP indicated to the LGAQ that it was considering a number of options and that in the interim it would extend the expiry to allow sufficient time for full consideration of the issues pertaining to the regulation. The Waste Reduction and Recycling and Other Legislation Amendments Regulation (No.1) 2016 was passed on 1st September 2016 which extended the expiry date of the provisions to 1st July 2017, with DEHP indicating that it would be consulting with local governments through to mid-2017 on the amended framework.

2.3 OPERATIONS AND STRATEGY

The Waste Reduction and Recycling Act 2011 provides guidance to local governments regarding waste management and resource recovery, the waste and resource management hierarchy and the polluter, user pays,
REVIEW OF RATING OF NON-DOMESTIC PROPERTIES FOR WASTE SERVICES

proximity and product stewardship principles. Sections 121-127 of the Waste Reduction and Recycling Act 2011 requires local governments to prepare waste reduction and recycling plans which best achieve the objectives of the legislation and specified waste reduction and recycling targets for waste generated in their local areas.

2.4 STATE GOVERNMENT WASTE DIVERSION TARGETS

The vision contained in the Queensland Waste Avoidance and Resource Productivity Strategy 2014-2024 is outlined below:

Queensland will become a national leader in avoiding unnecessary consumption and waste generation, adopting innovative resource recovery approaches, and managing all products and materials as valuable and finite resources. (Queensland Government; 2014; p.1)

The strategy includes a number of resource recovery and recycling rate targets across the state (outlined in the following table), in addition to identifying high priority wastes requiring action in order to achieve these targets. Queensland Councils are required to implement strategies to ensure that progression is made on each of the recycling rate targets in their local areas.

Table 2.1: Queensland Government Waste Targets

<table>
<thead>
<tr>
<th>Waste/Resource Stream</th>
<th>Measure</th>
<th>2012/13 Baseline</th>
<th>2024 Target</th>
</tr>
</thead>
<tbody>
<tr>
<td>Municipal Solid Waste</td>
<td>Improved Recycling Rate</td>
<td>37% metropolitan 65% metropolitan</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>30% regional centre 45% regional centre</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>39% state 50% state</td>
<td></td>
</tr>
<tr>
<td>Commercial and Industrial Waste</td>
<td>Improved Recycling Rate</td>
<td>42% state 55% state</td>
<td></td>
</tr>
<tr>
<td>Construction and Demolition Waste</td>
<td>Improved Recycling Rate</td>
<td>61% state 80% state</td>
<td></td>
</tr>
<tr>
<td>Reduce Generation of Waste</td>
<td>Reduction in Generation per capita</td>
<td>1.8t per capita 1.8t per capita</td>
<td></td>
</tr>
</tbody>
</table>


2.5 FINANCIAL MANAGEMENT AND COMPETITIVE NEUTRALITY

Section 43 of the Local Government Act 2009 includes provision for the application of the National Competition Policy Agreements and the competitive neutrality principle in relation to the significant business activities of Queensland Councils if the public benefit outweighs the costs of implementation. Significant business activities may or may not include waste management activities depending on whether they meet the relevant expenditure threshold. Full cost pricing forms part of the competitive neutrality principle, which involves setting revenue levels on a commercial basis if the reforms are in fact applied.

2.6 KEY OUTCOMES

Under the Local Government Act 2009, Local Government Regulation 2012, City of Brisbane Act 2010 and City of Brisbane Regulation 2012, Queensland Councils have the power to levy utility charges for waste management services, facilities or activities on any basis they consider appropriate.

The right to designate waste collection service areas and services lies within provisions contained within the Waste Reduction and Recycling Regulation 2011 and Environmental Protection Regulation 2008, which initially had an expiry date of 1st September 2016 but the expiry date has since been extended to 1st July 2017. DEHP has indicated that it would be consulting with local governments through to mid-2017 on the amended framework.

As a matter of direction regarding the preparation and implementation of local waste strategies by Councils, the State Government has released the Queensland Waste Avoidance and Resource Productivity Strategy 2014-2024 which includes recycling rate (i.e. diversion from landfill) targets of 55% for commercial and industrial waste. Achievement of these targets requires direct action from Councils in how they collect, transport, process and dispose of waste from commercial and industrial properties.
3. MANDATORY NON-DOMESTIC WASTE MANAGEMENT CHARGES

3.1 MANDATORY WASTE MANAGEMENT UTILITY CHARGES – COLLECTION AND OTHER SERVICES

The application of waste management utility charges varies widely across Queensland, depending on local service characteristics and waste strategies. A review of a substantial number of Queensland Councils identified that a number of Councils presently levy mandatory base waste management utility charges on all non-domestic properties within selected or all designated waste collection service precincts/areas, including:

- **Brisbane**
  - Mandatory base charge levied on first general waste wheelie bin service only.
  - Applies to the entire service area.

- **Briskein**
  - Mandatory base charge levied on first bundled general waste and recycling wheelie bin service, but only if a comparable bundled service is not taken up from a private operator.
  - Applies to the entire service area.

- **Douglas**
  - Mandatory base charge levied on bundled general waste and recycling bin wheelie bin and/or bulk bin services required to service each property, with charge units levied based on land use/property 1.
  - Applies to the entire service area.

- **Fraser Coast**
  - Mandatory base charge levied on first bundled general waste and recycling bin wheelie bin service.
  - Applies to the entire service area.

- **Gold Coast**
  - Mandatory base charge levied on the applicable general waste wheelie bin and/or bulk bin services required to service each property.
  - Applies only to four defined high density precincts.
  - All general waste and recycling wheelie bin and/or bulk bin services within each precinct are to be supplied by Council's contractor.

- **Noosa**
  - Mandatory base charge levied on the general waste wheelie bin and/or bulk bin services required to service each property, bundled with recycling wheelie bin and/or bulk bin services (generally of the same capacity).
  - Applies to the entire service area.
  - All general waste and recycling wheelie bin and/or bulk bin services within the entire service area are provided by Council's contractor.

- **Scenic Rim**
  - Mandatory base charge levied on first bundled general waste and recycling bin wheelie bin service.
  - Applies to the entire service area.

1. Brisbane levies Cleansing utility charges on commercial properties in the waste collection service area on a per occupancy or service unit basis irrespective of whether the service is taken up. For example, a normal commercial or industrial premises is levied one Cleansing utility charge, whereas hotels are levied 10 Cleansing utility charges and the Mossman Hospital is levied 36 Cleansing utility charges.

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REVIEW OF RATING OF NON-DOMESTIC PROPERTIES FOR WASTE SERVICES

- **Sunshine Coast**
  - Mandatory base charge levied on the general waste wheelie bin and/or bulk bin services required to service each property, bundled with the first recycling wheelie bin service.
  - Applies to the entire service area.
  - All general waste and recycling wheelie bin and/or bulk bin services within the entire service area are provided by Council's contractor.

There are likely to be a number of other Councils not assessed in detail that levy mandatory or minimum waste management utility charges on non-domestic properties. For example, without further investigation the Revenue Statements of two other Councils suggest that non-domestic properties are levied a minimum of one waste management utility charge each irrespective of whether a service is taken up. Mixed use premises in another Council area are also required to take up Council’s bulk bin waste collection service (which exists to service multi-occupancy dwellings).

Table 3.1 details the charging structures applied to all non-domestic properties located within designated areas for the identified Councils, in addition to the specific reasons underlying the application of such charges. In summary, the levying of charges on all non-domestic properties within designated areas occurs due to one or more of the following reasons:

- **Ability to achieve waste diversion outcomes in line with local and state waste reduction and recycling strategies to overcome historic poor performance in terms of the uptake of recycling services and waste diversion from the commercial and industrial sector, via the widespread provision of comingle recycling bins (generally 'bundled' with general waste bins) and the utilisation of alternative waste processing for the general waste bin where available (e.g. Douglas).**

- **Protecting public health and safety by minimising traffic movements and residential amenity issues associated with bin collection, including noise, traffic congestion and safety.**

- **Ensuring that traffic is minimised in high traffic areas and safety of residents and visitors in the collection of waste.**

- **Reducing duplicated or triplicated collection runs of a number of different collection service providers in the same streets.**

- **Minimising the carbon footprint from servicing the waste collection needs of businesses.**

- **Maximising economies of scale and logistical efficiency in waste collection, with competitive tendering of contracts producing best value for money for all ratepayers in aggregate and ensuring that all properties have access to appropriate, affordable and convenient services irrespective of their location or size.**

- **Maximising the level of certainty in waste volumes collected and received at processing facilities to ensure optimal outcomes from the open, competitive tender processes.**

- **Ability to fund waste management facilities and broader waste management activities (street bins, landfill remediation, education, compliance functions, strategy development, etc.).**

- **Utility charges and other service charges being advertised by Councils, allowing potential providers to cherry pick larger, more profitable customers.**
### Table 3.1: Mandated Service Comparative Details, Selected Councils

<table>
<thead>
<tr>
<th>Council</th>
<th>Mandatory Non-Domestic Service</th>
<th>Charge Structure</th>
<th>Services Offered</th>
<th>Basis for Levying Charges on All Non-Domestic Properties in Designated Areas</th>
</tr>
</thead>
</table>
| **Brisbane**  | (contracted)                    | • Council applies a mandatory wheelie bin service charge to all commercial properties regardless of whether the bin is actually supplied and used.  
• Recycling services are not bundled with general waste services for commercial premises but can be taken up on request as can additional general waste services.  
• Larger services are generally provided by the private sector. | • Mandatory wheelie bin service charge represents a 240L general waste bin only.  
• Additional services are available on request.  
• Recycling wheelie bins or recycling bulk bin services are available for additional charge. | • Mandatory charge is applied to cover the cost of waste collection and disposal, in addition to city cleansing functions (street bins, street sweeping, litter and illegal dumping clean up, CBD cleansing, etc.). |
| **Burdekin**  | (contracted)                    | • Where it is deemed by the Manager of Governance and Local Laws that the general waste and/or recycle service provided by a private contractor are not an equivalent service to Council's base service (i.e. bundled 240L or equivalent general waste bin service plus a recycling service), waste charges levied will consist of the relevant component as detailed in the revenue statement.  
• Where the waste and/or recycling service is received via a private contractor, the waste service agreement must be provided as proof of the appropriateness of the alternative service.  
• Commercial premises that require a bulk bin service may contract an approved waste contractor to arrange a service at their own cost.  
• Item specific recycling services (e.g. bulk cardboard, scrap metal) are provided by private contractors.  
• Two services are provided, depending on the location of the property and the applicable service area, being a 2-bin service (general waste plus recycling) and 3-bin service (general waste plus recycling plus green waste).  
• Non-domestic properties that require additional general waste or recycling services beyond those within the base service bundles are able to do so for the applicable charge. | • The 2-bin service consists of a 240L general waste bin plus a 240L recycling bin.  
• The 3-bin service consists of a 240L general waste bin plus a 240L recycling bin plus a 240L green waste bin.  
• Additional general waste, recycling or green waste bin services can be taken up for the applicable charge.  
• Bulk bin services are not provided by Council. | • Services the waste disposal needs of non-domestic properties.  
• Mandatory recycling service aims to achieve Council’s desired waste management outcomes, including reducing the amount of waste going to landfill, increasing the overall recycling rate for the commercial and industrial waste stream and reducing the impact of the waste disposal on the environment. |
## REVIEW OF RATING OF NON-DOMESTIC PROPERTIES FOR WASTE SERVICES

