Local government waste management reforms

Consultation regulatory impact statement

Queensland Government

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THE QUEENSLAND REGULATORY IMPACT SYSTEM

The Queensland Government is committed to applying regulatory best practice principles to reduce the regulatory burden on the community and to ensure that where regulation is used it is efficient, effective and in the public interest. The regulatory impact statement (RIS) system guidelines are issued by the Treasurer, and require all Queensland Government agencies to carefully assess the impacts of proposed laws and rules on business, the community and the government.

Consultation is an important way of improving the quality of regulation at all stages of the regulatory development process. Where a regulatory proposal may provide a net benefit to the community but is likely to have significant adverse impacts on a section or sections of the community, a consultation RIS is required.

A consultation RIS provides the community with an opportunity to consider the options of the proposed regulation and its impacts. Stakeholder responses to a consultation RIS gives decision makers valuable information on which to base their policy decisions, and to avoid unintended consequences and unnecessary compliance burdens. Further information on the RIS system is available on the Queensland Productivity Commission's website: www.qpc.qld.gov.au.

EXECUTIVE SUMMARY

Section 7 of the Waste Reduction and Recycling Regulation 2011 (Qld) (section 7) and chapter 5A of the Environmental Protection Regulation 2008 (Qld) (chapter 5A) [1] provide a regulatory framework for local governments to administer waste management activities within a local government area. The provisions do not require local governments to deliver services or undertake particular activities—rather; they provide the ability for local governments to provide these services. These provisions have been devolved to local governments for a number of years.

Section 7 allows local governments to designate areas for the collection of general waste and green waste, and to determine the frequency of those collections. For chapter 5A, 'general waste' is defined to include domestic, commercial and recyclable waste. The chapter provides local governments with the ability to direct occupants in designated areas as to where they can place their bin for collection, the types of wastes that can be placed in the bin, and, when the bin is to be removed from the collection area. Chapter 5A also give local governments the ability to impose obligations and requirements on premises outside designated areas.

Local governments may make local laws about the same matters covered by chapter 5A. The *Local Government Act 2009* (LGA) provides for local governments to make local laws, including anti-competitive laws where the benefit to the community is considered to outweigh the cost. Chapter 4 of the LGA provides for local governments to levy rates and charges including general rates and utility charges. This consultation RIS does not look at amending the LGA or the Local Government Regulation 2012 relating to local governments' ability to make local laws and levy general rates and utility charges. These powers will remain unchanged, and consideration of this is outside the scope of this consultation RIS.

In 2017, the former Department of Environment and Heritage Protection engaged the Queensland Treasury Corporation (QTC) to undertake an investigation into the local government waste management provisions. The QTC report was finalised in June 2018. The

[1] The Environmental Protection Regulation 2019 commenced on 1 September 2019. The provisions for waste management by local governments are now prescribed in chapter 6 of the Environmental Protection Regulation 2019.

QTC investigated the potential impact on local governments if section 7 and chapter 5A expired, and whether the current application of the regulations prevented fair competition in the waste industry. These regulations were transitional provisions and were due to expire on 1 July 2018.

The expiry dates for both provisions were removed in June 2018 to provide for their continuation while longer-term solutions to issues raised by stakeholders were identified and explored. The QTC investigation informed the extension of section 7 and chapter 5A.

To address the current issues with section 7 and chapter 5A, the Department of Environment and Science has developed this consultation RIS proposing two options for addressing stakeholder concerns:

- Option 1: Continue existing provisions indefinitely (base case).
- Option 2: Retain and amend the state provisions.

Option 2 is the preferred option, and proposes to:

- retain the ability for local governments to provide waste collection services for waste generated at domestic premises
- restrict the designation of areas for the mandatory collection of waste by local governments to domestic premises
- provide flexibility for local governments to mandate collection of both domestic and commercial waste, but only in areas that meet particular criteria
- remove the ability for local governments to make local laws for waste management activities that replace chapter 5A
- include transitional provisions to manage existing contracts and commercial arrangements and grandfather existing local laws.

Option 2 has been assessed as low impact, in terms of financial, economic, environmental and social issues.

Under both options, some issues with the current system may remain, for example, utility charges on properties for waste management. However, an assessment of the competition impacts indicates that for option 2, these impacts are less than the base case. This is because option 2 will increase competition by limiting mandatory collection of commercial waste by local governments in designated areas, and increase transparency in the designation of areas for waste collection.

SEND US YOUR FEEDBACK

Have your say. Submissions are open until close of business Monday 10 February 2020. Submissions must be made in writing and can be emailed or posted.

The department invites submission about the consultation RIS options, and welcomes any additional information about the impacts or benefits of these options for local governments, the waste industry, businesses and commercial operations, and the general public.

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BACKGROUND

The purpose of this consultation regulatory impact statement (consultation RIS) is to discuss and publicly consult on two options for resolving stakeholder concerns with the implementation of section 7 of the Waste Reduction and Recycling Regulation 2011 (Qld) (section 7) and chapter 5A of the Environmental Protection Regulation 2008 (Qld) (chapter 5A).

Note that due to renumbering when the Environmental Protection Regulation 2019 commenced on 1 September 2019, the provisions for waste management by local governments are now prescribed in chapter 6 of the Environmental Protection Regulation 2019, not chapter 5A of the Environmental Protection Regulation 2008. This renumbering did not change the intent, interpretation or effect of the legislation, and for the purposes of this consultation, references to chapter 5A have been retained to ensure consistency with the Queensland Treasury Corporation (QTC) report.

Section 7 and chapter 5A provide a framework for the administration of local government waste management activities. Section 7 allows local governments to designate areas for general waste and green waste collection, and to determine the frequency of those collections in designated areas. Chapter 5A defines 'general waste' to include domestic, commercial and recyclable waste. The chapter further provides local governments the ability to direct occupants in designated areas as to where they can place their bin for collection, the types of wastes that can be placed in the bin, and, when the bin is to be removed from the collection area.

Parts of Chapter 5A also apply to impose obligations and requirements on premises outside designated areas. These provisions are devolved to local governments and provide for local governments to administer local government waste management. Section 7 and chapter 5A do not mandate or require that local governments provide waste services. Local governments may make local laws about the same matters that are covered by chapter 5A.

The *Local Government Act 2009* (Qld) (LGA) provides for local governments to make local laws. Chapter 5A provides for local governments to make local laws that replace chapter 5A. Local laws may be anti-competitive, but only where they meet particular guidelines under the Local Government Regulation 2012. Under section 38 of the LGA, a local government must not make a local law that contains an anti-competitive provision, unless the local government has complied with the procedures prescribed under a regulation for the review of anti-competitive provisions. A local law that is contrary to section 38 has no effect. An anti-competitive provision is defined in the LGA as a provision that a regulation identifies as creating barriers to entry to a market, or competition within a market.

Section 15 of the Local Government Regulation 2012 (Qld) deals with assessing anti-competitive provisions by directing local governments to procedures for assessing anti-competitive provisions in the *National Competition Policy Guidelines for conducting reviews on anti-competitive provisions in local laws*, version 1[2], (National Competition Policy), produced by the Department of Local Government, Racing and Multicultural Affairs

[2] https://www.dlgrma.qld.gov.au/resources/laws/local-laws/national-competition-policy.pdf

(DLGRMA). If a local government assesses that a proposed local law has anti-competitive provisions that will have a significant impact under the competition policy guidelines, the council must conduct a review of the anti-competitive provisions to demonstrate that:

1. the benefit of the restriction to the community as a whole outweighs the cost, and
2. the objective of the law could only be achieved by restricting competition.

