LOCAL GOVERNMENT NSW

DRAFT SUBMISSION

Waste Levy Review Issues Paper

July 2024

ONE VOICE FOR COUNCILS

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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.

OVERVIEW OF THE LOCAL GOVERNMENT SECTOR

Local government in NSW employs **55,000 people**

Local government in NSW is responsible for about **90% of the state's roads and bridges**

Local government in NSW looks after more than **$177 billion** of community assets

NSW councils manage an estimated **4 million tonnes of waste** each year

Local government in NSW spends more than **$2.2 billion** each year on caring for the environment

NSW councils own and manage more than **600 museums, galleries, theatres and art centres**

NSW has more than **350 council-run libraries** that attract tens of millions of visits each year

NSW has more than **400 public swimming and ocean pools**

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Opening

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing all 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 to the NSW Environment Protection Authority (EPA) on the issues and questions posed in the Waste Levy Review Issues Paper. Feedback was sought on how the Government can:

- adjust waste levy rates and boundaries to increase resource recovery in NSW, while minimising impacts on cost-of-living.
- create a fair playing field for waste operators who safely and sustainably manage waste.
- ensure the waste levy operates as an effective incentive for resource recovery within the broader waste and resource recovery landscape of NSW, including infrastructure, services, and markets.

To obtain input from councils, LGNSW hosted a feedback forum which was attended by local government employees from across the state. Those views have been incorporated into this submission and we are also aware of councils making their own submissions.

This submission is provided as a draft, pending endorsement by the LGNSW Board at its next meeting. We will advise of any amendments to the submission in due course.

LGNSW Advocacy Priority

Councils provide waste, recycling and resource recovery services to the community, provide and operate recycling and disposal infrastructure. They also educate residents, businesses and schools about waste avoidance and recycling, all with the aim of reducing the amount of waste ending up in landfill and the environment.

LGNSW's 2024-25 Advocacy Priorities identify the critical issues facing the local government sector, with the environment and circular economy being a high priority. We welcome this review of the waste levy and continue to advocate for the full reinvestment of the levy to fund the delivery of priority infrastructure and programs as outlined in the Waste and Sustainable Materials Strategy, particularly zero waste solutions that address impending climate and environmental threats.

LGNSW's position statement on waste and recycling is contained within our Policy Platform, which consolidates the voices of councils across NSW. All levels of government, as well as business and the community, need to work together as we move to a more circular economy where materials and products remain within the economy for longer and waste is reduced.

Response

The NSW Waste Levy

What is the levy?

The definition provided in the Issues Paper could be more historically accurate and discuss the original purpose of the waste levy in NSW. The waste levy in NSW was originally intended to be a contribution by landfill operators in the Sydney Metropolitan Area to the waste service industry to provide for better waste services in the Sydney Metropolitan Area.

This was a policy initiative of the government at the time and in response to a long-term trend of underinvestment in waste services that was resulting in ongoing and unfunded pollution management and land degradation issues that the government was likely to end up paying for out of consolidated revenue.

However, this was not intended to be a tax aimed at making "resource recovery a more financially attractive option by increasing the cost of disposing material at landfill". The levy as it was originally intended was to raise funds from industry to re-invest back into industry to provide waste services that did not pollute the environment and cause ongoing land degradation issues.

Provision of recycling services was one solution to the underinvestment in waste services. Additional measures also included better management of waste facilities to reduce their potential to cause pollution. This is the purpose of the waste levy.

> ***Recommendation 1:*** That the historical reason for the waste levy's inception as a fund to re-invest back into better waste services and infrastructure be put on record.

How does the levy work?

In NSW certain licensed waste facilities are required to pay a contribution for each tonne of waste received at the facility, in accordance with s88 of the *Protection of the Environment Operations Act 1997* (POEO Act). The waste levy applies in the Metropolitan Levy Area (MLA) and Regional Levy Area (RLA), which encompasses the greater Sydney/Newcastle Illawarra area and coastal local government areas to the Queensland border. In 2022/23 the waste levy collected was $873 million, and forecasts see it reaching close to $1 billion within five years.

The following sections of this submission provide examples of how the levy can create a barrier to effective management of waste, as well as suggestions on how it can be improved to better support the transition to a circular economy. A central element of our recommendations is the full reinvestment of the levy to support that transition.

LGNSW understands that GST is payable on the waste levy when landfill operators pass this on to members of the public and businesses. This effectively amounts to a tax on a tax. The waste levy is not in itself a 'good or service' and the case should be made for a GST exemption.

> ***Recommendation 2:*** That the NSW Government seek an exemption from the Federal Government for charging of GST on the waste levy.

Why is the levy being reviewed?

LGNSW is very supportive of the review of the waste levy, having long advocated for it and for the reinvestment of the levy funds collected to fund the delivery of priority waste infrastructure and programs. The last review of the waste levy was in 2012[1] and since then there have been several consultant reports and Parliamentary Inquiries that have made recommendations regarding the levy.

