

Submission – *DPHI Waste Planning Changes*

19 December 2025

Prepared by Northern Sydney Regional Organisation of Councils (NSROC)

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1.0 Introduction

The Northern Sydney Regional Organisation of Councils (NSROC) is pleased to provide this submission to the Department of Planning, Housing and Infrastructure (DPHI) on the *Proposed waste planning – Consultation paper*, received on 1 Dec 2025.

The proposed changes to planning controls are primarily designed to help address challenges created by the NSW food organics and garden organics (FOGO) mandate requirements. The mandate prescribes councils' collection of FOGO from existing residential flat buildings, which often have limited space for additional bins. Also, developers of new buildings need to plan for appropriate storage and management of FOGO waste. The proposed planning changes aim to streamline necessary modifications, whilst maintaining safety and environmental standards.

NSROC strongly supports these timely changes.

The 2030 FOGO mandates present significant logistical challenges to collecting food waste from existing multi-unit dwellings. Streamlining the approval pathway for bin enclosure upgrades helps ensure collection crews can safely access additional bins required.

The proposal to allow Community Recycling Centres (CRCs) to be approved under a Part 5 of the *Environmental Planning and Assessment Act 1979*, should significantly reduce development approval timelines, allowing councils to roll out resource recovery infrastructure faster.

Each of the questions outlined in the consultation paper are addressed below.

This submission has been prepared with the input and support of our member councils, but should be considered draft until formal NSROC Board endorsement.

2.0 Alterations to Bin Enclosures Approval Pathway

NSROC strongly supports the intent of the proposed changes to simplify the approval pathway for minor modifications to bin enclosures.

Consultation Questions

1. *Are these changes appropriate to facilitate most modifications to garbage bin storage enclosures as complying development that may be necessary to meet the FOGO mandates?*

Yes. The introduction of FOGO will require existing residential flat buildings to store additional bins, which is often difficult due to space constraints. Allowing enclosure upgrades as complying development (rather than a full DA) will help ensure organic waste can be collected easily. Reducing the setback to 1m from the side/rear boundary is a practical move that maximises available space on older lots.

2. *Are the proposed development standards appropriate and achievable?*

Mostly. The exception is the proposed new development standard regarding stormwater drainage, considered inappropriate. Directing 'stormwater collected' from a bin enclosure to a 'public drainage system' (i.e. stormwater), potentially mandates discharge of contaminated runoff (leachate). It is recommended that this standard be removed. It should be replaced with a standard that mirrors the approach taken for bin enclosure sizing, requiring: Any alteration or addition to bin enclosures must meet the wash-down, and

drainage requirements outlined in the relevant Council's Development Control Plan (DCP), the NSW EPA guidelines, or other relevant guidelines, to ensure all contaminated wash-down water is managed appropriately.

3. *Should developments be required to comply with any other aspects of councils' DCPs, or will this be too difficult to implement (e.g. for older buildings)?*

It is appropriate for new / recent developments to comply with all relevant DCP and EPA guidelines. However, requiring existing buildings (particularly older Residential Flat Buildings (RFB) to comply with all aspects of current DCP/EPA standards/guidelines when undertaking minor waste enclosure modifications for FOGO maybe be too difficult, costly, and unfair. The Complying Development standard for modifications to existing bin enclosures should be limited to new size/volume, access and screening requirements. It should exclude the need to comply with the full suite of structural, mechanical ventilation or drainage requirements under the DCP, that were not applicable at the time the building was originally approved. There is a troublesome risk that older RFB's will be unable to comply with the FOGO mandate if the standard is too restrictive. However, they should be compliant with relevant codes and standards including the Building Code of Australia (BCA) in particular related to structural integrity, fire safety and surfaces.

4. *Should bin enclosures under these controls be limited to a certain percentage of street frontage? If so, what should it be?*

Yes. While functionality is key, it must be balanced with amenity. A limit (e.g., 20-30% of frontage) prevents the streetscape from being dominated by bin infrastructure, which can invite graffiti and dumping. Screening should match the materials and aesthetic of the existing building to protect local visual amenity.

5. *Are any other development standards needed to prevent inappropriate development?*

Standards should require adequate natural and/or mechanical ventilation to manage odours from FOGO bins. Screening requirements must be robust enough for structures to withstand daily wear and tear.

6. *Should the development standards include standard on safe and efficient access and movement to the street for collection?*

Yes, the standard prohibiting alterations that prevent safe movement of bins to the street is a very important operational safeguard. The wording in the standard should be well defined so it is not open to subjective interpretation by inexperienced private certifiers.

3.0 New mandatory resource recovery clause for local environmental plans

NSROC strongly supports the introduction of a standard local environmental plan (LEP) clause for waste management and resource recovery, which would strengthen the consideration of waste and resource recovery objectives during the planning, design, and application process for a development.

7. *Would a clause like the example above be helpful for council planners to ensure developments appropriately provide for waste management, especially for FOGO waste?*

Yes, very helpful, a clause as suggested would be very helpful for councils as it will provide / enhance the statutory weight needed to refuse applications, that have not considered waste management and resource recovery measures in their proposed developments.