Chapter 4 of the LGA provides for local governments to charge general rates, special rates and charges, utility charges, and separate rates and charges. Section 92 of the LGA provides that:

> *General rates* are for services, facilities and activities that are supplied or undertaken for the benefit of the community in general (rather than a particular person).
>
> *Utility charges* are for a service, facility or activity for any of the following utilities-
>
> (a) waste management
> (b) gas
> (c) sewerage
> (d) water.

Section 7 and Chapter 5A were transitional provisions due to expire on a number of occasions. The provisions were originally under the *Health Act 1937* and were enacted through the Refuse Management Regulation 1983 (repealed) to allow local governments to deal with nuisance issues such as odour, fly breeding and vermin as a result of poor waste management practices. The provisions were transferred to environmental protection legislation when waste management responsibility was moved from Queensland Health in 1996.

A discussion paper which met the requirements of a RIS was prepared for regulatory review and underwent public consultation in 2014 in relation to the Environment Legislation Amendment and Repeal Regulation (No.1) 2014 (2014 SL No. 198). The preferred option in the discussion paper, allowed the local government waste management provisions to expire. The option included transitional provisions to allow local governments to implement appropriate management measures in cases where they did not already exist. A determination was made to extend the provisions. A decision RIS provided a summary of submissions received, and this is discussed in the explanatory notes from the 2014 amendment regulation[3]:

> *There was mixed support for the proposals in relation to parts 2A and 3 of the expiring Regulation. One submission supported the expiry of these provisions as long as suitable transitional arrangements were put in place to enable the development of alternative approaches. To address this feedback, the provisions will continue until 1 September 2016 to allow sufficient time for local governments to put alternative arrangements, if needed, in place.*
>
> *The majority of local government submissions opposed the expiry of these provisions stating that state government legislation was necessary in order to ensure a consistent approach to waste management across local government areas. While the waste sector supports the removal of many of the detailed and prescriptive requirements, there is also concern that*

[3] Explanatory notes to the Environment Legislation Amendment and Repeal Regulation (No.1) 2014 (pages 4-5) https://www.legislation.qld.gov.au/view/pdf/published.exp/sl-2014-0198

removal entirely will create inconsistency across local governments. The stated concern regarding expiry is that allowing each local government to develop their own local law would lead to waste industry confusion and inconsistent application of waste management requirements across the state.

The current provisions already give local governments the ability to make a local law about waste management issues under this part—for example, in relation to where people place their bin for collection. This means that there is already potential for variation in requirements under this part as it currently exists.

Since 2014, these provisions had continued as a transitional measure, and were extended in 2016 and June 2017 to allow for local government waste management activities to continue while consultation was undertaken about alternative arrangements.

Section 7 and chapter 5A were due to expire again on 1 July 2018. Local government stakeholders had raised concerns about their ability to administer waste management in the absence of a state level regulatory framework for the administration of waste management, and the need for all councils to develop local laws for waste administration.

Some stakeholders expressed the view that some local governments are acting in an anti-competitive manner while implementing the local government waste management provisions. Local governments are designating areas for general waste (including commercial waste) and green waste collection. In these designated areas, the collection of general waste, including commercial waste, is limited to collection by local government waste services. Some local governments, however, are also charging commercial ratepayers mandatory utility charges for collection services in these areas regardless of whether they use the service.

There are currently four types of arrangements in place for commercial waste collection:

- regulated but not provided by local governments
- regulated and provided by local governments on a user pays basis, although a commercial premises can contract a private sector operator to collect its waste
- regulated and provided by local government, and a mandatory waste management utility charge applies regardless of use; a commercial premises can contract with a private sector operator, but the incentive to do so is weakened by the compulsory charge
- regulated and provided by local government, a mandatory waste management utility charge applies and commercial premises must use the local government service.

The Department of Environment and Science (the department) is aware of issues that commercial businesses, particularly retailers, have been having because of the designation of areas and mandatory charging of commercial premises. These issues have related to how designation and mandatory charging affects their waste collection contracts, waste collection, and source separating wastes for diversion from landfill.

In late 2017, the former Department of Environment and Heritage Protection engaged the QTC to undertake a review the local government waste management provisions. The QTC investigated the potential impact on local governments should the regulations expire, and whether the application of the provisions prevented fair competition in the waste industry. The QTC delivered a report with a number of findings and policy considerations following the completion of the investigation in 2018. The QTC report is appendix 1 to this consultation RIS. The policy considerations are summarised as follows:

- Councils should retain the ability to mandate the provision of domestic waste services.
- The head of power to regulate waste services in Queensland should be retained with the State, avoiding the making of individual local laws. Retaining the power with the State would not however provide clarity about the policy intent with the current definition of 'general waste' in the State regulations.
- While there are a number of potential avenues for a complaint if it was alleged that the waste provisions restricted competition, only a complaint to the Queensland Competition Authority or Queensland Productivity Commission is likely to have any practical application. These avenues for complaint, however, have limitations, including that the Queensland Competition Authority and Queensland Productivity Commission powers only have recommendatory powers. The Queensland Government should consider if the current powers of the regulatory bodies are sufficient to monitor and enforce policy intent.
- Councils should be able to charge a commercial premises a reasonable waste charge to cover the cost of community waste.
- Part 2A of the Waste Reduction and Recycling Regulation 2011 (Qld.) could be allowed to expire on 1 July 2018 and Chapter 5A Environmental Protection Regulation 2008 (Qld.) extended indefinitely.

On 22 June 2018, the expiry dates contained in section 7 and chapter 5A were removed to provide greater certainty for stakeholders while the government worked collaboratively to find a longer-term solution to address the current framework's issues. The expiry dates had already been extended on three previous occasions.

If the regulations had been allowed to expire on 1 July 2018, there would have been no state-wide regulatory framework for local government waste management in the interim period, while the government worked to find a long-term solution. Without a state-wide regulatory framework, local governments would have been required to make local laws to administer their waste management. This may have opened the way for multiple sets of local laws attempting to have the same effect as the regulations.

Local government stakeholders continue to be concerned that without these regulations continuing in their current form, local governments will have reduced ability to control and regulate collection activities. Furthermore, they are concerned that this could have a negative impact on public health, safety and amenity from increased truck movements, lack of coordinated collection in each area, and a lack of consideration regarding collection times and bin servicing.

Local government stakeholders are also concerned about the impact of any changes to the regulations on the 28 local governments that have invested significant time and resources in the development of local laws for waste management.

1. IDENTIFICATION OF THE PROBLEM

Anti-competitive practices have resulted from the current interpretation and implementation of section 7 and chapter 5A. Some local governments are considered to be undertaking anti-competitive waste practices, and others have the potential to do so through the interpretation and implementation of these regulatory provisions.

Prior to June 2018 local government stakeholders raised concerns about their ability to continue to administer local government waste management without section 7 and chapter 5A. The waste industry had also raised concerns about the implications of 77 individual local

government laws for administration of waste management. Twenty-eight local governments have already made local laws for waste management.

Local government stakeholders have advised that without these provisions, there would be:

- an increase in costs to rate payers
- increases in traffic, noise and safety issues associated with increasing numbers of collections and collection services
- reduced amenity (particularly in high density mixed use areas)
- reduced local resource recovery and waste diversion efficiency
- increased red tape for all 77 councils required to make local laws.

The LGA provides for local governments to charge rates and utility charges for waste management. Some local governments are charging commercial premises rate payers in designated areas a mandatory utility charge for commercial waste collection, regardless of whether they use the council service.

Designated areas are also being used in a way that is restricting private operators (non-council operators) from collecting commercial waste in those designated areas. Private operators submit they are being priced out of the market because they cannot compete on a cost basis with the mandatory fees. Commercial ratepayers would be paying twice to engage a non-council service - this is seen to be a disincentive for ratepayers to engage a non-council service.

