

Submission on the Extension of the Waste Levy Options Paper

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Opening

Local Government NSW (LGNSW) is the peak body for councils in NSW. It represents all the 152 NSW general-purpose councils, the special-purpose county councils and the NSW Aboriginal Land Council.

LGNSW is a credible, professional organisation representing NSW councils and facilitating the development of an effective community-based system of Local Government in NSW. LGNSW represents the views of councils to NSW and Australian Governments; provides industrial relations and specialist services to councils; and promotes NSW councils to the community.

LGNSW welcomes the opportunity to comment on the Extension of the Waste Levy Options Paper, and appreciates the additional time provided for comment in light of the significance of this issue for councils.

The Options Paper puts forward four options for consideration and feedback:

- Option 1 – no extension of the levy to areas outside the current regulated area
- Option 2 – extending the levy across NSW
- Option 3 – extending the levy across NSW, but exempting regional landfills that receive <5,000 tonnes per annum (as per KPMG recommendation)
- Option 4 – implementing an ‘opt-in’ levy system where councils currently located outside the levy area can choose to implement a waste levy at set or chosen rates.

The Options Paper notes that where Option 1 is a council’s preferred choice, that council is strongly encouraged to indicate the next preferred option(s).

Executive Summary

Waste management, recycling and environmental management are very high priority functions and responsibilities for Local Government.

Of the four options outlined in the Options Paper, Local Government strongly supports Option 1 – no extension of the levy – as the only appropriate option.

The Paper does not:

- adequately demonstrate the need for the extension of the levy,
- provide evidence that a levy introduced in the regional and rural context will actually achieve the desired outcome,
- give thorough consideration to the costs and benefits of this change for councils as well as the broader community,
- clearly identify the magnitude of the levy to be introduced (is \$10/tonne only for comparison purposes?), nor address whether the levy would increase over time and by how much.

An alternative option has been suggested by some individual councils and regional waste groupings, whereby a local/regional levy is adopted under provisions of the *Local Government Act 1993*, with all revenue returning to the area from which it is collected. This is consistent with Local Government’s long standing position that the waste levy should be fully hypothecated for waste minimisation and management programs.

In light of the Options Paper, Local Government also questions the logic of including some small councils in the existing Regional Regulated Area (RRA) and requests that the NSW Government undertake a review of the RRA to ensure its appropriateness.

Whilst LGNSW appreciates the EPA focusing consultation on the waste levy issue with Local Government, the proposed extension of the levy will also have ramifications for regional waste industries and their communities, including councils as purchasers of products and services. As such, consultation must also be undertaken with the industry and broader community before any decisions are made.

Response

This submission has largely been drafted to respond to the issues and questions raised in the Options Paper, however it also includes some additional comments and considerations in relation to the waste levy.

Option 1

Local Government **strongly supports** Option 1 (no extension of the levy). There are a number of reasons for this:

Lack of clear rationale

The Options Paper does not provide a sound basis for introducing the levy in the non-regulated area. The levy was originally designed to reduce the amount of waste disposed to landfill when there was a shortage of space for landfill in the metropolitan area. However, in regional/rural areas there is not necessarily the same imperative. The different circumstances that exist in regional and rural NSW, which negate the ability of the levy to act as a driver for reducing landfill and promoting recycling or resource recovery, have not been adequately acknowledged.

A number of councils in the non-regulated area have already adopted initiatives or strategies to successfully minimise waste in their area without the use of a levy. For example, Eurobodalla Shire Council's diversion rate for 2011-12 municipal solid waste was 49.2%, which is higher than the average for both the Extended Regulated Area (ERA) and Regional Regulated Area (RRA) and not far behind the Sydney Metropolitan Area at 52%.

Furthermore, councils in the ERA have seen a noticeable increase in the incidences of illegal dumping since the waste levy was introduced in 2008, including illegal dumping of asbestos, a waste which should not be subject to a levy as the levy perversely creates a deterrent for residents and contractors to lawfully disposing of asbestos waste. The costs of cleaning up illegal dumping where the offender cannot be identified usually rests with council and at considerable costs. Some councils have seen a tripling of the funds they must set aside for this purpose since the levy was introduced. Although some of the waste levy that is collected is re-directed towards addressing illegal dumping in broader awareness or compliance programs, the return on a council by council basis rarely matches the council costs incurred. The absence of the levy in regional and rural areas may actually result in a better environmental outcome i.e. the waste is taken to landfill rather than illegally dumped.

It is also not clear whether the \$10/tonne used in the Options Paper is the proposed levy amount or just a basis for comparison. The economic impact of the levy will of course vary with the actual amount of the levy. The comparison and analyses provided in the paper are relevant to a \$10/tonne levy, but what are the costs and benefits of a higher levy? Have these been

considered? The costs to all parties of administering an extended levy must be assessed in comparison to the value of the additional outcomes achieved from the extension.