This section of the Issues Paper states that the levy has been successful in driving resource recovery, but that recycling is now plateauing. Much of the recoverable material is already being recovered. The assumption that continued increases in the levy will drive continued increases in recovery may be incorrect. An analysis of the remaining the material going to landfill and the best mechanism to reduce / divert that material is needed.

The evidence provided in the Issues Paper does not show that the levy has had any impact on Municipal Solid Waste (MSW) recycling rates. Individual households have no direct incentive as reducing waste and improving recycling will not reduce their household levy cost.

Construction and Demolition (C&D) waste already has a high recycling rate so future increases in the levy are only likely to have a marginal impact. The high C&D recycling rate reflects the high weight of this material and therefore high cost of disposal, but also reflects other factors such as there being a market for the recycled materials, and an Industry that is organised for recycling.

The Issues Paper would benefit from a longer time frame with which to evaluate the effectiveness of the levy. This would benefit by also looking at the value of recycled products over time and whether that has an impact on recycling rates. See section below on 'Waste levy rates' for other factors that may influence waste disposal and recovery rates.

> ***Recommendation 3***: That an analysis over a broader and longer time frame be conducted on the impact of the waste levy, which includes any evidence of the levy having an impact on diversion rates and other financial considerations such as market rates for recycled products and access to markets to sell recycled products.

[1] KPMG/EPA (2012) Review of the NSW Waste and Environment Levy https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/wasteregulation/waste-levy-review-report.pdf

The scope of the waste levy review

This section implies that levy rates and behaviour are separate to investment in waste and resource recovery infrastructure, services and markets. Levies in Australia are meant to be made on industry for the purpose of reinvesting in industry where industry operators are unable to do so or where there are market failures. Drivers for this are diverse and have been reviewed in depth by the Australian Productivity Commission.

Research undertaken by the Productivity Commission[2] provides a framework for thinking through the economics of levies, setting out the thresholds in assessing the public policy case for an industry levy. The intent is to assist policymakers when deciding whether to support industry levy proposals and how they might be best designed.

> ***Recommendation 4:*** That the Productivity Commission framework for the review of the effectiveness of industry levies be incorporated into this waste levy review to ensure the policy settings across government are improved for waste and recycling.

Issue 1: Increasing resource recovery rates in NSW

Waste Levy Rates

Are there other factors that need to be considered in determining optimal levy rates? What are your views on the current levy rates and levy area boundaries? Should they be changed?

The current levy rates and areas do not account for the large differences in population densities across NSW (and the associated differences in economies of scale), nor the practical differences in transportation costs faced by regional and rural councils in accessing centralised recycling infrastructure. The higher collection and transport costs faced by regional and rural NSW councils also limits investment in resource recovery infrastructure.

The data provided in Section 2.1 of the Issues Paper attempts to show a correlation between the waste levy rates and waste disposal quantities. The strongest correlation is for C&D waste, but for MSW this is much less so. Further the correlation between the levy and disposal rates in the Regional Levy Area (RLA) appears to have no impact at all.

Section 2.1 does not account for other factors that may impact on waste disposal rates. For example, what was the value of recycled products during that time and was there any trend that may also correlate to disposal rates. Another factor would be a lack of competition or monopoly in the provision of MSW services in the Metropolitan Levy Area (MLA). The model is incomplete and therefore cannot be relied upon.

[2] Productivity Commission (2023) Towards Levyathan? Industry levies in Australia

Other factors that may influence waste disposal and recovery figures include:

- Population growth - Is waste disposal plateauing on a per capita basis or a gross volumetric basis? Using gross volume may not show the real picture given population continues to increase and perhaps we should be looking at per capita figures.
- Poor separation of recyclables leading to high contamination rates. Classifications, labelling and markings are confusing and there is generally, a poor understanding of what goes into recycling bins.
- Inadequate red bin capacity leading to misuse of other recycling bins.
- A punitive approach to waste disposal rather than an incentive-based model, and a lack of positive incentives.

In the MSW context the levy is flawed as there is no incentive for individuals to reduce their waste generation or improve recycling performance as they pay a fixed amount each year (as a domestic waste management charge). Theoretically, the levy would be more effective at MSW level if the charge was at individual user level rather than averaged across whole LGA. However this would be difficult to achieve in practice, requires infrastructure changes and increases the risks of illegal dumping and other unlawful acts.

Proposed increases to the waste levy should be subject to a Regulatory Impact Statement (RIS) that assesses the impact of the levy on low and fixed-income communities. The rationale behind this is that a many of the communities in the Regional Levy Area and non-levy areas have less capacity to react in a behavioural sense to price signals. A RIS or cost benefit analysis would assist with understanding the potential impacts on these communities, and more fundamentally whether a levy is an appropriate lever for change in the rural/regional context.

Recommendation 5: That further analysis is needed on the factors influencing waste generation and disposal across all waste streams, and a regulatory impact statement assess the merits of any levy area expansion.

