

Consultation overview

Draft Waste Reduction and Recycling (Waste Levy) Amendment Regulation 2018

September 2018

Have your say

You are invited to have your say about a proposed regulation that is being developed to implement a waste levy in Queensland.

The proposed regulation has been drafted as the Waste Reduction and Recycling (Waste Levy) Amendment Regulation 2018 (the Waste Levy Regulation).

The Waste Levy Regulation will support the Waste Reduction and Recycling (Waste Levy) and Other Legislation Amendment Bill 2018 (the Waste Levy Bill) which was introduced to Parliament on 6 September 2018.

A consultation draft of the Waste Levy Regulation has been released at the same time as the introduction of the Waste Levy Bill so that Parliament, the waste and recycling industry, and the community can consider the full package of proposed amendments to legislation to implement the waste levy.

The Waste Levy Regulation cannot be finalised for consideration by Governor in Council until the Waste Levy Bill is passed by Parliament and receives Governor in Council assent.

The consultation draft of the Waste Levy Regulation is a preview of what is proposed. It is subject to further Government consideration. It may change before it is made, for example as a result of your feedback.

This overview describes how the proposed Waste Levy Regulation will support the Waste Levy Bill to implement key aspects of Government policy for the waste levy.

Please use the information in this overview to help you provide feedback on the consultation draft of the Waste Levy Regulation.

Feedback on the consultation draft

The consultation draft of the Waste Levy Regulation and this overview is being released for public comment.

Written feedback can be emailed to WasteLevy@des.qld.gov.au by **15 October 2018**.

The consultation draft of the Waste Levy Regulation will also be discussed with members of a Technical Working Group of the Recycling and Waste Management Stakeholder Advisory Group.

Regulatory framework

If the Waste Levy Bill is passed by Parliament and receives Governor in Council assent, it will amend the *Waste Reduction and Recycling Act 2011* (the WRAR Act) to provide a head of power for a levy on waste disposal. It includes supporting provisions to allow for data collection, monitoring, audit and compliance.

The Waste Levy Regulation would amend the *Waste Reduction and Recycling Regulation 2011* (WRAR Regulation) which supports the WRAR Act.

Overview of consultation draft

The Waste Levy Regulation Bill allows some matters to be addressed in more detail in a regulation. The Waste Levy Regulation includes:

- what the chief executive must consider when deciding an application to exempt waste
- when residue waste may attract a levy discount and the amount of the discount
- how the waste levy is calculated and the rate of the waste levy for different types of waste
- how waste is measured when a weighbridge is not used
- how annual payments to local governments are calculated
- fees for some approvals.

The draft Waste Levy Regulation in detail

Sections 1–4

Snapshot

Sections 1–4 establish the title of the Waste Levy Regulation, when it commences, the legislation it amends and make some minor corrections to the existing provisions.

Features to note

Section 4 makes some minor amendments to the existing provisions of the WRAR Regulation which are editorial and are unrelated to implementation of the waste levy.

Section 5

Snapshot

Section 5 replaces existing Part 3 of the WRAR Regulation with a new Part 3 that relates to the waste levy. The new Part 3 consists of four divisions.

Features to note

Division 1—Identifying exempt waste

The Waste Levy Bill provides for some types of waste to be exempt from the levy. In some cases, the waste is only exempt if the chief executive (or their delegate in the department) approves an exempt waste application.

Division 1 of the Waste Levy Regulation prescribes circumstances in which the chief executive must refuse an application for waste to be exempt from the waste levy. Some of the circumstances relate to exemptions for earth contaminated with a hazardous contaminant from land listed on the environmental management register or the contaminated land register. Some of the circumstances relate to waste that is used as part the operations of a levyable waste disposal site.

Policy intent

An exemption is proposed for earth from sites that were contaminated before the commencement of legislation (initially the *Contaminated Land Act 1991*) that sought to prevent and manage land contamination i.e. before 1 January 1992.

An exemption is also proposed where waste that has been disposed to a landfill cell in the past needs to be relocated to a new landfill site as part of a significant community project. For example, waste may need to be removed to enable the building of a major new road.

Neither of these exemptions is proposed to be available if there are effective techniques for the safe removal of the contaminants from the earth i.e. through bioremediation or evaporation.

