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The Australian Sustainable Business Group (ASBG) is pleased to comment on the Queensland Government's [Consultation overview Draft Waste Reduction](#) (Consultation Paper) and [Recycling \(Waste Levy\) Amendment Regulation 2018](#) (Waste Levy Regulation).

The [Australian Sustainable Business Group](#) (ASBG) is a leading environment and energy business representative body that specializes in providing the latest information, including changes to environmental legislation, regulations and policy that may impact industry, business and other organisations. We operate in NSW and Queensland and have over 110 members comprising of Australia's largest manufacturing companies and other related businesses.

ASBG provided [its submission](#) on the [Transforming Queensland's Recycling and Waste Industry—Directions Paper](#), which covers views on the use and application of the proposed waste levy. Considering it is clear that a waste levy will be introduced this submission focuses largely on the mechanics of how the levy money collection system will work and a few other issues.

A key issue is how the levy discount will be provided to recyclers.

ASBG strongly recommends the Queensland Government provide the discount to recyclers based on Payment on Recycled Product Sold Method and not as a discount payment at waste disposal facilities.

The Payment on Recycled Product Sold Method is discussed along with why discount at the landfill is not preferred in this submission along with other Administrative issues resulting from the roll out of Queensland's waste levy.

1 Background

ASBG was instrumental in establishing the current 50% discount to metal shredders in NSW. This is currently the only levy relief mechanism operating in Australia. Discussions with the NSW EPA on achieving this relief for the three metal shredders commenced in 2011. This discount commenced on 1 September 2013 and has continued since.

However, there are two main flaws in this rebate, including reapplication costs and the payment process for the levy relief.

1.1 Cost of Ongoing Review

Renewal of the discount has had to be reapplied for every 2 years with NSW Treasury requiring independent and detailed economic assessment justifying the continuation of the discount. The last independent report cost \$100,000 to prepare. NSW EPA and the 3 metal shredders are seeking to convince Treasury this rebate should become permanent from 1 July 2019. However, this will require considerable funding into economic research to satisfy NSW Treasury.

Fortunately the proposed levy relief is to be made permanent and not subject to ongoing reviews and justifications. However, the resource recovery efficiency could be subject to review from time to time. More on this later.

1.2 Application of Discount at Landfill

The second flaw is the incentive provided to metal shredders is placed at the wrong end of their business. While administratively simple for the three NSW shredders involved, a discount at the landfill gate incentivises sending more waste through to gain the levy discount. This set up provides the potential for arbitrage against paying the full levy rate. While this is not difficult to police on three sites, but this becomes an issue with multiple sites as proposed under the Queensland model.

NSW also uses a mass balance approach to check if recyclers are undertaking bona fide recycling and not avoiding the waste levy by various means. However, the mass balance process is subject to considerable legitimate variations due to:

- Moisture changes which can be weather related or from other sources
- Biological action where organic material is changed into gaseous emissions
- Chemical reactions, such as when steel rusts it gains weight

ASBG considers that mass-balances have an error rate typically around +/-10%. Mass-balances can serve as a guide and rough indicator that a recycler is performing to required levels. However, it is a poor mechanism to use for accounting and financial purposes given its broad error margins. Hence, the application of a landfill gate fee discount will incentivise the salting of recyclate inputs so the additional waste generated from the recycler will receive the levy discount. While a mass-balance approach can be used to police this, it is a clumsy and legally imprecise method.

To further demonstrate the problems with mass-balances the NSW EPA proposes changing its Protection of the Environment Operations (Waste) Regulation 2014 to include:

*S25(1) EPA may estimate changes to mass of waste This clause applies if the EPA **reasonably believes** that the mass of waste may have changed while it is at a scheduled waste facility or the occupier of the facility has incorrectly calculated the mass of waste at a facility*

This reflects the legal and accounting complexity in using mass balances to police recycling facilities. If a regulator has to move to a legislative over-ruling basis to achieve such an outcome surely the method must be at fault.

2 The Alternative Approach – Payment on Recycled Product Method

Since 2011, ASBG has recommended that levy relief to *bona fide* recyclers should not be provided at the landfill gate, but in proportion provided on sale of the recycled product sold. Further, all waste from a recycling facility be charged the normal waste levy amount at a landfill gate.

Figure 1 – Payment on Recycled Product Method shows how this would work.