LGNSW strongly opposes the expansion of the waste levy area. Reasons for this include:

- The levy currently does not operate as a true levy and is better described as a tax, with two-thirds of funds collected returning to consolidated revenue.
- The effectiveness of the levy in reducing waste to landfill is not clear cut (as per comments above), and the relatively high costs of being part of the system can outweigh the benefits in non-levy areas.

There is well-founded scepticism amongst councils that once a levy is introduced, it will never be rescinded and the amount of the levy will only ever increase. For example, at the time the waste levy was being introduced in the Hunter it was communicated that it would start at $8 per tonne and rise to $16 per tonne by 2016. By 2014/15 the levy in the local government areas of Newcastle, Cessnock and Maitland was already $120.90 per tonne, and Upper Hunter and Singleton was $65.40 per tonne. Clearly, the levy far exceeds the amount originally forecast.

LGNSW has long advocated for a review of the regulated boundary for the waste levy. In the last decade several councils have advised LGNSW and the NSW Government their desire to be excluded from the levy area or have their status changed from metropolitan to regional. The inclusion of some rural and regional local government areas in the levy area has resulted in increased costs for residents with no tangible benefits.

> *Recommendation 6:* There must be no expansion to the waste levy area.
>
> *Recommendation 7:* The NSW Government to reassess which LGAs are classified as regional or metropolitan, or subject to the levy at all.

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

The NSW Government should provide notice of future levy rate changes over as long a period as possible to provide certainty for councils and stimulate investment in new circular economy infrastructure.

Large waste infrastructure often requires a 20 year contractual commitment from several councils to proceed and this can be a lengthy process. If those councils knew with confidence the quantum of waste levy they would avoid by committing to a new resource recovery service, facility or education campaign, then making a final decision would be far easier. This certainty would encourage desperately needed investment in the sector. Longer term rates beyond the political cycle would also serve to de-politicise waste and create long-term, consistent levy reinvestment in the sector beyond the current 5-year funding model.

> *Recommendation 8:* Provide notice of future levy changes over as long a period as possible, noting 20 year terms for major infrastructure investments are common.

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

Councils have noted that areas along the NSW-Victorian border are seeing waste come across from Victoria due to a state-wide levy being introduced there. The NSW Government should coordinate with neighbouring states to ensure there is no significant difference between levy rates at facilities close to borders. Agreement with neighbouring states could also be sought on enforcement of levy rates based on origin and returning levy fees to the state where the waste was generated. Consideration could also be given to a levy in NSW areas when the waste is coming from outside NSW.

Clause 71 of the POEO (Waste) Regulation 2014 sets out the proximity principle which restricts the movement of waste more than 150km from where it was generated, however it is unclear what compliance is undertaken in this regard. Metropolitan or regional levy rates are also currently payable on waste generated in metropolitan and regional areas (respectively) regardless of where it is disposed. The proximity principle should be revisited to explore legal ways to ensure waste is disposed of locally. One

option may be to make the levy distance-based so the further the waste travels the higher the levy is.

To encourage the safe removal and disposal of asbestos the NSW Government should remove the waste levy on asbestos and request IPART to review the landfill charges for asbestos across NSW.

> ***Recommendation 9:*** NSW Government consult with neighbouring jurisdictions to investigate alignment of levy rates and compliance activities for cross-border waste transport.
>
> ***Recommendation 10:*** Review the proximity principle operation and compliance efforts, and consider a distance-based levy.

Waste Levy area boundaries

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

We note the NSW Audit Office[3] examined the effectiveness of the waste levy and grants for waste infrastructure in 2020 and one of their recommendations was to establish a schedule for reviewing the waste levy settings that includes "transparent and objective criteria for determining which local government areas are levied". It would be helpful to understand the original criteria for determining levy boundaries in 2009 and subsequent changes (e.g. to create the regulated levy area).

In considering levy area boundaries there is a need to provide evidence that a levy in those areas will achieve the desired outcome. Thorough consideration must also be given to the costs and benefits of this change for councils as well as the broader community.

Other factors to consider in addition to remoteness include:

- population densities, as resource recovery infrastructure almost always requires scale to be feasible.
- access to waste services.

Some councils outside the waste levy area have imposed their own local levy (using the *Local Government Act 1993*) which goes towards education and recycling programs in the area. These councils have reported success in achieving good material recovery / landfill diversion and do not want to see this local levy option removed or jeopardised.

[3] NSW Audit Office (2020), Waste levy and grants for waste infrastructure

Recommendation 11: In reviewing levy area boundaries, consider the following factors in addition to 'remoteness':

- population densities,
- access to waste services,
- costs and benefits to the community.

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

To reiterate, LGNSW does not support expansion of the levy area. However if it were to be expanded, all levy-paying councils should have the same funding opportunities as current levy-paying councils. In addition, the government should provide new funding from the waste levy for new levy-paying areas so infrastructure can "catch-up" with existing levied areas.