### Council | Mandatory Non-Domestic Service | Charge Structure | Services Offered | Basis for Levying Charges on All Non-Domestic Properties in Designated Areas |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Douglas</td>
<td>All land that has driveaway access to the roadway on which the collection vehicle travels in the course of carrying out refuse/recycling collection on behalf of Council.</td>
<td>A bundled waste management utility charge for general waste and recycling exists for both domestic and non-domestic properties.</td>
<td>The base service consists of a 240L general waste bin and a 240L recycling bin.</td>
<td>Enhances economies of scale in waste collection service provision.</td>
</tr>
<tr>
<td>(contracted)</td>
<td></td>
<td>The Cleansing service charge is levied on a per separate occupancy or a per cleansing service unit basis.</td>
<td>Bulk bins are provided where the number of charges levied warrants it and the service is able to be carried out.</td>
<td>Bundled service with recycling bin aims to maximise waste diversion from landfill, with recyclables transported directly to the Material Recovery Facility (MRF) in Cairns.</td>
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<tr>
<td></td>
<td></td>
<td>Cleansing service units vary depending on land use and property, with general commercial and industrial premises levied 1 charge and up to 36 charges levied for the Mossman Hospital.</td>
<td></td>
<td>Ensures that general waste bin contents are processed and reused to the extent possible, with contents transported from the Killaloe Transfer Station to SUEZ’s Advanced Resource Recovery Technology Facility in Cairns for processing and transformation into compost.</td>
</tr>
<tr>
<td>Fraser</td>
<td>All occupied land or structures in the defined waste collection area.</td>
<td>A standard waste service consists of a 240L general waste bin and a 240L recycling bin.</td>
<td>The base service consists of a 240L general waste bin and a 240L recycling bin.</td>
<td>Ensures a high quality base waste collection service inclusive of recycling capacity is available to all non-domestic properties across the region.</td>
</tr>
<tr>
<td>Coast</td>
<td>(contracted)</td>
<td>A customised waste service charge is also offered which consists of general waste bulk bins and up to the same recycling bin capacity (in bulk bins or wheelie bins) within the bundled charges.</td>
<td>Combined service bundles include:</td>
<td>Provides a safe and efficient waste and recyclables collection service that does not compromise the aesthetic characteristics of surrounding properties or the health of residents in the Council area.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>A standard waste service charge is levied for each structure, occupation or tenancy (and per 3 mould units).</td>
<td>o 1m³ waste bulk bin + equivalent recycling bins.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>A minimum waste service charge also applies, e.g. backpackers’ accommodation (1 per 7 beds), motel accommodation that is self-contained (1 per 7 rooms), dual key units (1.5 charges per unit), marina berths (1 per 7 berths), caravan parks (1 per 2 units).</td>
<td>o 1.5m³ waste bulk bin + equivalent recycling bins.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Non-domestic properties that require additional standard services or combined services beyond the base service bundle are able to do so for the applicable charge.</td>
<td>2m³ waste bulk bin + equivalent recycling bins.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Non-domestic properties that require additional recycling services beyond those within the base service bundles are able to do so for the applicable charge.</td>
<td>3m³ waste bulk bin + equivalent recycling bins.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Council provides bulk bins in competition with private sector providers.</td>
<td>4.5m³ waste bulk bin + equivalent recycling bins.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Waste services not provided by Council beyond the base service bundle (i.e. provided by a third party contractor) are not included in the calculations for the charges to be applied.</td>
<td>240L recycling bin (240L).</td>
<td></td>
</tr>
</tbody>
</table>
Gold Coast (contracted)

- All land or structures to which waste management services are supplied or, in the case of rateable occupied land, made available by Council in the mandatory waste services offered bases for levying charges on all non-domestic properties in designated areas.

Gold Coast (contracted)

- Separate waste management utility charges are levied on general waste and recycling bin services taken up by non-domestic properties, with the recycling service not bundled together with the general waste service (as occurs for domestic properties).
- Service charges differ depending on the frequency and days of collection each week.
- Non-domestic service charges are higher than domestic service charges based on a comparison of a standard 240L bundled service.
- All non-domestic properties within the mandatory waste collection precincts must use the Council general waste and recycling services rather than those of third party contractors, with the exception of specialist services such as bulk cardboard bins (as it is not a service offered by Council).
- Non-domestic properties also have the (optional) ability to take up green waste services for the applicable charge.
- Non-domestic properties located outside of the mandatory waste precincts have the option of taking up the general waste and recycling collection services offered by Council for the applicable charge (in competition with private waste contractors).

Services Offered

- Base general waste services to meet the required level of waste generation at each non-domestic property include one or more of the following:
  - Waste wheelie bins (140L, 240L, 360L).
  - Waste low noise bins (660L, 1100L, 1500L).
  - Waste bulk bins (0.75m³, 1m³, 1.5m³, 2m³, 2.25m³, 3m³).
  - Waste compactor bins (1.5m³, 3m³).
  - Waste RORO bins (6m³, 10m³, 15m³, 20m³, 23m³, 30m³).

- Recycling services include:
  - Recycling wheelie bins (140L, 240L, 360L).
  - Recycling low noise bins (660L, 1100L, 1500L).
  - Recycling bulk bin (0.75m³, 1m³, 1.5m³, 2m³, 2.25m³, 3m³, 4m³).
  - Recycling RORO bin (6m³).

- Optional green waste services include:
  - Green waste wheelie bin (240L).
  - Green waste bulk bins (1.5m³, 3m³).
  - Recycling RORO bin (15m³).

- The precincts selected by Council for mandatory servicing feature high concentrations of high density residential mixed with commercial premises, with the aim of protecting amenity by controlling the type, timing and frequency of servicing.
- Minimises noise pollution and maximises safety by controlling the volume of heavy vehicle traffic and the movement and safe collection of waste bins in areas with a high number of residents and tourists and/or which are designed in such a manner to support walking, cycling and public transport patronage.

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### REVIEW OF RATING OF NON-DOMESTIC PROPERTIES FOR WASTE SERVICES

<table>
<thead>
<tr>
<th>Council</th>
<th>Mandatory Non-Domestic Service</th>
<th>Charge Structure</th>
<th>Services Offered</th>
<th>Basis for Levying Charges on All Non-Domestic Properties in Designated Areas</th>
</tr>
</thead>
</table>
| Noosa (contracted) | All properties within the shire where waste services are, or can be made available. | - A bundled waste management utility charge for general waste and recycling exists for both domestic and non-domestic properties.  
- The waste management utility charge is the same for both domestic and non-domestic properties in the provision of all waste services.  
- Base wheelie bin services include a 240L recycling bin at no additional charge for each general waste bin supplied – there is generally no charge for each additional 240L recycling bin requested, subject to the service being authorised by Council.  
- Bulk bin services are entitled to recycling bins of the same capacity equivalent as the property’s serviced general waste bulk bin, up to a maximum capacity of 3m³ at no additional charge.  
- Non-domestic properties that require additional recycling services beyond those within the base service bundles are able to do so for the applicable charge.  
- Non-domestic properties also have the optional ability to take up green waste services for the applicable charge.  
- Non-domestic properties are also able to dispose of comingled recyclables (steel and aluminium cans, plastic milk/soft drink bottles, glass bottles and jars, paper and cardboard) free of charge to Council’s Resource Recovery Facilities. | - Base service bundles to meet the required level of waste generation at each non-domestic property include one or more of the following:  
  - 140L waste bin + 240L recycling bin.  
  - 240L waste bin + 240L recycling bin.  
  - 1100L waste low noise bin + equivalent recycling bins.  
  - 1m³ waste bulk bin + equivalent recycling bins.  
  - 1.5m³ waste bulk bin + equivalent recycling bins.  
  - 2m³ waste bulk bin + equivalent recycling bins.  
  - 3m³ waste compactor bin + up to 3m³ recycling bins.  
  - 1.5m³ waste compactor bin + up to 3m³ recycling bins.  
  - 1m³ waste compactor bin + up to 3m³ recycling bins.  
  - 23/30m³ waste compactor bin + up to 3m³ recycling bins.  
  - Recycling low noise bin (1100L).  
  - Optional green waste service (240L).  
  - Recycling wheelie bin (240L). | - During holiday periods, Council has experienced complaints by tourists about noise from early collections and received negative press from affected holidays makers broken early, particularly in Hastings Street and commercial areas.  
- Protects public health and safety by minimising the social impacts from waste collection trucks relating to noise, traffic congestion and safety, and minimises the carbon footprint from servicing the waste collection needs of businesses.  
- Minimises vehicle traffic and safety in areas of high population and activity, e.g., Hastings Street.  
- Non-domestic properties are entitled to an equivalent recycling volume to the waste volume with no increase in waste management utility charges to encourage the appropriate segregation of recyclables and to maximise waste diversion from landfill.  
- Council does not impose a waste levy in addition to the waste collection service charges, and relies upon both domestic and non-domestic waste charges to generate revenue to pay for the corporate costs associated with provision of waste collection and disposal costs, strategic development of the waste business and waste education initiatives – in the absence of non-domestic utility charges, domestic residents would be subsidising non-domestic properties. |
| Scenic Rim (contracted) | All occupied commercial properties within the Waste and Recycling Collection Areas. | - A bundled waste management utility charge for general waste and recycling wheelie bins exists for both domestic and non-domestic properties. Irrespective of whether the service is utilised.  
- A standard waste service consists of a 240L general waste bin and a 240L recycling bin.  
- General waste bulk bins are also available but are not bundled with recycling services which are charged on an optional take-up basis. | - The base service consists of a 240L general waste bin and a 240L recycling bin.  
- General waste bulk bins are also available (1m³, 1.5m³, 2m³, 3m³) serviced weekly or fortnightly.  
- Optional additional recycling services are via 240L recycling wheelie bins. | - Provides all Scenic Rim properties with effective and efficient waste collection and processing/disposal services and promotes the use of a regular kerbside waste collection service as an essential service for residential and commercial premises.  
- Kerbside waste collection service ensures environmentally sustainable recycling and waste disposal habits are developed thus reducing waste to landfill and increasing recycling throughout the region. |
**REVIEW OF RATING OF NON-DOMESTIC PROPERTIES FOR WASTE SERVICES**

<table>
<thead>
<tr>
<th>Council</th>
<th>Mandatory Non-Domestic Service</th>
<th>Charge Structure</th>
<th>Services Offered</th>
<th>Basis for Levying Charges in All Non-Domestic Properties in Designated Areas</th>
</tr>
</thead>
</table>
| Sunshine Coast (contracted) | All lands and/or premises within the Council area where waste services are, or can be made available. | - A bundled waste management utility charge for general waste and recycling exists for both domestic and non-domestic properties.  
  - The waste management utility charge is the same for both domestic and non-domestic properties in the provision of wheelie bin services where the base service includes a general waste wheelie bin and — upon application — a recycling wheelie bin (240L or 360L) at no additional charge for each general waste bin.  
  - Where bulk bins or low noise bins are taken up by non-domestic properties, the bundled service charge for each general waste bin includes the ability to take up either a 240L or 360L recycling service at no additional charge irrespective of the capacity of the general waste bin — by comparison, the bundled service charge for domestic properties with bulk bins or low noise bins includes a recycling bin of the same capacity (and therefore incur higher base utility charges).  
  - Compactor bins are only taken up by non-domestic properties and the bundled service charge for these bins includes recycling bins up to the same cubic metre capacity as the general waste bin.  
  - Non-domestic properties that require additional recycling services beyond those within the basic service bundles are able to do so for the applicable charge (must be through Council rather than a third party contractor).  
  - Non-domestic properties also have the (optional) ability to take up green waste services for the applicable charge. | - Base service bundles to meet the required level of waste generation at each non-domestic property include one or more of the following:  
  - 140L waste bin + 240L/360L recycling bin.  
  - 240L waste bin + 240L/360L recycling bin.  
  - 660L waste low noise bin + 240L/360L recycling bin.  
  - 1100L waste low noise bin + 240L/360L recycling bin.  
  - 1m³ waste bulk bin + 240L/360L recycling bin.  
  - 1.5m³ waste bulk bin + 240L/360L recycling bin.  
  - 2m³ waste bulk bin + 240L/360L recycling bin.  
  - 2m³ waste low noise bin + 240L/360L recycling bin.  
  - 4.5m³ waste bulk bin + 240L/360L recycling bin.  
  - 17m³ waste compactor bin + equivalent recycling bins.  
  - 19m³ waste compactor bin + equivalent recycling bins.  
  - 22m³ waste compactor bin + equivalent recycling bins.  
  - 30m³ waste compactor bin + equivalent recycling bins.  
  - 55m³ waste compactor bin + equivalent recycling bins.  
  - Optional additional recycling services include:  
    - Recycling wheelie bins (240L, 360L).  
    - Recycling low noise bins (660L, 1100L).  
    - Recycling bulk bins (1m³, 1.5m³, 2m³, 3m³, 4.5m³).  
  - Optional cardboard recycling bulk bin services, which must be authorised by Council (1m³, 1.5m³, 2m³, 3m³, 4.5m³).  
  - Optional garden waste services include:  
    - Garden waste wheelie bin (240L).  
    - Garden waste low noise bins (660L, 1100L). | - Minimises ratepayer utility charges in aggregate via the coordination of waste and recycling services in the most efficient manner (including open, competitively tendered contracts for collection, disposal and operation of waste processing facilities), and which maximises economies of scale, optimises resource recovery from collected waste and maximises certainty in the waste volumes collected and received.  
  - Ensures all businesses have access to appropriate, affordable and convenient services, irrespective of size or location.  
  - Provides an essential community service covering >95% of properties and remains both cost effective and customer focused.  
  - Protects public health and safety by minimising the social impacts from waste collection trucks relating to noise, traffic congestion and safety, and minimises the carbon footprint from servicing the waste collection needs of businesses.  
  - Protects the natural environment and is consistent with Council's vision to be Australia's most sustainable region.  
  - Service bundling to encourage recycling and the beneficial reuse of recyclable materials addresses a market failure which arises because the provision of recycling services only occurs where it is commercially profitable, which does not appropriately consider the non-financial social and environmental implications associated with disposal to landfill — a significant improvement has been experienced in the level waste diversion from landfill as a result of the policy. |

Source: AEC, assorted documents from, and consultation with, benchmarked Councils
3.2 MANDATORY WASTE MANAGEMENT UTILITY CHARGES – OTHER SERVICES

During the charging review, a number of Councils were identified as levying waste management utility charges on non-domestic properties to recoup costs associated with waste management activities deemed to be of broad community benefit, i.e., unrelated to the collection and processing/disposal of waste. These utility charges are levied on all non-domestic properties, irrespective of whether they reside within defined waste collection service areas. It should be noted here that many more levy waste management utility charges on domestic properties for the same purpose (not identified here).

