

# Draft Submission on the NSW Illegal Dumping Prevention Strategy 2022-2027: Consultation Draft

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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 more than **55,000 people**



Local government in NSW looks after more than **\$136 billion of community assets**



Local government in NSW spends more than **\$1.9 billion each year on caring for the environment, including recycling and waste management, stormwater management and preserving and protecting native flora and fauna**



NSW has 450 council-run libraries that attract more than **34.8 million visits each year**



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



NSW councils manage an estimated **3.5 million tonnes of waste each year**



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

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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 *NSW Illegal Dumping Prevention Strategy 2022–2027: Issues Paper* (the Strategy) as this is a matter of importance to local councils and other stakeholders within the local government sector. LGNSW has consulted with councils and other key stakeholders to inform this submission.

To meet the consultation timeframe, this is a draft submission until it is reviewed and endorsed by LGNSW's Board at its next meeting, and any amendments will be forwarded in due course.

## Background

As a major land manager, NSW councils work tirelessly on the expensive and resource-intensive exercise of managing illegal dumping. Councils manage illegal dumping in order to provide a clean and safe environment for the community.

In developing this response, LGNSW sought feedback from NSW councils and regional waste groups in both metropolitan and regional areas. LGNSW would like to acknowledge the effort the EPA staff have taken to seek feedback on this Strategy, in particular the online information sessions provided.

## LGNSW Advocacy Priority

Councils provide waste, recycling and resource recovery services to the community, provide and operate recycling and disposal infrastructure and work tirelessly to reduce the amount of waste ending up in landfill by educating residents, businesses and schools about waste avoidance and recycling. Councils continue to face significant challenges from increasing waste generation and lack of markets for Australian recycled content.

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.

LGNSW advocates for the reinvestment by the NSW Government of the NSW waste levy collected from the community and industry to:

- Fund the delivery of priority infrastructure as outlined in the Waste and Sustainable Materials Strategy.
- Provide a sound regulatory framework and financial support to encourage investment and innovation in circular economy opportunities.
- Fund and deliver state-wide education campaigns which focus on broad priority areas and concurrently provide funding to support councils with undertaking targeted community education.
- Work with the Federal Government to introduce producer responsibility schemes for those items included on the Minister's Priority List

## Response

In general, LGNSW supports the objectives of the Strategy and the approaches outlined by the EPA.

LGNSW has provided feedback below covering the 6 'approaches' in the Strategy. The approaches outlined are:

1. Moving towards a circular economy
2. Collaboration and capacity building
3. Services, infrastructure and clean-up
4. Behaviour change, awareness and engagement
5. Regulation, enforcement and legislative reform
6. Growing our evidence through research, monitoring, and evaluation

In total, LGNSW makes **26** recommendations across the 6 approach areas for the EPA to consider.

LGNSW appreciates the collaborative effort the EPA has made to address illegal dumping to date. The establishment of Regional Illegal Dumping (RID) Squads, RID Online, Waste Locate, and the provision of RID collateral, illegal dumping grants and illegal dumping social research have assisted councils in tackling the issue.

Through our discussion with councils it is evident that illegal dumping falls into two very distinct categories:

1. Disposal of a material type in a place which under other circumstances would be authorised. For example, kerbside dumping of household items would not be categorised as illegal dumping if it complied with the local clean up requirements.
2. Blatant disposal of a material in a place which under no circumstance would be considered authorised. For example, under no circumstance would dumping in bushland or asbestos dumping be categorised as lawful.

Each council's illegal dumping focus depends on the prominence of the illegal dumping type in the area, and the structure of the Strategy (and/or the Implementation Plan) could be improved by reflecting these two distinct types of dumping.

While LGNSW is supportive of the Strategy, we note it is broad in nature and does not contain a detailed action or implementation plan. LGNSW notes the EPA has indicated an implementation plan will be released once this Strategy is finalised. LGNSW and councils would welcome the opportunity to provide feedback on the implementation, key stakeholders, KPIs and timeframes of the implementation plan. LGNSW would similarly welcome the publishing of more detailed grant funding program information and timelines to understand how key stakeholders may be provided funds to deliver the strategy outcomes.

