

22 July 2024

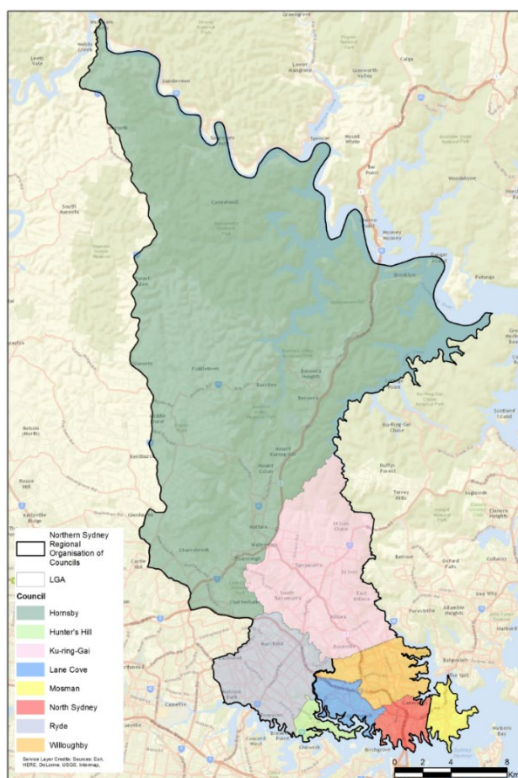
Mr Tony Chappel
Chief Executive Officer
NSW Environment Protection Authority
 Locked Bag 5022
 PARRAMATTA NSW 2124
 By email to: info@epa.nsw.gov.au

Dear Mr Chappel

Review of the NSW Waste levy: Issues Paper

The Northern Sydney Regional Organisation of Councils (NSROC) is pleased to respond to the NSW Environment Protection Authority’s Review of the NSW waste levy issues paper, while noting individual councils may also make independent submissions. This submission has been prepared with the input and support of our member councils, but should be considered draft until it is formally endorsed by the NSROC Board.

NSROC is a voluntary association of eight local government authorities in Sydney. NSROC assists member councils collaborate on key issues and activities, develops regional solutions and generates social, environmental and economic benefits – for local communities and the region overall.



The eight NSROC member councils are:

- Hornsby Shire Council (HSC)
- Hunter’s Hill Council (HHC)
- Ku-ring-gai Council (KC)
- Lane Cove Council (LCC)
- North Sydney Council (NSC)
- Mosman Municipal Council (MMC)
- City of Ryde (CoR)
- Willoughby City Council (WCC)

Our member councils employ approximately 2,700 people across the region, delivering a wide range of services, including operational waste management for public and private domains. Collectively the eight councils have a waste budget of over \$90 million per year and manage around 14% of metropolitan Sydney’s municipal waste.¹

NSROC member councils service an area of 639km² with a population of 633,978, extending from the Hawkesbury River in the north to Sydney Harbour in the south, and west to Meadowbank as shown in Map 1.

Map 1: Northern Sydney Regional Organisation of Councils area

¹ Based on 2021/22 figures

NSROC considers the waste levy as a blunt instrument which is incapable by itself of solving the complex multi-faceted problems facing the waste and resource recovery industries. The current issues paper does not address the real concerns with the levy which are its failure to deliver the necessary waste infrastructure and diversion targets and the limited hypothecation towards the environment or waste programs it was designed to deliver.

The paper relies on what is described as an independent report by Marsden Jacobs to identify a conclusion that for the three major waste streams (Municipal Solid Waste, Commercial and Industrial waste and Construction and Demolition waste) disposal volumes are reasonably responsive to increases in the waste levy. However, the report has not been provided and the graphs shown in the paper do not reflect any such trends. Nor does the paper indicate whether other factors likely to impact volumes, such as economic activity, population, the impacts of China Sword, the ease of recycling particular materials or the available markets for recovered/recycled resources were included in the assessment.

Councils operate in complex resource-constrained environments and are challenged by delivering waste services in an uncompetitive environment. Growing populations and greater housing density increase the need for waste avoidance and better resource recovery but councils cannot provide that unless there is a whole of government approach encompassing strategic and statutory planning, infrastructure master planning and implementation strategies, end market development for recovered resources and statewide education and behaviour change programs. More effective use of the waste levy flowing from this review could create the opportunity to implement this whole of government approach.

I have attached detailed responses to the individual questions raised in the issues paper which have led to the twelve recommendations listed as they appear in the paper. I trust that the Authority will give due consideration to these suggestions to get the best results from this consultation.