The intention of section 7 is not to obligate occupiers of commercial premises to use services provided by local government for commercial waste collection within designated areas[4]. The explanatory notes to the Waste Reduction and Recycling and Other Legislation Amendment Regulation (No.1) 2013 introducing the power to designate areas for collection of general waste, provide that in relation to section 7:

> This section also places no obligation on the occupier of premises to use the service conducted by the local government. This may for example, apply to a business that has a national waste contract and they wish to use the services of this company for their Queensland operations. Simply because the business is located in a designated area, places no obligation on the business to use the service if the local government conducts commercial waste services in that area.

The 2014 explanatory notes[5] provide that:

> A local government may designate the whole or part of the local government area as an area where the local government will arrange for, or require, the removal of waste. There is no obligation on a local government to designate an area for this purpose.

Prior to 2013, designated areas were provided for in part 2A, section 10B of the Environmental Protection (Waste Management) Regulation 2000, as part of the definition of *serviced premises*.

This broad discretion for local government to designate areas under section 7, the breadth of the definition of general waste relating to both section 7 and chapter 5A, and the ability for local governments to charge utility charges for waste management under the LGA, has led to ambiguity and varying interpretations and implementation of section 7 by local governments.

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[4] Explanatory notes to the Waste Reduction and Recycling and Other Legislation Amendment Regulation (No.1) 2013 (pages 11-12) - https://www.legislation.qld.gov.au/view/pdf/published.exp/sl-2013-0182

[5] Explanatory notes to the Environment Legislation Amendment and Repeal Regulation (No.1) 2014 (pg. 18) https://www.legislation.qld.gov.au/view/pdf/published.exp/sl-2014-0198

2. OBJECTIVES OF GOVERNMENT ACTION (POLICY OBJECTIVES)

The objectives of the proposed regulatory action are to implement a long-term resolution to the interpretation and implementation issues with section 7 and chapter 5A. In addition, the action seeks to clarify the intents of the regulations so that they cannot be interpreted in a manner that leads to unfair anti-competitive waste management practices in relation to commercial waste collection.

3. CONSIDERATION OF OPTIONS (POLICY OPTIONS)

The following two options are proposed for public consultation.

3.1 OPTION 1: CONTINUE EXISTING PROVISIONS INDEFINITELY (BASE CASE)

Option 1 proposes to continue existing local government waste management provisions indefinitely (base case) in their current form. This option continues the status quo. The provisions will remain as they are, and section 7 and chapter 5A will remain unamended.

This option will enable local governments to continue to designate areas for general waste collection and charge commercial ratepayers mandatory fees for the collection of commercial waste. Local governments will also be able to continue to make local laws that replace chapter 5A.

3.2 OPTION 2: RETAIN AND AMEND THE STATE PROVISIONS

Option 2 proposes to retain and amend the local government waste management provisions. The State will retain regulation for the management of waste by local governments. Local government will retain the ability to mandate the collection of waste generated at domestic premises, with clarification that the designation of areas for the collection of waste by local governments relates to collection of waste from domestic premises.

This option will provide limited flexibility for local governments to continue to mandate the collection of commercial waste, with mandating only allowed in particular areas having consideration of a strict set of criteria. The proposed criteria will include areas where:

- there is a high density of both commercial and domestic residences requiring waste services
- there may be amenity or safety issues with multiple waste services accessing the area to undertake those collections
- the public benefit is considerable, outweighing the costs to industry and the community.

The current public interest test in the competition policy guidelines only requires that there is a determination of whether on balance the anti-competitive provisions should be retained in the overall public interest. Under option 2, determining these areas will be more limited and specific characteristics for the area will need to be met (for example, one characteristic could be a high density of mixed residential and commercial premises).

Local governments will continue to be able to make local laws under the LGA[6]. It is proposed however to remove the ability for local governments to make local laws for local government waste management that can override the State regulation.

It is proposed that transitional provisions will manage existing contracts and commercial arrangements. This option also proposes that the functions in local government waste management provisions be decoupled. This would separate the function of collecting the waste from the function of protecting the amenity, public health and safety of the local government area.

Under option 2, the State will retain provisions in the State regulations for the management of waste by local governments, and local government will retain the ability to mandate collection of waste generated at domestic premises.

The following table provides a comparative analysis of current provisions and the effect of option 2.

	Current regulations	**Change under Option 2**
1.	Section 7 and chapter 5A provide a framework for administration of local government waste management in Queensland.	The State will retain a statutory framework in regulation for the provision of local government waste management. The functions of who collects the waste will be decoupled from the functions relating to protecting amenity, public health and safety.
2.	Section 7 provides for local governments to designate areas for the collection of general waste and green waste, and decide the frequency of the general waste or green waste collection. Section 7 includes a note referring local governments conducting general waste or green waste collection as a significant business activity to the competitive neutrality requirements under the LGA.	Local governments will only be able to mandate collection of waste from domestic premises and specifically defined premises/areas. The current general waste definition allows local governments to include commercial premises in the designated waste area for general waste services – this provision as it currently stands would no longer apply.
		Local governments will not be able to impose mandatory collection on commercial premises in designated areas.
		Local governments will have the flexibility to mandate collection of commercial waste in particular areas that meet specific criteria, for example, areas where: • there is a high density of both commercial and domestic residences requiring waste services • there may be amenity or safety issues with multiple waste services accessing the area to undertake those collections

[6] Section 27 of the LGA provides that if there is any inconsistency between a local law and a law made by the state, the law made by the state prevails to the extent of the inconsistency.

	Current regulations	Change under Option 2
		• the public benefit outweighs the costs to industry and the community of doing so. The intent is to restrict a local government's ability to mandate areas for collection of commercial waste to limited and specific circumstances that include a high level of public benefit outweighing the costs to industry and the community.
3.	Chapter 5A, section 81ZC of the Environmental Protection Regulation 2008 provides that chapter 5A does not apply if the local government for an area has made a local law about waste management for the area, and the local law states that it replaces chapter 5A.	Local laws will no longer be able to replace chapter 5A. State regulations will apply across all local government areas. The State regulations are intended to cover the powers that local governments will need to administer and manage local government waste collection. Local governments will however be able to continue to make local laws more generally. There is no intent to amend local law making powers in the LGA or the Local Government Regulation 2012. However, section 27 of the LGA provides that if there is any inconsistency between a local law and a State law, a State law will prevail to the extent of the inconsistency.
4.	Local governments can require the owner or occupier of premises to arrange for the removal of their general waste. This is currently section 81ZE of the Environmental Protection Regulation 2008.	Council will continue to be able to require the owner or occupier of a premise to arrange for removal of their general waste.
5.	Currently some local governments contract waste providers to provide their waste services. Other commercial arrangements for waste collection are also in place. These may have been made while existing or past regulations have been in force. Some contracts and arrangements may still be current when the legislation changes.	Transitional provisions will provide for how the provisions will apply to existing local government waste contracts and other commercial arrangements under the amended regulations.
6.	Local governments can make local laws under the LGA.	No change (see line 3 above).
7.	Local governments can levy a utility charge for waste management.	No change. Local governments will continue to be able to levy utility charges for waste management. This may be a disincentive for the commercial sector to contract private sector waste operators.

3.3 UNFEASIBLE OPTIONS

The removal of section 7 and chapter 5A, in their entirety, is not considered feasible. Provisions for local government waste management have been in State regulation for a significant period of time. The provisions originally were contained in the *Health Act 1937* and were enacted through the Refuse Management Regulation 1983 (repealed) to allow local governments to deal with nuisance issues such as odour, fly breeding and vermin as a result of poor waste management practices. The provisions were transferred to environmental protection legislation when waste management responsibility was moved from Queensland Health in 1996.