Recovery and recycling services and infrastructure need to be delivered in an area before a levy is introduced, to ensure the waste is appropriately managed and not moved to the next closest non-levy paying area. This needs a whole of waste economy review not just a review of the levy in isolation.

Given concerns that expanding boundaries will push waste from licensed to unlicensed/unmanned facilities or illegal dumping, any area expansion must dedicate substantial revenue towards funding several RID squads. If not, the flow on costs of illegal dumping management will be worn by councils.

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

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?

The impacts on councils due to Illegal dumping and waste fraud include the costs of clean up and compliance, costs of staff and other resources to manage clean up and undertake compliance, and health and safety impacts on the council and community.

LGNSW has been consulting with councils in 2024 on asbestos waste regulation and management. Regional workshops have been held in Ballina, Dubbo, Western Sydney, Maitland, and Kiama. At each workshop the council present reported ongoing issues with illegal or unlawful disposal of construction and demolition waste that often contains asbestos. Some examples of illegal dumping, stockpiling, and disposal provided by councils to LGNSW:

- Ballina – asbestos disposed of in MSW kerbside bin; asbestos waste dumped on side of rural road; asbestos waste remaining on site following demolition without consent.

- Kyogle – asbestos wrapped in plastic illegally dumped on roadside in pull off area in deep grass. Waste disturbed and damaged by roadside slasher.
- Lismore – repeated asbestos unexpected finds on MRF conveyor belt. Source yellow kerbside bin. Leading to many tonnes of contaminated recycling going to landfill.
- NSW – asbestos in mulch.
- Dubbo – rural property used to stockpile many tonnes of waste including asbestos.
- Penrith – series of illegally dumped demolition and construction waste on urban roadside, 20-35 tonnes per dump, six dumps; dumped soil with suspected asbestos fragments on rural roadside - 15 tonnes.
- Shoalhaven – illegal storage of waste, burning of waste including asbestos.
- Wollondilly – 2 large piles of C&D waste including asbestos, 25 tonnes of waste per pile. Dumped on rural roadside.

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

Recommendation 12: Consider the following suggestions for preventing unlawful disposal activity:

- Consider aligning waste levies with bordering jurisdictions to eliminate the opportunity for arbitrage. This is particularly prevalent in Queensland, where a significantly lower levy, combined with a more competitive landfill pricing, results in NSW waste being trucked large distances to SE Queensland landfills. This is not environmentally sustainable and impacts road safety on NSW highways.
- Strengthen enhancement of monitoring and enforcement mechanisms, coupled with comprehensive community education initiatives.
- Increase investment in councils and/or RID programs to tackle illegal dumping. The current RID program is significantly underfunded and ignores the needs of large councils with vast areas to manage (i.e. >10,000 sq km). Funding is needed by councils or RID programs to cover the costs of illegal dumping officers, the requisite cameras, vehicles, signage, and ancillary equipment necessary for effective management and enforcement of illegal dumping regulations.
- Investigate amending environmental legislation to make it a requirement for waste generators to pay the landfill or resource recovery facility directly. In the first instance, this change could be brought in for developments generating large quantities of waste.
- Identify ways to enable offenders to be caught through technological solutions like GPS tracking devices on waste vehicles that transport asbestos waste (over a certain tonnage)
- Continue to investigate legislative reforms to deter unlawful behaviour, such as introducing jail terms for waste offenders, suspension of driver licences or the vehicle registration involved in illegal dumping, increasing penalty amounts for non-compliance with statutory notices.

- Strengthen legislative provisions to improve the management of asbestos during resource recovery of construction and demolition waste.
- Expand the use of the Integrated Waste Tracking Solution (formerly Waste Locate) to all asbestos waste and engage with SafeWork NSW to determine if current notification databases can be practically updated to allow better integration and therefore outcomes.
- Consult with local government and the Department of Planning, Housing and Infrastructure to strengthen the drafting and enforcement of consent conditions (e.g. introducing hold points until clearance is provided and minimum requirements for Waste Classification).

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?

Section 144AAB of the POEO Act states that a person must not cause or permit asbestos waste in any form to be re-used or recycled. Given there are no legal options except for disposal of this material it should be exempt from the waste levy.

Material cleaned up by councils (such as illegally dumped material in public reserves and bushland, or remediation of community land) should be exempt from the waste levy. Councils invest in preventing illegal dumping and investigating to find those responsible, however they are not always successful. Cleaning up this material, which is effectively a community service, should not result as an additional burden on council (and therefore) community budgets.

An example provided by a council was the disposal of 20,000 tonnes of asbestos contaminated waste from a clean up of community land, which resulted in council paying $2M in waste levies. However there were no other options for the management of that material or recovering costs from the responsible party, so applying the waste levy would not have any effect on the diversion of that material from landfill.

In a similar vein, a waste levy exemption should be available for the disposal of material collected by councils from stormwater treatment devices such as gross pollutant traps. Prior to November 2022, this dredging material was exempt from the waste levy. However, under the current EPA interpretation it now attracts the levy even if it is still being beneficially reused as daily cover within a licensed waste facility.