Recommendations List

1. The Marsden Jacobs report be released so that the conclusions quoted in the Issues Paper can be tested and clarity provided about any assumptions made in the report.
2. An analysis is undertaken of the composition of residual wastes going to landfill to identify high weights/volume materials. For these materials analyse what reuse or recycling options exist and whether sufficient capacity is currently available to increase recycling of those materials.
3. The percentage of the waste levy retained in Consolidated Revenue for non-Environmental and Waste purposes be halved and the funds directed towards Environment and Waste be proportioned 25% Environment and 75% Waste.
4. An analysis be undertaken of the effectiveness of the waste levy in NSW over time in regard to the amount of the levy per tonne, the provision of waste and resource recovery infrastructure, increasing the diversion of waste from landfill and a comparison with other jurisdictions on similar metrics.
5. NSW seek national consistency in the amount of the waste levy and agree that at least 50% of the funds raised are directed to waste or Circular Economy programs as occurs in Victoria and Western Australia.
6. The EPA determine the reasons for a Waste Levy and what it is hoped to achieve. Then assess what factors best define the extent of achievement Then determine relevant values for each factor which justify charging a waste levy in a particular LGA.

NORTHERN SYDNEY REGIONAL ORGANISATION OF COUNCILS

Member Councils: Hornsby; Hunter's Hill; Ku-ring-gai; Lane Cove; Mosman; North Sydney; Ryde; Willoughby
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7. Review existing levy paying LGAS to check that they meet the criteria
8. EPA provides ongoing funding for proactive illegal dumping prevention using RID squads and supporting resourcing for council regulatory staff.
9. The EPA create new definitions and criteria for end of waste so that processed materials can be treated as resource inputs and not continue to be considered as wastes.
10. The Waste Infrastructure Strategy include a Masterplan for waste infrastructure serving metropolitan Sydney and an Implementation Plan and timetable.
11. An analysis be undertaken by the EPA to determine the potential benefits for the state economy of creating end markets for recovered resources from kerbside bins and identify an implementation plan for priority materials.
12. The EPA support consistent and statewide education and behaviour change programs for selected recyclable materials and additional funds for councils to support such programs locally.

NSROC and our member councils look forward to engaging closely with the EPA to further consider improvements to the operation of the waste levy. If you require more information or wish to provide further updates about the process, please don't hesitate to contact me at mmontgomery@lanecove.nsw.gov.au or by phone on 0401 640 823.

Yours sincerely

Dr Meg Montgomery
Executive Director
Northern Sydney Regional Organisation of Councils

Issue 1: Increasing resource recovery rates in NSW

Key considerations:

Waste Levy rates

- Are there other factors that need to be considered in determining optimal levy rates?

The critical factor in determining an optimal rate depends on what the levy is designed to achieve. Based on the 2012 KPMG Waste Levy Review¹

“The New South Wales (NSW) Waste and Environment Levy (the levy), which is legislated under the Protection of the Environment Operations Act 1997, is the key policy used in NSW to

...drive waste avoidance and resource recovery by providing an economic incentive to reduce waste disposal and stimulate investment and innovation in resource recovery technologies.”

In particular, the NSW Government’s position as set out in the *NSW Government 2009, Waste and Environment Levy Operational Guidance Notes* is that the Levy creates an incentive to seek alternatives to landfill disposal by:

- creating a financial disincentive; and
- hypothecating revenue to industry and councils to assist in infrastructure, education and planning to support the resource recovery industry.²

Unfortunately the level of hypothecation to industry and councils has been far outweighed by the funds directed to general revenue. The issues paper suggest that only 15% of the total is directed towards waste and resource recovery programs. NSW’s levy has been significantly higher than other states but recycling or waste diversion rates have not shown a similar difference with NSW performing no better than other jurisdictions.

The issues paper suggests that Marsden Jacobs report shows a direct connection between levy increases and recycling rates. However, that is by no means obvious from the graphs included. The paper suggests that Municipal Solid Waste (MSW) in the Metropolitan Lev Area (MLA) historically declined by 0.5% for every 1% that disposal costs increased above inflation. Yet the graph shows that in the period from 2008 to 2015 the levy increased by 400% while waste volumes plateaued around 1.5 million tonnes. In the Regional Levy Area (RLA) the levy increased approximately 800% between 2010 and 2022 and waste volumes decreased by no more than 20% with the graph showing volumes have essentially plateaued despite the levy increases. Both LGNSW and NSROC have sought a copy of the Marsden Jacobs report to better understand its conclusions but were not able to see one before making this submission. Sharing that report with council partners would have been a much better level of engagement in this consultation. Without seeing the report it is also not possible to see whether other factors such as economic activity, population, the impacts of China Sword, the ease of recycling particular materials or the available markets for recovered/recycled resources were included in the assessment.