An exemption for waste to be used for on-site operational purposes at a levyable waste disposal site can only be approved if the waste is needed for that purpose and the site is not receiving other exempt waste that could be used for the purpose. For example, an exempt waste approval for use of road waste for daily cover of the active tip face could not be approved if the site was already receiving large quantities of 'clean earth' - uncontaminated natural materials including soil that are exempt from the levy.

Division 2—Waste levy

Division 2 covers how the waste levy is calculated and the levy rates for each waste type.

The levy for each type of waste for a levy period is the quantity of that type of waste delivered during the period multiplied by the levy rate for that waste type.

The levy rate for each waste type is listed in Schedule 1.

The Waste Levy Bill provides that the levy will be paid on all levyable waste delivered to a levyable waste disposal site (landfill site) in the levy zone.

Division 2 also establishes the waste levy zone as those local government areas listed in Schedule 2.

The rest of Queensland is the 'non-levy zone'. The Waste Levy Bill provides that the levy will also be paid on waste

brought from the levy zone or from interstate and delivered to a waste disposal site in the non-levy zone.

Table 1 summarises when levy is paid on waste delivered to a waste disposal site.

Table 1: When levy is paid on waste delivered to a waste disposal site

Waste generated in	Waste disposed in	Levy applied
Levy zone	Levy zone	Levy zone rate applicable to waste type
Levy zone	Non-levy zone	Levy zone rate applicable to waste type
Non-levy zone	Levy zone	Levy zone rate applicable to waste type
Non-levy zone	Non-levy zone	None
Others states	Queensland	Levy zone rate applicable to waste type

Policy intent

It is proposed that the levy will apply to all general waste streams—municipal solid waste, commercial and industrial waste, and construction and demolition waste. The Waste Levy Bill will ensure there is no direct impact on households through the introduction of an advance payment to local governments to address the levy costs associated with municipal solid waste.

Division 3—Discounting waste levy for residue waste

The Waste Levy Bill provides for discounts on the waste levy paid on the disposal of residue remaining from recycling activities. The Waste Levy Bill allows an activity to be listed as eligible for the discount only if giving a discount will have a significant impact on the activity becoming established and sustained in Queensland, and the activity optimises the market and material value that can be derived from the waste used as feedstock for the activity.

Division 3 of the Waste Levy Regulation states that the recycling activities that are proposed to be eligible for a discounted levy rate are listed in Schedule 3.

Division 3 also includes criteria for assessing an application and circumstances in which the chief executive (or their delegate in the department) must refuse an application for a discount. Measures to ensure the recycling is effective and efficient are needed to avoid token recycling.

The chief executive must consider the recycler’s performance history for carrying out the recycling activity and the strategies or practices the recycler proposes to improve their recycling efficiency. An application will not be approved unless the recycler has a history of achieving, or is likely to be able to achieve, an efficiency threshold listed for that recycling activity in Schedule 3. This threshold is a stated % of feedstock used for the recycling activity that is not disposed of to land fill because of the activity.

Division 3 also states that the proposed discount on residues is 50%.

The Waste Levy Bill allows the chief executive to impose conditions on a recycling discount. For example, the chief executive must impose a condition that either requires the recycler to maintain at least the recycling efficiency stated in the approval, or limits the amount of waste that will attract the discount.

Division 3 of the Waste Levy Regulation also states conditions of a recycling discount. For example, an approval will be conditional on providing information that the department will use to check the recycler is maintaining their recycling efficiency.

The Waste Levy Bill provides that an approval may be cancelled or amended if a condition is not complied with. For example, a recycling residue discount may be cancelled if returns were not provided or the recycling efficiency of the recycler falls below a minimum threshold without good reason.

Policy intent

The discounts are proposed to incentivise types of downstream recycling making a significant contribution to Queensland’s local economy. They build on the Government’s \$100 million Resource Recovery Industry Development Program announced in the 2018–19 Budget Papers.

Major downstream recyclers who ‘beneficiate’ recyclables so they can be used as feedstock for re-manufacture are making Queensland more self-sufficient when it comes to waste management as well as generating jobs and

economic growth for Queenslanders. By formalising discount arrangements, Queensland is flagging that it is actively seeking the establishment of downstream recycling operations in the State.

