

QLD Waste Levy: Removing Waste from Landfill

Guideline

Section 38 of the *Waste Reduction and Recycling Act 2011 (WRR Act)* states that an operator of a levyable waste disposal site (the Operator) **must not sell or receive commercial gain** on the removal of waste from the site where levy is or would be paid on that waste. The Operator is identified in section 8A as the entity that is required to hold an environmental authority for the disposal of waste at the facility.

Purpose

The intention of Section 38 **IS NOT** to limit the ability of operators to remove waste from the landfill, particularly where personal, occupational or environmental hazards are present or where recovery or recycling opportunities are available. The legislation, however, must not contravene the Australian Constitution - and Section 90 of the Constitution does not allow for States to impose a duty of excise (1).

If waste for which the levy HAS OR SHOULD HAVE applied has subsequently been sold, the process treats waste as a good; creating a step in the production of that good that potentially characterises the waste levy as an excise.

1 A DUTY OF EXCISE IS A TAX ON THE PROCESS OF PRODUCTION OR DISTRIBUTION OF GOODS BEFORE REACHING CUSTOMERS.

This could be in breach of the constitution and hence is why there is an offence provision regarding the “commercial gain” as described in section 38 of *WRR Act*.

LEVIABLE WASTE IS WASTE DELIVERED TO THE LEVIABLE WASTE DISPOSAL SITE. THAT IS, THE LANDFILL AREA (WARR ACT 2023 CH1, SEC26) ...THAT MEANS WHETHER IT'S INTENDED TO GO THERE OR NOT!

However, section 38 DOES NOT prohibit salvage after the levy has been paid; but it does limit commercial gain on sale by the operator of the levyable waste disposal site (the operator) for that material. This section also DOES NOT limit salvaging of materials by a third party who retains those materials or donation of materials to third parties.

Best Practice

Where possible, the Operator should recover waste in the declared RRA's to allow maximum recovery without operational limitations.

Where problem wastes are found in the landfill though, it can be removed if the Operator does not sell OR make a commercial gain on the material. For example:

- The Operator may remove items which will have a cost to process / recycle (such as tyres)
- The Operator may donate the materials to third party recyclers or charitable recyclers but should not receive any non-monetary benefit (favours)
- The Operator can engage third-parties to “pick” waste that is recyclable, from landfill
- A third party operator managing the site can sell or recover any waste

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Example 1

Waste is removed that is generally not sold for recovery

- A skip bin of mixed waste is delivered to the landfill and two tyres are found in the load.
- The tyres can be collected from the landfill cell and moved to the RRA for stockpiling
- The full tyre stockpile can then be collected for recovery or processing and moved offsite

No sale or commercial gain has occurred and the problem waste is not landfilled

Examples

Tyres



Gas Bottles,
Flares,
Flammables



REMEMBER - IF YOU MOVE IT FROM LANDFILL TO RRA, THE INTERNAL MOVEMENT MUST BE MEASURED (WEIGHED AT A WEIGHBRIDGE SITE, DEEMED AT A NON WEIGHED SITE)

IF YOU CANT RECOVER SCRAP IN YOUR RRA, CONSIDER A COMMERCIAL ARRANGEMENT WITH YOUR CONTRACT OPERATOR, SUPPORT A CHARITY OR ADD A SCAVENGING AGREEMENT

Example 2

Waste is removed that is sold to recyclers

- A mixed load of commercial waste is delivered to the landfill and a scrap metal is found in the landfill
- The metal is collected from the landfill cell and stockpiled separately in the levyable part of the site or in a segregated stockpile in RRA (not regular RRA stockpiles)
- A third party (waste facility operator or charitable recycler) collects the waste to sell to metal recyclers

The operator of the LWDS (the Operator) has not sold or made commercial gain on the levyable waste

Examples

Metal



Batteries



Example 3

Waste is “picked” from the landfill cell

- The Operator allows a third party organisation to pick or scavenge recoverable materials from the landfill
- The Operator must not receive any benefit (financial or otherwise) from the sale of levyable materials.



The Operator of the levyable waste disposal site has not sold or made commercial gain on the levyable waste. The third party may receive the sale/commercial benefit.