The issues paper shows that material recovery has plateaued despite increasing levy rates. The assumption that continued increases in levy will drive continued increases in recovery may well be incorrect and should

¹ Review of the NSW Waste and Environmental Levy, KPMG for the NSW EPA, June 2012

² NSW Government 2009, Waste and Environment Levy Operational Guidance Notes.

be further tested. It is recommended that an analysis is undertaken of the composition of residual wastes going to landfill and what options exist to reuse or recycle them.

RECOMMENDATION:

- 1. The Marsden Jacobs report be released so that the conclusions quoted in the Issues Paper can be tested and clarity provided about any assumptions made in the report.**
- 2. An analysis is undertaken of the composition of residual wastes going to landfill to identify high weights/volume materials. For these materials analyse what reuse or recycling options exist and whether sufficient capacity is currently available to increase recycling of those materials.**

The National Waste report 2022³ shows recycling/recovery has plateaued in other jurisdictions too and that the major destination for recycled wastes is civil construction materials. (Fig 7 Blue Environment National Waste Report 2022 December 2022) The report states that:

C&I waste levelled off and declined on a per capita basis, suggesting the easiest-to-recycle materials are dealt with and future gains in recovery will be harder to win.

Given the similar levelling in recent years for MSW and C&D it is quite possible that the easiest to recycle materials or the confirmed markets have been addressed and considerable work may be required to achieve better outcomes.

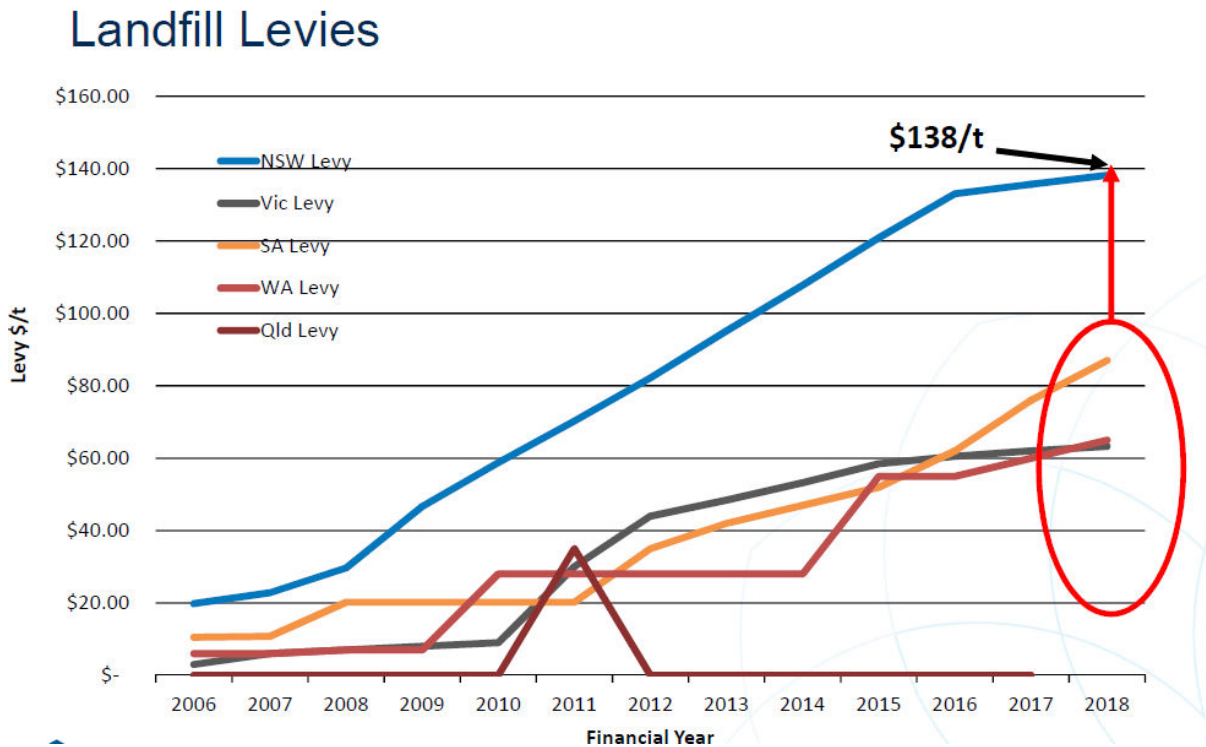
NSROC made a submission to the Commonwealth Senate Inquiry into the waste and recycling industry in Australia in October 2017 which included concerns about the waste levy. Unfortunately most of those concerns are still valid and are set out in the following paragraphs. While the information is now dated, the large differential in the waste levy did not translate into better resource recovery outcomes and reliance has continued to be placed on a single blunt instrument to address a many faceted problem. The move to WASM and the Circular Economy makes better resource recovery even more imperative. The waste levy has not created infrastructure nor has it created markets for recovered resources.