Table 3.2: Mandatory Utility Charges to Fund Non-Collection Waste Activities, Selected Councils

<table>
<thead>
<tr>
<th>Council</th>
<th>Utility Charge Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barcaldine</td>
<td>The Waste Management Charge is levied on all parcels of land (including vacant land and additional lots) within the designated town area in each community to recover costs associated with the provision of waste facilities.</td>
</tr>
<tr>
<td>Burdekin</td>
<td>A Waste Legacy Landfill Charge is levied on every parcel of rateable land to fund expenditure and projects that assist in remediating or reducing the environmental and human health risks associated with former landfill sites located in the Shire, including further detailed assessment of sites if required.</td>
</tr>
<tr>
<td>Central Highlands</td>
<td>The Waste Management Charge is levied on all residential and non-residential assessments to recover costs associated with the provision of waste facilities.</td>
</tr>
<tr>
<td>Lockyer Valley</td>
<td>A Waste Management Charge is levied on all land in the region to fund recurrent and capital expenditure and the administration costs associated with the provision, improvement and management of Council's waste management facilities (including landfill sites, transfer stations, weighbridge and waste bins), in addition to a portion being allocated for other environmental initiatives.</td>
</tr>
<tr>
<td>Scenic Rim</td>
<td>A Waste Disposal Charge is levied on non-residential properties of certain categories that do not receive a Council kerbside collection service to fund recurrent and capital expenditure and administration costs associated with the ongoing operation, maintenance and upgrading of Council's waste management facilities.</td>
</tr>
<tr>
<td>Sunshine Coast</td>
<td>A Waste Management Facility Charge is levied on all rateable properties (excluding vacant land) not receiving a collection service and not incurring a waste collection utility charge to assist in meeting the costs associated in providing broader waste management services that benefit the whole community.</td>
</tr>
</tbody>
</table>

Source: AEC, assorted documents from benchmarked Councils

3.3 WASTE MANAGEMENT SPECIAL/Separate CHARGES – OTHER SERVICES

During the charging review, a significant number of Councils were identified as levying waste management special or separate charges on non-domestic properties to recoup costs associated with waste management activities deemed to be of broad community benefit. While these charges are not at risk by potential legislative amendments, they have been identified as a matter of completeness and for comparison purposes.

Table 3.3: Mandatory Special/Separate Charges to Fund Non-Collection Waste Activities, Selected Councils

<table>
<thead>
<tr>
<th>Council</th>
<th>Annual/Special Charge Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Banana</td>
<td>An Environmental Levy is levied as a separate charge on all rateable land to assist in defraying the cost of Council's Shire Wide Waste Strategy (which strategy incorporates the operation of landfill sites throughout the Shire, undertaking consequential environmental initiatives for the purpose of environmental protection, sustainability and conservation and investigating the introduction of a recycling program).</td>
</tr>
<tr>
<td>Blackall-Tambo</td>
<td>An Environmental Levy is levied as a separate charge on all assessments to recover costs associated with the provision of Council's waste disposal and recycling facilities.</td>
</tr>
<tr>
<td>Brisbane</td>
<td>An Environmental Management and Compliance Levy is levied as a separate rate on all rateable land in accordance with the relevant differential rating category on a rate in the dollar UCV basis (subject to a minimum charge), although only a portion of this charge is utilised for waste management (landfill rehabilitation) purposes with the remainder being applied to fund environmental initiatives.</td>
</tr>
<tr>
<td>Cootharaba</td>
<td>An Environment Management Levy Separate Charge is levied on every rateable assessment for Environment Management Services with a portion utilised for wet waste transportation and disposal, landfill environmental management and waste program support.</td>
</tr>
</tbody>
</table>
### REVIEWS OF RATING OF NON-DOMESTIC PROPERTIES FOR WASTE SERVICES

<table>
<thead>
<tr>
<th>Council</th>
<th>Special/ Separate Charge Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Douglas</td>
<td>A Refuse Special Charge is levied on all land with improvements (including non-domestic properties) that do not receive the Council kerbside collection service and the owner has been provided with an identification card to use a certain transfer station free of charge. The charge levied is for the purpose of contributing to the costs of the provision of waste facilities.</td>
</tr>
<tr>
<td>Fraser Coast</td>
<td>A Waste Management Levy is levied as a separate charge on all rateable land to fund the waste management reform process in order to conduct waste operations in an environmentally acceptable manner whilst being economically responsible. The collection service utility charge within the Revenue Statement automatically includes the levy component (and it is therefore not levied in addition to the utility charge).</td>
</tr>
<tr>
<td>Hinchinbrook</td>
<td>A Waste Management Levy Separate Charge is levied on all rateable land for Council to recover costs associated with the provision of waste facilities including landfill rehabilitation, green waste processing and the environmental considerations to meet licensing and control standards.</td>
</tr>
<tr>
<td>Livingstone</td>
<td>A Natural Environment Separate Charge is levied per rateable assessment for the purpose of defraying part of the cost of formulating and implementing environmental initiatives including waste management initiatives.</td>
</tr>
<tr>
<td>Mackay</td>
<td>A Waste Facilities Operations Charge is levied as a separate charge on all rateable assessments to fund the residual cost of waste facilities and services which are not met from the refuse removal and disposal utility charges and other fees and charges collected on a user pays basis, as well as helping to meet public expectations in matters of disposal of refuse that affect public health and the visual amenity of the area.</td>
</tr>
<tr>
<td>Moreton Bay</td>
<td>A Commercial Waste Management Special Charge is levied on rateable commercial improved land not subject to a waste management utility charge to recover costs associated with the provision of waste facilities.</td>
</tr>
<tr>
<td>North Burnett</td>
<td>An Environment Levy Separate Charge is levied on all assessments for the provision of waste facilities, landfill rehabilitation and weed and animal pest control measures.</td>
</tr>
<tr>
<td>Redland</td>
<td>A Landfill Remediation Levy is levied as a separate charge on all rateable land charged to recover costs associated with the monitoring and remediation of all closed landfills.</td>
</tr>
<tr>
<td>Rockhampton</td>
<td>A Natural Environment Separate Charge is levied on each rateable assessment to help fund the cost of environmental projects, including various waste management initiatives contributing to environmental outcomes.</td>
</tr>
<tr>
<td>South Burnett</td>
<td>A Waste Management Levy Separate Charge is levied on all rateable land to fund the provision of waste facilities.</td>
</tr>
<tr>
<td>Tablelands</td>
<td>A Waste Management Levy Special Charge is levied on all assessable properties considered to have reasonable access to waste facilities (within the Waste Management Levy Zone map) to provide for the provision of waste facilities, street bin cleaning and other waste services (such as pre-cyclone clean ups and public education).</td>
</tr>
<tr>
<td>Toowoomba</td>
<td>An Environmental Levy is levied as a separate charge on all rateable land for the purposes of implementation of the Waste Management Strategic Plan which includes the consolidation, rationalisation and improvements to Council’s waste management facilities and rehabilitation of closed landfill sites.</td>
</tr>
</tbody>
</table>

Source: AEC, assorted documents from benchmarked Councils.

### 3.4 COUNCILS WITHOUT MANDATED NON-DOMESTIC WASTE COLLECTION AREAS AND/OR CHARGES

A few Councils that do not mandate non-domestic waste collection areas and/or charges were contacted for their input into why they do not feel the need to adopt such a policy position. Below are the reasons raised:

- Lack of necessary equipment within servicing capability to service bulk bins (e.g. lack of a front lift truck), with Councils taking up pretty much all of the demand for wheelee bin services.
- Existence of private sector service providers, and pre-existing contracts in place between non-domestic properties and private sector service providers.

The above points are not meant to be either representative or exhaustive, but have been provided for completeness from a benchmarking perspective as to potential reasons underlying differences in the application of waste management services across different Councils and geographic areas.

A number of Councils not mandating services and/or charges acknowledged that the legislative provision for the ability for Councils to designate waste collection for all premises in their respective regions (regardless of whether they are domestic or non-domestic) should remain for those Councils who wish to access the benefits associated with this approach or any identified future need to control waste collection activities, which may include:

- Ensuring that reasonable pricing exists for all waste generators irrespective of the level of waste generation, type of waste produced and geographic location.
REVIEW OF RATING OF NON-DOMESTIC PROPERTIES FOR WASTE SERVICES

- Maximising the ability for Councils to control vehicle movements and times to reduce amenity, safety and traffic impacts on central business districts, tourist areas, etc. via the right to declare a waste collection service area to be services by Council-provided services only.
- Impact on Council servicing costs as the service provider of last resort.
- Little control over source separation at the point of waste generation for non-domestic properties, impacting the level of recycling and resource recovery.

3.5 KEY OUTCOMES

Waste management charging practices across Queensland vary considerably depending on the local waste strategy, the ability (or inability) to appropriately recoup its waste facility capital and operating costs from disposal fees and the sheer size of the areas serviced by regional, rural and remote Councils.

Focussing on waste management charges levied on non-domestic properties, the following was evident from the charging review undertaken of a substantial number (just under half) of Queensland Councils:

- At least eight Councils levy mandatory waste management utility services and/or charges based on the provision of collection services on non-domestic properties that are, with:
  - Four Councils requiring both wheelie bin and bulk bin services to be taken up from Council’s contractor for both general waste and recycling within the defined service areas.
  - One Council bundling recycling bulk bin services into the non-domestic waste management utility charge when general waste bulk bins are taken up.
  - Five Councils bundling recycling wheelie bin services into the non-domestic waste management utility charge.
  - One Council offering an exemption from the charges levied if an equivalent alternative service is taken up from a third party.
  - The reasons for such a policy include the ability to achieve enhanced waste diversion outcomes from the commercial and industrial sector, minimising traffic movements and noise, maximising public safety, achieving greater economies of scale in the provision of high quality services to all ratepayers irrespective of location and size, increased certainty to inform contractual arrangements, and ability to fund waste management activities of broad community benefit.

- Five Councils levy mandatory waste management utility charges on a flat or differentiated basis by property type on all assessments rather than the collection services taken up by properties in the defined waste collection service areas to recover the cost of providing waste facilities and implementing waste management activities of broader community benefit (i.e. waste management function costs unrelated to the provision of waste collection services but provide 'utility' to all assessments).

- 16 Councils were identified from the sample as levying mandatory waste management special or separate charges on all assessments to recover costs relating to the provision of the waste facility network, although many Councils also utilise these charges to fund landfill rehabilitation and the implementation of other waste strategy and environmental initiatives.

- Only around one third of Councils assessed did not levy any form of mandatory waste management utility charges and/or special/separate charges to fund non-collection costs, although a large proportion of these Councils were identified to be very large Councils with sufficient waste disposal revenues to fund their waste facility networks (at least at this stage as there appears to be an increasing trend towards the introduction of such charges).

From the above summary, it is evident that any change to the powers of Councils to designate waste management service areas and levy waste management utility charges on non-domestic properties in those areas will have a substantial impact that will need to be appropriately considered and quantified. Even if no more Councils outside of those identified from the sample assessment levied such charges (a dangerous assumption to make), at least 10% of Queensland Councils currently levy mandatory waste management utility charges (related to the provision of waste collection services) on non-domestic properties with this proportion increasing to between 15% and 20%
when Councils levying utility charges on non-domestic properties to fund non-collection waste services are included.

Consequently, any change in the legislative provisions underlying the levying of waste management utility charges on non-domestic properties would represent a significant policy shift that would have considerable upfront and ongoing financial and operating cost implications across a substantial portion of the local government sector.

Those Councils not levying mandatory waste management utility charges on non-domestic properties indicate that they do so on the basis that they do not have the necessary plant and equipment or contracts in place for such service provision and/or the existence of a few private sector operators servicing selected properties with bulk bin requirements in their respective regions (albeit, in the more densely populated areas). However, many of these Councils indicated that the legislative provision allowing Councils to designate collection service areas should remain to ensure appropriate control is maintained over the domestic and non-domestic waste streams.
4. CHALLENGES TO THE STATUS QUO

4.1 WRIQ – SUNSHINE COAST REGIONAL COUNCIL

4.1.1 Competitive Neutrality Complaint and QCA Investigation

The Waste Contractors and Recyclers Association of Queensland (now WRIQ) made a complaint to Sunshine Coast Regional Council (SCRC) regarding the levying of waste management utility charges on commercial properties which include the provision of a bundled service offering involving the collection of both general waste and recycling bins. The complaint was focussed on the bulk recycling services being provided as part of the waste management utility charge, in that WRIQ members are unable to compete on the same terms as SCRC was offering.

SCRC referred the complaint by WRIQ as a competitive neutrality complaint for investigation by the Queensland Competition Authority (QCA) on 14th April 2011, indicating that its policy position of both domestic and commercial waste collection services being provided by its collection contractors was a valid exercise of a statutory function (i.e. levying a waste management utility charge under the Local Government Act 2009) to ensure a number of outcomes that may not be otherwise achievable.