Levy discounts for these recyclers are very limited and applied on an 'ad hoc' basis in other States. Currently only 'floc' generated by shredding and sorting waste containing metal attracts a discount in New South Wales (50% discount) and South Australia (38% discount).

Division 4—Other provisions

Division 4 provides how waste and other materials are measured if a weighbridge is not used to measure waste and other material. Weight measurement criteria for specific vehicles are provided in Schedule 4. With the exception of skip bins, the deemed weights for a size of vehicle are for loads carried in that vehicle no matter how full it is. For skip bins, the deemed weight for a bin that is half full or less is half the weight that would otherwise be deemed for the same skip bin.

The weight measurement criteria are generally the same as those used to support the original waste levy which was introduced to Queensland in 2011, with the exception of providing for skip bins that are no more than half full.

Division 4 also provides for how annual payments to local governments are calculated.

It is proposed that the annual payments to local governments for 2018–19 be calculated based on data provided by local governments for the 2017–18 financial year about municipal solid waste generated in their local government area that is delivered to a levyable waste disposal site in the levy zone.

A definition of municipal solid waste is inserted in Schedule 9 which is the dictionary for the WRAR Regulation. Municipal solid waste includes household kerbside collected waste, self-haul waste and waste from litter bins, street sweepings and park maintenance. It doesn't include waste used as feedstock for recycling activities.

Division 4 specifies that the data provided by local governments will be adjusted for any relevant exemptions, to remove the tonnage of mixed food and green waste (commonly known as 'FOGO') and green waste that is managed separately from other waste streams, and to remove waste used as feedstock for a recycling activity carried out at a material recovery facility or the Cairns Bedminster facility. The adjusted data for each local government will be published on the department's website.

The annual payment for each local government for 2018-19 will be calculated by multiplying the adjusted tonnage for 2017-18 published on the department's website by the average general waste levy rate applying during the 2018–19 financial year multiplied by 105%. The average levy rate will be used to account for the increase in the levy rate on 1 January each year.

An adjustment for population is not proposed for the advances in 2018–19. However, if 2017–18 data is used for advances beyond 2018–19, it is proposed that it would be adjusted for any projected increases in population in the local government area. The adjustments would be based on projections published from time to time by the Queensland Government Statistician's Office.

Division 4 also provides that the discounted levy rate, the recycling efficiency thresholds and any other matters prescribed by the Waste Levy Regulation about recycling residue waste discounts must be reviewed by 30 June 2022.

Policy intent

The Waste Levy Bill will ensure the levy does not have a direct impact on households through the introduction of an annual payment to local governments to address the levy costs associated with municipal solid waste. The annual payments are to be paid in advance and must be used by local governments to mitigate any direct impacts of the levy on households in the local government's local government area.

The 2018–19 annual payment figure (\$31.975 million) reported in the Queensland Budget 2018–19 was calculated using the household components of municipal solid waste only - e.g. red-top bin kerbside collections, bulky waste kerbside collections and self-haul waste - given that only levy payments on this waste will have a direct impact on households.

Subsequently, the Queensland Government decided to include street sweepings, servicing street litter bins and maintenance of parks and other public spaces.

Household waste generated in a local government area and delivered to a waste disposal site in the levy zone is proposed to be used to calculate the annual payment.

The reported tonnages will also be adjusted for waste that is exempt from the levy or may be used as feedstock for certain recycling activities.

A different approach may be needed for calculation of the advance payments in 2019–20 and beyond. This is because waste tonnages for the previous year cannot be used because they will not be known in time for State

Government and local government budgetary process. Tonnages for 2017–18 can only be used for calculating the 2018–19 advances because the advances are being paid well into the financial year.

Options for future years include basing the advance for a year on waste tonnages in the year before last with an adjustment for intervening population growth.

Reviewing the arrangements for recycling residue discounts by 2022 (which is also when the Bill proposes there would be a statutory requirement for review of the efficacy of the waste levy) will ensure they remain appropriate in light of prevailing market conditions.

Sections 6

Snapshot

Section 6 omits sections 43 and 44 from the WRAR Regulation.

Features to note

Section 43 of the WRAR Regulation supported the definition of municipal solid waste that was previously in the Schedule (Definitions) of the WRAR Act. Section 43 became redundant when that definition was omitted from the WRAR Act in 2013.

