LOCAL GOVERNMENT NSW

Submission on the Productivity Commission's Right to Repair Issues Paper

February 2021

Table of contents

Opening

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

LGNSW welcomes the opportunity to provide feedback on the Productivity Commission's *Right to Repair Issues Paper* as the start of a dialogue about assessing the case for Right to Repair in Australia. Councils support Right to Repair as it has the potential to reduce the environmental impact of products, save valuable resources and create local jobs, propelling the circular economy. It will also reduce the burden on councils managing end of life products.

LGNSW has advocated for an increased focus on keeping products circulating in the economy for longer through repair and reuse so that value of the resource can be maximised, lessening the environmental, social and financial costs of recycling and waste disposal. Repair and reuse is also a way for those of lower socio-economic means to access higher quality goods at affordable prices that would otherwise be unattainable.

Councils and their residents, rather than producers of products, continue to face increasing challenges and cost pressures of managing and subsidising products' end of life. Products are predominantly collected through kerbside clean up waste collections or dropped off by residents at resource recovery facilities (landfills and transfer stations), including products that could be repaired and reused. In 2018/19 NSW councils reported the collection of 185,204 tonnes of clean up waste, 9,838 tonnes of metals and 462 tonnes of e-waste from kerbside clean ups with 442,000 tonnes of waste dropped off at council facilities (including e-waste).[1]

Councils provide and subsidise collection points and collections for products for recycling and repair that should be paid for under product stewardship. Product stewardship in Australia is focussed on recycling, rather than repair, reuse and end of life take back.

This submission was endorsed by the LGNSW Board in February 2021.

Background

The Productivity Commission is seeking submissions on its Right to Repair Issues Paper by 1 February 2021 (LGNSW has received an extension until 15 February). The paper sets out some of the issues and questions the Commission has identified as relevant at this early stage of their inquiry. A draft report is expected to be released and public hearings start in June 2021 with a final report to the Australian Government by October 2021.

The inquiry is in part recognition of the rapid growth in products with embedded software and computers that have increased the complexity of repairs, often making repairs more difficult and costly resulting in an increase in strategies to replace rather than repair, increasing the volume of products being partly recycled or disposed.

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[1] NSW EPA. Local government waste and resource recovery data report 2018-19.

Many countries have or are introducing 'right to repair' policies that give consumers the ability to have their products repaired at a competitive price by a repairer of their choice. Examples of policies include a requirement for manufacturers to make repair information and tools available to third-party repairers, or to produce spare parts for a certain period.

The Commission has been asked to assess the costs and benefits of a right to repair in Australia and the impact that regulatory or policy changes could have on market offerings for repair services and replacement products. In undertaking the inquiry, the Commission will examine, amongst other items:

- whether there are regulatory or manufacturer-imposed barriers to accessing repair services, including the role of embedded software, intellectual property and commercially-sensitive knowledge in limiting access to repairs, as well as trade-offs with more competitive markets and innovation.

- the impacts of waste (especially e-waste generated from the disposal of consumer electronics and household goods) on the environment and community, and the current arrangements for the disposal and management of e-waste. This will include the examination of the effect of premature and planned product obsolescence on the growth of e-waste.

The NSW Government is developing a 20-Year Waste Strategy that is focused on delivering a sustainable, reliable and affordable waste system. Waste minimisation through repair should be a key pillar of the strategy, driving the reuse economy and the transition to the circular economy.

LGNSW's response to the Right to Repair Issues Paper

This submission only responds to those questions in the issues paper most relevant to local government in NSW.

INFORMATION REQUEST 1

What would a 'right to repair' entail in an Australian context? How should it be defined?

A Right to Repair would entail consumers having the ability to have their products and appliances fixed by a repair shop or service provider of their choice, as well as enabling simpler products to be repaired by the consumer using common household tools. This would require consumers and repair businesses to have access to the parts, tools, software and service information needed without voiding warranties.

INFORMATION REQUEST 2

a) What types of products and repair markets should the Commission focus on?

As a concept, right to repair should apply to all products. The current policy focus on recycling has resulted in little data and information on repair.

Undertaking a life cycle approach to understand the design, maintenance, repair, reuse, upgrade and recyclability, as well as end of life disposal, for product categories may assist in determining types of products and repair markets the Commission should focus on.

An assessment of the Minister for the Environment's Priority Product List for Product Stewardship is viewed as one starting point to determine the potential role of repair in such schemes.