The Waste Levy for the Sydney Metropolitan Area increased from \$7.20 per tonne in 1996 to \$138.20 per tonne in 2017-18. NSW has by far the highest tax on landfilling in Australia and has done for many years, as shown in Figure 1.

Despite this, in that period and still today NSW performs only at about the national average in resource recovery, and the gap between waste volumes and waste facility capacity continues to widen.

³ National Waste Report 2022, Blue Environment, December 2022, Fig 7

Figure 1: Landfill Levies, by State



The NSROC experience is that the policy goals of waste avoidance and resource recovery are not being advanced by the Waste Levy, as is evidenced by waste volume growth and by the expanding gap between capacity in waste infrastructure and demand for both low technology and more elaborate forms of waste treatment.

Further, and of great concern to local government, the high rate of the Levy has had the perverse effect of creating a Budget dependency issue, as only about one-third of the total collected through the Levy is returned to local government or industry through environmental or waste policy and programs. The rest is absorbed into General Revenue.

Any reduction to General Revenue through lowering the Levy rate or introducing a higher rate of hypothecation to waste management would have to be made up by reduced outlays or higher charges in other, arguably more visible and politically sensitive, portfolios. This is an entrenched structural issue that works against investing in waste management as a priority across spending (rather than regulating) portfolios such as public works and infrastructure.

Nonetheless NSROC supports greater hypothecation of the levy. In the revised 2022/23 state budget, the waste levy generates approximately 2% of State revenue. Halving the amount retained in Consolidated Revenue for other purposes and directing it for waste related programs (while not increasing the environmental allocation from the levy) would triple the amount of funds available for waste programs and offer significant funding for waste infrastructure and market development.

The inadequacy of the Waste Levy as a financial disincentive is well-documented. The 2012 review of the NSW Waste Levy⁴ reported that the increases in the Levy had not converted into increased recycling by households. The Levy is noted as:

“... a lack of direct and transparent incentive for households to reduce their waste as the levy is typically collected as a flat rate charge to ratepayers.

and

...Most stakeholders agree that the levy struggles to change householder behaviour, and that other mechanisms should be implemented to assist the levy in driving waste avoidance and resources recovery.”

Waste management charges to residents reflect the actual costs to councils of delivering waste services. These charges are applied across the entire community and are not adjusted for actual consumption of waste services by an individual household.

The Waste Levy operates as a muted signal to households and one with no matching reward or incentive for better waste management behaviour, other than a minor reduction in the waste charge in some council areas for using a smaller red bin.

As a result, the incentive to reduce waste on account of charges that incorporate a taxation component (in the case of NSW, the Waste Levy) is not detectable to residents, as it is dwarfed by the much higher property tax component of council rates.

Affordability

The Issues Paper suggests that the EPA *we will consider making any adjustments to waste levy rates steady and affordable over a long period of time.*

However, while predictable increases will add a degree of certainty for budgeting and contracts, it is contrary to the intention of the levy which is to make alternative reuse or recovery options more economically attractive. Simply making increases more manageable will just cement the ongoing payment of the levy into resident and business behaviours. This suggests that the government sees the waste levy as just an ongoing tax and not a mechanism to reduce waste in landfills.

RECOMMENDATIONS:

- 3. The percentage of the waste levy retained in Consolidated Revenue for non-Environmental and Waste purposes be halved and the funds directed towards Environment and Waste be proportioned 25% Environment and 75% Waste.**
- 4. An analysis be undertaken of the effectiveness of the waste levy in NSW over time in regard to the amount of the levy per tonne, the provision of waste and resource recovery infrastructure, increasing the diversion of waste from landfill and a comparison with other jurisdictions on similar metrics.**
- 5. NSW seek national consistency in the amount of the waste levy and agree that at least 50% of the funds raised are directed to waste or Circular Economy programs as occurs in Victoria and Western Australia.**

⁴ Review of the NSW Waste and Environmental Levy, KPMG for the NSW EPA, June 2012

- **Over what time should a schedule set out future levy rates to provide certainty for decision-making?**

The suggested timeframe is dependent on the expected increases sought. Council tenders tend to have longer timeframes than commercial contracts, but typical council contracts include CPI adjustments for external costs like the levy. So ongoing rises in line with CPI do not need long lead times. However, increases above CPI should be announced with more notice and a rolling ten-year timeframe provided to show when any increases will occur.