During the evaluation period, SCRC provided numerous responses to information requests and submissions to the QCA investigation.

The QCA provided a final report to SCRC on 29th June 2012, outlining that SCRC’s waste business was determined to have a competitive advantage over potential competitors as a result of having the capacity to levy mandatory utility charges on commercial properties via its local government ownership and that this advantage should be removed. The report findings are summarised below (QCA 2012, pp. v-vi):

The Final Report finds that:

(a) the mandatory levy constitutes a competitive advantage that is only possible because of government ownership of the business activity;

(b) commercial pricing means that prices for individual goods and services may deviate from full costs, provided there is a reasonable commercial basis;

(c) SCRC has not provided a valid commercial basis for its pricing of bulk recycling services; and

(d) the legislation provides that subsidies should be provided through transparent community service obligations, which SCRC has not done.

The report (QCA 2012, p.65) included the following recommendation in relation to alternative arrangements that should be considered by SCRC:

The Authority considers that the following are the key elements of a strategy that would allow WRM to conduct bulk waste recycling service in a way that complies with the principle of competitive neutrality (and achieve SCRC’s objectives):

(a) remove bulk waste recycling services from the scope of the mandatory arrangements associated with bulk waste services to eliminate the competitive advantage;

(b) ensure that bulk waste recycling services are provided on a commercial basis unless there are good reasons not to do so, in which case any subsidy should take the form of a CSO that would allow all service providers to compete on a similar basis;

(c) allow competitive collection of bulk waste for recycling purposes;

(d) allow competitive disposal of bulk recycled waste; and

(e) ensure appropriate differential pricing of landfill and alternatives for recycling and disposal of bulk waste, including consideration of imposition of a landfill levy to replace the state levy that is being repealed in order to directly encourage commercial recycling and fund recycling programs or enforcement activity.
REVIEW OF RATING OF NON-DOMESTIC PROPERTIES FOR WASTE SERVICES

At its meeting of 28th July 2012, SCRC decided not to implement the recommendations in the QCA report at that time, and advised WRIQ and the QCA of its decision on 31st July 2012. These actions were in line with its legislative obligations regarding the outcomes of the QCA investigation.

SCRC was unable to accept the recommendation in the QCA report given a number of anomalies in the report, the significant net costs incurred by moving from current bulk waste management policies to a policy where mandatory utility charges are not levied for commercial collections, and the implications of the recommendations are:

- Residential and commercial customers.
- The 2014 regional waste collection service and processing contracts and the lift rates achieved for different services.
- The investment in the materials recycling facilities.
- The potential investment in alternative waste technologies facilities.
- Achievement of the waste diversion targets in the Regional Waste Minimisation Strategy.

It is important to note that – despite SCRC’s assertion to the contrary within its submission and during the course of the investigation – the QCA’s conclusions were based on a (flawed) presumption that the full cost pricing legislative provisions related to coating and pricing individual goods and services. In relation to the QCA’s suggestion within its final report that the competitive neutrality requirements created under the Local Government Act 2009 should be reviewed with a view to clarifying their intent, the issues raised by the QCA have since been addressed in Sections 21(2), 22(2) and 51 of the Local Government Regulation 2012. Section 22(2) now aligns with SCRC’s assertion and contradicts the QCA’s assertion as it explicitly states that:

(a) a local government applies full cost pricing to a significant business activity if the total projected revenue from providing all of the activity’s goods and services is enough to cover the projected total costs of conducting the activity; and

(b) it is not relevant whether the projected revenue from providing a particular good or service is enough to cover the projected costs incurred in providing that particular good or service.

Following SCRC’s rejection of the QCA recommendations in 2012, it subsequently investigated a number of options regarding waste management across the region such as waste to energy, two-tiered charging for waste management services and the potential mandating of a third green waste bin. On commencement of the new waste collection and processing contracts in 2014, SCRC unbundled the recycling bulk bins from the general waste bulk bins in its charging structure and instead introduced a bundled wheelie bin as part of the charging structure for all wheelie bin and bulk bin services. However, if a bulk recycling bin is required by a non-domestic property in addition to the recycling wheelie bin provided as part of the base charging structure, it still must be through SCRC rather than a third party contractor.

4.1.2 Australian Competition and Consumer Commission (ACCC)

WRIQ made a complaint to the ACCC in November 2012 regarding SCRC’s alleged anti-competitive practices.

On 10th December 2012, ACCC informed SCRC that WRIQ had lodged a complaint with it alleging that SCRC was providing commercial bulk recycling services in a manner that is anti-competitive and in breach of Part IV of the Competition and Consumer Act 2010 (CCA) in that it prevents its members from competing in the market and substantially lessens competition in the market. Part IV of the CCA prohibits various restrictive trade practices that limit or prevent competition, with:

- Section 45 prohibiting certain arrangements that restrict dealings or affect competition, including contracts, arrangements or understandings that substantially lessen competition.
- Section 46 prohibiting a corporation with a substantial degree of power in a market from taking advantage of that power for the purpose of eliminating or substantially damaging a competitor in a market, preventing entry into a market, or deterring or preventing a person from engaging in competitive conduct in a market.

After SCRC provided the necessary information to ACCC to inform its assessment in December 2012 and January 2013, the view of the ACCC was that the conduct complained of (by WRIQ) was unlikely to breach section 45 or
REVIEW OF RATING OF NON-DOMESTIC PROPERTIES FOR WASTE SERVICES

46 of the CCA (i.e. restrictive trade practices or misuse of market power provisions). Accordingly, the ACCC advised SCRC on 29th January 2013 that it did not intend to investigate the complaint further at that time, and that WRIQ would be notified accordingly. The ACCC noted that Part IV of the CCA generally applies to a local government to the extent that it is carrying on a business, but an exemption under Section 2C(1a) of the CCA states that a local government is not regarded as carrying on a business when it imposes or collects a levy.

4.1.3 Ombudsman

WRIQ lodged a complaint with the Queensland Ombudsman and sought an investigation into SCRC's business activities in relation to alleged anti-competitive neutrality practices as they relate to commercial recycling services and the business community. The Ombudsman issued an information request to SCRC which provided a submission on 9th May 2013. The Ombudsman subsequently advised SCRC and the Minister for Local Government, Community Recovery and Resilience (the Minister) on 25th June 2013 that "As the issue of Councils' involvement in 'monopoly type' waste recycling processes has broader policy implications for business and the development of the state's Waste Strategy, I consider this Office is not best placed to deal with those issues through the current complaint." In the letter to the Minister, the Ombudsman noted the apparent tension between a Council's ability to rely on statutory powers to provide and charge for waste management services (and meet waste strategy objectives) and the competitive neutrality principle.

4.1.4 State Auditor General

WRIQ lodged a complaint with the State Auditor General regarding the matter sometime around March-April 2013.

4.1.5 Minister for Local Government, Community Recovery and Resilience

WRIQ corresponded with the Minister on numerous occasions in relation to the issue in 2012 and 2013, including:

- 3rd August 2012 – email indicating its disappointment at the decision by SCRC to reject the QCA's recommendations.
- 3rd January 2013 – requesting a meeting to discuss SCRC's intention to retain its charging structure in its new waste collection contract (with the meeting subsequently occurring).
- 22nd February 2013 – requesting measures the government will commit to in order to prevent SCRC from implementing its new waste collection contract and indicating that the matter had also been referred to the Ombudsman.
- 19th April 2013 – following up on the February request and indicating that the matter had also been referred to the State Auditor General.
- 9th July 2013 – following up on previous requests.
- 9th August 2013 – correspondence from the Chamber of Commerce & Industry Queensland regarding the WRIQ complaint.
- 16th August 2013 – requesting a meeting to discuss the LGAQ's position on the matter.
- 6th September 2013 – requesting an urgent meeting and immediate intervention to resolve the matter.

The above correspondence was subject to a Right to Information (RTI) request and was located online. Any contact made post-September 2013 is not included in the above.

4.1.6 Queensland Legislative Assembly

A petition with a reported 4,638 signatures was received by the Queensland Legislative Assembly in May 2014, with the principal petitioner being WRIQ.

4.1.7 Media and Newsletters

WRIQ has also facilitated the publication of a number of articles within the media and via its newsletters and other publications in relation to the matter.

aecgroupltd.com
4.2 PEAK BODY FOR WASTE AND RECYCLING INDUSTRY – NOOSA SHIRE COUNCIL

On 13th July 2016, Noosa Shire Council (NSC) received notification that the Department of Infrastructure, Local Government and Planning had received correspondence from a peak body for the waste and recycling industry with concerns surrounding its waste management contract tender documentation. Specifically, the peak body had concerns regarding NSC’s intent to impose a compulsory waste service utility charge for businesses, similar to the approach adopted by SCRC in its waste management contract.

4.3 LGAQ POSITION

4.3.1 LGAQ Policy Statement

The LGAQ Policy Statement is a definitive statement of the collective voice of local government in Queensland which identifies how local government seeks to engage with and be recognised by State and Federal governments. It indicates that the LGAQ should be consulted by the State and Federal governments and their departments, authorities and officers, with adequate time available for response, before taking legislative and administrative actions that affect local governments individually or collectively. Further, any legislation affecting local government in Queensland should be framed in recognition of the diversity of capacity, size, resources, skills and physical location of local governments, and should not be drafted under a "one size fits all" model.

Relevant to the assessment at hand, the LGAQ Policy Statement indicates:

3.2.1.1 There should be no interference with the autonomy of local governments in the setting of rates and charges.

4.3.2 LGAQ Response to WRIQ Complaint Against SCRC

On 23rd April 2013, the LGAQ met with the Minister where it was requested to consider the WRIQ complaint against SCRC and advise its position on the matter. On 30th May 2013, the LGAQ met with SCRC to discuss the matter. On 1st July 2013, the LGAQ responded to the Minister’s request with a comprehensive paper, noting the subjectiveness of the QCA report in terms of the opinions expressed and the statutory interpretation underlying various conclusions and that any legislative reform based on such subjectiveness may lead to significant unintended outcomes.

The LGAQ response included an array of issues with the QCA assessment that were consistent with those communicated to the QCA by SCRC, including the QCA’s misinterpretation of the application of full cost pricing reforms to local government business activities, which was confirmed by the Department of Local Government after the QCA’s final report was completed.

LGAQ (2013) outlined the following with respect to the rating powers of local governments when it comes to waste management services:

- The size and geography of Queensland and the resulting diversity of Queensland communities means local governments require as many tools as possible to deal with local conditions, including market failure, and to tailor make public policy for local conditions.
- A reduction in available tools will impact on a local government’s ability to adequately address local waste management issues, and the LGAQ supports the right of government (including local government) to use available policy levers for public policy implementation particularly when the decision is based on a community-wide benefit as opposed to benefiting a single sector.
- The ability of a local government to use a mandatory levy is the only practical and effective policy lever it has available to implement its recycling rate target and any change in policy settings that impact this ability will impact on existing contractual arrangements and associated infrastructure.
- The QCA’s recommendation about the use of tax and subsidy mechanisms is impractical and highlights a clear lack of understanding of the waste industry and local environment resulting from a simple and very subjective desktop (theoretical) review process.
The proposed alternative arrangements would not only be administratively complex and cost prohibitive but would also likely facilitate perverse market and community outcomes, this making them ineffective.

The LGAQ paper is provided as Attachment A.

4.4 KEY OUTCOMES

WRIQ has made an array of complaints against SCRC in particular surrounding its policy of levying waste management utility charges on non-domestic properties based on the waste collection services required to meet their respective levels of waste generation. WRIQ's primary focus appears to be on the provision of bulk recycling bins by SCRC via its collection contractor. Complaints have been made to SCRC itself, QCA, ACCC, Queensland Ombudsman, State Auditor General, the Minister for Local Government and the legislative assembly more broadly. WRIQ has also been active in the media denouncing SCRC's waste management policy position.

Within these complaints and in the media, WRIQ has long contended that SCRC was the only Council that levied mandatory waste management utility charges on non-domestic properties. This report has identified that the WRIQ position is inaccurate in that there are a significant number of other Councils across Queensland that levy mandatory waste management utility charges on non-domestic properties that would be substantially affected by any amendment to current rating powers by the State Government.

Following investigation of the complaint, QCA suggested that SCRC should amend its policy position and provided a theoretical incentive-based scheme to promote recycling that was impractical and based on flawed assumptions regarding full cost pricing provisions (which have subsequently been amended in legislation to highlight the QCA's improper legislative interpretation). Consequently, SCRC did not accept the QCA investigation outcomes (within its rights in responding to an investigation into a competitive neutrality complaint). Unhappy with the SCRC decision, WRIQ progressed the matter to the ACCC which indicated that SCRC did not have a case to answer.

Separate to the SCRC complaints, correspondence was recently received by the Department of Infrastructure, Local Government and Planning from a peak body for the waste and recycling industry (presumably WRIQ) regarding NSC's new waste management contract tender documentation which represented a continuation of NSC's policy position that has been in place for a long period of time.