Although not strictly an illegal dumping issue, the prevalence of cheap, lower quality household items (that are often illegally dumped) is not addressed in the Strategy. The Strategy also ignores the issue of legacy multi-unit dwellings (MUDs) built before bulky waste rooms were required. This may result in households dumping on the kerbside when moving, as there is no other area to place items. These issues could be partially addressed through Extended Producer Responsibility (EPR) schemes or other circular economy measures (emphasising repurposing, reuse and repair).

## Approach 1: Moving towards a circular economy

Local Government supports the transition from a linear to circular economy in NSW. The development of a circular economy offers significant potential economic, environmental and social benefits to NSW. In a circular economy, waste and pollution are designed out, products and materials are kept in their highest use for as long as possible, and natural systems are regenerated.

LGNSW welcomes the RID Online tool and the drive to establish a state-wide database for illegal dumping. Several councils have reported that a major barrier to taking up RID Online is the compatibility of RID Online with current council customer service programs. In many cases, reporting to RID Online requires double entry of data already being entered into these programs. The EPA is encouraged to upgrade RID Online to allow for data sharing between these types of programs.

LGNSW calls on the NSW Government to provide support through funding and regulatory changes that will enable local governments to conduct research and development and partner with industry in the delivery of circular products, technologies or project trials. This will support local government-led initiatives that bring together industry, government, academia, social enterprises and the community to investigate circular economy solutions and establish supply chains and service markets.

The Strategy does not include actions to make the circulation of materials financially advantageous relative to landfill (or other lower order recovery according to the [NSW Waste Hierarchy](#)). LGNSW acknowledges many of the necessary levers to stimulate a true circular economy require broad State and Federal support to be implemented, however the Strategy makes no mention of the NSW Government working with other States and the Federal Government in working transitioning Australia at large to a circular economy.

LGNSW acknowledges this Strategy is part of the broader Waste and Sustainable Materials (WASM) strategy, which should cover broader circular economy issues.

Another barrier to the development of a circular economy is asbestos. For example, material that contains asbestos should not be put in kerbside bins, skip bins, or bulk waste kerbside collections. Even small fragments of asbestos material that enter recycling streams can contaminate large volumes of otherwise valuable recovered products like bricks, compost, and soils. This can cause community concern, environmental and health risks, lack of confidence in recovered products, major clean-up expenses for public or private land managers, and problems of contamination for future generations to deal with. Where otherwise recoverable materials become contaminated with asbestos, this can lead to illegal dumping.

Recommendations:

1. That a greater proportion of the waste levy collected to be reinvested in recycling and waste management, to assist with the transition to a circular economy.
2. That the NSW Government to work with the Federal Government to introduce co-regulatory or mandatory producer responsibility schemes for those items included on the Minister's Priority List.
3. That the NSW Government provides incentives and funding, removes regulatory barriers and creates enabling policy conditions that support the development of circular economy action plans and precinct development by local government.

4. That the EPA work with councils and industry to ensure asbestos is identified and disposed of legally before it can contaminate otherwise valuable recovered products like bricks, compost and soils.

## **Approach 2: Collaboration and capacity building**

LGNSW acknowledges a collaborative approach is key to tackling illegal dumping.

In relation to training, more illegal dumping training for councils would be appreciated, for both enforcement staff and for staff working on illegal dumping strategy.

In those situations where working partnerships exist between the RID Squad and the Regional Waste Groups, additional benefits resulting from data sharing and strategic planning have been reported. It is recommended that collaboration between the RID Squads and Regional Waste Groups is facilitated by the EPA to replicate these positive outcomes across the state.

One of the difficulties of the RID program is the annual rotation of the RID officer. This can lead to a lack of consistency for councils and inefficiencies due to the time it takes for new officers to become proficient.

For councils that do not have RID squads covering their LGA, it would be helpful for collateral not to contain RID branding/contact information as this can confuse residents.

In areas with significant greenfield development a more visible EPA inspector presence in these areas would be useful, especially considering the prevalence of construction and demolition (C&D) material as a source of dumping.