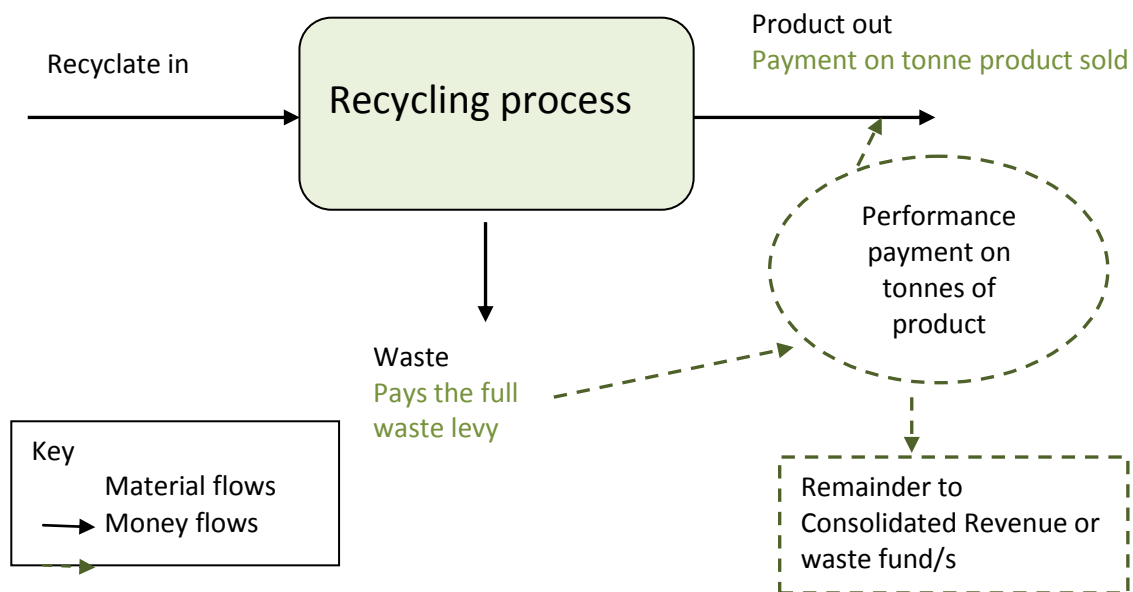


Figure 1 Payment on Recycled Product Method

ASBG notes [Queensland’s Waste Avoidance and Resource Productivity Strategy \(2014-2024\)](#) contains the objectives:

- Queensland will realise all opportunities (environmental, economic and social) from maximising
- sustainable consumption and production
- Queensland will optimise economic benefits from reuse, recovery and recycling

Adoption of the *payment on recycled product sold method* is consistent with the State’s policy objectives and will establish Queensland as a leader in innovative approach to incentivise recycling.

2.1 Use of Recycling Efficiency Threshold to Pay on Recycled Product

The proposed Waste Levy Regulation already provides the *Recycling Efficiency Thresholds* under Schedule 3. These thresholds provide what the Queensland Government expects the minimum performance to be for specific recycling activities. There is no doubt that the recyclers will use the full extent of these efficiencies to gain full discounts on their waste streams if the discount is provided at the landfill gate. This arrangement provides no incentive to reduce waste to landfill. Instead it will maximise recycled product outputs as the recyclers will be paid on product output incentivising removal efficiency and output rates. It also disincentivises sending of waste to landfill as it is treated as any other waste and the full levy rate applies.

The alternative approach in section 2 can be easily based on the *Recycling Efficiency Thresholds (REF)*, which can be directly converted into payments on *bona fide* recycled product produced. Payments to recyclers in dollars per tonne of product recycled are a simple calculation as shown in Table 1.

Table 1 is based on a simple formula:

$$\$ \text{ paid on recycled product} = 100 - \text{REF} / \text{REF} \times \text{waste levy rate } (\$/\text{t}) / 2$$

| Table 1 Payment Rates on Recycled Product \$/t Based on Recycling Efficiency Thresholds | | |
|---|------------------------------------|--|
| Recycling Activity | Recycling Efficiency Threshold (%) | Payment per tonne of recycled product if waste levy is at \$70/t discounted to \$35/t (\$/t) |
| e-waste recycling | 90 | 3.89 |
| paper and cardboard recycling | 65 | 18.85 |
| glass recovery or recycling | 65 | 18.85 |
| metal recovery or recycling | 70 | 15.00 |
| plastic recycling using an extrusion, washing or flaking process | 85 | 6.18 |
| tyre recycling | 80 | 8.75 |

Payments can be made based on a monthly or quarterly lodgement of the amounts of recycled product sold. This process uses normal accounting practices based on invoice payments received from the market for *bona fide* product sold.

