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16 July 2024

Dear Mr Chappel

**Re: Review of the NSW waste levy review  
Issues Paper, May 2024**

Thank you for the opportunity to provide feedback on the *review of the NSW waste levy: Issues paper*. The Waste Management and Resource Recovery Association of Australia (WMRR) is the national peak body representing Australia's \$17 billion waste and resource recovery (WARR) industry. With more than 2,200 members from over 400 entities nationwide, we represent the breadth and depth of the sector, including representation from business organisations, the three (3) tiers of government, universities, and Non-Government Organisations (NGOs), including research bodies.

In 2020-21, NSW generated 20.28 million tonnes of waste (excl ash), of this 7.74 million tonnes was disposed to landfill, resulting in an average recovery rate of less than 65%, with this recovery rate being highly reliant on the construction and demolition (C+D) sector which currently recovers 80% of material. As noted in the levy review, recycling has plateaued in NSW, whilst waste generation continues to grow (a 9% increase since 2016-17 period). On the current 9% growth trajectory, NSW could expect to need to landfill 9.19 million tonnes of waste every year by 2030-31, this would be a waste of valuable natural material but will also adversely contribute to methane production- which has 28 times more warming potential to the atmosphere than carbon.

The waste levy is one of the primary economic tools utilised by governments globally to place a *financial* incentive on what is often valuable natural material to keep it *out of landfill* and *circulating* to reduce reliance on *virgin* materials and mitigate *carbon* impacts. There are many benefits from keeping valuable materials out of landfill which is often lost in discussion on cost. The levy however should be viewed as just one (1) instrument in what must be an integrated policy landscape to achieve these higher order goals of resource recovery and reducing reliance on virgin, commencing ideally at the start of the supply chain and not playing catch up at the end when material gets to the waste and resource recovery (WARR) sector.

The waste levy is aimed primarily at the waste sector (end of pipe) and those that collect the material, and not at those that design and generate the products that are ultimately discarded. As such it is often too far removed to drive the real change required of those that produce the products. In order for there to be greater emphasis on resource recovery, government must place greater responsibility on those that generate products (not just those that consume and collect) and create enforceable policy settings including financial obligations on generators, like what has occurred in NSW with the container deposit scheme (CDS). Integrated policy is key to real change.

In reality however, the WARR sector often finds that the levy is the main lever government places greatest regulatory reliance upon, possibly given its ability to contribute to consolidated revenue. Even with the landfill levy being the main regulatory lever pulled in NSW it is disappointing to note the *Audit Office Report of 2020*

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comment that the levy rate had not been reviewed since 2009, making it difficult to determine whether in fact the levy was operating at its optimal rate. The absence of broader material and waste regulation in NSW, and the lack of ongoing modelling and adjustment of the levy since 2009, has meant that the levy has arguably reached its maximum impact. Without the economic and policy setting foundations including a levy rate that clearly incentivizes resource recovery and the value that creates (increased resilience, reduced methane, etc.), we get caught in discussions about 'impact on households'. Rather than focusing on creating and enforcing the broader settings in NSW for circulating material, creating green jobs and managing carbon impacts. All of which are vital if NSW is genuine in creating the real shift to a necessary circular economy.

As the levy review states, the NSW recycling rate has plateaued and waste generation continues to grow, particularly the Commercial and Industrial (C+I) sector at 49% and Municipal Solid Waste (MSW) at 43%, and whilst the levy review paper touches on several relevant issues that we have addressed in our submission (see Annexure A), in WMRR's view there are a number of other relevant matters that must also be addressed in driving greater resource recovery in NSW. For example, it is vital that the true cost of resource recovery is understood in establishing a levy rate (and regularly reviewed) if we are bona fide in ensuring that resource recovery is competitive with landfilling. Determining the levy rate must reflect capital, operational costs, jobs created and carbon impacts. These cannot be addressed by simply applying annual CPI increases. WARR infrastructure requires capital and operating income just like any other remanufacturer.

Industry agrees with the NSW Audit Office that the lack of a clear formal strategy to guide investment in WARR infrastructure to target where it is most needed to meet resource recovery targets, and the lack of timely and meaningful data has hampered efforts in NSW to increase resource recovery and support investment. WMRR also supports the Audit Office's comments on the need for the EPA's administration of the waste levy to improve, including timeliness and reporting- WMRR hopes that this will be an outcome of this review as the practical application of the levy requirements on landfill sites has hampered the best practice management of NSW landfills when compared with other Australian states.

WMRR notes that the 2030 resource recovery target for NSW is 80%, we would submit that in the absence of drastic change in approach by government including to the levy rate, policy settings, government procurement and investment and support for waste and resource recovery in NSW including the planning framework, NSW will not achieve this target. We must accelerate the development of resource recovery infrastructure (including energy from waste) to divert these valuable materials and work with the landfill sector to maximise air space in existing landfills as opposed to building new ones. All governments in Australia have committed to creating a circular economy, increasing resource recovery to 80% and reducing emissions by 2030. To do this we need to build a system that values materials and *uses less for longer*- the levy when coupled with strong integrated and enforced regulatory settings can be key to the successful attainment of these goals.