Recommendation 13: Provide a levy exemption for waste, including asbestos, that is collected by councils for the public benefit where it is:

- illegally dumped on public land;
- from stormwater treatment devices;
- arising from remediation of community land.

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

Concessional levy rates currently apply to virgin excavated natural material, recovered fines alternative daily cover, and prescribed shredder floc. Liquid waste and coal washery rejects attract lower levies.

If Recommendation 13 above is disregarded then LGNSW calls for the wastes outlined in the recommendation to at least be given concessional rates.

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?

Five years ago, the EPA committed to investigate amendments to the POEO Waste Regulation to make separated, bonded asbestos waste exempt from the requirement to pay s88 levy contributions. Councils request that an update to this commitment be provided.

As outlined above, councils also call for the levy to be waived in circumstances where they clean up illegal dumping, as well as circumstances where councils remediate community land. Specifically, this would require an amendment to Part 2 Division 5 (Exemptions from requirement to pay contribution) in the POEO (Waste) Regulation 2014.

Councils report that they must first pay the levy then receive rebates for operational purpose deductions. This process takes a very long time with councils bearing the financial burden. We request this process be streamlined to reduce or eliminate the burden on councils.

> ***Recommendation 14:*** That the EPA's provide a progress update on its commitment to investigate an exemption from the levy for separated, bonded asbestos waste.
>
> ***Recommendation 15:*** That the costs and financial imposition placed on councils in being part of the waste levy administration process be reduced, and councils be reimbursed for any residual administration costs.

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?

A significant operational challenge for NSW councils is the inconsistent application of regulations by EPA officers, often because of a lack of subject matter expertise. The transition from specialist EPA officers to generalist roles has exacerbated inefficiencies in the Operational Purpose Deduction (OPD) process.

To enhance the efficiency and consistency of the OPD process, it is recommended that a dedicated assessment team be established to evaluate OPD applications. This team would ensure a uniform understanding of OPD requirements across the NSW EPA and the waste management industry, including local government.

Councils report that OPDs are difficult to get approved by the EPA resulting in the landfilling of otherwise useful resources, and the further consumption of materials produced off site or from non-renewable sources. This results in detrimental environmental and financial outcomes.

The current approach does not support innovation and finding new ways to repurpose materials otherwise destined for landfill in a controlled situation using risk-based principles on sites that are licensed to accept waste. In some circumstances there is a perverse outcome where councils can sell their material to external operators who then on-sell those materials back to the council or to other councils and businesses with the material travelling a great distance. This material could easily be re-used on site thereby reducing the carbon footprint.

Earlier notification of CPI (or other) increases to the levy will also help to ease the administrative burden on councils. Councils must exhibit their fees and charges well in advance of 1 July (usually Feb-April), so a set schedule of levy increases would better enable budgets and facilities to be prepared ahead of time.

> ***Recommendation 16:*** Establish a dedicated assessment team within the EPA to evaluate Operational Purpose Deduction (OPD) applications.
>
> ***Recommendation 17:*** Provide a schedule of waste levy increases to provide certainty and reduce administrative burden on councils/facilities.

Issue 3: Amplifying circular economy outcomes in NSW

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?

Although the NSW Government has set strategies to reduce the reliance on existing landfills to extend their lifespan, no indication has been provided on how the critical shortfalls for residual waste will be achieved in such short timeframes. We welcome the EPA's work to date on regional residual waste needs assessments but the pace of this has been too slow and action is needed immediately.

Waste management should get the same treatment as other essential services like sewerage services, with infrastructure properly planned for and provided to meet demand. Joint tendering such as the EPA's Joint Procurement Funded Support program can assist with the provision of waste and resource recovery infrastructure, however it cannot be left to local government to solve the infrastructure puzzle.

LGNSW advocates for the establishment of a new Waste Authority for NSW to assist with the planning and development of critical waste infrastructure.

At a practical level, the current regulations do not have sufficient detail to explain to councils or proponents what they need to do to get a waste facility development approval on a given site. There is also confusion about how the POEO Act and environment protection licences are integrated with the planning system to ensure barriers are removed for new and innovative approaches to waste and resource recovery facilities. For example, POEO Act Schedule 1, clause 39 relates to waste disposal to land and clause 42 relates to waste storage list thresholds for waste needing a licence, yet these are different to the requirements for waste facility approval listed in Schedule 3 section 45 of the EP&A Regulation 2021.

New resource recovery and reprocessing initiatives have been hamstrung by the definition of waste and when it is no longer a waste for the purposes of transport and storage. Recommendation 10 of the EPA-commissioned Independent Review of the Resource Recovery Framework recommended the EPA investigate a pathway to enable an 'end of waste' outcome for suitable common, low risk recovered materials to better enable reuse, particularly for manufacturing.