In its comments on the KPMG review of the waste levy in 2012, our predecessors the Local Government and Shires Associations of NSW argued that future increases in the waste levy 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 position is that a large proportion of the communities in the existing ERA and RRA are 'fixed income' and have less capacity to react in a behavioural sense to price signals. Similarly, communities in the non-regulated area are also best described as 'fixed income'. Therefore before a decision is made as to whether the levy should be extended, a RIS or cost benefit analysis is required in order to understand the potential impacts on communities, and more fundamentally whether a levy is an appropriate lever for change in the rural/regional context.

Once a levy, always a levy

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 increase substantially and beyond CPI. 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. The levy in the Local Government areas of Newcastle, Cessnock and Maitland (Extended Regulated Area) in 2014/15 is \$120.90 per tonne, while the levy in the Upper Hunter and Singleton (Regional Regulated Area) is \$65.40 per tonne. Clearly, the levy far exceeds the amount originally forecast.

The Options Paper states that "*A low rate (between \$5 and \$10 a tonne) that reflects the circumstances of regional councils can have longstanding benefits for a community*". As raised earlier, the levy amount being proposed is unclear, as is whether the levy would increase over time and by how much.

Hypothecation

While the State Government does return some of the existing waste levy to councils to support waste minimisation activities, this has historically been in the order of 30-50% and a fair proportion of this is accessed via competitive grants so that there are no guarantees a council will be successful.

Local Government's position on this issue is well-known: the waste levy should be fully hypothecated, preferentially back to the regions in which they were generated, and any increases or extensions of the scope of the waste levy should be subject to a regulatory impact statement that in particular considers the impact on low and fixed-income communities.

Revenue (actual and projected) for the Waste and Environment Levy from 2012-13 to 2017-18 is as follows:

2012-13 Actual \$m	2013-14 Revised \$m	2014-15 Budget \$m	2015-16 Forward Est \$m	2016-17 Forward Est \$m	2017-18 Forward Est \$m
500	520	584	634	641	579

Source: Budget Statement 2014-15

This equates to \$2.379 billion collected between 2013-14 and 2016-17, during the same period that the \$465.7 million *Waste Less Recycle More (WLRM)* initiative will operate, reflecting an overall hypothecation rate of just under 20% of the waste levy directly back to 'waste' initiatives.

The 2012 KPMG report estimated that municipal waste contributes around 32% of total levy income. If extrapolated to the 2013-14 to 2016-17 period this equates to \$761 million, or \$190 million dollars annually that is contributed via Local Government.

If we turn to the WLRM initiative, grants quarantined for Local Government total \$222.8 million. Other contestable grant programs that Local Government are eligible to apply for total \$139.1 million. If Local Government is successful in applying for 50% of the funds (\$69.6M), the effective hypothecation rate over the WLRM period would be 27%. A 100% success rate would equate to a 48% rate of hypothecation back to Local Government.

While the Options Paper provides calculations on a possible 75% or even 100% hypothecation rate for the 'extended' levy, it is difficult for Local Government to imagine after many years of arguing the case for full hypothecation and yet hypothecation rates topping out at around 50% in the mid 2000s, that 75% and 100% hypothecation scenarios are legitimately on offer.

On 26 June 2014, the Minister for the Environment, the Hon Robert Stokes MP, responded to a question about 100% hypothecation of the NSW landfill levy back to the waste industry by saying, "as Environment Minister, I would love to do that." (Waste Management Association of Australia, Young Professionals Networking Night). However, he cautioned that more broadly the NSW Government was looking to invest the revenue from landfill levies into other areas.

The Options Paper notes that only councils in the levy-paying area will have access to some of the grants under *Waste Less Recycle More* e.g. the \$60 million Waste and Recycling Infrastructure Fund (WRIF). This 'incentive' has limited value given there is only one more round of grants remaining, which is to close in late 2015. The time required to introduce a levy (if it were to be approved) is likely to see councils outside the current regulated area with little chance of being able to apply for a grant. Given the distance to reprocessing facilities is often one of the largest barriers to increased recycling in rural and regional areas, one could argue that within *Waste Less Recycle More*, the WRIF should be open to all Local Government Areas so that investment can be focused on improving *local* reprocessing or materials batching in rural/regional areas.

In relation to the question about the manner in which hypothecated funds should be distributed to councils, there isn't one set formula that works for all LGAs. For example:

- Per capita distribution – this works in some areas, not in others, depending on the issues faced by the councils. For example, some have high transient populations (e.g. tourists) that increase costs of waste management, but these populations (and hence the draw on resources) are not reflected in population statistics used to calculate the funding distribution.
- A lump sum for regional groups of councils – this may suit some councils, whereas others would prefer to undertake some activities on their own and contribute to regional initiatives on specific projects.
- Providing grants via a contestable funding pool - there are no guarantees that an LGA will get its 'share' of the levy (if any funds at all). In fact some LGAs collect the waste levy but they are not even eligible for grants under *Waste Less Recycle More*. In addition to the uncertainty for a council in winning a grant, councils have also experienced long lead times between applying for a grant or being notified of being successful for a grant and receiving the funding and being able to commence the project.
- Providing a pool of non-contestable funding – the basis by which the 'pool' is distributed may incorporate per capita and lump sum elements which have positives and drawbacks as already highlighted.