Kerbside and drop off household clean up waste collected by councils is a challenge with its range of large household items such as furniture. The vast majority of this waste is landfilled due to its relative low market value and lack of reuse markets. Some council owned landfills salvage household products for repair and reuse through onsite resource recovery and reuse ('tip') shops. Some councils offer rehoming of higher quality clean-up items through social enterprises for repair and reuse (see The Bower case study). Much of the high turnover furniture is not even recycled due to its poor product and material design.

Many councils separate products made of metal from kerbside clean up waste for recovery. While there are viable profitable markets for many metals, keeping these products circulating in the economy through repair and reuse is a better environmental outcome and feasibly a better economic outcome when all externalities are considered. However end of life management of textiles, including clothing and footwear, is particularly problematic for the waste industry in general.

Electronic waste (E-waste) continues to increase and not all e-waste is covered by the National Television and Computer Recycling Scheme (NTCRS). Of the products covered, not all materials can be recovered locally through recycling and are landfilled, or products are exported for recycling. Commonly used products are increasingly computerised and become obsolescent or unable to be used due to unsupported software or network upgrades. LGNSW advocates for the extension of the NTCRS to cover anything with a plug. The scheme also needs to include targets and incentives for repair and reuse.

Small to medium sized household items able to be simply repaired with tools found at home are another product type worthy of focus. As too are products that have batteries that cannot be changed – often the product is disposed not due to product failure but battery failure.

Product areas of concern for regional council owned landfills are solar panel and wind turbine infrastructure and energy storage infrastructure. Regional large scale solar farms' photovoltaic (PV) panels have a relatively high failure rate and their disposal is problematic, as are the cells on residential and other buildings. For example, currently only about 20% of a typical PV panel by weight is recoverable through recycling.[2]

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[2] ANZRP White Paper NTCRS Scope expansion. Australia New Zealand Recycling Platform

INFORMATION REQUEST 3

d) Are consumers sufficiently aware of the remedies that are available to them, including the option to repair faulty products, under the ACL's consumer guarantees?

- *If not, would more information and education be a cost-effective measure to assist consumers understand and enforce guarantees? What would be the best way to deliver this information? What other measures would be more effective?*

While councils have not directly asked the community their level of awareness, it is viewed that consumers are not sufficiently aware of the remedies available to them. This lack of awareness and knowledge could be remedied by communication campaigns and information at point of purchase. It is also unclear how the ACL's consumer guarantees interact with marketed extended product warranties. However, for many lower cost imported products it would still be cheaper and more convenient to replace rather than repair, regardless of the consumers' level of awareness.

One approach to address this lack of awareness is to make it mandatory for distributors to inform consumers of the ACL's consumer guarantees and the product's 'reasonable' life span at the point of purchase and on the product and/or packaging.

INFORMATION REQUEST 4

a) The Commission is seeking information on the nature of repair markets in Australia, including detailed data on the repair markets for specific products, covering:

- *market size — by employment, revenue, number of businesses, profit margins*
- *market composition — such as market share between authorised, independent and DIY repairers*

Several councils are involved in repair at their resource recovery centres and other council facilities, ranging from bike repair, repair cafes, men's sheds, and repairs by 'tip' shops, often run by social enterprises where the repairs are made to furniture and electrical items by skilled volunteers and the community. Apart from repair activities on their own premises councils do not collect information on the nature of the repair market in their LGA.

INFORMATION REQUEST 6

f) Do consumers have access to good information about durability and reparability when making purchases? If not, how could access to information be improved?

Consumers do not have access to reliable information about durability and reparability when making purchases. It is unclear whether this information exists or is just hard to access. However there appears to be a lack of interest or apathy in many people regarding repair options, as regularly the repair cost is more than the cost for replacement products, albeit of lesser quality.

INFORMATION REQUEST 7

a) What data are available on the amount of e-waste generated in Australia?

What data is there on the composition of e-waste in terms of particular materials (such as hazardous materials) by product type?

How does hazardous e-waste compare to hazardous general waste in its prevalence and risks? Is there merit in distinguishing between hazardous e-waste and non-hazardous e-waste? And if so, how could this be done in practice?

Blue Environment[3] has modelled the generation of e-waste by combining consumption data with lifespan distribution parameters established by the United Nations University. The model suggests that in 2018-19 about 539 kt of e-waste was generated in Australia, an increase of about 3.7% on the previous year. Most councils keep data on the amount of e-waste collected – sometimes both scheme and non-scheme.

The Australia New Zealand Recycling Platform's latest projections indicate that more than 554,000 tonnes of electrical and electronic equipment (EEE) waste is generated in Australia each year. Other reports indicate that EEE is increasing at a rate three times faster than municipal waste.[4]

Distinguishing between hazardous and non-hazardous e-waste at resident level would cause confusion. However this may be feasible if there was a demand from recyclers due to safety concerns during repairs. Labelling on products, eg 'hazardous end of life product' would enable sorting by residents at e-waste collection points once collection infrastructure had been remodelled.