Recommendation 18: To support and help fast-track waste and resource recovery infrastructure development:

- Planning and infrastructure decision-makers to recognise and treat waste management as an essential service.
- Establish a new Waste Authority for NSW to assist with the planning and development of critical waste infrastructure.
- Revise the 'end of waste' definition to support recovery/recycling initiatives.

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?

This answer to this is complex. If the levy does not apply to residual waste from resource recovery facilities, then there is no incentive to reduce contamination in recycling streams (such as co-mingled and FOGO kerbside services). In fact, it may create an incentive to *increase* contamination in these streams.

Facilities are unlikely to be happy about contaminated material coming through their gates as it would require more sorting and processing effort on their part, which comes at a cost (even if disposal would be cheaper than before). The facilities also are unlikely to have much control over the contamination levels in the material they receive. Consideration could be given to waiving the levy where facilities can demonstrate that they have minimised incoming contamination and on-site contamination, and the resulting residues are unavoidable.

This issue needs to be dealt with carefully because if the levy on residual material is lifted then it may create an incentive for processors to be less proactive in minimising residuals or in finding alternate options for material that could be further processed or recycled.

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?

Reducing contamination in recycling feedstock requires a multi-pronged approach, that includes:

- tackling standardisation and contamination at the source through product design, moving away from composite materials or materials that are hard to recycle.
- state-wide behaviour change campaigns to improve knowledge and build a cultural 'norm' of avoiding and minimising waste, and recycling correctly.
- Consistency of messaging in relation to what can and cannot be recycled, and the implications of hazardous materials in recycling e.g. asbestos, batteries.

Considerations when investigating standardisation of kerbside recycling bins include:

- The implications for councils in light of existing contracts / timeframes
- The cost to councils and timeframes of implementing new or modified services.
- Whether there will be different standards for metropolitan, regional and rural areas.
- Alignment with national harmonisation efforts (noting that environment ministers have committed to develop a national standard).

There are some concerns within local government that standardisation of what can go in kerbside bins will inhibit innovation, limiting development of new materials or recycling processes. This concern can be addressed by committing to regular review of the standard, building some flexibility into the system and continuing investment in research and development.

Material identification and the decision about which bin it should go in needs to be simple so it is easy for everyone in the community to participate effectively, wherever they are.

Recommendation 19: Take a multi-pronged approach to reducing contamination in recycling through:

- better product design, away from composite materials or materials that are hard to recycle.
- state-wide behaviour change campaigns to improve knowledge and build a cultural 'norm' of avoiding and minimising waste, and recycling correctly.
- Consistency of messaging in relation to what can and cannot be recycled, and the implications of hazardous materials in recycling eg asbestos, batteries.

What other actions should the Government take to improve investment in waste and resource recovery infrastructure and technology?

Recommendation 20: LGNSW advocates for the full reinvestment of the waste levy in the following areas:

- Fund further research, development and delivery of recycling technologies and products generated from recyclables, particularly by local or regional councils.

- Fund and deliver state-wide education campaigns on recycling to encourage the right way to recycle, the purchase of products with recycled content, as well as promote waste avoidance.
- Increase local and state government procurement of recycled goods made with domestic content.
- Support innovative solutions to reduce waste and waste transport requirements, such as providing transport subsidies for regional areas, until market failures are addressed, rather than leaving everything to the market.
- Address per- and poly-fluoroalkyl substances (PFAS) and other chemicals in compostable packaging to allow this packaging to be processed through FOGO services.
- Work with the Federal Government to introduce producer responsibility schemes for soft plastics and other emerging problem wastes such as paints, batteries, chemicals, mattresses, electronic waste and sharps.
- Undertake several asbestos initiatives:
    - Work with all councils to assess the feasibility of receiving small quantities of householder wrapped bonded asbestos free of charge at designated council drop off sites.
    - Invest in a long-term household asbestos collection service.
    - Encourage and support the private sector to explore innovative and cost-effective options for collecting asbestos (e.g. provide asbestos disposal bags with skip bins and offer asbestos pick-up service)
    - Work with emergency services to ensure mechanisms are in place to swiftly handle asbestos waste after disasters.
    - Work with regional waste facilities to build capacity, as well as expand capability, with landfill staff to safely and lawfully manage large-scale asbestos waste disasters.
    - Work with local government, Department of Planning, Housing and Infrastructure and the waste industry to support the receipt and management of asbestos waste at waste storage and landfill facilities.

Other suggestions for improving investment in waste and resource recovery infrastructure and technology include:

- A Circular Economy Levy Exemption would enable councils to apply for levy credits to offset costs associated with the development of circular economy projects. By allowing councils to allocate up to 50% of their total annual levy liability towards the design, construction, and operation of such projects, we can stimulate investment in sustainable waste management solutions.
- The NSW Government could further bolster circular economy initiatives by expanding grant opportunities and providing technical assistance to councils.
- Manufacturers without a circular economy solution in place should be levied until they do have one in place.
- Linking the waste levy to CO2-equivalent emissions for residual waste management technologies (i.e. lower emissions = lower levy).
- The introduction of financial incentives for businesses and communities to engage in recycling and sustainable waste practices will reinforce the transition towards a circular economy.