- **How can we ensure any changes to waste levy rates increase recycling rather than creating perverse incentives for illegal dumping or interstate landfilling?**

The EPA has continued to use the levy as the primary inducement for alternative resource recovery and infrastructure construction. However, repeated infrastructure needs analyses since 2015 have shown just how dire the infrastructure shortfall is. It is evident that current policy settings and the Waste Levy in particular, are not delivering the prompts for either government funding or private investment necessary to fulfil the requirement to expand waste infrastructure to efficiently manage Sydney's waste through resource recovery.

The NSW Waste Levy as currently priced, passed through and spent by governments is not effective in resolving the policy, market and investment challenges facing waste management in Australia's largest city, home to close to 20 per cent of the nation's population. Reliance on a high landfill tax has not delivered, and is unlikely to deliver, a sufficient price signal to reduce growth in putrescible domestic waste.

Environmental regulation alone is not a sufficient role for government in waste management in 21st Century Australia, characterised by growing urban populations, higher density living and immature markets for both the production and consumption of materials recovered from domestic waste.

A whole of government approach at State level to reduce planning impediments and share risk is needed. Government has a role in infrastructure provision in the case of Sydney, where the market acting alone cannot meet community needs and policy aspirations.

A harmonised or nationally regulated approach to market formation for recycled products is required to improve business certainty and to stimulate investment. The WARR Act lists market formation for recycled resources as one of the roles of the EPA which NSROC believes has not received sufficient attention or delivery. Furthermore, the EPA's current engagement on the infrastructure strategy has heard multiple times that regulatory about faces like the MWOO decision and limited information about future regulatory requirements for persistent chemicals like PFAS have reduced the incentive for investment in waste infrastructure. The metropolitan approach of leaving all the risks with industry contrasts starkly with the more effective partnership approach being pursued by Regional Development with Energy from Waste at the Parkes Special Activation Precinct.

No amount of tinkering with the waste levy will replace the holistic need for market formation, industry development and innovation incentives for the waste management industry to trigger a catch-up period in Australian waste infrastructure provision, which lags the capacity and technology available in other developed Western economies.

Waste Levy area boundaries

- **Is remoteness an appropriate measure to consider in examining levy area boundaries? Are there other factors we should consider?**

Remoteness is definitely a relevant factor in the application of the waste levy across regions, but it is hard to identify which others are most salient without knowing what the waste levy is intended to achieve. Given the failure of the levy to deliver waste infrastructure in the current levied areas and the plateau in resource recovery/diversion there appears no compelling reason to extend the levy area at all. In fact to help achieve the intended minimising of cost of living impacts, a reduction in the levy area for those councils which have requested it would be more appropriate.

In regard to suitable factors to be considered, the 2020 Performance Audit by the NSW Audit Office⁵ noted that:

Currently, there are no objective and transparent criteria for determining which LGAs pay the levy.

Although this current review creates the opportunity to establish those criteria, the issues paper suggests a remoteness factor could be considered without defining it. But it but notes that:

Lower waste volumes and larger distances between the points of waste collection and resource recovery facilities prevents the economies of scale needed to attract investment in infrastructure and technology.

There are a range of factors which should also be considered in determining whether a waste levy should be paid in an LGA. Their relative priority will depend on why the levy is being imposed and what it is hoped it will achieve. The factors might include:

- Population
- Population density and or number of towns above a certain size
- Waste arisings
- Relative weights/volumes of different wastes
- Risks of continuing current arrangements for that LGA
- Distances to different types of processing
- Distances to markets for processed or recovered resources
- Opportunities from waste processing/resource recovery locally
- Economic/employment costs and benefits associated with better waste management
- Emissions from different potential scenarios
- Value for money for those paying the levy
- Local benefits achieved if the waste levy was paid

RECOMMENDATIONS

- 6. The EPA determine the reasons for a Waste Levy and what it is hoped to achieve. Then assess what factors best define the extent of achievement Then determine relevant values for each factor which justify charging a waste levy n a particular LGA.**
- 7. Review existing levy paying LGAS to check that they meet the criteria**

⁵ Waste levy and grants for waste infrastructure, NSW Auditor General, 26 November 2020.