Batteries in landfills can cause fires releasing dioxins and other toxins into the atmosphere. How product stewardship for embedded batteries, energy storage batteries and electric vehicle batteries are expected to integrate with existing product stewardship schemes is unclear given they are not targeted to be included in the new Battery Product Stewardship Scheme.

The existence, disposal pathways and issues surrounding hazardous e-waste are less well known and understood by the community than hazardous general waste, such as household chemicals, that can now be collected in NSW through a network of problem waste Community Recycling Centres funded by the NSW EPA.

E-waste can end up in the domestic waste stream predominantly in the kerbside general waste bin. According to a 2019 Southern Sydney Regional Organisation of Council's kerbside waste audit [5] of 10 metropolitan councils household's general waste bin, electrical items and peripherals make up 1.17% of the bin by weight and are consistently the most common hazardous items found in the domestic waste stream along with batteries.

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[3] National Waste Report 2020 Blue Environment 2020
[4] ANZRP White Paper NTCRS Scope expansion. Australia New Zealand Recycling Platform
[5] https://ssroc.nsw.gov.au/wp-content/uploads/2020/01/20191219-SSROC-Kerbside-Waste-Audit-Regional-Report.pdf

b) What estimates are available on the costs of e-waste disposal on the environment, human health and social amenity, in Australia and internationally?

The costs of e-waste disposal to councils is mitigated by the NCTRS however most councils do pay for off-scheme products and for scheme products when scheme thresholds have been met by providers. Externalities are much harder to quantify and not something councils have estimated.

c) How much of Australia's e-waste is shipped overseas for recycling? Is there evidence of circumstances where this creates problems for recipient countries?

- *Are there barriers to the expansion of domestic recycling facilities or the adoption of new recycling technologies in Australia (such as plasma arc incinerators)?*

Household e-waste once collected is managed by NCTRS co-regulators. Councils are unaware of the end destination of the product or the recovered material, nor how much of the material could not be recovered and is sent to landfill. The scheme coordinator should have this information.

d) What are Australia's current policy settings for managing the potential environmental and health effects of e-waste (such as landfill bans, the National Television and Computer Recycling Scheme or Mobile Muster)? Are these policy settings broadly right — that is, are they proportional to the impacts of e-waste on the community?

The National Waste Policy Action Plan directs all governments to establish a common approach to restricting disposal of e-waste to landfill by 2021. Unlike ACT, SA and Victoria, NSW has not banned disposing e-waste to landfill, however several councils have instigated their own bans, such as at the Northern Beaches Council's Kimbriki Resource Recovery Centre.

The NSW Government's $802.7 million Waste Less, Recycle More initiative has focussed on increasing recycling and reducing litter and illegal dumping, with no focus on waste minimisation through repair.

The NCTRS could be extended to accept all e-waste with an electrical plug. Some councils report that servicing the scheme in regional and remote NSW is problematic. The NCTRS as well as MobileMuster have the potential to include repair and reuse targets, incentivising the localised stripping of reusable parts that could be safely and ethically reused locally in repair. This has the potential to provide mobile phones, tablets and computers to those of lower socio-economic means.

It is unclear whether the NSW waste levy is a disincentive to dispose of e-waste to landfill. The levy has not been reviewed since 2012 and there has been no recent modelling to test whether the levy is set at the optimal level.[6]

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[6] Audit Office of NSW 2020, Waste levy and grants for waste infrastructure.

e) How can a right to repair policy further reduce the net costs of e-waste in Australia, and would such an approach be an effective and efficient means of addressing the costs of e-waste to the community?

Extending the scheme to include electronic and electrical equipment (anything with a plug) as advocated by councils is unlikely to reduce the net costs of e-waste in Australia unless the scheme incorporates right to repair and reuse targets, if only for priority e-waste streams. There is a demand for repaired equipment as can be seen by the established existing domestic and international reuse markets. Repaired products could then be exempt from scheme fees.

Repair over recycle may reduce the net cost of e-waste as not all material can be recovered through recycling, for example only 20% of a typical PV panel by weight can be recycled with the rest stockpiled or landfilled.[7] However life cycle data and costs would be required to answer this question.