Since 2014, section 7 and chapter 5A have continued as transitional measures. In 2016 and 2017, these provisions were extended to allow local governments to continue waste management activities appropriate for their local government area. In 2018, the expiry dates contained in section 7 and chapter 5A were removed to provide greater certainty for stakeholders while the government worked collaboratively to find a longer-term solution to address the current framework's issues.

If the regulations had expired on 1 July 2018, there would not have been a state-wide regulatory framework in place while work to find an alternative solution continued. Without a state-wide regulatory framework, there would also have been no guarantee of consistency across the State for local government waste management. In that instance, local governments would have had to make local laws to administer their waste management. This may have opened the way for multiple sets of local laws attempting to have the same effect as the current regulations. Removing the State regulations is also considered to create uncertainty for both local government, industry and the community about waste services.

A model local law for the development of local laws for waste management is not considered a feasible option. The process to develop a model local law is lengthy and there is no requirement that local governments adopt the model local law. A number of local governments have already created local laws that reflect the current state regulations, and some of them potentially go further than the state law in some respects and include anti-competitive provisions. It is evident that the development of local laws in place of a state regulatory framework will not address the competition issues raised.

4. IMPACT ANALYSIS OF THE OPTIONS (CONSIDERATION OF OPTIONS AND IMPACT ANALYSIS)

An analysis of the economic and financial impacts of the two options was undertaken. Appendix 2 lists the data and assumptions on which this analysis was undertaken. The assessment relied largely on publicly available data, and information provided by the department; the DLGRMA; the Local Government Association of Queensland; and the Department of Natural Resources, Mines and Energy (DNRME) and data requested from selected councils.

4.1 OPTION 1: CONTINUE EXISTING PROVISIONS INDEFINITELY (BASE CASE)

The continued mandatory collection of waste from domestic premises by local governments has not been challenged by key stakeholders and is assumed to be efficient for the purposes of this impact assessment[7].

[7] The Productivity Commission found that household waste has a strong natural monopoly element, with collection in an area likely to be most efficient when undertaken by a single firm, who has the advantage of using one truck to empty all the bins in a shared location.

Appendix 3 lists the current waste management practices of Queensland local governments in relation to commercial and non-domestic waste. Currently there are 29 councils providing waste management services to non-domestic users. Of those councils, 16 have operations that constitute a significant business activity[8].

Most councils charge for commercial waste services on a user pays basis. Eight local governments impose a mandatory utility charge for commercial collection. Five of those eight councils impose mandatory commercial collection and mandatory charging and commercial businesses cannot opt-out of that service.

The five councils that impose both a mandatory utility charge and a mandatory commercial collection are the Sunshine Coast Regional Council, Noosa Shire Council, Council of the City of Gold Coast, Fraser Coast Regional Council and Douglas Shire Council. Local governments can currently levy utility charges under the LGA. Local governments can levy utility charges for waste management independent of the local government waste management provisions.

Appendix 2 provides the 2018–19 financial year revenue for waste collection for each of the five local governments imposing mandatory utility charges for commercial collections and no opt-out commercial collections. Appendix 2 (Table 1) provides the proportion of rateable properties that are commercial properties. Appendix 4 provides details of the current services provided by the five selected councils.

A summary of the annual revenue for 2018–19 for the five councils with mandatory utility charges and collection of commercial waste is below.

Council	**Waste revenue from domestic and commercial properties 2018 – 19 ($M)**
Gold Coast City	84.4
Sunshine Coast Regional	54.7
Fraser Coast Regional	16.5
Noosa Shire	12.1
Douglas Shire	3.7

An aggregated summary of the number of properties based on data provided by the five selected councils is provided below:

Council	**Total domestic properties**	**Total commercial properties**	**Average proportion – Commercial (%)**
Gold Coast City Sunshine Coast Regional Fraser Coast Regional Noosa Shire	448,381	23,686	6.4

[8] A Significant Business Activity arises where a council is conducting a business in competition with the private sector. The council should not enjoy a net advantage. The 2018-19 threshold for a Significant Business Activity under the LGA was $9.35 million.

Council	Total domestic properties	Total commercial properties	Average proportion – Commercial (%)
Douglas Shire			

Twenty-eight local governments have made local laws for waste management (Appendix 5). This was generally a response by local governments to the uncertainty prior to June 2018 about the impending expiry of section 7 and chapter 5A.

While these local laws are quite similar, they replace chapter 5A, and some variances could potentially extend the jurisdiction of councils to regulate waste beyond the scope of the state regulation.

4.1.1 COSTS AND BENEFITS OF OPTION 1

The costs and benefits of maintaining the current regulatory framework are outlined below.

Stakeholder	Costs	Benefits
Industry	There will be a level of continued uncertainty about councils making local laws for waste management. This option will not affect the ability of local governments to continue to charge rates or make local laws for waste collection at premises other than domestic premises. The anti-competitive practices are likely to continue in at least the five local government areas currently undertaking these no opt-out commercial collection practices. This option will not affect the ability of councils to continue to charge utility charges for waste collection at premises.	This option does not create additional compliance costs for industry.
Local government	There are no additional costs for local government of retaining the current statutory framework.	This option provides some consistency with a single state framework for local government areas across the state. There is no requirement for additional resourcing for local governments. The current provisions are devolved to local governments. The local government is currently responsible for compliance.
Queensland Government	Although the day-to-day implementation of the provisions is devolved to local government, the department retains responsibility for administering the state regulations for local government waste management.	There is no requirement for additional resourcing for government departments. There are no additional compliance costs for government departments.
Community	There will be a level of continued uncertainty about local government's local laws for waste management.	This option does not create additional compliance costs for the community (additional to the current charges).

Stakeholder	Costs	Benefits
	This option will not directly affect the ability of local governments to continue to charge mandatory utility charges for waste collection at commercial premises. Commercial ratepayers will continue to not to be able to opt-out of mandatory local government waste services and will continue to be charged mandatory utility charges.	

4.1.2 COMPETITION IMPACTS

The guiding principle of the Competition Principles Agreement, under the National Competition Policy, is that legislation should not restrict competition unless it can be demonstrated that:

(a) the benefits of the restriction to the community as a whole outweigh the costs
(b) the objectives of the legislation can only be achieved by restricting competition.

The current interpretation of the legislation has resulted in anti-competitive practices by local governments in the management of their waste. Providing for areas where councils can create exclusivity for local government waste collection and collection by their contractors:

- limits the number or type of businesses by:
    - granting exclusive rights for a supplier to provide goods or services
    - limiting the ability of some types of suppliers to provide a good or service
    - creating a geographical barrier to the ability of businesses to supply services.
- limits the choices available to customers by limiting the ability of consumers to decide from whom they can purchase a service.

Current interpretation, designations and local laws are considered by local governments to be in the public interest for varying reasons including that:

- there are public safety and amenity issues with multiple truck runs and varying bin collection schedules of multiple providers
- economies of scale provide efficiencies saving ratepayers money
- mandatory charging of commercial premises supports community waste infrastructure.

The National Competition Policy requires that local governments review anti-competitive provisions in any proposed local laws before the laws are adopted. The guidelines in the National Competition Policy set out the criteria for identifying possible anti-competitive provisions in local laws and establishing the process for conducting reviews of those provisions. If local governments do not comply with the guidelines, it may result in the law being of no effect.

The guidelines include that the process must comply with a set of principles, including meaningful consultation with relevant businesses about the anti-competitive provisions, and determining whether on the balance, the anti-competitive provisions should be retained in the proposed local law in the overall public interest.