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?

Encouraging or requiring redesign of products, supporting reuse and circular economy development all need to be focus areas for the NSW Government.

NSW should prioritise products and materials where production has the highest environmental impact and feasible reuse/repair alternatives exist. This could include furniture, construction timber, e-waste, textiles, and single-use glass and metal packaging.

In addition, NSW should consider acting on waste avoidance by banning the destruction of returned and unsold (yet still saleable) consumer goods.

> *Recommendation 21:* Prioritise for reuse and repair those products and materials that have the highest environmental impact and feasible reuse/repair alternatives exist.
>
> *Recommendation 22:* Consider banning the destruction of returned and unsold (yet still saleable) consumer goods.

What characteristics of a product or material make it difficult to recycle? What interventions could we take upstream to improve product recyclability?

Products that are made of composite materials (e.g. different types of plastic, or laminates of different materials) and/or are hard to dismantle or otherwise difficult to recycle. As a priority, funding and support should go to initiatives that avoid and minimise packaging, reuse packaging and eliminating anything designed with composite materials or that is hard to dismantle.

Development of national packaging regulations will assist with the above. We support reforms to strengthen consumers' 'right to repair', including improving access to supplies needed for repairs and access to repair services.

Ultimately the consumer needs better and easy to digest information about a product's durability or repairability, and alternative options.

> *Recommendation 23:* The NSW Government work with the Federal Government to:
> - Promote the avoidance of packaging, minimised packaging and reuse;
> - Minimise use of composite materials and eliminate products that are hard to dismantle.
> - Strengthen consumers' 'right to repair' and support access to repair services and materials.
> - Require producers to provide easy to digest and readily comparable information to consumers about a product's durability and repairability.

Conclusion

LGNSW welcomes the review of the waste levy and the opportunity it provides to shape what has become a central component of the waste and materials management framework within NSW.

The NSW Budget estimates waste levy revenue of $940 million in 2024-25, increasing to $998 million by 2027-28. Currently less than a third of this funding going towards waste and environment initiatives. The small reinvestment of the levy back into innovation and trialling new technologies is one of the barriers to closing the loop and reducing the amount of waste being landfilled. The current waste levy settings result in a focus on finding ways to avoid paying the levy rather than incentivising alternative approaches for waste avoidance, reuse and recycling.

Considerably greater reinvestment of the levy is needed to support innovation and ensure NSW has the right infrastructure and settings. Enhanced collaboration between government bodies, industry stakeholders, and local councils is essential for fostering advanced solutions and supporting business and the community to transition NSW to the circular economy.

For further information or to discuss this submission, please contact Susy Cenedese, Strategy Manager Environment.

Summary of Recommendations

The NSW Waste Levy

1. That the historical reason for the waste levy's inception as a fund to re-invest back into better waste services and infrastructure be put on record.

2. That the NSW Government seek an exemption from the Federal Government for charging of GST on the waste levy.

3. That an analysis over a broader and longer time frame be conducted on the impact of the waste levy, which includes any evidence of the levy having an impact on diversion rates and other financial considerations such as market rates for recycled products and access to markets to sell recycled products.

4. That the Productivity Commission framework for the review of the effectiveness of industry levies be incorporated into this waste levy review to ensure the policy settings across government are improved for waste and recycling.

Issue 1: Increasing resource recovery rates in NSW

5. That further analysis is needed on the factors influencing waste generation and disposal across all waste streams, and a regulatory impact statement assess the merits of any levy area expansion.

6. There must be no expansion to the waste levy area.

7. The NSW Government to reassess which LGAs are classified as regional or metropolitan, or subject to the levy at all.

8. Provide notice of future levy changes over as long a period as possible, noting 20 year terms for major infrastructure investments are common.

9. NSW Government consult with neighbouring jurisdictions to investigate alignment of levy rates and compliance activities for cross-border waste transport.

10. Review the proximity principle operation and compliance efforts, and consider a distance-based levy.

11. In reviewing levy area boundaries, consider the following factors in addition to 'remoteness':
    - population densities.
    - access to waste services.
    - costs and benefits to the community.