The LGAQ has a clear policy position that Queensland Councils should retain their present rating powers. In addition, the LGAQ firmly rejected the QCA assessment of the SCRC matter as inappropriate and misinformed.
5. IMPACTS OF POTENTIAL APPLICATION AND/OR AMENDMENT OF RATING POWER

5.1 AMBIGUITIES

It is unclear as to the options being considered to amend or replace the existing legislative provisions by DEHP. However, if legislation was revised to only include the power for Councils to designate domestic household waste, recyclable waste or green waste collection areas, it is important to note that there will be ambiguities in service provision and responsibilities in delineating domestic versus non-domestic properties and services, given that:

- Both domestic and non-domestic premises often exist in mixed use developments and multi-occupancy dwellings and will share the same bulk bins.
- Existence of domestic components within land uses such as aged care/retirement villages, caravan parks, visitor accommodation, etc.

5.2 PROVIDING SERVICE CERTAINTY

Councils have a responsibility to their local communities to ensure that all domestic and non-domestic properties have access to appropriate, affordable and convenient services irrespective of their location or size. This relates to the provision of regularly collected general waste bin services as well as recycling bin services, with recycling bin services considered an essential service in many communities.

In the absence of a universal service offering, larger non-domestic waste generators would be the focus for private sector operators given they are more lucrative. Further, components of waste streams may be targeted such as bulk paper and cardboard, leaving lower value commodities (e.g. glass) disposed in the general waste bin rather than beneficially reused through a comingled recycling bin. This is particularly the case given that utility and other service charges are advertised by Councils, allowing potential providers to cherry pick larger, more valuable customers.

Smaller non-domestic waste generators and non-domestic waste generators located outside of metropolitan areas may not be effectively serviced for a reasonable price and will likely pay considerably higher charges to get bins serviced than under a postage stamp pricing structure. Postage stamp pricing is deemed to be more appropriate on the basis that all waste generators pay the same for the collection service, with the exception of the volume of recyclables or volume of waste collected and processed or disposed (as proxied by bin capacity). In addition, each waste generator should help fund fixed costs in an equitable manner.

5.3 ECONOMIES OF SCALE IN SERVICE PROVISION

5.3.1 Implications for Direct Service Costs

Waste collection services are most efficiently undertaken by a single service provider in a coordinated manner that maximises logistical efficiency and ensures no duplication of service runs. Where Councils select waste collection service providers from the market via an open, competitive tender process, the benefits of economies of scale and competitive market forces are internalised in the contract rates tendered by each private sector operator.

Previous ACCC determinations have recognised economies of scale in waste collection and processing via collective tendering and it follows that combining the domestic and non-domestic waste streams will result in reduced waste management service costs in aggregate. Collection service economies of scale are applicable not only to households, but also small to medium enterprises, and the significant majority of non-domestic properties are in fact small to medium enterprises. Any cost savings associated with increased economies of scale and cost efficiencies from an integrated approach by Councils to waste management are passed on to waste generators directly in the form of lower waste management charges, therefore resulting in a public benefit.

By removing the ability of Councils to levy mandatory waste management utility charges on non-domestic properties, the following outcomes would occur:
REVIEW OF RATING OF NON-DOMESTIC PROPERTIES FOR WASTE SERVICES

- Reduced transport efficiencies due to a lack of a coordinated approach to waste collection and duplicated or triplicated collection runs by Council’s contracted service provider and other service providers within the same locations either at the same time or at different times.
- Reduced utilisation of collection trucks, particularly for bulk bin services which would be required by Council contractors in many jurisdictions to effectively service multi-occupancy dwellings.
- Increased whole-of-community waste management costs given higher servicing costs per lift due to reduced economies of scale and utilisation and greater uncertainty surrounding the location of commercial properties requiring to be serviced on an opt-in basis.

5.3.2 Recovery of Fixed Costs and Overheads

Councils set their waste management utility charges and disposal fees and charges to recover all fixed and variable costs associated with the provision of waste management services. Obviously, the greater the service numbers and waste volumes over which fixed system costs (e.g. management and administration, contract management, facility and equipment provision, waste strategy development and implementation) can be recovered, the lower the average service cost for domestic and non-domestic properties across the region.

The potential removal of non-domestic properties will mean that the fixed costs associated with service provision will be recovered over a reduced customer base, resulting in an increase in the per unit cost of collection and disposal for domestic properties.

5.4 ABILITY TO CONTROL AND REGULATE COLLECTION ACTIVITIES

Waste collection services involve a fleet of large trucks, which are noisy, stop frequently, lead to traffic congestion and the increase the risks of accidents. The public health, safety and amenity externalities associated with waste collection services need to be effectively controlled to ensure community impacts are minimised. Many of the Councils that presently levy mandatory waste management utility charges on non-domestic properties do so on the basis that they are acting to not only provide a universal, cost effective waste management service but also to minimise amenity issues such as noise pollution, traffic congestion and safety of residents and visitors in the collection of waste.

Removal of the power to levy mandatory waste management charges on non-domestic properties would have a significant impact on the ability of Councils to facilitate a safe waste collection service due to:

**Truck Movements**

- Increase in overall truck movements on main roads, suburban streets and in areas of concentrated activity resulting from service duplication/triplication and the introduction of logistical inefficiencies, given that collection runs will not be coordinated and the existence of numerous different operators servicing the same locations at different times and on different days. It is estimated that there could be up to three times as many truck runs when compared with the provision of a single, coordinated waste collection service.
- Inability to effectively control the volume and frequency of heavy vehicle traffic in areas with a high number of residents and tourists and areas with high levels of activity during high impact times, resulting in increased noise and congestion and impacting on public safety (noting that under the status quo, Councils sometimes negotiate routes with their waste collection contractors giving consideration to road safety issues including peak traffic on major roads, roads with identified safety issues, schools, shopping precincts, etc.).
- Inability to effectively control traffic congestion impacts from waste collection in traffic hot spots and narrow streets (e.g. Hastings Street, Noosa).
- Potential for increased long-haul transport of recyclables and general waste for processing and disposal out of the region.
- Increase in the carbon footprint from the provision of waste collection services.
Timing of Collection

- Inability to ensure waste collection occurs at appropriate times to minimise traffic and noise in certain locations (noting that under the status quo, Councils sometimes opt to service certain locations in a manner that costs more but reduces the impacts).
- Private operators may opt to undertake collection services at the most convenient and cost effective times, which may have the effect of increasing the amenity and safety impact on residents, visitors and commercial activity (e.g., collection noise very early in the morning, collection trucks blocking streets during periods of high activity).
- Sporadic, disorganised collection activity will also result in noise, congestion and safety impacts in the same location occurring across different times of the day and different days of the week rather than condensed into a short period as would occur under a single, coordinated service offering.

Amenity

- Inability to control the location, frequency of servicing and types of bins taken up by non-domestic properties in certain areas where they may be considered an eyesore.
- Lack of direct control over the cleanliness of bin pick-ups and bin condition/odour.

Councils are in regular contact with their waste collection contractors regarding their performance and any amendments that may be required in the servicing of domestic and non-domestic premises during the course of the contract, allowing them direct control over mitigating and minimising community impacts. Removing this direct link between Council and the service provider will create issues that will not be able to be easily overcome, if at all.

5.5 RESOURCE RECOVERY

An assessment of waste composition audits undertaken by a few Councils suggests that materials that can be recycled via a kerbside recycling bin comprise around 25%-30% of total waste generated by non-domestic properties (by weight). In order to ensure these materials are diverted from landfill, the majority of Councils that levy mandatory waste management utility charges on non-domestic properties do so on the basis of providing a bundled service offering consisting of a general waste bin and a comingled recycling bin. The ability to levy such charges is considered a vital policy lever in achieving recycling rate targets established within local and state waste reduction and recycling strategies, particularly given the historic poor performance for the commercial and industrial sector in terms of the optional uptake of recycling services and overall waste diversion levels in the absence of such initiatives.

Removal of the power to levy mandatory waste management charges on non-domestic properties would impact the ability of Councils to ensure recyclable materials generated as waste by non-domestic properties are diverted from landfill. Services provided would be based on the cheapest option in the overwhelming majority of instances, which would primarily consist of general waste bins and very few recycling services with the exception of some bulk paper and cardboard services for high volume, high value commercial waste generators where it is deemed to be commercially profitable. The provision of any recycling services by private sector operators may also be unstable over time given that the value of recyclables is subject to market fluctuation (Councils presently facilitate the smoothing of such market fluctuations and ensure certainty in service provision).

Lower value and lower volume products that are potentially able to be recycled would be placed into the general waste bin for disposal to landfill rather than beneficially reused, placing greater pressure on landfill capacity which is constrained in some areas of Queensland. Councils would also not have the ability to process non-domestic waste at alternative waste facilities (e.g., as occurs with the non-domestic waste currently collected in Douglas), which would further impact the recycling rate achieved. As a consequence, non-domestic properties would not be actively contributing to the achievement of waste diversion targets which have broader community benefits.

Overall, the revenue/profit maximisation focus of private operators is inconsistent with community/environmental objectives associated with maximising waste diversion from landfill. The status quo would appear to be the only cost effective means by which a consistent and reliable recycling collection service with maximum 'reach' is able...
REVIEW OF RATING OF NON-DOMESTIC PROPERTIES FOR WASTE SERVICES

to be provided to all areas and to waste generators of all sizes, in addition to facilitating greater waste diversion outcomes via alternative waste processing facilities (where they exist).

An evaluation of the outcomes of one of the Councils that presently levy a mandatory waste management utility charge on non-domestic properties for the provision of a bundled general waste and recycling service suggests that the level of recycling of kerbside waste generated by non-domestic properties would be likely to drop to 5% (consistent with industry outcomes where mandated bundled services are not in place) from 20% under the status quo.

The viability of resource recovery schemes in affected regions would also be threatened, with throughput at materials recovery facilities considerably reduced. This impact would be pronounced in regional areas where viability is already marginal and facilities may be reliant upon the recyclables presently received from non-domestic premises.

5.6 CONTRACTUAL OBLIGATIONS AND CERTAINTY

Councils levying mandatory waste management utility charges on non-domestic properties have in place long-term collection service contracts that are for a period of at least seven years (linked to the life of the trucks required to undertake the services contained within the contract), and any change in contractual arrangements and servicing will impact on the upfront investments made by the respective collection service provider. In addition, downstream contracts and investments will have been made (e.g. Materials Recovery Facility, landfill) to reflect the volume of waste envisaged to be received for processing and/or disposal.

Any change in existing contractual arrangements arising from any legislative amendments will have significant financial implications for each Council via the potential for significant penalties to be incurred on existing contracts.

It is also important to note that any legislative amendments will also impact contractual arrangements that are in progress. For example, the lead time on new waste collection contracts is up to two years with 12 months for the contractor to mobilise by buying a new fleet of trucks to meet the obligations of the contract and the tendering and evaluation period preceding this mobilisation period.

Further, maximising the level of certainty in waste volumes collected and received at processing and disposal facilities will maximise optimal financial outcomes from the open, competitive tender processes. The higher the uncertainty, the higher the risk component within tendered prices.

5.7 FUNDING OF NON-COLLECTION ACTIVITIES

A number of Councils presently utilise a portion of their waste management utility charges to fund broader waste management activities unrelated to the collection and disposal of waste (street bins, landfill remediation, education, compliance functions, strategy development, etc.). For example, Fraser Coast Regional Council explicitly indicates within its Revenue Statement for 2016/17 that the proceeds from its waste management utility charges will fund the acquisition, operation and maintenance of Council landfills and transfer stations, its recycling activities, and waste transportation costs.

Removal of the power to levy mandatory waste management charges on non-domestic properties may impact the ability of Councils to fund and provide such services without a corresponding increase in domestic utility charges or the introduction of additional rating mechanisms.

5.8 CONFLICTS OF INTEREST

There is the potential for conflicts of interest in service provision for Council contractors providing services in competition with services that they also undertake on behalf of Councils, in addition to leveraging off infrastructure and equipment established and recovered via the collection services contracts with Councils to limit any potential competition. This is particularly the case given the limited number of large service providers providing waste collection services in Queensland.
REVIEW OF RATING OF NON-DOMESTIC PROPERTIES FOR WASTE SERVICES

5.9 IMPLICATIONS FOR FEES AND CHARGES

The above analysis indicates that the removal of the power to levy mandatory waste management charges on non-domestic properties would increase the total aggregated waste management service cost to the community for the same service presently being provided by Councils (and delivered via Council contractors in the majority of instances). What will eventuate will be a net loss to the community, with higher costs incurred for no additional benefit in terms of service levels and waste diversion outcomes.

Based on figures provide by a few potentially affected Councils, domestic waste management utility charges would increase by 10%-20% as a result of the lost contribution to the fixed costs of the waste management function by non-domestic properties, depending on the cost profile and service profile of the Council in question. According to AEC's annual waste management charges benchmarking publication, the average domestic waste management utility charge for large Councils in Queensland in 2015/16 was $279. Using this as the base utility charge from which impacts are assessed, an increase of $26-$56 would be expected for affected Councils.