A number of local governments who have already made their local laws for waste management undertook consultation on a public interest test plan under the previous

Queensland Treasury Public Benefit Test Guidelines. They had identified potentially anti-competitive provisions in their draft local laws. While the tests indicated that the provisions were considered to be anti-competitive, local governments found that those provisions provided public benefit, and proceeded with making the local laws.

Competitive neutrality

Section 7 includes a note referring local governments conducting general waste or green waste collection as a significant business activity to the competitive neutrality requirements under the LGA.

In 2012, the Queensland Competition Authority (QCA) investigated a competitive neutrality complaint against the Sunshine Coast Regional Council (SCRC) relating to council's management of bulk waste recycling services and pricing services preventing members of the Waste Contractors and Recyclers Association of Queensland (WCRAQ) (now WRIQ) from competing. The QCA found that:

> *"SCRC's Waste and Resources Management business has a competitive advantage over potential competitors as a result of its local government ownership and that this advantage should be removed*".

The QCA found that the mandatory levy on commercial waste provided the local government with a de facto monopoly on bulk recycling services.

4.2 Option 2: Retain and amend the state provisions

The focus of the analysis of option 2 is the removal of the mandatory collection of commercial waste by local governments. The removal of mandatory collection of commercial waste as a result of designated areas will only impact the five local governments identified in Appendix 4. There is currently no evidence available to indicate that other local governments who do not currently undertake this practice are proposing to do so.

The impact on each of the five local government's revenue and collection contracts has been assessed based on information provided by the five local governments. It was also not possible for the department to gain access to the contracts in place with service providers. Appendix 4 provides the annual revenue generated from the no opt-out commercial services, and the estimated contract cost for collecting commercial waste for each of the five impacted councils.

4.2.1 Financial and economic impacts

Option 2 is unlikely to have any major financial or economic impacts on stakeholders.

The estimated total revenue relating to the five local governments with no opt-out commercial waste collection is approximately $32 million annually based on the 2018–19 revenue data. However, the collection costs are $10.8 million, which would reduce the local governments' costs if they were no longer collecting commercial waste. Option 2 will not prevent a local government raising revenue from commercial properties to contribute to community waste costs.

Financial impacts

Appendix 6 provides an assessment of the possible financial impacts of option 2. Financial impacts tend to be a transfer from one group in the community to another, without an attendant economic impact. The economic outcome of price and cost changes are more difficult to quantify without a particular knowledge of how businesses operating from commercial premises and households might respond to higher or lower prices. However, because they are more than merely transfers, such changes have a greater impact on net economic well-being.

The collection costs attributable to commercial properties is $10.8 million. These data were provided by all five local governments with no opt-out commercial collections. It is considered unlikely that domestic charges would increase due to a loss of scale, especially as the major costs of collection are not fixed.

An aggregated summary of the domestic and commercial waste management revenue and collection contract costs attributable to commercial waste for the five local governments for 2018-19 are listed below.

Council	Total domestic waste revenue ($M)	Total commercial waste revenue ($M)	Estimated proportion of collection contract affected ($M)
Gold Coast City Sunshine Coast Regional Fraser Coast Regional Noosa Shire Douglas Shire	139	32.4	10.8

Domestic charges

The potential increase in charges can have an economic impact if the change affects household behaviour. However, if domestic waste collection is mandated, the volume of waste generated is not influenced by the charge. On this basis, the impact is limited to financial impacts.

In 2016, the AEC Group estimated that the loss of scale and scope would result in an increase in domestic waste management utility charges by 10–20 per cent, equating to $28–$56 when applied to the average domestic waste management utility charge for large local governments in Queensland in 2015–2016[9]. The AEC Group estimates were based on "figures provided by a few" local governments potentially affected by the removal of the mandatory waste management utility charge on non-domestic properties.

The potential revenue impact applies only to the five local governments with non-contestable commercial waste services.

The AEC Group estimate appears disproportionately large. The size of the increase was argued to relate to the fixed costs of collection. It suggests there are large fixed costs relating to collection services that cannot be avoided if commercial waste collections are

[9] AEC Group (2016)

made contestable. Yet the main costs of collection are scalable. That is, labour, vehicles and bins are not fixed costs.

The total revenue collected from commercial properties by the five local governments is $32.4 million, which covers a range of waste services, including collection services. The cost of collection services is $10.8 million.

Assuming that local governments cost fall if they no longer provide a collection service to commercial customers (after existing contracts expire), there is a potential revenue gap of $21.6 million. This amount is around 15 per cent of current domestic revenue, which is within the AEC Group's estimated range. However, this shortfall only exists if councils no longer collect any waste related revenue from commercial properties, which seems an unlikely outcome.

Amending section 7 and chapter 5A will not affect the ability of local governments to be able to apply a mandatory waste management utility charge. These charges relate to the cost of providing waste management services, facilities and activities. This is separate to the ability to manage collections in the local government waste management regulations. Local governments will continue to have the power to levy utility charges under the LGA. While other local governments could technically begin levying mandatory utility charges for commercial waste collection, there is no evidence to suggest that they will commence doing so. Any risk is mitigated by local governments not being able to mandate the collection of commercial waste other than in limited circumstances.

Transitional arrangements for existing contracts with service providers should not result in an issue of major concern, as local governments should have change of law provisions in place. Local laws can be grandfathered if necessary, allowing the current contract commitment to be honoured. In addition, the incumbent provider would be able to compete for commercial waste collections made contestable.

Economic impacts

Appendix 7 provides an assessment of the possible economic impacts of option 2.
Option 2 is not expected to have major economic impacts. The key economic impacts relate to enabling competition for waste services.

The Productivity Commission observed that lower costs from higher density of collections may not apply to commercial premises, especially if the business produces large amounts of waste, or has specific requirements as to the frequency of waste collection[10]. Any additional cost of not bundling commercial waste collection with domestic is likely to be more than offset by greater competition.

The local government stakeholders have indicated that multiple collection services in a local government area would lead to public safety and amenity issues because of multiple truck runs and varying bin collection schedules of multiple providers.

The Productivity Commission found the most significant negative externality for waste collection is the impact on traffic[11]. Waste collection requires trucks to stop frequently, disrupting traffic flow and increasing congestion and the risks of accidents. It found these external costs could be between $1 and $3 per tonne of waste, depending on where it is collected. Urban areas with high population tend to be at the upper end of the range.

[10] Productivity Commission (2006), Waste Management, Inquiry Report, October, p. 67.
[11] Productivity Commission (2006), p.101.

Efficiency of truck movements is also influenced by whether or not the same type of equipment is used for domestic and commercial pick-ups. If a separate vehicle fleet is used for commercial collections (e.g. compactor bins) the relationship between domestic waste cost and changes in commercial waste collections will be weaker than if the same vehicle fleet and bins are used for both types of waste.

It is possible option 2 will lead to further truck movements. The impact of this change will depend on whether it results in additional congestion, noise and loss of amenity. While local governments have a legitimate role in determining how this is to be managed, the overall economic impact is likely to be the most beneficial if mandated collection of domestic and commercial waste is transparent and limited to specified areas that meet a set of criteria.

4.2.2 COSTS AND BENEFITS OF OPTION 2

The costs and benefits of retaining and amending the regulatory framework are outlined below.