INFORMATION REQUEST 8

a) *What policy reforms or suite of policies (if any) are necessary to facilitate a 'right to repair' in Australia?*

The following grab bag of policy reforms are provided as suggestions for a deeper dive into the policies to facilitate a 'right to repair' in Australia. LGNSW notes that ensuring products have the right to be repaired through policy reforms does not ensure their repair. Policies to obligate or incentivise repairs and to build efficient and competitive repair and reuse markets are also essential both in metropolitan areas and in rural and remote areas.

Government Actions

- Undertake research on the social, economic and environmental value of product life extension through repair and reuse.
- Develop weighting protocols to accurately measure the impact of repair on landfill.
- As part of the National Waste Policy and Action Plan seek agreement for all states and territory waste and circular economy strategies to prioritise and measure outcomes from actions on repair and reuse as key pillars of waste minimisation for a circular economy.
- Strengthen all tiers of governments' focus on the waste hierarchy in setting policy and recognise repair as a key waste minimisation strategy to be prioritised over recycling.
- Include 'reparability' in government procurement guidelines and in RFx criteria such as in Request for Information, Request for Proposal (RFP) and Request for Quote, where appropriate.
- Increase hypothecation of the waste levy for repair and reuse
- Incentivise new business models where businesses maintain ownership and responsibility for their products throughout the product's lifecycle to encourage extended durability and repair.
- Examine the feasibility of extending repair and durability requirements from source country to Australia for imported products (such as EU's eco-design regulations for manufacturers of washing machines, dishwashers and refrigerators).

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[7] Australia and New Zealand Recycling Platform, White Paper NTCRS Scope Expansion.

- Ensure policies incentivise business to repair rather than replace faulty products.
- Review product stewardship legislation to ensure repair and reuse are prioritised in schemes and that producers are responsible for take back at end of life, otherwise scheme levies increase.
- Assess the Minister for the Environment's Priority Product List for Product Stewardship to determine the potential role of repair in such schemes.
- Ban the import and local manufacture of products with planned obsolescence.
- Deliver campaigns on consumer rights under Australian Consumer Law
- Develop a strong grass roots repair movement through:
  - Providing rent subsidies for NGOs working in repair that are skilling up volunteers and the community to repair.
  - Funding community tool libraries particularly in high density urban areas
  - Funding mobile and pop up community repair clinics
  - Providing government grants for repair infrastructure in a similar way to current recycling infrastructure grants
  - Delivering nation-wide online repair workshops for easy to repair products
  - Supporting campaigns to 'rethink and refuse new stuff, repair, reuse and refurbish'.

Spare parts, repair information and labelling

- Develop policy measures to allow better access to manuals, spare parts, obsolete software and diagnostic tools for repair, as well as information on the expected lifespan and reparability of a product.
- Investigate the feasibility of mandating that spare parts be made available for a defined 'reasonable life' of a product.
- Investigate the feasibility of requiring parts to be readily available for products that can be repaired at home.
- Where spare parts are unavailable mandate that information be freely available to enable these spare parts to be reproduced for the purpose of repair.
- Mandate the display of information on repairability and durability at point of sale
- Investigate the provision of free certified testing and relabelling for products with expiry labels such as child car seats and helmets to extend these product's lifespans (expiry dates).
- Extend the Australian Government's energy rating label to include a repair and durability index so consumers can make informed buying decisions based on repair and durability.
- Investigate introducing government supported certification schemes that allow consumers to determine before purchase whether products can be repaired easily and affordably.

Product Stewardship and design

- Mandate product stewardship schemes and incentivise schemes to include targets for repair and reuse, including access to manuals, spare parts and diagnostic tools for repair and information about expected lifespan and reparability.
- Encourage better product design for ease of repair (eg less solder, glue and rivets), disassembly and component replacement (including battery replacement by the consumer) as well as durability.
- Extend NCTRS to include all products with an electrical plug and include measurable repair and reuse scheme targets.

- Implement Recommendation 8 from the final report of the Product Stewardship Review 2018[8] to broaden the objectives of the *Product Stewardship Act 2011* to include product design improvements related to durability, reparability, re-usability and recyclability.

Repair Industry

- Investigate the development of an accreditation system to certify repairers to assure end users repairs meet quality standards.

Economic levers for repair

- Make repair costs tax deductable for individuals
- Waive GST on the resale of repaired products.

Conclusion

The issues paper is a good start to the discussion on Right to Repair for Australia. LGNSW is anticipating providing further feedback from local government to the Commission's draft report when released in June 2021. Extending the life and value of products through implemented Right to Repair policies and building reuse markets so that materials remain in the economy for longer, has the potential to reduce landfill, save valuable resources and create local jobs, propelling the circular economy. It will also reduce the burden councils face managing end of life products.