Disposal fees may also need to increase if the collected waste is not disposed at Council landfills. The required increase in disposal fees for self-haul could be somewhere of the order of 20%-30% for affected Councils. According to AEC's annual waste management charges benchmarking publication, the average disposal fee for large Councils in Queensland in 2015/16 was $125.00 per tonne. Using this as the base disposal fee from which impacts are assessed, an increase of $25-$37.50 per tonne would be expected for affected Councils.

5.10 IMPLICATIONS FOR OTHER SERVICES

Water and sewerage services are provided by Council or Council entities across Queensland, with the power to levy utility charges consistent for service provision to both domestic and non-domestic properties. Councils also have the option to set pricing on a postage stamp (average cost) basis given the essential service nature of water and sewerage services and to average out the cost to deliver services to higher cost and lower cost customers. Councils should retain the same power with respect to the provision of waste management services to domestic and non-domestic properties given the essential service nature of waste management services.

5.11 KEY OUTCOMES

The removal of the ability of Councils to levy mandatory waste management utility charges on non-domestic properties would have significant implications for affected Councils and their communities, including:

- A reduction in the certainty regarding ensuring all domestic and non-domestic properties have access to appropriate, affordable and convenient services irrespective of their location or size.
- Introduction of inefficiencies in collection services and increased unit costs per service that will result in higher aggregate service costs.
- Reduced ability to control and regulate collection activities and the resultant negative impacts on public health, safety and amenity.
- Loss of ability to effectively influence and drive local resource recovery and waste diversion for non-domestic properties.
- Impact on throughput and viability at regional materials recovery facilities.
- Reduced certainty surrounding waste service numbers and processing/disposal volumes in negotiating contracts and establishing facilitating infrastructure.
- Reduced certainty to fund waste management activities of broader community benefit.
- Potential for conflicts of interest with collection service contractors.
- Increase in domestic waste management utility charges by 10%-20% and disposal fees by 20%-30%.
- Potential implications for the provision of other utilities to non-domestic properties, such as water and sewerage.
6. IMPACTS OF TOTAL REMOVAL OF ABILITY TO DESIGNATE SERVICE AREAS

The total removal of the ability for Councils to levy waste management service charges, designate waste management service areas and/or control the type of bin and frequency would have significant and long-lasting effects on Councils and their communities.

Council inputs indicated that the following impacts would be felt as a result of such a move by the State Government:

- The considerable cost of attempting to replicate a pre-existing legislative provision within the Local Laws of each and every Council, at a significant resourcing and cost impost in addition to a reasonably high risk.
- The likelihood of cherry-picking of higher density properties and areas by third party operators at the expense of the rest of the service network and ratepayers (particularly for low density, rural and remote areas).
- Impact on pre-existing contracts and resulting damages claims by Council contractors as service numbers and collection service logistics are impacted.
- Amenity, traffic and safety impacts (noise, bin storage and truck/timing frequency) and associated complaints made to Councils from multiple trucks servicing each area, with the ability to manage complaints under environmental nuisance being a much more challenging and costly issue for Councils to manage.
- Issues associated with accurately determining whether a waste service is actually being provided on an appropriate basis and in an appropriate frequency, with flow-on implications for public health and pest Infestation – waste management is a public health requirement as well as an environmental protection measure and a service must be provided and used to ensure public health is maintained.
- Potential transfer of waste from waste collection services to public place bins, unmanned waste facilities and/or illegal dumping activity due to lack of control over service provision.
REFERENCES

Documents


Queensland Legislation
Local Government Act 2009
City of Brisbane Act 2010
Local Government Regulation 2012
City of Brisbane Regulation 2012
Environmental Protection (Waste Management) Regulation 2000 (repealed)
Environmental Protection Regulation 2008
Waste Reduction and Recycling Regulation 2011
Waste Reduction and Recycling and Other Legislation Amendments Regulation (No.1) 2016

Federal Legislation
Competition and Consumer Act 2010
ATTACHMENT A: LGAQ RESPONSE TO THE MINISTER

Provided as a separate attachment.
1 July 2013

The Honourable David Crisafulli MP
Minister for Local Government,
Community Recovery and Resilience
PO Box 15031
CITY EAST QLD 4002

Dear Minister,

Thank you for meeting with the Local Government Association of Queensland (LGAQ) on 23 April 2013 to discuss Sunshine Coast Regional Council's commercial waste rating structure and the Queensland Competition Authority's report (the Report) and seeking LGAQ's position on this matter. LGAQ appreciates the constructive and meaningful consultation undertaken by you and the Department of Local Government, Community Recovery and Resilience.

From the outset, LGAQ wishes to make it clear that its current rating powers policy, as specified in the LGAQ Policy Statement 2012, is:

There should be no interference with the autonomy of Local Governments in the setting of rates and charges.

LGAQ wishes to place on the record its support for the work of the Queensland Competition Authority and realises that its job can at times be difficult with its reports rarely escaping criticism from one sector or the other. However, the Report in question is subjective in both the opinions expressed and the statutory interpretation underlying various conclusions. In LGAQ’s view, relying on subjective opinions for decision making purposes that are insufficiently robust, or evidence based, particularly in relation to legislative reform, may lead to significant unintended outcomes.

With these points in mind, LGAQ has analysed the Report and has a number of concerns in relation to the QCA's conclusion that SCRC should remove its competitive advantage.

LGAQ has undertaken an analysis of the Report. In summary, LGAQ's key concerns are:

1) The QCA makes a number of assumptions and conclusions without supporting evidence in forming the Report's tenuous conclusions.

2) The QCA relies upon a simple and very subjective desk top (theoretical) review process, with the analysis contained in the Report highlighting a clear lack of understanding of the waste industry and local environment.

3) The QCA relies upon inappropriate base information and flawed advice from associated analyses. For example, the QCA justifies many of its conclusions from a flawed comparison of lower waste diversion outcomes in the region versus Queensland as a whole, but has compared waste diversion from the collected commercial and industrial waste stream at the regional level with waste diversion from the total commercial and industrial waste stream at the State level (including self-haul of recoverable waste such as steel, timber etc).

4) The QCA's legislative interpretation of the application of full cost pricing reforms differs significantly from Council, with advice provided by the Department of Local Government to the QCA clearly supporting Council's interpretation.
5) The QCA simply concludes that if a policy position exists in most other jurisdictions, then it must be the most efficient market outcome without considering actual market dynamics, the interrelationship between the provision of general waste and recycling services, waste diversion outcomes and the local context.

6) The QCA has not given appropriate consideration to the issues and risks associated with the practical implementation of the QCA's recommended alternative arrangements. It is evident that the proposed alternative arrangements would not only be administratively complex and cost prohibitive, but will also likely facilitate perverse market and community outcomes, and therefore be ineffective.

7) Council provided considerable input to the QCA via a number of comprehensive submissions, most of which appears to have been discounted, with the QCA failing to recognise that its recommendations would ultimately segment the market, allow “cherry picking” of only desirable products and increase the aggregate cost of waste collection in the region to achieve what would most likely be a worse waste diversion outcome.

A comprehensive analysis of the report is attached for your information (Attachment 1).

Regardless of the soundness of the QCA Report, it is LGAQ's position that the size and geography of Queensland and the resulting diversity of Queensland communities mean that local governments require as many policy levers as possible to deal with local conditions, including market failure, and to tailor make public policy for local conditions. A reduction of available tools will impact on Council’s ability to adequately address issues such as the waste management issue the subject of the Report.

The Queensland Government currently enjoys significant policy levers to implement its public policy positions, and consequently, an ability to influence markets. For example, the Government recently announced that it does not intend to privatise electricity generation, citing that this sector is a natural monopoly. LGAQ supports the right of the government to use available policy levers for public policy implementation, particularly when the decision is based on a community wide benefit, as opposed to benefiting a single sector.

Should the Government see fit to require the mandatory implementation of each QCA determination, then each QCA determination should be subject to review through an appropriate merits based review system, with the matter ultimately capable of consideration via the normal judicial system.

Regarding the specifics of the SCRC matter, the ability of Council to use a mandatory levy is the only policy lever Council has available to it to implement its recycling target. For example, if Council wishes to let contracts for waste management services, the specifics of the amount of recyclable material that will be available for collection must be quantified and tenderers informed accordingly as part of the tender process. This is an inherent difficulty with any change to the current policy settings.

For the reasons detailed above the LGAQ recommends that no further action be taken by the State in relation to this matter. LGAQ is more than happy for this letter and the attachment to be forwarded to interested parties.

Should you or your officers require further assistance in relation to this matter, please do not hesitate to call Logan Timms, Team Leader – Strategic Policy and Intergovernmental Relations on (07) 3000 2238 or via email at logan.timms@lgaq.asn.au.

Yours sincerely,

Margaret de Wit
President

# Competitive Neutrality and Anti-competitive Conduct Complaints Analysis

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1306 Letter to Minister Crisafulli re SCRC and waste issue - attach - Competitive Neutrality Principle Analysis.docx
Competitive Neutrality and Anti-competitive Conduct Complaints

Analysis

The First Complaint

1. Waste Contractors and Recyclers Association of Queensland ("WCRAQ") complained to the Queensland Competition Authority ("QCA") about Sunshine Coast Regional Council's ("SCRC"):-
   (a) attempts to enforce a monopoly over bulk waste recycling services; and
   (b) pricing of services in a way that prevented WCRAQ members from competing.

Background

2. SCRC prices bulk general waste and recycling as a bundle with a combined price, but most customers do not take up bulk recycling bins. As a result, customers who take both services are subsidised by customers that take only the waste service – resulting in a defacto bulk recycling monopoly.

3. SCRC has established its waste business as a type 1 significant business activity and applied the "full cost pricing reform" option of the Local Government Act 2009 ("LGA"). This requires:-
   (a) removal of competitive advantages where possible and appropriate; and
   (b) commercial pricing of goods and services.

4. SCRC argues that under the LGA and associated regulations and policies:-
   (a) it is entitled to levy utility charges (effectively a mandatory levy) on all ratepayers; and
   (b) commercial pricing is achieved when the revenues of the business activity recover the full costs of the activity as a whole; and
   (c) there is no requirement for the pricing of individual goods and services.

Final Report Findings

5. The final report ("Final Report") of the QCA finds that:-
   (a) the mandatory levy constitutes a competitive advantage that is only possible because of government ownership of the business activity; and
   (b) commercial pricing means that prices for individual goods and services may deviate from full costs, provided there is a reasonable commercial basis; and
   (c) SCRC has not provided a valid commercial basis for its pricing of bulk recycling services; and
   (d) the legislation provides that subsidies could be provided through transparent community service obligations, which SCRC has not done.

6. Therefore, SCRC has a competitive advantage, which it must remove if possible and appropriate.

Final Report Recommendations

7. The QCA concludes that it is possible or appropriate for SCRC to remove its competitive advantage. The QCA recommends that SCRC should:-
   (a) eliminate the use of the mandatory levy (utility charge); and
   (b) provide bulk recycling on a commercial basis; and
   (c) allow competition in bulk recycling collection and disposal; and
   (d) use tax and subsidy mechanisms to encourage commercial recycling.

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8. A number of ambiguities in the legislative framework are identified. The QCA notes that although the ambiguities do not impact the final findings and recommendations in the Final Report, the LGA and, relevantly, the *Local Government Regulation 2012* ("LGR") should be reviewed with a view to clarifying ambiguities identified in the Final Report.

**SCRC Submissions and Response**

9. SCRC argues that removal of the competitive advantage is not possible or appropriate in all the circumstances, for the reasons detailed in paragraphs 18 to 65 inclusive.

**SCRC Waste Minimisation Strategy**

10. In December 2009 SCRC adopted a Waste Minimisation Strategy to promote its environmental objectives to minimise waste and maximise recycling to become Australia's most sustainable region.

11. Consistent with this goal, all commercial ratepayers are charged a mandatory waste management services levy. Each commercial ratepayer receives a general waste bin and is entitled to a recycling bin of the same size at no extra charge to encourage commercial recycling. Commercial ratepayers are not allowed to "opt-out" of the mandatory levy.

12. SCRC believes that competitive provision of waste management services will result in:-

   (a) a loss of control that will prevent SCRC from implementing the most efficient waste management technology; and

   (b) a failure to meet waste minimisation targets.

**Competitive Neutrality**

13. The competitive neutrality principle is that "an entity that is conducting a business activity in competition with the private sector should not enjoy a net advantage over competitors only because the entity is in the public sector" (LGA, section 43(3)). Adherence to the competitive neutrality principle is required "if, in the circumstances, the public benefit (in terms of service quality and cost) outweighs the costs of implementation" (LGA, section 43(2)).

14. SCRC has conducted a public benefit assessment of its Waste and Resources Management ("WRM") business activity and, as a result of the assessment, applied the full cost pricing reform option to the WRM business activity. Full cost pricing involves pricing the significant business activity on a commercial basis (section 44(3) of the LGA).