Stakeholder	Costs	Benefits
Industry	Amending the regulatory framework will not affect the ability of local governments to continue to charge utility charges for waste management. It will deliver some opportunities for private sector waste operators, who may be hindered by the reduced incentives to the commercial sector to engage them.	Amending the regulatory framework will address industry concerns regarding both the State retaining regulations for local government waste management and anti-competitive waste practices. It will clarify the provisions about the collection of waste from domestic premises and designated areas, providing clarity to local governments and the waste industry and is anticipated to provide greater transparency in the process of designating areas for the mandatory collection of commercial waste and the levying of utility charges for waste management.
Local government	Amending the regulatory framework may affect areas already designated under section 7. It may also affect existing contracts and commercial arrangements and local governments that have already made local laws, however, these impacts are likely to be minimised through grandfathering and transitional provisions.	Amending the regulatory framework will provide certainty to local governments about the need to make local laws (i.e. local governments will not need to make local laws). It will also mean there are no additional compliance costs for local government. The provisions will continue to be devolved to local government.
Queensland Government	Amending the regulatory framework means the department retains responsibility for administering the state regulations for local government waste management and this will still require limited resources for administration.	Amending the regulatory framework will not require additional government resources. It will also mean no additional compliance costs for government. The provisions will continue to be devolved to local government.

Stakeholder	Costs	Benefits
Community	Amending the regulatory framework will not affect the ability of local governments to continue to charge utility charges for waste management. It will mean a utility charge may still need to be paid by commercial ratepayers in some local governments, and the incentive for these businesses to engage a private waste operator is weakened. While may result in increased truck movement arising from multiple operators collecting domestic and commercial waste, this is likely to be limited.	Amending the regulatory framework will provide greater transparency in the process of designating areas for the mandatory collection of commercial waste and the levying of utility charges for waste management. An increase in competition is likely to result in lower prices and/or higher quality services.

4.2.3 COMPETITION IMPACTS

While option 2 provides for a clearer interpretation of the provisions to minimise the potential for anti-competitive waste collection practices, the state framework will continue to allow for some anti-competitive practices where these are considered to be in the community's interest. However, the intention of option 2 is to reduce the level of the current competition impacts compared to the base case scenario.

Option 2 will limit the designation of areas to the collection of waste from domestic premises, and limit the designation of areas for mandatory collection of commercial waste to particular areas meeting a set of criteria. These include areas with a high density of both residential and commercial users requiring waste services, where there may be amenity or safety issues with multiple waste services accessing the area to undertake those collections. The public benefit must also be considerable, outweighing the costs to industry and the community of doing so. Allowing greater competition will result in lower prices and/or higher quality services.

Regardless of the intent of this option, local governments will still be able to determine the utility charges in their local government area as the LGA will not be amended in relation to rates and utility charges. However, better clarification of the designation of areas is anticipated to provide a higher level of transparency about how designated areas are determined.

4.2.4 ENVIRONMENTAL AND SOCIAL IMPACTS

Appendix 8 provides an assessment of the possible environmental impacts of option 2. Appendix 9 provides an assessment of the possible social impacts of option 2. It is anticipated there will be no impact on the rate of diversion from landfill of commercial waste streams and there is unlikely to be any significant impact on illegal dumping. This conclusion has been reached based on the illegal dumping rates in local government areas that do not have mandated commercial waste collection. No evidence has been provided by the local governments of these areas to suggest that their illegal dumping rates are higher than those that do have mandated commercial waste collection.

5. CONSULTATION

In late 2017, the former Department of Environment and Heritage Protection engaged the QTC to review the local government waste management provisions. In early 2018, the QTC finalised consultation with key stakeholders as part of its review and related investigations, and provided a report to the department. Throughout its investigations, the QTC consulted key stakeholders from local government and the waste industry.

The focus of the consultation was the impact of the provisions expiring, waste practices, and the development of local laws. The QTC report also included review of preliminary options developed by the department. These options articulated a number of ways forward.

QTC consulted the following stakeholders during its review of local government waste management provisions:

- The Local Government Association of Queensland (LGAQ)
- Logan City Council
- Council of the City of Gold Coast
- Brisbane City Council
- Townsville City Council
- Fraser Coast Regional Council
- Sunshine Coast Regional Council
- Ipswich City Council
- Cook Shire Council
- Cassowary Coast Regional Council
- Mackay Regional Council
- Waste Recycling Industry Association Queensland (WRIQ)
- Waste Recycling Industry Queensland's members
- Local Authority Waste Management Advisory Committee
- Waste Management Association of Australia
- JJ Richards
- Cleanaway
- Suez
- Tox Free
- Remondis
- Veolia

The department has consulted peak stakeholder groups, LGAQ and WRIQ, about the options in this consultation RIS.

Additional consultation was undertaken through the LGAQ to ensure the completeness and veracity of the data in the consultation RIS. All five selected local governments provided updated financial and waste data so that the analysis presented in the consultation RIS was based on the best information available.

The Queensland Government has been working with stakeholders for a number of years to determine the future of these provisions. Public consultation was also undertaken in 2014 in relation to the Environment Legislation Amendment and Repeal Regulation (No.1) 2014 (2014 SL No. 198).

It is also proposed to undertake targeted consultation about any amendments to the local government waste management provisions with key stakeholder peak bodies as reforms progress.

6. CONCLUSION AND RECOMMENDED OPTION

Option 2 is the preferred way forward. This option will address the issues raised by stakeholders about anti-competitive practices and maintain a regulatory framework for local

governments, providing them with a mandate for the collection of waste from domestic premises. Local governments will have flexibility to service particular areas where significant amenity and/ or safety issues could occur if multiple service providers were accessing the area for waste collection. By retaining the State regulations, local governments would no longer need to make local laws. Further, by managing existing contracts certainty would be provided to stakeholders as to how contracts under the current regulatory arrangements would be transitioned under amended regulations.

Other state and territory frameworks for local government waste management across Australia do not include similar provisions for local government administration of waste management to the current Queensland local government waste management provisions or for utility charges for waste collection.

Other jurisdictions (state agencies) in Australia regulate waste management themselves, or this type of waste management is a function for local government under the relevant state legislation that regulates the functions of local government. Furthermore, in a number of jurisdictions, a local government's ability to charge fees or rates is capped, unlike in Queensland. While other jurisdictions manage local waste collection without a specific overarching state framework, the existing provisions in Queensland legislation that regulate local government waste management are historic, and have been heavily relied on by local governments for a substantial period of time.

While local governments have had the ability to make local laws for waste management, this has not occurred until recently because of the previous impending expiry of the state provisions prior to June 2018.

7. CONSISTENCY WITH FUNDAMENTAL LEGISLATIVE PRINCIPLES

The fundamental legislative principles under section 4 of the *Legislative Standards Act 1992* (LSA) were considered during development of the proposed regulatory reform options. The proposed reforms will not be inconsistent with the fundamental legislative principles in the LSA. The reforms provide sufficient regard to the rights and liberties of individuals and to the institution of parliament.

8. IMPLEMENTATION, COMPLIANCE SUPPORT AND EVALUATION STRATEGY

A transition from the current local government waste management provisions to the recommended option is likely to take a number of years and will be highly dependent on transitioning existing waste collection contracts and other commercial arrangements.

While it is proposed that any regulation amendments will take effect once an amendment regulation is made, there will be transitional provisions for managing existing contracts and existing local laws for waste management.

The department has limited information about the details of current local government waste collection contracts and commercial arrangements. While it is not intended to greatly impact existing contracts and commercial arrangements, the department will seek additional information to be able to determine any impacts on those existing contracts and commercial arrangements. The transitional process will be determined following further consultation with stakeholders. This will ensure that the existing waste collection contracts are managed appropriately.

APPENDIX 1: THE QUEENSLAND TREASURY CORPORATION REPORT, LOCAL GOVERNMENT WASTE MANAGEMENT PROVISIONS (JUNE 2018)

APPENDIX 2: DATA AND ASSUMPTIONS

The data for assessing the removal of mandated collection of commercial waste by local government providers (section 3.2) were provided by the five local governments listed in the table below. The data relate to 2018-19. The data provided showed that the proportion of commercial properties varies considerably between the councils, ranging from 3 per cent to 9 per cent. An aggregated summary of the data is shown in Table 1.