Section 44 of the WRAR Regulation expanded the definition of 'recycling activities' in the Schedule (Definitions) of the WRAR Act. Section 44 is no longer required as the definition of recycling activity in the WRAR Act will be broadened by the Waste Levy Bill to capture the reuse, recycling and recovering of waste resources.

Section 7

Snapshot

Section 7 removes the previous fee schedule (Schedule 7) in the WRAR Regulation and replaces it with a new fee schedule (Schedule 5) discussed below - refer to Section 9.

Section 8

Snapshot

Section 8 inserts new schedules 1 to 4 of the WRAR Regulation.

Features to note

Schedule 1—Waste levy rates

Schedule 1 lists the waste levy rates for five different types of waste – see section 5 (Division 2) above.

The types of waste for which there is a separate levy rate are:

- acid sulfate soil
- earth contaminated with a hazardous contaminant from land listed on the environmental management register or contaminated land;
- regulated waste category 1 (other than acid sulfate soil or earth contaminated with a hazardous contaminant from land listed on the environmental management register or contaminated land)
- regulated waste category 2 (other than acid sulfate soil or earth contaminated with a hazardous contaminant from land listed on the environmental management register or contaminated land)
- other levyable waste (including municipal solid waste).

Table 2 summarises these rates.

Table 2: Proposed waste levy rates (per tonne of waste delivered)

	2019	2020	2021	2022
Acid sulfate soil	\$70	\$75	\$80	\$85
Earth contaminated with a hazardous contaminant from land listed on the environmental management register or contaminated land	\$70	\$75	\$80	\$85
Regulated waste category 1 (other than acid sulfate soil or earth contaminated with a hazardous contaminant from land listed on the environmental management register or contaminated land)	\$150	\$155	\$160	\$165
Regulated waste category 2 (other than acid sulfate soil or earth contaminated with a hazardous contaminant from land listed on the environmental management register or contaminated land)	\$100	\$105	\$110	\$115
Other levyable waste	\$70	\$75	\$80	\$85

Policy intent

Regulated waste has hazardous properties and is subject to more stringent management requirements, for example because it contains contaminants or has properties that present a higher risk to the environment or human health.

Regulated waste will attract a higher levy rate. This will help to address some of the cost imbalance between disposal and recovery options. Regulated wastes are defined in the Environmental Protection Regulation 2008.

Note that asbestos-contaminated waste is regulated waste but it is exempt from the levy in certain circumstances listed in the Waste Levy Bill.

The levy rate is stated separately for acid sulfate soil and earth contaminated with a hazardous contaminant from land listed on the environmental management register of contaminated land register. This is to clarify that the levy rate for these wastes is the same as for general waste. Acid sulfate soil is a product of natural processes but becomes problematic and needs to be properly disposed if disturbed.

Table 3 shows the proposed levy rate for general waste for other mainland states. The proposed rate for Queensland is within a similar range.

Table 3: Levy applied to general waste in the mainland states

	NSW Metro	NSW Regional	VIC	SA Metro	SA Regional	WA
2018-19	\$141.20	\$81.30	\$64.30	\$100	\$50	\$70
2019-21	\$145.20	\$83.60	\$66.22	\$103	\$51.50	\$70
2021-22	\$148.80	\$85.70	\$67.88	n/a	n/a	\$70

Schedule 2— Waste levy zone

Schedule 2 lists local government areas that will form the waste levy zone—see section 5 (Division 2) above.