- **If levy boundaries are expanded, how should we support new levy paying areas?**

NSROC supports the LGNSW position that levy boundaries should not be extended. However, if a detailed analysis demonstrates significant local or regional benefits, the community should be engaged and the benefits and costs explained.

Any funds raised should all be directed towards waste or environmental programs with a measurable benefit for that LGA, even if the funds are not spent in the LGA.

Issue 2: Creating a level playing field for safe and sustainable waste management

Key considerations:

Reducing opportunities for illegal activity

- **What is your experience with waste operators avoiding lawful disposal costs in NSW? How does activity such as illegal dumping, stockpiling and waste fraud impact your waste and resource recovery business and operations?**

Councils may not be able to identify the specific reason for illegally dumped waste or increased volumes left for bulky waste collections. However, avoiding lawful disposal costs is certainly the reason behind most illegal dumping, especially if asbestos is involved or where a truck load of green waste is dumped in the middle of an urban roadway. Effectively the disposal cost has been transferred from an individual generator or operator to the community represented by the council. Not only does the council have to meet the costs of disposal but it is also required to pay the waste levy on the load.

Prevention of illegal dumping is resource intensive with limited scope for cost recovery. RID squads have proved effective in many locations especially when able to share data and information with other regulators/compliance staff.

RECOMMENDATION

- 8. EPA provides ongoing funding for proactive illegal dumping prevention using RID squads and supporting resourcing for council regulatory staff.**

- **How can we best prevent opportunities for rogue operators to avoid lawful disposal costs in NSW through illegal or unsustainable activity?**

Possible actions include:

- Working with other jurisdictions to create a consistent national approach
- Removing the waste levy on materials for which landfill disposal is the preferred option, while increasing compliance resources to reduce the risk of load seeding
- Applying a risk based approach to hazardous materials like asbestos which considers both likelihood and consequence, not just potential consequence which appears to be the current approach.
- Better education and publicity around hazardous substances likely to be found during demolitions or home renovations with clear guidance about disposal options
- Ongoing and consistent actions across relevant agencies to identify and remove rogue operators from the building and waste industries
- Publicising successful prosecutions and penalties against rogue operators

Waste levy exemptions and concessional levy rates

- **Are there other types of waste that cannot be safely recycled for which an exemption from the waste levy should be considered?**

Other respondents will be better placed to provide specific examples of other types of wastes. However, the need to offer exemptions or concessions would be less pressing if there were greater responsibility taken for end of life disposal by manufacturers and importers of such materials. Requiring the beneficiaries of product sales to accept responsibility for the end of life costs is a legitimate rebalancing of our current linear consumption process. While the state government may not have authority to impose such product stewardship schemes unilaterally, there are existing avenues such as the Meeting of Environmental Ministers (MEM) and the national meeting of Heads of EPAs which could support informed and prioritised national consistency in delivering such user pays schemes with an appropriate level of regulation. Such schemes can ensure that the skills of designers and specifiers are harnessed to create the most cost-effective balance between product characteristics and safe disposal at end of life.

- **What factors should be considered in reviewing current concessional levy rates and the ongoing application of levies on liquid waste and coal washery rejects?**

As previously stated, the fundamental question is what the levy is intended to achieve and what benefits a concessional levy could deliver. That will inform the choice of factors. In many waste examples, national consistency can be beneficial, but it appears that NSW is in a minority of imposing a levy on liquid wastes.⁶ However, the justification for that levy and the consequences of unilateral application should explain whether an individual approach is justified and, if so, what factors would be relevant.

Another standard consideration for setting concessional rates is the need to balance the cost of compliance against benefits of achieving compliance. The intention is to obtain compliance at a reasonable cost with an acceptable level of risk, while preventing unexpected consequences or creating an incentive for operators to game the system.

The issues paper does not provide sufficient information for NSROC to usefully add further comments.

Waste levy deductions and reducing administrative burdens

- **What are the key aspects of the waste levy deduction framework that make it harder for you to operate?**

As previously stated, imposing the levy on councils when cleaning up illegally dumping materials shifts additional costs from the dumper to the community

- **How can we streamline waste levy deduction requirements and processes while ensuring only materials that are suitable for operational purposes are used on site, and transport deductions are only applied to materials that are moved off site for lawful purposes?**

There are no active landfills within the NSROC region but it is understood that the LGNSW submission and individual submissions by affected councils provide relevant responses to this point.

⁶ White Paper -Review of Waste Levies in Australia, National Waste and Recycling Industry Council, October 2019.