15. Under section 22 of the LGR, a Council applies full cost pricing to a significant business activity by charging for goods or services at the full cost of providing the goods or services, subject to the following:-

   (a) the pricing provisions;

   (b) the removal of any competitive advantage or disadvantage, whenever possible and appropriate;

   (c) if a competitive advantage or disadvantage cannot be removed—the taking of the competitive advantage or disadvantage into account when pricing the goods or services.

16. SCRC's mandatory levy is applied to all bulk waste customers. The exercise of the levy power in this way gives SCRC a degree of market power, or de facto monopoly power, because customers are unlikely to purchase a competitor's service in the presence of a mandatory levy with no "opt-out" option.

17. Under section 22(1)(b) of the LGR, a competitive advantage due to an entity being in the public sector must be removed whenever "possible and appropriate". The QCA position is that it is possible and appropriate to remove the competitive advantage gained by SCRC's ability to impose a mandatory levy. SCRC argue that it is not possible or appropriate, in all the circumstances, to remove the competitive advantage gained by SCRC as a consequence of its ability to impose the mandatory levy.

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Why SCRC asserts that the removal of the competitive advantage is not possible or appropriate

Interpretation of Full Cost Pricing Legislation

18. The Final Report contains fundamental errors in the interpretation and application of the full cost pricing and legislative and associated requirements of the principle of competitive neutrality.

19. In particular:-
   (a) section 22(1) of the LGR obliges SCRC to apply full cost pricing to a "significant business activity"; and
   (b) the relevant significant business activity is the significant business activity of SCRC's waste and resources management activities, not merely the component of the significant business activity comprising bulk waste recycling services; and
   (c) the Final Report confuses the process of pricing the components of a significant business activity (for the purposes of determining the overall revenue requirement of full cost pricing) with an obligation (which does not exist at law) to separately charge full costs for each individual component of a significant business activity.

20. The interpretation of the QCA of the full cost pricing provisions is not consistent with the "Full cost pricing in Queensland local government - a practical guide" (the "FCP Guide").

21. The FCP Guide:
   (a) was drafted following consultation with the QCA; and
   (b) is dedicated to local governments applying full cost pricing; and
   (c) is expressly referred to in an Editor's note in section 21(1) of the LGR.

22. If the legislature had intended for local governments to apply full cost pricing to subsets of a significant business activity (let alone a subset of a subset) this could have been made clear in the relevant legislation, regulations or the FCP Guide.

23. The FCP Guide repeatedly refers to full cost pricing meaning that "on average", prices should fully recover all relevant costs of supplying a product or service. The QCA incorrectly applies the term of "on average" in the FCP Guide, and its implication that subsets within the relevant significant business activity (waste and resources management) need not be separated and charged independently of the whole.

24. The QCA analysis ignores the monetary threshold requirement used to define a significant business activity and proceeds on the incorrect assumption that bulk waste recycling (as distinct from waste and resources management activities generally) is itself a significant business activity to which competitive neutrality and full cost pricing should apply.

Contrary to views of the Commonwealth Productivity Commission

25. The interpretation and conclusions of the QCA contradict the decision of the Commonwealth Productivity Commission ("CPC") about the application of the competitive neutrality principles to the conduct of NBN Co.

26. CPC noted that the NBN Co pricing model was different to the model adopted by private providers. However, CPC concluded that the NBN Co pricing model for individual goods or services in particular market segments, in itself, was not a breach of the competitive neutrality principle.

27. The CPC decision in the NBN Co matter supports SCRC's position as follows:-
   (a) competitive neutrality principles do not require the impacts on competition of pricing for particular market segments within a significant business activity; and

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(b) government agencies are not required to adopt the same pricing structures that are used by the private sector; and
(c) it is usual to see government agencies use very different pricing structures to the private sector precisely because they have different objectives to the private sector.

28. The QCA asserts that the CPC decision is not necessarily determinative of the correct interpretation of the relevant legislation as the wording of the relevant legislation and policies is not identical.

29. While not identical, the relevant Commonwealth and Queensland competitive neutrality provisions are substantially identical, and in particular:-

(a) both the Commonwealth and State laws adopt the concept of a "significant business activity" including the use of thresholds to determine what those activities might be; and
(b) both acknowledge the role of full cost pricing and its application to the significant business activity overall (to reflect full cost attribution for the business activities), not market segments within that significant business activity.

30. The CPC determination should not be distinguished or discounted because the determination is highly relevant and reveals a fundamental flaw in the approach of the QCA.

Untenable conclusions

31. The QCA asserts that the relevant legislation is ambiguous and requires the Minister's review. However, the QCA's recommendations clearly rely on one interpretation of the legislation and ignore the very ambiguity that the QCA asserts exists. If the QCA was confident about the recommendations included in the Final Report then there would be no need for a review of the competitive neutrality requirements of the LGA or the LGR.

Failure to apply the FCP Guide

32. The QCA reviewed the FCP Guide before its implementation. However, the QCA failed to properly acknowledge and apply the extensive guidance available in the FCP Guide which directly contradicts the interpretations and conclusions reached by the QCA in the Final Report.

33. Further, the QCA arrives at conclusions by reference to extracts from the FCP Guide, but does not explain how it arrives at the conclusions by reference to the actual content of the FCP Guide.

Response on economic issues

34. The QCA concludes that:

(a) the mandatory levy charge is equal to the total cost of the general waste plus recycling costs divided by the number of commercial customers for that size general waste bin; and
(b) given that the majority of bulk waste customers do not take the recycling bins, the charge levied to all bulk service customers is less than the average total cost of providing service to customers that are provided with both general waste and recycling bins; and
(c) consequently, ratepayers that do not use the recycling service subsidise ratepayers who do.

35. The QCA gives inadequate consideration to SCRC's desire to implement its regional Waste Management Strategy. SCRC envisages that all commercial premises will take up a recycling bin to segregate their waste into a mixed waste bin and recycling bin, given that all commercial premises will generate recoverable waste able to be placed into a comingled recyclables bin (and therefore able to be diverted from landfill).
36. SCRC could have simply adopted a charge for the best practice solid waste management collection service equal to the total cost of the mixed waste bin and the recycling bin across all commercial premises, but considered it to be more appropriate to average the costs of the best practice solid waste management collection service in the interim period rather than to achieve excess profits during this period. Charges would then be increased as increasing take up occurred.

37. SCRC has provided the QCA with information regarding increasing take up of a recycling bin and the impact on best practice solid waste management utility charges levied on commercial premises. The QCA has not had adequate regard to this information.

**Competitive neutrality criteria**

38. The QCA relies on the evaluation by Synergies of the cost-benefit analysis prepared by SCRC's consultant, AEC Group. The evaluation of Synergies fails to take into account the fact that there will be additional costs incurred by the Sunshine Coast community and region if SCRC adopts the recommendations detailed in the Final Report.

39. The Final Report disputes that diversion rates will fall significantly as a result of competition (with no evidence provided to support such a change in diversion rates). Information has been provided to the QCA regarding the take-up of recycling services in the Caloundra and Noosa areas following adoption of the current policy. This clearly shows that there has been an increase in take-up of recycling services which has been essential in assisting SCRC to progress towards its waste diversion targets.

40. Further, recycling levels within the commercial sector in other jurisdictions (in addition to within the Caloundra and Noosa areas prior to amalgamation) has been largely confined to bulk paper and cardboard. This is noted as an issue in a wide range of publications nationwide, and is an issue which is trying to be overcome through a number of investigations at the national level.

41. The Final Report includes comments of the QCA about alternative waste technology and community service obligations, ("CSO") but fails to have adequate regard to:-

(a) the right sizing of any alternative waste technology facility; and
(b) the need for certainty in the waste stream to be processed at any alternative waste technology facility.

Accordingly, the QCA's recommendation about the use of tax and subsidy mechanisms (CSO) is impractical.

42. In reality, reduced certainty in the volume and composition of the waste stream will ultimately mean that such waste is excluded from any alternative waste technology facility, and is instead disposed of at a landfill. The market has informed SCRC that this will be the case during market sounding in relation to alternative waste technology options. It is also evident that any reduced economies of scale resulting from only domestic waste being processed at an alternative waste technology facility will see the processing unit cost increase when compared with the cost of processing both domestic and commercial waste.

43. The QCA asserts that the number of increased truck runs contained within the cost-benefit analysis produced by SCRC's consultant, AEC is overstated. SCRC provided this estimate based on industry experience, and is confident that the estimate is not excessive or overstated. The QCA has produced no evidence in support of its claim that the number of increased truck runs is overstated.

44. This estimate would be particularly relevant in the context of the implementation of the recommendations of the QCA which would essentially see different trucks collecting paper and cardboard and other recyclables over the region. Not only would such a structure result in a significantly increased financial cost burden for the Sunshine Coast community, but also considerable safety, noise and congestion impacts. Also, the QCA fails to recognise that an increased number of trucks would be on the road to access the same areas (without orderly, scheduled collection runs).

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45. The QCA notes that SCRC’s analysis of alternative options was only undertaken at a high level (to determine whether there were any other options that were mildly compatible in terms of effectiveness and cost for inclusion in the cost-benefit analysis as realistic alternatives). Based on this high level review, SCRC concluded that there was no need to investigate other options further as it was very clear that they were all very high cost to administer and/or very low in effectiveness, that is, in achieving waste diversion. Undertaking a more detailed analysis would simply result in costs being borne by the Sunshine Coast community for no benefit. Generally, a cost-benefit analysis is only undertaken on realistic and practical options, given the costs involved with such an evaluation.

46. SCRC does not agree with WCRAQ’s assertion that its members would be able to increase recycling levels, given that all industry evidence points to the contrary, without some form of government intervention being in place. More flexible arrangements will also likely mean changes in the servicing structure which will reduce the individual products being recovered (for example, the primary focus being on bulk paper and cardboard), and therefore lower diversion rates from what has been achieved under SCRC’s current policy position. In reality, there is limited competition in the market for commingled recyclables, only a desire on the part of private operators to pick out the profitable recoverable products and profitable to service waste generators, given a profit maximisation focus, not a waste minimisation and community benefit focus.

47. The QCA’s recommendation of the application of a CSO is impractical as the market would first pick out the easy to service, high value recyclables (paper and cardboard) and would then leave the harder to service, low volume and low value recyclables to be collected via yet another bin. In effect, the adoption of a CSO, as suggested by the QCA, would require a different CSO for each and every commercial premises across the region depending on what recyclables have already been collected by private sector operators and their respective location.

48. SCRC believes that the QCA’s assertion that competition in the market must produce net benefits is inappropriate and misinformed, and is a fundamental flaw in its evaluation.

49. The QCA suggests that SCRC should ensure that competition exists for competition’s sake, even in the event that higher costs are likely to be incurred in aggregate across the community, in addition to higher costs for the majority of ratepayers as a result of reduced economy of scale and scope. Indeed, when making its conclusion, it is noted that the QCA is unable to guarantee that its evaluation outcomes are appropriate due to an absence of detailed convincing information.

50. The QCA has not provided any practical evidence that increased competition beyond that which already exists at the time of tendering for the collection and processing contracts will produce any benefits for the Sunshine Coast region. In fact, the duplication in truck runs, reduced economies of scale and reduced economies of scope, in addition to additional layers of regulation and administration under the recommended alternative, would result in considerable disadvantage to the Sunshine Coast community. The effect would be a significant increase in service costs in aggregate, in addition to a less than optimal waste diversion outcome.

51. The QCA’s position is theoretical in nature, without appropriate justification regarding the net benefits (or costs) that will be derived as a result of the implementation of the QCA recommendations and without consideration as to whether they can be applied in practice (and the administrative requirements of such a scheme). The recommendations fail to understand the market responses to the proposed policy amendments that would result in a considerable increase in overall servicing costs to achieve what would be a worse waste diversion outcome.

52. The QCA CSO based system is impractical. The QCA indicates that a CSO voucher could be provided to those groups considered not to have a sufficient incentive to recycle bulk waste (or all customers) and redeemed by the collection service provider at an SCRC disposal site.

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53. SCRC would need to determine the extent and composition of recyclables generated within each commercial premises to determine what size bin and what “voucher” would be applicable. In addition, the voucher would need to determine the location and cost to service each and every commercial premises.

54. Consequently, it is highly likely that each and every commercial premises would need to be covered by such a scheme, given that the market will first pick out the easy to service, higher value recyclables (paper and cardboard) and then leave the harder to service, low volume and low value recyclables to be collected by another bin. Significant additional costs would be associated with the implementation of the CSO scheme contemplated by the QCA. The recommended scheme would also be less effective than the status quo in terms of waste diversion outcomes. Also, the QCA is unable to point to any location where a scheme having the characteristics recommended by the QCA has been successfully implemented.

Implications for recyclables collection

55. The Queensland Waste Reduction and Recycling 2010-2020 Strategy aims to reduce waste disposal to landfill and landfill gas emissions by 50% by 2020. The Strategy adopts the same “waste hierarchy” as SCRC’s Waste Minimisation Strategy to promote reuse and recycling before disposal. SCRC operates a comingled recycling service where all recyclables can be placed in the same bin together and then sorted at SCRC’s Materials Recovery Facility.