Although RID squads are useful, there is scope to explore other solutions for illegal dumping, particularly for regional and rural areas. LGNSW would be open to consulting with the EPA on exploring new approaches.

The uncertainty of funding provided to address illegal dumping is an issue, and makes it difficult to consistently tackle illegal dumping in the community. As per previous years, a return to non-contestable waste funding would better match the task of tackling the prevalence and ongoing nature of illegal dumping in NSW.

Prevention and response to illegal dumping of asbestos in NSW is complex due to the many agencies and organisations involved including the EPA, councils, SafeWork, the Department of Planning and Environment, and Fire & Rescue NSW. Due to this complexity, collaboration and capacity building is essential to ensure continuity and consistency of service across NSW and to also drive continuous improvement through sharing of best practice.

Recommendations:

5. That the strategy include a permanent and secure funding stream to allow councils to employ dedicated staff to prevent and respond to the growing issue of illegal dumping.
6. That the EPA consider supporting an on-ground illegal dumping presence in those areas without RID Squads.
7. That the EPA facilitate greater collaboration between RID Squads and the Regional Waste Groups.

8. That the EPA provide further illegal dumping training for public land managers, including training in regional centres.
9. That the EPA continue to support the NSW Asbestos Co-ordination Committee in:
  - a. Developing a whole-of-government strategy on asbestos management in NSW;
  - b. Monitoring the implementation of the strategy and trouble-shooting any risks, delay or blockages to progress;
  - c. Engaging with the best evidence of the day to drive continuous improvement to asbestos management;
  - d. Championing the importance of asbestos safety in NSW.

### **Approach 3: Services, infrastructure and clean-up**

Funding provided for clean-up and prevention by the EPA is appreciated, noting these actions are essential in large managed areas with multiple land managers. However, the resources associated with submitting grant applications is a significant burden on councils.

The Illegally Dumped Asbestos Clean-Up Program (IDACUP) provided through the Environmental Trust is difficult to qualify for, preventing many councils applying for this grant. Measures to simplify access to this funding would be welcome.

An on-ground presence is the most critical measure in illegal dumping prevention. Whilst access to infrastructure and clean-up are important, councils favour a shift in funding structure to allow more consistent on-ground staffing.

LGNSW would support the option for other problematic waste types, such as mattresses and tyres, to be captured through the CRC program where they are not covered by a producer responsibility scheme. Many of the items illegally dumped are still not covered by either Community Recycling Centres (CRCs) or Chemical CleanOut.

The cost to dispose of hazardous waste (especially asbestos) is exorbitant, and in some cases results in (cheaper) unscrupulous operators undercutting more reputable (but expensive) operators. One option may be for the EPA to subsidise the cost of safe asbestos removal, especially considering the amount of time and money councils spend on hazardous waste clean-up.

Research by the EPA has shown that illegal dumping of asbestos can be reduced by making asbestos disposal easier and cheaper. This has in the past been achieved by helping households identify asbestos through free household asbestos testing kits, making asbestos disposal more accessible through household asbestos collection and disposal schemes, and by reducing the cost of end disposal at landfills.

#### **Recommendations**

10. That the EPA improve the IDACUP grant program to increase participation rates, in partnership with the Environmental Trust.
11. That the EPA consider further funding for consistent on-ground staffing for public land managers to address illegal dumping.
12. That the EPA Consider broadening the problem waste types accepted through the CRC program where they are not covered by a producer responsibility scheme.
13. That the EPA consider funding the cost of managing illegally dumped hazardous waste material on council managed land. This may include the EPA funding easier and cheaper asbestos disposal through free household asbestos testing kits, subsidised household asbestos collection and asbestos disposal schemes, and through removal of the waste levy on household amounts of asbestos.

## **Approach 4: Behaviour change, awareness and engagement**

LGNSW would like to see the EPA lead a reuse culture in NSW. Particularly with kerbside material, there is significant potential for reuse and repurposing. With support through grant funding, current reuse organisations and councils' service delivery could be enhanced to recover significantly more material and decrease illegal dumping.