Issue 3: Amplifying circular economy outcomes in NSW

Key considerations:

Waste and resource recovery infrastructure and technology

- **What are the key barriers in the planning system preventing new waste and resource recovery infrastructure being developed in NSW? How can they be overcome?**

For metropolitan Sydney especially, the barriers in the planning system are only part of the problem. Waste facilities rightfully need to meet stringent planning controls. One of the challenges is determining when a material stops being a waste and becomes a resource. The term resource recovery infrastructure is a misnomer in NSW because resources derived from waste are still classified as wastes. That in turn leads to greater hurdles in obtaining regulatory approvals and limits the locations where such facilities can be established.

In NSW the statutory planning process is essentially an adversarial system where the proponent must demonstrate compliance with planning requirements and address objections raised by interested parties. Professional planners may well be able to recommend approval despite objections, where an applicant has demonstrated an appropriate level of compliance with planning requirements and mitigated potential negative impacts. However, the democratic process can give undue influence to objectors and increase the likelihood of extended determination times and potentially costly mitigation requirements, even where approval is ultimately given. Both these factors reduce the commercial attractiveness of developing waste infrastructure in comparison to other types of development.

Managing the waste generated by a city the size of Sydney needs a suite of processing and disposal options. Expecting the proponent to create specific facilities without the state government supporting the development and sharing the risks has at least two likely consequences. The first is that new facilities are not built and the second is that the community pays a higher price to account for the higher risk. Sydney has not had new waste facilities built in over 20 years while the community, through their councils, have no opportunity to seek alternative pricing in an uncompetitive market. When a market fails, government intervention should be considered to take control and manage the system until a sufficiently competitive environment has again been achieved.

As a minimum the state government should use the waste infrastructure strategy currently being developed to create a masterplan and implementation plan for waste infrastructure serving the metropolis. That masterplan needs to be reflected in both strategic and statutory planning processes so that the necessary facilities are built in appropriate locations. Once locations are identified, the government should work with local communities to help create the social licence to operate and establish clear guidelines for development so that proponents understand the standard of development to be achieved so they can price their business cases accurately.

RECOMMENDATIONS

9. **The EPA create new definitions and criteria for end of waste so that processed materials can be treated as resource inputs and not continue to be considered as wastes.**
10. **The Waste Infrastructure Strategy include a Masterplan for waste infrastructure serving metropolitan Sydney and an Implementation Plan and timetable.**

- **Do you think the waste levy should apply to residual waste from resource recovery facilities? If not, why? If so, at what rate and why?**

On balance NSROC supports the application of the waste levy to residual waste from resource recovery facilities. Those facilities don't have much control over contamination of the feedstock, but can often make provision to remove it in pre-processing or else can recover additional costs with the penalties in the contract. That results in the community facing extra costs for the service which creates an incentive for councils to work with their residents to reduce contamination.

Removing the waste levy on residual wastes after processing would reduce the incentive for operators to maximise resource recovery.

- **What factors would we need to consider when investigating standardisation of kerbside recycling bins and upgrades to material recovery facilities? What other approaches should we take to reduce contamination in recycling feedstock?**

The current variations between councils recycling largely reflect the capability of the MRF or subsequent processing facilities. Standardisation would be valuable for community education so that a similar message could be offered across the metropolitan area. That would particularly help residents who move from one Local Government Area (LGA) to another especially in Sydney where 33 different councils tender for services. It also can help any short stay visitors who only need to learn one set of recycling rules.

However, the real problem is not is not the lack of harmonisation, but the lack of end markets for processed resources. If the market created a lull through for recovered resources, the MRFs and processors would be competing to provide feedstock. The EPA is responsible for developing those end markets but was previously able to avoid the responsibility in large part because China and Asian markets created a ready (if potentially flawed) market for a wide range of materials including aggregated contaminants.

The key factor in standardising recycling bins is therefore the available markets and the extent of investment or policy changes that would be required to broaden that range of materials.

Market development

Different state government agencies have been tasked over many years with industry attraction and development because the government could see the economic benefits which flowed from new investment opportunities in the state. The EPA as a regulator has not built that capacity within the agency and does not appear likely to do so. Even as the leader of the circular economy in government, there does not appear to have been any serious analysis of the potential benefits for the state's economy of developing markets for recycled or recovered materials. One of the additional benefits of such an analysis would be greater clarity about which wastes should be captured in kerbside recycling bins. Even though kerbside collections will be less homogenous than other potential feedstock sources, such as industry offcuts, the ability to guarantee a long-term feedstock can help build the business case for new facilities.