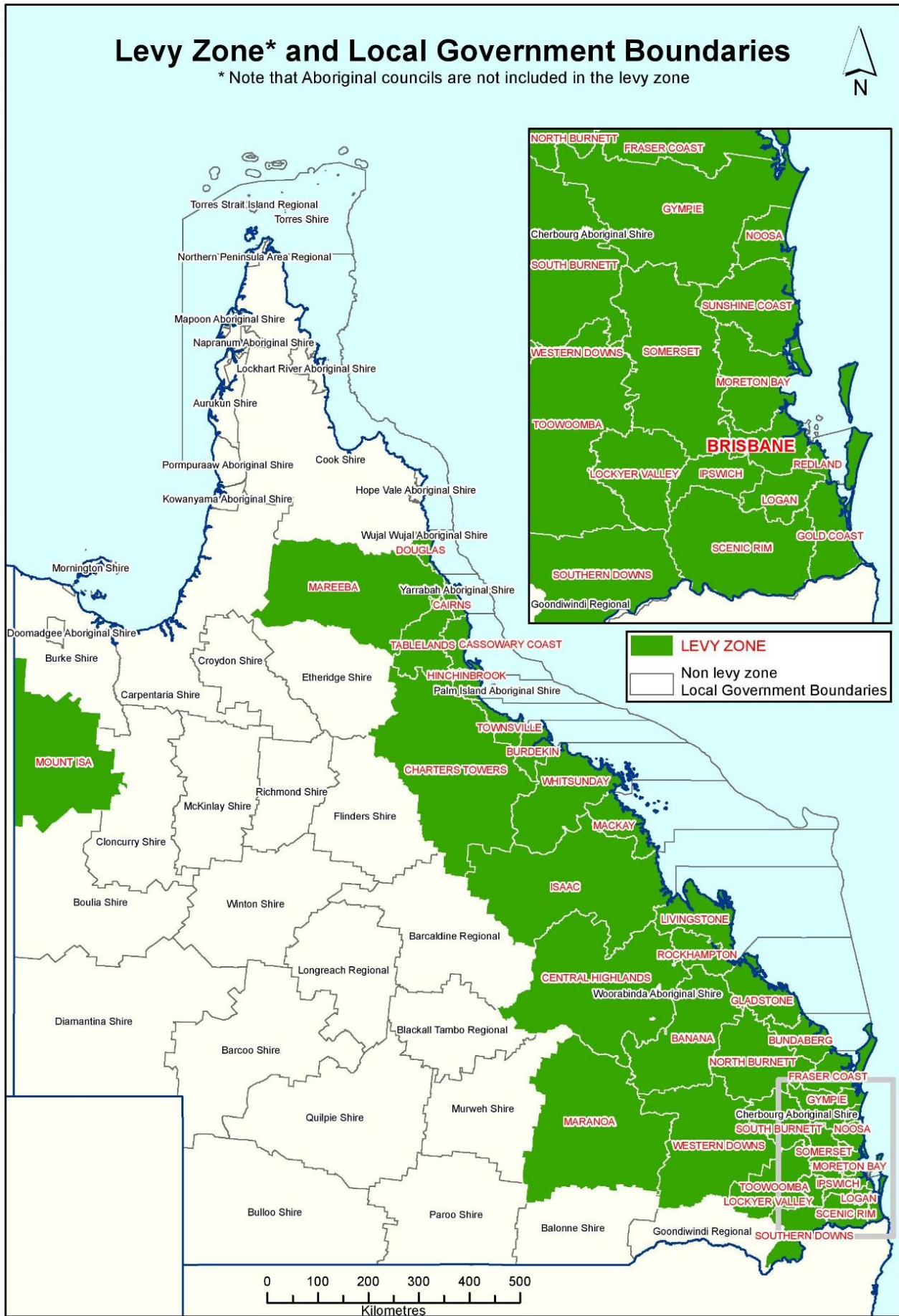


Figure 1: Map of levy zone

Policy intent

The map in Figure 1 shows the location of local government areas listed in Schedule 2. Note that Cherbourg, Palm Island, Woorabinda and Yarrabah Aboriginal Shire Councils are not included in the levy zone but are surrounded by the levy zone – these councils would receive an advance payment if any municipal solid waste from these areas is sent to landfill in the levy zone.

Public consultation has occurred on the proposed boundaries of the waste levy zone. The boundaries are the same as last time a waste levy was established in Queensland in 2011, with the exclusion of Goondiwindi and inclusion of Maranoa Regional Council.

Schedule 3—Prescribed recycling activities and recycling efficiency thresholds

Schedule 3 list the recycling activities and efficiency thresholds for assessing eligibility for a recycling residue waste threshold—see section 5 (Division 3) above.

This threshold is stated as % of waste used as feedstock for the recycling activity that is not disposed of to land fill as a direct result of the activity.

Policy intent

Measures to ensure recyclers maintain appropriate recycling efficiency will be needed to avoid token recycling. It is expected that the threshold for glass beneficiation is likely to be achievable after the container refund scheme commences on 1 November 2018.