LGNSW supports the continued co-funding of the 'regional illegal dumping (RID)' program.

The continued availability of illegal dumping prevention collateral is welcomed, in particular the litter library. Councils, particularly those with RID Squads in their area, have also said that they like the RID collateral currently available.

The continued rollout of the social-media campaign focusing on the risks of accepting free fill is supported.

LGNSW supports a state-wide illegal dumping media campaign, similar to the *Don't be a Tosser!* litter campaign. This campaign should address problem wastes such as asbestos and be targeted and strategic in its delivery. Generic 15 and 30 second social media videos and animations provided with EPA messaging would be useful to reach a younger demographic audience.

Social research by the EPA has found that illegal dumping of asbestos is often driven by a lack of knowledge by waste generators about what asbestos is, how to identify it, and how to dispose of it correctly. Once waste generators become more aware of the serious environmental and health risks of asbestos, many do change their behaviour and dispose of asbestos legally. For those that continue to dump illegally, then awareness of the penalties and consequences of illegal dumping is also a powerful behaviour change tool. Development and sharing of evidenced-based community behaviour change interventions that achieve outcomes is essential to preventing future illegal dumping of asbestos.

Recommendations:

14. That the EPA fund and deliver state-wide education campaigns which focus on broad priority areas (issues) and concurrently provide funding to support councils with undertaking targeted community education.
15. That the EPA include similar resources to the litter library in the illegal dumping toolkit / communications package and consult with councils during development of the package.
16. That the EPA ensure it consults with councils during development of the multi-unit dwellings behaviour change program.
17. That the EPA actively collaborate with, provide training to, and fund councils in how to prevent illegal dumping through community education and behaviour change programs, including for asbestos.

## **Approach 5: Regulation, enforcement and legislative reform**

LGNSW supports the EPA's work to improve illegal dumping enforcement outcomes. The EPA's strategic compliance campaigns and the large-scale investigations it carries out are appreciated. This demonstrates collaborative, cross-agency and multi-tiered support to address the illegal dumping issue.

There are significant benefits to the EPA working with councils to develop and implement a specific illegal dumping offence and LGNSW is supportive of enhancing illegal dumping enforcement powers. For example, the introduction of additional offence codes and categories to enable councils to issue fines for an expanded range of illegal dumping types, including dumped waste on nature strips in residential areas or parks.

Kerbside dumping and dumping associated with multi-unit dwellings (MUDs) is particularly challenging. Fines are considered too high for residential items, which when correctly managed through the clean-up service would otherwise be considered legal. Further, for dumping from MUDs, the offender is not always evident making enforcement difficult. A review of the legislation relating to these types of dumping incidences would be welcomed.

Dumping by Small and Medium-sized Enterprises (SMEs) is also difficult for councils to regulate. Some councils have adopted Local Approvals Policies to manage bins and associated waste in public places under Section 68 of the Local Government Act. However, this type of offence requires court attendance which is both costly and time-consuming. Replacing the court appearance requirement with a penalty notice or otherwise making enforcement easier would be welcomed.

LGNSW supports the continuation of the Waste Crime Taskforce, but with 51 charges having been brought forward in 5 years there is likely to be scope to bring more charges against individuals and companies. This is especially the case given the prevalence of illegal dumping across NSW.

LGNSW supports the increase in penalties for waste crime offences, in particular those offences relating to blatant illegal dumping in bushland etc.

Illegal dumping of asbestos poses specific challenges to councils under the *Protection of the Environment Operations Act 1997* (POEO Act) due to confusion as to who the appropriate regulatory authority is for asbestos waste, which is classified as a scheduled waste. In addition to this, responding to illegal dumping of asbestos requires specific skills and experience not always available to all councils including expertise in occupational hygiene, asbestos assessment, waste classification, working safely with asbestos, and licensed asbestos removal.

In many cases councils are forced to use external consultants to respond to illegal dumping of asbestos which greatly increases the cost and time taken to manage illegal dumping incidents swiftly and effectively. Councils also report significant challenges around when and how to legally use prevention notices, clean-up notices and other regulatory pathways to respond to illegal dumping of asbestos.