56. SCRC adopted its Waste Minimisation Strategy in 2009, with the overarching objective being to assist SCRC to achieve its vision by minimising waste, adding value to the Sunshine Coast economy, and maximising the reuse of embodied resources. SCRC aims to increase the recovery of wasted resources to over 70% by 2014.

57. By breaking up the general waste and comingled recycling service, the QCA is essentially breaking up the comingled recycling operation itself given that there are products of differing value within a normal comingled recycling service.

58. In a competitive market environment where profitability is the primary focus, products of higher value would obviously be targeted over other, more difficult to process and less profitable products. In an open market, these potentially recoverable products would be left for disposal within the general waste bin rather than being recycled.

59. Given the marginal nature of paper/cardboard recycling when applied on a broad scale, only those commercial properties with high volumes and located within urban areas would be likely to be serviced. As such, waste diversion from landfill would be limited to around 5% in total. This is consistent with industry outcomes where a competitive market exists for recycling services.

60. The current level of recycling from commercial properties in the region of around 13% is considered to be far superior to this base level. In addition, the level of recycling from commercial properties has been growing consistently year on year as a result of SCRC’s policy position to date.

61. The QCA concludes that it is clearly possible to provide unbundled pricing and an “opt-out” provision and that this would be more appropriate in the circumstances, given the more efficient market driven outcomes this will result in. This conclusion ignores the fact that reduced certainty in the volume and composition of the waste stream will ultimately mean that such waste is excluded from any alternate waste technology facility, and is instead disposed of at landfill. This conclusion also ignores the evidence that any reduced economies of scale resulting from only domestic waste being processed at an alternative waste technology facility will see the processing unit cost increase when compared with the cost of processing both domestic and commercial waste.

Implications for procurement and contracting activities

62. SCRC must undertake its procurement and contracting activities in accordance with relevant requirements of the LGA and the LGR. WCRAQ asserts that SCRC’s tender process provides the most cost effective solution, but only for domestic wheelie bins. The
QCA also recommends competitive collection of bulk waste for recycling purposes. There are obvious strategic implications for SCRC if it opens up commercial recycling collection directly to private operators in the market rather than via a SCRC contracted service. SCRC would lose control of the commercial waste stream across its local government area.

63. If collection contractors have reduced certainty over the number and location of services, then the rate per lift can be expected to be significantly higher to reflect this uncertainty. This is in conflict with the procurement principle of value for money. The ability of SCRC to comply with the procurement principle of fair dealing would be compromised because SCRC would be unable to contract with certainty and security regarding a defined level of service. The higher costs incurred would be detrimental to both domestic and commercial customers, and a net cost would therefore be borne by the community for the same level of service provision.

64. SCRC also publically tenders for the actual processing of recyclables. By adopting its current methodology, SCRC can control the quality of the recyclable material entering its materials recovery facility as the contractor responsible for the operation of the facility has the right to reject a load of recyclable material if contamination is detected. Controlling the quality of recyclables entering the materials recovery facility is a key control in maximising the diversion of recyclables from landfill and minimising processing costs. The QCA does not give this consideration adequate recognition.

65. If SCRC's materials recovery facility contractor has reduced certainty over the quality of the recyclables delivered to the facility then the rate per tonne processed can be expected to be significantly higher to reflect this uncertainty. This would be in conflict with the procurement principles of value for money and environmental protection. The higher costs incurred would be detrimental to both domestic and commercial customers, and not only would the ability of SCRC to achieve its waste diversion targets be adversely impacted, but also a net cost would be borne by the community for the same level of service provision. The Final Report does not have adequate regard to these considerations.

Implementation of the Final Report

66. Under the Local Government (Beneficial Enterprises and Business Activities) Regulation 2010 (the relevant provision at the time of completion of the Final Report), SCRC was obliged to decide, by resolution, whether to implement the recommendations of the Final Report and, by resolution, state the reasons for SCRC's decision.

67. Relevantly, SCRC resolved:

(a) to receive and note the content of the Final Report; and
(b) not to implement the recommendations of the Final Report for the reasons specified in SCRC's resolution of 26th July, 2012; and
(c) to request the chief executive officer of SCRC to address the anomalies in the Final Report, organise information forums for Council to better understand the implications of the Final Report; and
(d) to request the chief executive officer to give notice of SCRC's decision to the QCA and WCRAQ.

Environmental Protection (Waste Management) Regulation 2000 issues

68. The current statutory regime envisages local governments having a primary, or at the very least, substantial role in the provision of waste collection and management services and the administration of the Environmental Protection (Waste Management) Regulation 2000 ("Waste Regulation") in respect of the majority of those services.

69. The Environmental Protection Act 1994 ("EPA") previously gave the chief executive (responsible for the administration of the EPA) the power to require a local government to carry out waste management works in all or part of its local government area. The EPA also provided for Councils to issue an approval in respect of the performance of waste...
management works. All of the provisions of this nature have now been repealed from the EPA.

70. For the purposes of the Waste Regulation, the administration and enforcement of the relevant provisions of the Regulation about "general waste" are devolved to each local government for its local government area.

71. General waste is defined to include domestic waste (relevantly, waste produced as a result of the occupation of domestic premises), commercial waste (relevantly, waste produced as a result of the occupation of commercial premises) and recyclable waste (relevantly, clean and inoffensive waste that is declared by a local government to be recyclable waste for its local government area, for example, glass bottles, newspaper, cardboard, steel and aluminium cans and green waste).

72. Under the Waste Regulation:-

(a) a Council may designate an area in respect of which the Council will arrange for the removal of general waste from premises or require the owner or occupier of the premises to arrange for removal of general waste from the premises; and

(b) a Council may require an owner or occupier of premises to supply enough standard general waste containers at the premises to contain the general waste produced at the premises or supply to the premises the number of standard general waste containers the Council reasonably considers is required at the premises as is sufficient to contain the general waste produced at the premises; and

(c) a Council may arrange for the collection of waste from the standard containers at the premises; and

(d) the Council must ensure that a service is provided for removing general waste—

(i) if the waste is domestic or commercial waste — at least once in each week; or

(ii) if the waste is recyclable waste for the relevant local government area — as often as is required by the Council; and

(e) the Council may give the occupier of relevant premises a notice stating:-

(i) the days on which the waste is to be collected; and

(ii) where the relevant waste containers are to be placed for collection of the waste; and

(iii) the time by which the waste container is to be placed in the designated location for collection of the waste.

73. Importantly, the Waste Regulation applies, for practical purposes, the same regime regardless of whether the relevant waste is domestic waste, commercial waste or recyclable waste.

74. The Waste Regulation does not differentiate between domestic waste, commercial waste and recyclable waste regardless of whether the waste is produced as a result of the ordinary use or occupation of domestic or commercial premises. The definition of "recyclable waste" is silent about the issue of whether recyclable waste is generated at, or collected from, domestic premises or commercial premises.

75. Section 101 of the Waste Regulation applies if general waste is produced at premises other than serviced premises, that is, outside the service area designated by a Council under section 108 of the Waste Regulation. Under this provision, a Council may:-

(a) give a written approval to the owner or occupier of the premises for depositing or disposing of waste; and

(b) impose conditions on the approval, including, for example, conditions about—

(i) the place for depositing or disposing of the waste; or
(ii) the method of depositing or disposing of the waste.

**Utility charges**

76. Chapter 4 part 1 of the LGA gives a Council the power to levy rates and charges in its local government area. The relevant charge is a utility charge "for a service, facility or activity" for any of a number of specified utilities including, relevantly, "waste management".

77. The term "waste management" is not defined for the purposes of the LGA. In those circumstances, the phrase has its ordinary, wide meaning, which would certainly extend to a range of general waste management services, including the collection and disposal of domestic waste, commercial waste and recyclable waste.

78. Chapter 4 part 7 of the LGR details a Council's power to levy utility charges "on any basis Council considers appropriate". The utility charges regime provisions do not draw a distinction between domestic waste, commercial waste and recyclable waste.

79. For example, utility charges may be levied on the basis of any, or any combination, of, relevantly, the following:-

(a) the use made of:-

(i) a particular parcel of land; or

(ii) a particular structure; or

(iii) a class of land or structure.

80. In the case of commercial premises, the most practical way for SCRC to ensure the certainty of its waste stream, regardless of whether the waste stream is domestic waste, commercial waste or recyclable waste, is, relevantly, to levy a utility charge in respect of all premises which are used for commercial purposes. The quantum of the utility charge must be commensurate with the amount of waste (both commercial waste and recyclable waste) which SCRC, acting reasonably, anticipates will be generated by the premises.

81. The Waste Regulation contemplates that SCRC may make a determination in respect of the issue identified in paragraph 80 provided SCRC's determination can be substantiated by reference to the application of objective criteria. By way of example, if particular commercial premises only generate enough commercial waste to justify the use of a 240L commercial waste bin then there would be no merit in the argument that SCRC may deliver and levy a utility charge in respect of a 3 cubic metre commercial waste bin to the premises.

82. Similarly, it is not difficult to envisage that commercial premises which generate enough commercial waste to justify the use of a 240L bin for commercial waste will also likely generate enough recyclable waste to necessitate the delivery, and servicing, of a 240L bin for the collection of recyclable waste alone. However, it would be difficult to justify the delivery of a 3 cubic metre recyclable waste bin to the premises in the absence of objective evidence to substantiate a determination that it is necessary for the premises to be supplied with a 3 cubic metre bin for recyclable waste.

83. At a practical level, the difficulty for most Councils is that the records available to Council simply do not indicate the level of commercial waste or recyclable waste likely to be generated at any particular premises used for commercial purposes. Accordingly, each Council is, to some degree, endeavouring to make the required determination based on inadequate knowledge of relevant facts and circumstances.

84. This problem is exacerbated by the fact that Council's waste management contractor will invariably rely on the statistics made available by Council when preparing its tender. Accordingly, if the information made available by Council is not accurate then a dispute with the successful tenderer is likely to follow. Also, depending on the terms and conditions of the contract entered into between Council and its contractor, Council will usually be subject to, at the very least, an implied obligation to make available for

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performance by its contractor, the level of services represented by Council in the information which was made available by Council during its tender process.

The Second Complaint

85. Under cover of a letter dated 10 December, 2012, the Australian Competition and Consumer Commission ("ACCC") wrote to SCRC regarding a Waste Recycling Industry Association Queensland ("WRIAQ") complaint to the ACCC that SCRC is providing commercial bulk recycling services in a manner that is anti-competitive and in breach of Part IV of the Competition and Consumer Act 2010 ("CCA").

86. In particular, WRIAQ complained that current and proposed waste management arrangements of SCRC unfairly prevent members of WRIAQ from competing in the market for the provision of commercial bulk recycling services within the local government area of SCRC and substantially lessen competition in the market. The letter from the ACCC of 10 December 2012 sought information from SCRC about the levy (utility charge) of SCRC, and the commercial bulk recycling services provided by SCRC.

87. Part IV of the CCA prohibits various restrictive trade practices that limit or prevent competition. In particular:-

(a) section 45 prohibits certain arrangements that restrict dealings or affect competition, including contracts, arrangements or understandings that substantially lessen competition; and

(b) section 46 prohibits a corporation with a substantial degree of power in a market from taking advantage of that power for the purpose of:-

(i) eliminating or substantially damaging a competitor in a market;

(ii) preventing entry into a market;

(iii) deterring or preventing a person from engaging in competitive conduct in a market.

88. SCRC delivered the requested information to the ACCC under cover of letters dated 18 December, 2012 and 14 January, 2013. Based on the information and documents provided by WRIAQ and SCRC, the view of the ACCC was that the conduct complained of (by WRIAQ) was unlikely to breach section 45 or 46 of the CCA. Accordingly, the ACCC advised SCRC that it did not intend to investigate the complaint further at that time, and that WRIAQ would be notified accordingly.
Hi Karen,

As discussed.

Kind regards
Sarah

Sarah Charlwood
A/Director Strategic Policy
Department of Infrastructure, Local Government and Planning
Level 39, 1 William St Brisbane QLD 4000
p. 07 3452 7977 | m. sarah.charlwood@dilgp.qld.gov.au

Hi Sarah

We spoke to Frankie about this yesterday. It is a key issue that we need to resolve and advised him of the work we had done. He requested we send a copy to you.

Happy to discuss with you in due course.

Thanks
Josh

Joshua O'Keefe
Team Leader - Intergovernmental Relations
LGAQ

Begin forwarded message:

From: "Robert Ferguson" <Robert_Ferguson@lgaq.asn.au>
To: "Joshua O'Keefe" <Joshua_OKeefe@lgaq.asn.au>
Subject: FW:
FYI

Robert Ferguson | Senior Advisor Environmental and Public Health
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**From:** Morgyn Goodale  
**Sent:** Wednesday, 19 October 2016 3:26 PM  
**To:** Robert Ferguson <Robert_Ferguson@lgaq.asn.au>  
**Subject:**
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