Schedule 4—Weight measurement criteria

Schedule 4 is the weight measurement criteria for the measurement of waste or other material when there is no weighbridge or a weighbridge is not functioning – see section 5 (Division 3) above.

Policy intent

The weight measurement criteria are used to assess the weight of the waste and other material in tonnes by using conversion factors based on the type of vehicle carrying the material or, for skip bins, the size of skip bin.

The values were developed in 2011 in consultation with industry. The only change proposed is in response to feedback that skip bins, compared to other vehicles, are less likely to be full of waste because skip loads of waste may be regularly disposed for specific clients regardless of the amount of waste. In response, the criteria allow for deeming a lesser weight of waste if a skip bin is no more than half full.

Section 9

Snapshot

Section 9 replaces Schedule 5, (Local governments for waste disposal sites – weighbridge requirement provision), with a new schedule of fees.

Features to note

Current Schedule 5 of the WRAR Regulation lists all the local government areas in which a weighbridge is required at a waste disposal site if the site is required to hold an environmental authority for the disposal of more than 10,000 tonnes of waste per year. Schedule 5 will no longer be required because new weighbridge requirements will have been included in the Waste Levy Bill.

Schedule 5—Fees

Schedule 5 contains the existing fees from Schedule 7 and a number of application fees for approvals and amendment of approvals for exempt waste applications and a residue waste discounting application in the Bill.

Policy intent

Fees are not proposed to be prescribed for exempt waste approvals for charitable recyclers, community litter clean-ups and biosecurity waste as there is a public benefit from these exemptions. The remaining fees have been calculated to reflect the cost of assessing applications.

Table 4 and Table 5 summarise the proposed fees.

Table 4: Proposed fees related to an exempt waste application or amendment application

Fee	Amount
Exempt waste application	
(a) for an application relating to waste that has been donated to a charitable recycling entity but that cannot practicably be re-used, recycled or sold	Nil
(b) for an application relating to waste collected by members of the community during an organised event directed at remediating the results of persons having committed an offence against the general littering provision or the illegal dumping of waste provision	Nil
(c) for an application relating to earth contaminated with a hazardous contaminant from land listed on the environmental management register or contaminated land register	\$196.14
(d) for an application relating to waste to be used at a levyable waste disposal site for a purpose necessary for the operation of the site that is made at the same time as an application to amend an environmental authority under the <i>Environmental Protection Act 1994</i> , section 224	Nil
(e) for an application relating to biosecurity waste	Nil
(f) for any other application relating to waste to be used at a levyable waste disposal site for operational purposes	\$339.24
Request to amend an exempt waste approval	
(a) for amendment of an approval relating to waste that has been donated to a charitable recycling entity but that can not practicably be re-used, recycled or sold	Nil
(b) for amendment of an approval relating to waste collected by members of the community during an organised event directed at remediating the results of persons having committed an offence against the general littering provision or the illegal dumping of waste provision	Nil
(c) for amendment of an approval relating to earth contaminated with a hazardous contaminant from land listed on the environmental management register or contaminated land register	\$51.39
(d) for amendment of an approval relating to waste to be used at a levyable waste disposal site for an operational purpose	\$51.39
(e) for amendment of an approval relating to biosecurity waste	Nil

Table 5: Proposed fees related to a residue waste application or amendment application

Fee	Amount
Residue waste discounting application	
(a) for the first application	\$244.35
(b) for each subsequent application	\$122.11
Request to amend a residue waste discounting approval	\$51.39

Section 10

Snapshot

Section 10 omits the current Schedule 7 which contained a list of fees prescribed by the WRAR Act.

Features to note

New Schedule 5 lists fees prescribed by the WRAR Act—see section 9 above.

Section 11

Snapshot

Section 11 updates Schedule 9 which is the dictionary for the WRAR Regulation. Section 11 omits terms that are no longer used and adds new terms to assist in interpreting the new and amended provisions in the regulation.

Features to note

The majority of terms that have been added are to assist in interpreting Schedule 4 (Weight measurement criteria). This include definitions of the types of vehicles used to transport waste and the types of waste being transported.

Many of the definitions adopted are the same as when a waste levy was last introduced in Queensland in 2011, but there have been minor changes to ensure that they are still appropriate.