#### Recommendations:

18. That the EPA consider additional offence codes and categories to
  - a. enable councils to issue fines for an expanded range of illegal dumping types, including dumped waste on nature strips in residential areas or parks.
  - b. include a nominal kerbside dumping fine, including dumping originating from MUDs.
19. That the NSW Government review legislation to allow a penalty notice to be issued in lieu of court appearance for Section 68 Local Government Act offences.
20. That the NSW Government update legislation to allow for enforcement of dumping in public place bins.

21. That the EPA review and clarify how the POEO Act can be lawfully used to specifically respond to illegal dumping of asbestos, and provide specific guidance and training to councils on this issue.
22. That the EPA fund and support rural and regional councils to establish regional capacity and capability to respond to illegal dumping of asbestos.
23. That the EPA waive the waste levy for councils that clean up and dispose of illegally dumped asbestos.

### **Approach 6: Growing our evidence through research, monitoring, and evaluation**

LGNSW supports the on-going monitoring and evaluation of EPA projects and programs.

The continued operation of the RID online reporting database is welcome and LGNSW acknowledges its usefulness in collecting illegal dumping data. Several councils would like to see EPA officers utilising the RID online system to report and record incidents as a means of sharing intelligence across the State.

At present local officers are unable to assist EPA investigations due to the inhibitor of one-way data sharing. This limits the ability of council authorised officers to provide knowledge and other means to assist the EPA in its own operations.

LGNSW agrees that a detailed audit of kerbside dumping is useful, but notes an audit should be conducted in regional, rural and metropolitan areas to better understand the different types of dumping behaviour across NSW.

LGNSW acknowledges the release of the [EPA – Illegal Dumping Research Report](#) in 2020. This research paper highlighted that:

- 69% of councils engaged reported illegal dumping as a moderate or major problem.
- Surveyed councils spent between \$20,000 and >\$750,000 per annum addressing illegal dumping.

The National Strategic Plan for Asbestos commits the NSW government to a range of asbestos safety targets including:

- having in place and implementing asbestos compliance programs
- investigating, prosecuting, and penalising serious known breaches of asbestos-related laws including illegal waste disposal
- and easier and cheaper disposal of asbestos waste.

To achieve this, it is essential for the NSW Government to establish an integrated framework for collecting and reporting on the statutory requirements for the notification, transport and disposal of asbestos to determine if illegal dumping is occurring, in addition to the ad hoc reporting of illegal dumping incidents.

Notification and tracking of asbestos between planning, work health and safety, waste tracking, and landfill records is not integrated at present and is rarely audited presenting a significant opportunity for improvement in preventing illegal dumping.

Although the RID online program has made progress in integrating reporting on ad hoc illegal dumping incidents, there are vast areas of NSW where data on illegally dumped asbestos is not readily available. Evidence of this is in the [EPA – Illegal Dumping Research Report](#) which relies on past recollections of council officers to determine whether illegal dumping of asbestos has increased or decreased.

Recommendations:

24. Ensure the kerbside audit of illegally dumped material takes samples from metropolitan, regional and rural areas to better understand the compositional differences between geographies.
25. That the government expand the RID online system to ensure all areas of NSW are systematically reporting illegal dumping, especially asbestos.
26. That the government adequately fund and resource the integrated collection and analysis of data on asbestos disposal to better inform future illegal dumping interventions.

## CONCLUSION

LGNSW thanks the EPA for the opportunity to provide feedback on the NSW Illegal Dumping Prevention Strategy 2022-2027.

Most council feedback has reflected that this strategy is broad in nature and does not contain a detailed action plan. LGNSW notes the EPA has indicated an implementation plan will be released once this Strategy is finalised. LGNSW will welcome the opportunity to provide feedback on the implementation, key stakeholders, KPIs and timeframes of the implementation plan.

Local Government would similarly welcome the publishing of more a detailed grant funding program package and timeline. This will assist councils to understand how funds will be provided to deliver on the Strategy outcomes.

For further information or to discuss this submission, please contact [Christian Pagliaro](#), Senior Policy Officer Waste.