Like with any business accounting practice auditing of the sales to ensure they are bona fide would apply, but this is a common practice. All that is required that such invoices state the amount in tonnes as well as the sale price.

While the *Recycling Efficiency Thresholds* set in the proposed regulation is a good start it misses many other types of recycling such as for Construction and Demolition waste recycling. It is noted that sections 15-18 permit other forms of recycling to be estimated for the levy discount.

ASBG recommends that other types of recycling may warrant different

2.2 Precedent Set under the CDS

The method for payment for CDS beverage containers collected and handling costs and deposits (10 cents per container) by the collection/recycling facilities uses a payment on product produced (sold). ASBG considers this sets a precedent for the payment on recycled product produced / sold.

Queensland is to commence its Container Deposit Scheme (CDS) on 1 November 2018. This scheme is largely based on NSW's Container Deposit Scheme which commenced on 1 December 2018. While final protocols and contracts with the CDS are being established it is assumed it will use similar approaches to that in NSW. For example:

- [Section 99ZA](#) *Container Collection Agreement* of the Waste Reduction and Recycling Act 2011:

(1) A "**container collection agreement**" is a written agreement between the Organisation and the operator of a container refund point that includes provisions about the following matters—

(a) the operator's obligations under the agreement in relation to— ...

(ii) keeping records, and reporting to the Organisation, about the [refund amounts](#) paid and [containers](#) collected, sorted and transported for recycling by the [operator](#); and...

- [Section 99ZC](#) *When container refund point operator must not claim payment* of the Waste Reduction and Recycling Act 2011:

...(c) the operator knows, or ought reasonably to know, the container has been disposed of to landfill, whether or not the operator has paid a refund amount for the container.

- [Section 99ZD](#) Operator must ensure containers sent for recycling of the Waste Reduction and Recycling Act 2011:

(1) This section applies if—

- (a) the operator of a container refund point has paid a refund amount for a container; and
- (b) the container is not the subject of an extraordinary circumstances exemption.

(2) The operator must not allow the container to be disposed of to landfill.

Also a NSW example:

- [Section 28](#) of the NSW Waste Avoidance and Resource Recovery Act states:

1) A Scheme Coordinator agreement may require the Scheme Coordinator to pay to material recovery facility operators refund amounts ("**processing refunds**") for containers that are collected during the course of waste management services and that are processed by the operators for reuse or recycling.

It is clear that payment for collecting, administration, sorting, processing and recycling CDS containers to the operator is made on the basis of recycled product produced. It is a small step to account for such quantities by the payment of invoices by those next in the chain of the recycling system for that product type. Hence, there is a clear precedent of payment on recycled product under Queensland's Waste Reduction and Recycling Act 2011.

2.3 Advantages and Disadvantages

Key advantages to paying the levy discount proportionally on the recycled product sold includes:

- Payment invoices or receipts from recycled product *bona fide* customer can be policed using normal accounting and financial auditing practices, rather than solely relying on inaccurate mass-balances. Hence, the monthly total of such receipts could set the payment made per tonne of recycled product sold.
- Government gains better data over the recycling sectors due to the regular reports for claimed levy rebate on product.
- Avoids the incentive to boost waste quantities (i.e. taking in more 'contamination' and "salting" the waste stream) as waste output from recyclers pay the full levy.
- Reduces fraud incentive at landfill gates. Use of false waste documents is a major fraud issue in NSW. By eliminating proof of waste from a recycler will prevent this type of fraud.
- Reduces the administrative requirements at landfill gates which will be burdened with complex levy calculations on levy – non- levy areas and mixed loads.
- Product quality is checked by the market, driving recyclers to extract more products from their input streams (not more waste).
- Cost of measurement of product quality is built into the system – downstream customers (the market) will set and demand quality standards
- Encourages the development of new and additional markets, especially use of the ability to apply for new recycling types under the proposed regulation.
- Encourages additional extraction of more recycled product from the input streams as this will pay.
- No requirement for policing via mass-balances, as payment is based on receipts of product sold. Hence, cost of measurement of waste quality, efficiency and policing of direct payments will be lower to both recyclers and government. Note that mass-balances may be used far less frequently to for example assess resource recovery efficiency.