For further information, please contact Liz Quinlan, Senior Policy Officer – Waste, on Liz.Quinlan@lgnsw.org.au or 02 9242 4095.

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[8] Review of the Product Stewardship Act 2011, Department of Agriculture, Water and the Environment 2020.

Appendix A: NSW Repair Case studies

Bower Reuse and Repair Centre

The Bower is a not for profit charity that has service agreements with 21 Sydney metropolitan local governments (2.5 million residents) to collect and repair where feasible unwanted household goods and rehome them for a fee. In 2019-20,172,040 kg was diverted from landfill by these agreements.

Currently this referral service has been replaced by free access to the Bower's online repair and reuse database where people can search repairers and list items surplus to their needs. This shift was necessary due to the cost pressures on council waste management.

The Bower also delivers a range of services including four Reuse and Repair Centres (including one for electronics) and Repair Cafes, supported by local government, that provide the advice, supervision and tools for people to fix their own goods, with the most popular items being electronics, furniture and pushbikes. Currently Repair Cafes are delivered online due to COVID. The Bower's aim is to give people the experience and skill of repair, as well as show that repaired household goods are usable and trustworthy.

The Bower also runs a From House to Home service working with 10 social enterprises to furnish the homes of refugees, asylum seekers and survivors of domestic violence by facilitating the re-homing of household goods, furniture and appliances, many of which have been repaired.

The Bower's model is replicable and could be rolled out nationwide across local governments, at community hubs, material resource recovery facilities and resource recovery centres and be supported not only by local government but state and federal governments.

In October 2019 the Bower began an online petition for Right to Repair in Australia, advocating for the Australian Government to initiate legislative changes to make the repair of goods affordable and achievable. The Bower is currently actively engaged in an advocacy campaign demanding that the federal government initiate legislative changes to make the repair of goods affordable and achievable.

Bikes 4 Life

Bikes 4 Life is a charity with a mission to collect, restore and provide bicycles to the most marginalised and impoverished communities around the world. In NSW it is based at Kimbriki Resource Recovery Centre on the Northern Beaches where unwanted bikes are saved from landfill each year. Through monthly workshops with volunteers, the restored bikes are donated to disadvantaged communities in Thailand, Cambodia, Africa and Central Australia. Visit www.bikes4life.com.au/sydney-north/

The Tinkerage

The Tinkerage is a community space for tinkering, making, repairing and learning at the Dunmore Resource Recovery Centre in the Shoalhaven. Tinkerage members participate in fixit workshops and source most of their materials from the adjoining recycling facility, Dunmore Revolve.

Connecting Up and InfoXchange

These two not for profits recently merged to expand their ability to provide technology for social justice supporting people in need and not-for-profit and community services with a range of services including technology donations and discounts. In the past year $28.9 million of technology product was donated to with 29 tonnes of refurbished hardware supplied to not for profits. https://2019.infoxchange.org/

Patagonia's Worn Wear Sydney Repair Hub

The Repair Hub at Patagonia's Sydney Store offers basic repair alterations- busted zippers, rips, tears, buttons etc on Patagonia gear for free and also repairs other brand garments for a small fee. Gear (including wetsuits) can be dropped or mailed to other Patagonia stores for assessment and repair.

Repair Café Sydney North

The Repair Café was set up by a group of skilled and dedicated lower north shore residents with a motto "Toss it! No way! We want to fix it! The Repair Cafe is about breaking the cycle of buy, use, toss it out. Various items such as jewellery, ceramics, shoes, toys, clothes, zips, bags, umbrellas, small woodwork repairs, and household battery-operated and electrical items can be repaired.

Illawarra Shoalhaven Joint Organisation's clean up pilot

The Illawarra Shoalhaven Joint Organisation has formed a research partnership with the University of Wollongong and, to complement other research projects undertaken on clean up waste collected from the kerb by councils, will undertake a reuse pilot in the Wollongong local government area. Currently all materials (with the exception of metals, tyres, e-waste and mattresses) are collected from the kerb and compacted prior to being landfilled.

The pilot which should be complete by the end of March 2021 will implement a first pass system which will assess reparability of items and collect reusable and repairable items presented at the kerb as part of a Council clean up service and will assess the value of reuse through both tonnes and volume diverted from landfill as well as the social and environmental impacts of reuse.

The Reconnect Project

The Project provides mobile phones, tablets and laptops to people in need, helping them (re) connect with family, friends and essential services. Technicians use certified software to securely erase all data and then repair or refurbish the device as needed. Repaired devices are then distributed via caseworks, getting them straight into the hands of someone in need.