TABLE 1: DOMESTIC AND COMMERCIAL PROPERTIES, FIVE SELECTED LOCAL GOVERNMENTS, 2018-19

Council	Total domestic properties	Total commercial properties	Average proportion: Commercial (%)
Gold Coast City Sunshine Coast Regional Fraser Coast Regional Noosa Shire Douglas Shire	448,381	23,686	6.4

Source: Council data

When viewed from the perspective of waste generated, the data show greater variation in the volume of waste generated by commercial businesses. In most cases across the given local governments, commercial properties generate proportionally more waste than domestic properties. The variation across the five local governments is also wide, ranging from 10 per cent to 31 per cent. The reason for the wide variation is not known, but could relate to differences in industry structure. An aggregated summary of the data is shown in Table 2.

TABLE 2: DOMESTIC AND COMMERCIAL WASTE TONNES COLLECTED, FIVE SELECTED LOCAL GOVERNMENTS, 2018-19

Council	Total domestic waste collected	Total commercial waste collected	Average proportion: Commercial (%)
Gold Coast City Sunshine Coast Regional Fraser Coast Regional Noosa Shire Douglas Shire	380,232	88,834	20.4

Source: Council data

Revenue from commercial properties is broadly consistent with the volume of waste generated, in most local governments listed in the table below. An aggregated summary of the data is shown in Table 3.

TABLE 3: DOMESTIC AND COMMERCIAL WASTE REVENUE ($M), FIVE SELECTED LOCAL GOVERNMENTS, 2018-19

Council	Total domestic waste revenue ($M)	Total commercial waste revenue ($M)	Average proportion: Commercial (%)
Gold Coast City Sunshine Coast Regional Fraser Coast Regional Noosa Shire Douglas Shire	139	32.4	17.6

Source: Council data

Table 4 shows an aggregated summary of the collection costs for each local government. These costs relate to the cost of collecting waste from commercial properties. There are other waste management costs for which councils collect revenue from commercial properties.

TABLE 4: COMMERCIAL WASTE COLLECTION COSTS ($M), FIVE SELECTED LOCAL GOVERNMENTS, 2018-19

Council	Total commercial waste collection costs ($M)
Gold Coast City Sunshine Coast Regional Fraser Coast Regional Noosa Shire Douglas Shire	10.79

Source: Council data

APPENDIX 3: SELECTED INFORMATION, COMMERCIAL WASTE SERVICES

Council	Rateable properties	Non-residential Services	Significant Business Activity	Mandatory Utility Charge	Mandatory commercial collection
Brisbane City	341,635	√	√	√	
Moreton Bay Regional	151,159	√	√		
Gold Coast City	148,320	√	√	√[a]	√[a]
Sunshine Coast Regional	105,668	√	√	√	√
Logan City	102,891	√	√		
Ipswich City	76,836	√	√		
Townsville City	71,323	√	√		
Toowoomba Regional	67,198	√	√		
Redland City	61,051	√	√		
Cairns Regional	54,067	√	√		
Mackay Regional	47,477	√	√		
Fraser Coast Regional	47,160	√	√	√	√
Bundaberg Regional	41,959	√	√		
Rockhampton Regional	34,156	√			
Gladstone Regional	28,544	√	√		
Gympie Regional	24,424	√	√		
Noosa Shire	22,069	√	√	√	√
Western Downs Regional	18,154	√			
Scenic Rim Regional	17,996	√		√	
Lockyer Valley Regional	16,804	√			
Livingstone Shire	16,059	√			
Tablelands Regional	12,393	√			
Central Highlands Regional	12,358	√			
Somerset Regional	11,652	√			
Isaac Regional	9,702	√			
Burdekin Shire	8,517	√		√	
Douglas Shire	5,486	√		√[b]	√[b]
Balonne Shire	2,255	√			
Cherbourg Aboriginal Shire	Not available	√			

Source: Queensland Government (2018), AEC (2016), Review of Local Government Rating of Non-domestic Properties for Waste Services, report prepared for LGAQ, QTC (2018), Local Government Waste Management Provisions, report prepared for the Department of Environment and Science, DNRME (2019), State Valuation Land Use Statistics, February.

[a] In designated Controlled Waste Collection Areas within local government area

[b] For commercial and industrial premises with driveway access is not available.

APPENDIX 4: COMMERCIAL WASTE MANAGEMENT FOR IMPACTED LOCAL GOVERNMENTS

Local government	Mandated commercial waste services
Gold Coast City	Service area: Controlled Waste Collection Areas include Main Beach, Surfers Paradise, Broadbeach, Burleigh Heads, Coolangatta and Coomera Town Centre. Charge structure: Bundled waste management charge for general waste and recycling for both domestic and non-domestic. Services offered: Base service bundles to meet the required level of waste generation at each non-domestic property, which includes base waste and recycling bins (e.g. 140 litre, 240 litre), low noise bins, bulk bins, compactor bins, roll on roll off bins and compactor roll on roll off bins.
Sunshine Coast Regional	Service area: All lands and/or premises within the local government area where waste services are, or can be, made available. Charge structure: Bundled waste management utility charge for general waste and recycling for both domestic and non-domestic. Services offered: Base service bundles to meet the required level of waste generation at each non-domestic property, which includes one or more of base waste and recycling bins (e.g. 140 litre, 240 litre), low noise bins, bulk bins, compactor bins.
Fraser Coast Regional	Service area: All occupied land or structures in the defined waste collection area. Charge structure: Bundled waste management utility charge for general waste and recycling for both domestic and non-domestic. Services offered: Base service consists of a 240 litre general waste bin and a 240 litre recycling bin. Combined services bundles includes various bulk bins and equivalent recycling bins.
Noosa Shire	Service area: All properties within the shire where waste services are, or can be, made available. Charge structure: Bundled waste management utility charge for general waste and recycling for both domestic and non-domestic. Services offered: Base service bundles to meet the required level of waste generation at each non-domestic property, which includes one of more of base waste and recycling bins (e.g. 140 litre, 240 litre), low noise bins, bulk bins, compactor bins.
Douglas Shire	Service area: All land that has driveway access to the roadway on which the collection travels in the course of carrying out refuse/recycling collection on behalf of local government. Charge structure: Bundled waste management utility charge for general waste and recycling for both domestic and non-domestic.

Local government	Mandated commercial waste services
	Services offered: The base service consists of a 240 litre general and a 240 litre recycling bin. Bulk bins are provided where the number of charges levied warrants it and the service is able to be carried out.