8. *Should the proposed clause be limited to residential and mixed-use development? Or expanded to include all commercial development or other development types?*

Expanded to all development. It should cover commercial developments. Commercial premises (restaurants, offices) are often high-volume waste generators. Excluding them leaves a regulatory gap and new commercial builds might not provide suitable measures for residual waste, recycling and FOGO separation.

9. *Should the proposed clause reference council DCPs to guide what councils' service collection requirements are?*

Yes, definitely. The consultation paper notes strong support for linking to DCPs to avoid a "one-size-fits-all" approach. Councils have different truck fleets (side-arm vs. rear-loader etc) and collection frequencies. The LEP clause should mandate compliance with the "relevant waste collection service requirements of the relevant council" to ensure the building is compatible with the actual trucks servicing it.

10. *Should the clause prioritise council-based waste collection services over private ones (as in the proposal above)? Should any additional standards or considerations apply where only private collection is possible?*

Whilst appreciating the Department's intent to reduce reliance on private services through this process, councils urge extreme caution on referencing private services at all as an alternative pathway. The final publication of changes to LEP clauses must not reference private waste services as a feasible alternative. Private waste services in most instances:

- Are more costly for residents, as they increase strata fees in addition to the Domestic Waste Management Charge in rates
- Fail to provide essential, mandated services such as comprehensive recycling streams, Food Organics Garden Organics (FOGO) collection (contrary to the NSW Government's 2030 mandate), and scheduled bulky waste collection
- Lead to inconsistent waste diversion rates and increased illegal dumping on public land

Recommendation: The development standard should clearly require that designs for waste storage and collection must accommodate the Council's standard service specifications (including vehicle type, dimensions, and collection methodology) as outlined in the relevant DCP. Reference to a private service should only be considered under a separate, non-Complying Development pathway, where the proponent provides certified evidence that the site is physically incapable of accommodating the Council's standard service vehicle.

11. *Should the clause include any other considerations?*

No comment.

12. *For council stakeholders: does your council have a similar clause related to waste?*

Yes. NSROC member councils rely heavily on Development Control Plans (DCPs) to implement detailed, local, and technical requirements for waste and resource recovery (e.g., bin sizing, vehicle access, storage enclosure dimensions) that are essential for FOGO mandate implementation.

If this clause was implemented, would you like the Department to facilitate deletion of the existing clause?

No, not deletion. Outright deletion of the existing local waste clause would only be suitable if the new Standard LEP clause is written to statutorily enforce existing, detailed DCP controls - which requires a mechanism that is also suitable in the absence of an appropriate DCP.

Potential wording in the new Standard LEP could be along the lines of:

"The consent authority must not grant development consent unless satisfied that:

- Adequate provisions are made for storage and management of waste and resource recovery; AND
- Where a Development Control Plan (DCP) contains specific waste management provisions, the development is generally consistent with, or otherwise satisfactorily addresses the objectives of, those provisions."

4.0 Allowing community recycling facilities as permitted without consent if carried out by or on behalf of a public authority

13. *Would this Part 5 pathway be helpful to councils?*

Yes. CRCs are relatively low-impact, essential public infrastructure. Currently, having to submit a DA for a CRC creates unnecessary delays and assessment costs. The Part 5 pathway is appropriate for public authorities.

14. *Are these proposed standards sufficient?*

Yes, provided they align with EPA guidelines. The requirement to be consistent with the *Community Recycling Centres Operations and Management Handbook* covers most operational risks. The exclusion of facilities requiring an Environmental Protection Licence, will ensure that larger, higher-risk facilities still go through appropriate assessment channels.

15. *Are there additional site constraints or exclusions (e.g. flooding) that should specifically be considered in the Part 5 pathway for CRCs?*

NSROC suggests that fire risk be included among the site constraints considered under the Part 5 pathway. Councils also note that suitable CRC sites are extremely limited due to zoning restrictions. As a result, very few potential sites have been identified in Northern Sydney. For example, some light industrial sites would be an ideal location to service residents but are not currently in permissible zones. Further work on permissible zoning also needs to be undertaken alongside this review of planning controls, to enable councils to deliver these facilities to the community.

5.0 Requiring commercial and industrial developments to comply with DCP controls when a change of use occurs

16. *Is this a significant issue? What types of changes of use are most problematic?*

Yes, considered a significant Issue. The most problematic changes are Warehouse to Food Manufacturing/Production or Retail to Hospitality. For example, where a dry goods warehouse changes use to a food manufacturer. Their waste profile changes from cardboard

(dry) to putrescible food waste (wet/odorous). If they are not required to upgrade their bin storage to meet DCP controls, they often store overflowing bins in carparks or on the street, causing leachate and vermin issues.

17. *Is it appropriate that council's DCP controls for waste management must be met by developments that change use and may generate additional waste?*

Yes. If the use changes the waste profile significantly (volume or type), the infrastructure must be upgraded to match the changes. Requiring compliance with the DCP and other applicable guidelines ensures that the new tenant has adequate space for separation of residual waste, recycling and organics, reducing illegal dumping and contamination.

However, this needs more consideration by compliance staff in councils, who we have not been able to engage in this consultation within the tight timeframe for feedback.