The Local Government position on hypothecation is that funds should be returned to the LGA or region it was collected. While it could be said that this creates a perverse incentive to see more waste go to landfill, the ultimate driver for councils will be to reduce waste so as to minimise the cost to the community i.e. encouraging the community to avoid, reuse and recycle so that landfilling (and therefore domestic waste management charges) are minimised.

In terms of what the levy funds should be used for, Local Government supports the collected funds being directed to initiatives to educate, support processes or provide infrastructure that address one or more of the waste hierarchy elements – avoid, minimise, recycle or dispose lawfully. Clearly ‘waste’ should be the primary target for funding, however avoiding waste requires us to cross into areas that are considered to be environmental ‘sustainability’. For example, a key tactic for reducing food waste is educating the community to consider packaging choices (both volume and materials), seasonality of produce, menu planning and composting/worm farms. Attempting to reduce waste without addressing its place in a broader context can result in inferior outcomes. Therefore the challenge is to enable the levy to fund programs that ultimately have an impact on the waste hierarchy.

Flow on requirements of levy expansion

If the levy was to be extended statewide, council landfills, recovery and reprocessing facilities would need to comply with the more significant provisions proposed in the draft Waste Regulation. This would come at additional administration and costs for councils. However, assessing the true impact relies on being able to review the Waste Levy Guidelines that will detail how the waste levy framework would operate. Even so, it is very unlikely that a levy at \$10/tonne, even if fully hypothecated to the regional/ rural councils would exceed the cost of compliance.

Some of the concerns raised by councils regarding the cost of compliance were discussed in the LGNSW submission on the draft Waste Regulation. Concerns include:

- inability of some councils to raise matching funding for the NSW Government subsidy to install weighbridges on landfills,
- ongoing costs of maintaining weighbridges and staffing facilities, and
- administration costs of complying with the requirements for reporting and tracking under the provisions in the draft Regulation.

The waste levy and the cost of compliance may result in unintended outcomes such as disposal to landfills outside of NSW. Anecdotally, Queensland Local Government is concerned with the capacity of their landfill sites since the Queensland waste levy was abolished. While this may be a result of locally generated waste, it is understood that the waste is already being exported to Queensland as a result of cheaper disposal costs.

Options 2 to 4

Option 2 (extension of the levy across NSW) is **not supported** by Local Government for the reasons outlined in the section above.

Option 3 (extension of levy but exempting regional landfills receiving <5,000 tonnes per year) has been given consideration by some councils. Depending on the economics of distance and the size of the levy, this option may result in pushing waste to those exempted landfills (<5,000 tonne per annum). It is understood the 5,000 tonne threshold has been selected to match the POEO licensing threshold for landfills, which in itself is based on the assertion that smaller landfills pose a lesser environmental threat. However, if more waste is to be re-directed to these landfills they may exceed the licensing threshold (and thus require licensing). The nature

of the waste that will end up at these landfills and the (lesser) controls at the sites will probably also result in a poorer environmental outcome.

Option 4 (opt-in levy system) has also been given some consideration however there are strong concerns that it may create also perverse outcomes. For example:

- waste will be taken to non-levy areas for disposal, placing increased demands on those non-levy paying councils in terms of landfill capacity, road traffic and overall costs to the receiving community of maintaining the facility,
- illegal dumping and/or rogue landfilling will increase in order to avoid the increased costs of landfill disposal. In regional/rural areas, there are more opportunities for this to occur without detection.

In light of the above, **options 2-4 are not supported** by LGNSW.

Alternative Options

A new option identified by councils (and the next most palatable behind Option 1) is to apply a locally-collected levy under the *Local Government Act 1993*. This could be possible under s495, 501, 502 or 608, depending on the preferred mechanism, with funds to be used within that LGA for waste minimisation activities (education, awareness, infrastructure etc.).

For this option to succeed it will be important that councils have clear guidelines on how the levy will be collected, audited and reported on, and that expenditure on waste minimisation activities are acquitted (for transparency to community/users). How the levy intersects with existing processes (e.g. landfill/facility licensing, and the State levy) will also need to be considered.

Associated Issues

Smaller councils in the Regional Regulated Area (RRA) have for some time now questioned the logic of their inclusion in the levy catchment area, given their small populations, low rates of waste generation and ability to deal with waste effectively within the council area. In councils such as Dungog, Gloucester and Upper Hunter, the levy represents a flow of money out of the area and into NSW Government consolidated revenue for little if any local benefit.

LGNSW requests that the NSW Government undertake a review of the RRA to ensure its appropriateness.

Conclusion

Local Government strongly supports no further extension of the levy, and also requests that a review of the existing levy areas be undertaken to ensure that the Local Government Areas included are appropriate to the intent of the levy. LGNSW would be happy to discuss any of the issues raised in this submission.