APPENDIX 5: LOCAL GOVERNMENTS WITH LOCAL WASTE LAWS

Council	Local law
Bundaberg Regional	Local Law No.8 (Waste Management) 2018, Council resolution date 24 April 2018
Burdekin Shire	Local Law No.8 (Waste Management) 2018, Council resolution date 8 May 2018
Burke Shire	Local Law No.6 (Waste Management) 2018, Council resolution date 21 June 2018
Charters Towers Regional	Local Law No.8 (Waste Management) 2018, Council resolution date 16 May 2018.
Cook Shire	Local Law No.6 (Waste Management) 2018, Council resolution date 19 June 2018.
Etheridge Shire	Local Law No.6 (Waste Management) 2018, Council resolution date 20 June 2018.
Fraser Coast Regional	Local Law No.7 (Waste Management) 2018, Council resolution date 28 March 2018.
Gladstone Regional	Local Law No.8 (Waste Management) 2018, Council resolution date 19 June 2018.
Gold Coast City	Local Law No.20 (Waste Management) 2018, Council resolution date 13 June 2017.
Goondiwindi Regional	Local Law No.8 (Waste Management) 2018, Council resolution date 17 June 2018.
Hinchinbrook Regional	Local Law No.8 (Waste Management) 2018, Council resolution date 26 June 2018.
Livingstone Shire	Local Law No.8 (Waste Management) 2018, Council resolution date 3 July 2018.
Lockyer Valley Regional	Local Law No.7 (Waste Management) 2018 and Subordinate Local Law No.7 (Waste Management) 2018, Council resolution date 27 June 2018
Logan City	Local Law No.8 (Waste Management) 2018 and Subordinate Local Law No.8.1 (Waste Management) 2018, Council resolution date 26 June 2018.
Mareeba Shire	Local Law No.6 (Waste Management) 2018, Council resolution date 20 June 2018
Moreton Bay Regional	Local Law No.7 (Waste Management) 2018, Council resolution 27 March 2018
Mount Isa Regional	Local Law No.6 (Waste Management) 2018, Council resolution 13 June 2018
Noosa Shire	Local Law No. 7 (Waste Management) 2018, Council resolution 15 March 2018
North Burnett Regional	Local Law No. 6 (Waste Management) 2018, Council resolution 17 January 2018
Palm Island Aboriginal Shire	Local Law No. 6 (Waste Management) 2018, Council resolution 30 May 2018
Redland City	Interim Local Law No. 1 (Waste Management) 2018, Council resolution 23 May 2018
Scenic Rim Regional	Local Law No. 5 (Waste Management) 2018, Council resolution 28 May 2018
Somerset Regional	Local Law No. 6 (Waste Management) 2018, Council resolution 27 June 2018
South Burnett Regional	Local Law No. 6 (Waste Management) 2018, Council resolution 16 May 2018
Southern Downs Regional	Local Law No. 3 (Waste Management) 2018, Council resolution 12 March 2018
Toowoomba Regional	Local Law No. 7 (Waste Management) 2018, Council resolution 21 June 2018

Council	Local law
Torres Shire	Local Law No. 5 (Waste Management) 2018, Council resolution 15 May 2018
Western Downs Regional	Local Law No. 8 (Waste Management) 2018, Council resolution date 20 June 2018.

Source: Department of Local Government, Racing and Multicultural Affairs

APPENDIX 6: FINANCIAL IMPACTS, OPTION 2

Possible impact	Description	Assessment
Increased charges for domestic users.	Loss of commercial waste stream leads to loss of scale and a higher average cost for collection. This then leads to higher charges for domestic households.	The potential impact is not considered to be significant because: ○ the number of commercial premises is small compared to the number of domestic premises. Commercial premises represent on average 6.4 per cent of all rateable properties in the five affected local governments, which implies a small reduction in the number of sites from which waste is collected ○ the waste collected from commercial premises would be larger in volume, freeing up capacity on runs which collect from domestic and commercial premises ○ industry sources confirm that commercial collections often use a different type of vehicle and bin to domestic collections, indicating separate and distinguishable cost for domestic and commercial waste.
Loss of revenue for local government.	Using available data, it is estimated local governments risk losing at least $10.8 million collectively each year and a maximum of $32 million if other operators were to gain the entire market that is currently mandated for collection. This is the equivalent to assuming the relevant local governments cease to offer waste collection services to commercial businesses.	Local government revenue losses would be offset by two factors: ○ The council would no longer incur waste collection costs for commercial waste collections. ○ The council has revenue powers to impose general levies for common waste management costs, including for commercial users.
Contractor loses a proportion of its service contract.	Loss of commercial waste collection is likely to require renegotiation of existing service contract. This loss was estimated at $10.8 million The actual amount and potential compensation will depend on the length of the contract and whether it has clauses that provide for a change in law. Losses can be offset if the provider can deploy resources to other areas or sell assets to other providers.	Small impact, as existing service provider likely to be able to reallocate vehicles and labour relating to lost service. Significant impact on local governments is unlikely and should be managed through change-of-law provisions in contracts.
Grandfathering local laws.	Gold Coast, Fraser Coast and Noosa have enacted local laws to replace chapter 5A. Grandfathering these laws will further ameliorate any financial	Minor impact, as contract issues are likely to be manageable.

Possible impact	Description	Assessment
	impacts relating to the existing service contracts. After the completion of the contract, the impacts are those discussed above.	

APPENDIX 7: ECONOMIC IMPACTS, OPTION 2

Possible impact	Description	Assessment
Higher costs for local governments due to reduced density.	Having less pickups in an area where there are mixed domestic and commercial premises can change the costs of collection. Operating costs may rise depending on how cost changes with the volume of services.	No significant impact for similar reasons to those discussed in Table 3, for higher domestic charges. Commercial premises also tend to be clustered in commercial areas, which would suggest there is already a degree of separation between commercial and residential collection.
Increase in truck movements, arising from multiple operators collecting domestic and commercial.	Waste collection trucks can cause traffic congestion, noise and loss of amenity. These represent external impacts on residents and may increase if there is additional truck movements and collections.[12]	There will be some impact likely to be limited to a few select areas (e.g. tourist precincts with mixed domestic and commercial premises). The external costs have been estimated to be in the range of $1–$3 per tonne of waste. Applying these values to the total costs of additional truck movements would require a very large change in the number of truck movements to generate a significant impact. A degree of operational independence between domestic and commercial waste collection (other than wheelie bins, commercial collection requires different vehicles) suggests the number of additional truck movements would not be large.
Higher waste processing costs.	The commercial waste stream goes to non-local government facilities, leading to a loss of scale in processing.	No negative impact. Waste going to other facilities indicates the local government facilities are less efficient.
Greater competition causes lower prices and/or higher quality for commercial premises.	Private operators move into a market estimated to be worth $10.8 million annually. Greater competition provides incentives to run an efficient business, innovate, lower prices and/or improved service for commercial users. There is concern that allowing competition will mean cherry picking of profitable commercial customers by private industry collectors, leading to higher costs for local government collection.	In principle, allowing competition will result in lower prices and/or higher quality. The size of this impact will depend on the efficiency of the existing local government-provided services. Quantitative estimates could not be made due to the lack of price and cost information. A post-stamp price approach for all commercial premises, irrespective of location, is unlikely to be economically efficient. Local government charges should reflect cost. Under option 2, local governments still regulate commercial premises in relation to waste but are not obliged to collect waste.

[12] Externalities occur when an activity or transaction has positive (benefits) or negative (costs) economic welfare effects on others who are not direct parties to the transaction.

APPENDIX 8: ENVIRONMENTAL IMPACTS, OPTION 2

Possible impact	Description	Assessment
Loss of commercial waste stream results in detrimental environmental outcomes.	Local government can no longer guarantee commercial waste stream is available for processing, leading to lower rates of recovery and recycling, and more waste diverted to landfill.	No impact, as the amended regulations do not affect the rate of diversion, which is related to the landfill charges applied to waste from commercial premises. The regulations do not affect local governments' ability to set landfill charges.
Risk of illegal dumping.	Without mandated collection, some occupiers of commercial premises will illegally dump waste to avoid paying for waste management.	The disposal of waste is controlled by regulation. The impact is unlikely to be significant. If it were material, illegal dumping rates in local government areas that do not mandate commercial waste collection would be much higher. No evidence of this has been provided by those local governments mandating collection of commercial waste.

APPENDIX 9: SOCIAL IMPACTS, OPTION 2

Possible impact	Description	Assessment
Local laws cannot override state regulation.	Amendments prevent an override of state regulation to ensure a consistent approach to waste management.	As per Table 7, there are positive and negative impacts of a centralised approach.