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

12. Consider the following suggestions for preventing unlawful disposal activity:

- Consider aligning waste levies with bordering jurisdictions to eliminate the opportunity for arbitrage. This is particularly prevalent in Queensland, where a significantly lower levy, combined with a more competitive landfill pricing, results in NSW waste being trucked large distances to SE Queensland landfills. This is not environmentally sustainable and impacts road safety on NSW highways.
- Strengthen enhancement of monitoring and enforcement mechanisms, coupled with comprehensive community education initiatives.
- Increase investment in councils and/or RID programs to tackle illegal dumping. The current RID program is significantly underfunded and ignores the needs of large councils with vast areas to manage (i.e. >10,000 sq km). Funding is needed by councils or RID programs to cover the costs of illegal dumping officers, the requisite cameras, vehicles, signage, and ancillary equipment necessary for effective management and enforcement of illegal dumping regulations.
- Investigate amending environmental legislation to make it a requirement for waste generators to pay the landfill or resource recovery facility directly. In the first instance, this change could be brought in for developments generating large quantities of waste.
- Identify ways to enable offenders to be caught through technological solutions like GPS tracking devices on waste vehicles that transport asbestos waste (over a certain tonnage)
- Continue to investigate legislative reforms to deter unlawful behaviour, such as introducing jail terms for waste offenders, suspension of driver licences or the vehicle registration involved in illegal dumping, increasing penalty amounts for non-compliance with statutory notices.
- Strengthen legislative provisions to improve the management of asbestos during resource recovery of construction and demolition waste.
- Expand the use of the Integrated Waste Tracking Solution (formerly Waste Locate) to all asbestos waste and engage with SafeWork NSW to determine if current notification databases can be practically updated to allow better integration and therefore outcomes.
- Consult with local government and the Department of Planning, Housing and Infrastructure to strengthen the drafting and enforcement of consent conditions (e.g. introducing hold points until clearance is provided and minimum requirements for Waste Classification).

13. Provide a levy exemption for waste, including asbestos, that is collected by councils for the public benefit where it is:
    - illegally dumped on public land.
    - from stormwater treatment devices.
    - arising from remediation of community land.

14: That the EPA's provide a progress update on its commitment to investigate an exemption from the levy for separated, bonded asbestos waste.

15: That the costs and financial imposition placed on councils in being part of the waste levy administration process be reduced, and councils be reimbursed for any residual administration costs.

16. Establish a dedicated assessment team within the EPA to evaluate Operational Purpose Deduction (OPD) applications.

17. Provide a schedule of waste levy increases to provide certainty and reduce administrative burden on councils/facilities.

Issue 3: Amplifying circular economy outcomes in NSW

18. To support and help fast-track waste and resource recovery infrastructure development:

- Planning and infrastructure decision-makers to recognise and treat waste management as an essential service.
- Establish a new Waste Authority for NSW to assist with the planning and development of critical waste infrastructure.
- Revise the 'end of waste' definition to support recovery/recycling initiatives.

19. Take a multi-pronged approach to reducing contamination in recycling through:

- better product design, away from composite materials or materials that are hard to recycle.
- state-wide behaviour change campaigns to improve knowledge and build a cultural 'norm' of avoiding and minimising waste, and recycling correctly.
- consistency of messaging in relation to what can and cannot be recycled, and the implications of hazardous materials in recycling e.g. asbestos, batteries.

20. LGNSW advocates for the full reinvestment of the waste levy in the following areas:

- Fund further research, development and delivery of recycling technologies and products generated from recyclables, particularly by local or regional councils.
- Fund and deliver state-wide education campaigns on recycling to encourage the right way to recycle, the purchase of products with recycled content, as well as promote waste avoidance.
- Increase local and state government procurement of recycled goods made with domestic content.
- Support innovative solutions to reduce waste and waste transport requirements, such as providing transport subsidies for regional areas, until market failures are addressed, rather than leaving everything to the market.
- Address per- and poly-fluoroalkyl substances (PFAS) and other chemicals in compostable packaging to allow this packaging to be processed through FOGO services.

- Work with the Federal Government to introduce producer responsibility schemes for soft plastics and other emerging problem wastes such as paints, batteries, chemicals, mattresses, electronic waste and sharps.
- Undertake several asbestos initiatives:
    - Work with all councils to assess the feasibility of receiving small quantities of householder wrapped bonded asbestos free of charge at designated council drop off sites.
    - Invest in a long-term household asbestos collection service.
    - Encourage and support the private sector to explore innovative and cost-effective options for collecting asbestos (e.g. provide asbestos disposal bags with skip bins and offer asbestos pick-up service)
    - Work with emergency services to ensure mechanisms are in place to swiftly handle asbestos waste after disasters.
    - Work with regional waste facilities to build capacity, as well as expand capability, with landfill staff to safely and lawfully manage large-scale asbestos waste disasters.
    - Work with local government, Department of Planning, Housing and Infrastructure and the waste industry to support the receipt and management of asbestos waste at waste storage and landfill facilities.

21. Prioritise for reuse and repair those products and materials that have the highest environmental impact and feasible reuse/repair alternatives exist.

22. Consider banning the destruction of returned and unsold (yet still saleable) consumer goods.

23. The NSW Government work with the Federal Government to:
    - Promote the avoidance of packaging, minimised packaging and reuse.
    - Minimise use of composite materials and eliminate products that are hard to dismantle.
    - Strengthen consumers' 'right to repair' and support access to repair services and materials.
    - Require producers to provide easy to digest and readily comparable information to consumers about a product's durability and repairability.