Disadvantages include:

- Requires establishment of an administrative process to pay and check each recycler their claimed amount. Though this could be in the form like ATO tax returns requiring with the option for an independent auditor's report where required.

- Government must agree to keep the \$/t rate constant for a set number of years to provide certainty and to provide incentives to increase recycling rates. Schedule 3 of the EP (Waste Levy) Regulation already contains the first set of resource recovery efficiency thresholds.
- Large increases in contamination at recyclers may impact its economics negatively. Recyclers are generally very careful on checking input stream quality.
- Some recyclers have closed loop systems, meaning the organisations internal processes replace the market for the product sold, hence avoids a open market check of quality etc. ASBG notes that such closed loop organisations should be encouraged as they represent a true circular material flow process. Other mechanisms such as considering the entire loop where the process is, desirably, circular, or site by site quality checks may be required.
- Some recyclers are concerned that commercial in confidence information relating to sales volumes of recycled product will be made available to the EPA. Independent accounting practices and unknown individual rebate rates may form some protection to this, but will add to the costs.

3 Other Issues

The proposed set up of the waste levy places considerable administrative and policing requirements on the landfill operators. Landfill operators will be required to assess at the gate house if each waste load is:

- An exempt waste including exempt earth
- A regulated waste category 1 ,2 or unregulated
- Is generated from a non-levy or levy zone or from another state
- Is generated from recycling facility and can claim the discounted levy rate

The issues here include administrative burden on landfill acceptance, greatly increasing the complexity and management and policing of fraud as vehicles enter the site.

3.1 Administrative complexity

Introduction of a waste levy at \$70/t will drive considerable incentives to illegally dump and also to find methods to avoid paying the levy or paying a lower priced levy. As a consequence, the following issues need consideration in the administration of the new levy:

- **An increased policing of wastes across the state.** NSW has had to greatly increase its policing due to its very high levy with a new taskforce set up late in 2017 to deal with the hardened end of the waste criminals. Whenever a new tax, tariff or levy is applied to a product increased policing must be included. Just consider the policing required for alcohol and tobacco. Note banning a substance, such as illicit drugs requires even more resources. Policing will need to cover illegal dumping, illegal landfills, illegal use of existing landfills and fraudulent documentation.
- **Documentation:** The complex manner in which regulated waste is classified, identification of the complex set of exempt wastes, source of the waste (i.e. non-levy zone disposal and from a recycler) will rely on documentation to prove to the landfill gate house that waste is of a certain classification and subject to a certain levy rate or not. Fraud can occur at the landfill gate house, but far more likely from deliveries. NSW has experienced considerable fraud by: landfill docket receipts, waste classifications and sources of the waste.
- **Administrative costs and complexity:** Smaller operators will struggle with the administrative burden required to establish landfill gate acceptance criteria, waste classification according to the levy, software upgrades, staff training and fraud prevention. Added to this is the preparation of reports to the DES to establish the correct levy payable. Establishment in March 2019 of the levy process will bring this requirement on all facilities across Queensland, but mostly on landfills in the levy areas. This will be a very costly and will take some time to get right by the landfill operators and the DES
- **Weighbridges:** NSW is still struggling to have all weighbridges installed, even when grants are offered. Weighbridge costs are not limited to the physical weighing equipment. Much of the costs are in the computer systems and software development required to process the weight data and appropriate

waste levy rate to be applied for each load. As there are many weighbridges to be installed in Queensland there are complexities and cost issues which may have been overlooked.

Policing of the waste levy will be complex and some benefit of the doubt should be considered in the early implementation of the levy, perhaps a year or more will be required.

Note complexity of the classification is also worn by the waste generator. Commercial and industrial waste generators are especially hit with the significant change in the classification of Regulated Wastes. Again some benefit of the doubt should be considered here as well in its implementation.

ASBG recommends recognition of the increased complexity under the new levy system and consequent consideration to reduce this complexity and provide support for those trying to comply.

This submission was prepared with the assistance of members of ASBG Policy Reference Group.

Should you require further details and clarification of the contents of this submission please contact me.

Yours Sincerely

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