In the waste space the Victorian government has used a strategic approach and support for industry to create a viable recycling industry in that state. In NSW, Regional Development has shared risks and supported targeted investment which will deliver a waste to energy facility in the Parkes Special Activation Precinct.

Once a decision is made on which wastes to target at kerbside, the EPA should develop statewide education and behaviour change programs for those materials. Success of such programs can be defined by making reduced contamination the norm rather than the exception. Additional funding for councils could also help ensure that there are sufficient staff able to promote such programs locally.

RECOMMENDATIONS

11. An analysis be undertaken by the EPA to determine the potential benefits for the state economy of creating end markets for recovered resources from kerbside bins and identify an implementation plan for priority materials.
 12. The EPA support consistent and state wide education and behaviour change programs for selected recyclable materials and additional funds for councils to support such programs locally.
- **What other actions should the Government take to improve investment in waste and resource recovery infrastructure and technology?**

As stated above, market formation is the key action, but it is also necessary to take a whole of government approach. Waste and recycling creates at least three times as many jobs as landfills. As a state, NSW needs investment and jobs in regional areas as well as larger cities. The circular economy offers that potential as does a thriving resource recovery industry. The EPA's narrow focus on regulation to protect the environment and health does not help deliver such whole of government programs. Nonetheless, the NSW EPA has responsibility for both developing markets for recovered resources and developing the circular economy. Ways must be found to reap the benefits of those responsibilities for the whole of NSW.

The Government should also continue to promote and support an increase in mandated/regulated Extended Producer Responsibility schemes so that the main beneficiaries of the linear economy take responsibility for end of life management of their products.

Complementary actions for hard-to-recycle products and materials

- **What products and materials should we prioritise for reuse and repair? What role can the NSW Government play in supporting the reuse and repair of these materials?**

It is suggested that the EPA consider the findings of the Productivity Commission's 2021 Right to Repair Inquiry. (<https://www.pc.gov.au/inquiries/completed/repair/report>)

NSROC's submission to that Inquiry suggested that the following products should be considered for priority in respect of reparability and durability objectives:

- Clothing & textiles including bedding;
- Household furniture;
- Mattresses, beds and couches;
- Whitegoods;
- Electrical items.

Based on figures from our community recycling centres, electrical and electronic goods make up most items discarded. One can assume that these items have malfunctioned or become obsolete. Items using hard-wired or embedded rechargeable batteries (e.g. shaver, electric toothbrush,) are commonly discarded due to battery (not instrument) failure. Encouraging manufacturers to provide replacement batteries (and to accept used batteries at end of life for recycling) would significantly reduce the need for replacement items. This type of e waste normally ends up in landfill because there is currently no national collection and recycling scheme or stewardship program.

From a local government perspective, some priority might be given to expensive items which should last a long time. Councils' interest are broadly to address any products where it is feasible to delay or prevent them being discarded or recycled.

It may also be instructive to consider the European Union Ecodesign Directive which provides specific objectives and clear metrics for durability and reparability improvements that can increase the lifespan of appliances, including:

- spare parts are available over a long period of time after purchase, for example:
 - 7 years minimum for refrigerating appliances (10 years for door gaskets);
 - 10 years minimum for household washing-machines and household washer-dryers;
 - 10 years minimum for household dishwashers (7 years for some parts for which access can be restricted to professional repairers);
 - moreover, during that period, the manufacturer shall ensure the delivery of the spare parts within 15 working days;
 - spare parts can be replaced with the use of commonly available tools and without permanent damage to the appliance.
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- **What characteristics of a product or material make it difficult to recycle? What interventions could we take upstream to improve product recyclability?**

This question is probably best answered by industry representatives but composite materials are regularly nominated as difficult to recycle. However, the reason for the use of a composite needs to be understood before deciding whether to take any action. Rather than having a state agency make a determination, it will generally be more appropriate to support extended producer responsibility schemes. Once a producer is responsible for the whole of life of a product, the incentive lies with them to determine the most cost effective way to increase product recyclability or reuse. A more appropriate state intervention may be to mandate requirements that the product must meet to ensure the community's needs are met rather than just the suppliers'.

Chemical composition can be another obstacle to recyclability. Again putting the onus on the supplier to deliver certain recycling standards through an extended producer responsibility scheme is typically the best way to overcome this.

Other upstream steps that should be taken include developing mechanisms to reduce consumption and to increase reuse. Government leadership on these aims will be required to achieve significant gains.

As mentioned previously, the state government should also analyse why a plateau has been reached in diversion of materials from landfill. Without that data there is no justification for increasing or broadening the waste levy.