WMRR's responses to the consultation questions can be found at **Annexure A**. Please contact the undersigned if you wish to discuss WMRR's submission further.

Yours sincerely



Gayle Sloan

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**Submission:**

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| <p>What are your views on the current levy rates and levy area boundaries? Should they be changed?</p> | <p>WMRR acknowledges there are currently three (3) levy zones in NSW, and these reflect that there are distinctions between metropolitan, regional and remote areas. In principle WMRR does not have concerns about continuing with these distinctions given the recognition there are real challenges with transportation and volumes in regional and rural NSW. WMRR would however advocate existing anomalies such as Blue Mountains and Wollondilly be addressed to include these both in the Metropolitan Levy Area.</p> <p>The actual physical boundaries of the levy areas could be reviewed and updated based on demographics, this should be done whilst also considering infrastructure requirements within the areas, including viability of processing versus aggregation and transfer.</p> <p>What is important however is that levy regions and rates are supported by enforcement of the proximity principle by government, plus possibly addressing the issue of portability of the levy rate within and between states (i.e. the levy rate follows the waste). This would have the benefit of reducing the amount of waste that moves within and out of the state, as well as providing increased certainty about the volumes of waste that exist within the region to justify investment in resource recovery infrastructure.</p> <p>WMRR at this time has not undertaken comprehensive modelling of what an appropriate levy rate would be to drive material away from landfill. We do know however, the cost and benefit of resource recovery is significantly higher than the costs of landfilling in NSW (even with the levy). The costs involved in processing recycled materials to compete with virgin products have changed dramatically since 2009, and are much higher than disposal costs, noting also that there was no consideration given at that time to the negative impact of carbon. For example, since 2021 the cost of electricity has increased by 66%, diesel 77.1% and in the last two (2) years the cost of construction has increased 22%.</p> <p>WMRR would advocate for government undertaking comprehensive modelling to determine an appropriate levy rate going forward. However we would also encourage a one- off significant adjustment to the current levy base rate in 2025 to stimulate diversion from landfill and build confidence in resource recovery infrastructure investment. This is going to be particularly important for the government to encourage MSW diversion of organics from landfill. Assuming modelling was completed in 2025 the government should also commit to at least a ten (10) year levy strategy (given this aligns with investment and planning time frames) for levy adjustments, as well as a regular five (5) year review of the levy model to track progress towards targets and enable action to adjust if necessary.</p> |
| <p>Are there other factors that need to be considered in</p>                                           | <p>Yes, as mentioned above the true costs (and benefits) of performing resource recovery and remanufacturing must be factored into the levy rate</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

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| determining optimal levy rates?                                                                                                                              | <p>to be competitive with landfill and encourage uptake. These costs must include land, capital, and operating costs, plus consideration should be given to an additional cost in recognition of the methane/ carbon impacts that is being created by disposing to landfill. A transparent model that reflects these inputs should be developed and updated with a ten (10) year horizon for both planning and investment certainty.</p> <p>Whilst we appreciate there may be concern about the impact on households with any increase of levy, we are trying to drive material away from landfill and therefore away from paying the levy. By having a levy rate that creates a real incentive for councils and businesses to place far greater emphasis than we have seen to date on genuine avoidance campaigns to minimize consumption and maximum use of products, as well as utilise procurement to purchase materials and products made from local recycled materials. For example, there is also a real ability with contracts for recovery. For example, organic compost supporting buy back of product made from diverted organic materials. This has an impact on recovery costs charged, as well as driving local investment and creating local jobs. In the absence of a real financial incentive, such as the levy, it is unlikely we will ever get the systems shift required to achieve 2030 targets.</p> |
| Over what time should a schedule set out future levy rates to provide certainty for decision-making?                                                         | <p>Ideally a ten (10) year horizon, given that we know that it takes a minimum of three (3) to five (5) years for facilities to be developed, approved and begin operation. This period is much greater for large scale facilities. Further MSW contracts tend to be a seven (7) year term due to capital considerations, so such a horizon provides a level of financial planning certainty.</p> <p>As highlighted by the NSW Audit Office, however, there should always be regular reviews to adjust to factors that have arisen. For example, in the last five (5) years we have had significant disruption to the WARR sector, with China's National Sword, the imposition of export restrictions, COVID-19 highlighting challenges with shipping and supply chains- resulting in significant cost increases – none of these factors are reflected in the existing levy rate in NSW.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| How can we ensure any changes to waste levy rates increase recycling rather than creating perverse incentives for illegal dumping or interstate landfilling? | <p>In 2023 we have seen positive moves to align levy rates along the east coast of Australia at least with the Victorian government committing to increase their levy closer to NSW in 2025. However, it is not sufficient that the rates are aligned, rather we need to ensure that the entire system is 'fit for purpose' including waste tracking of materials, improved classification and monitoring with greater enforceability of obligations on generators to classify correctly for recovery, enforcement of the proximity principle and as stated above if possible, the implementation of a portability obligation to ensure that the material incurs the costs of the levy where it is generated no matter where it is disposed. Portability relies on integrated tracking being developed and implemented.</p> <p>Consideration may also be given in time to greater regulatory intervention, such as the proposed mandates for organics in NSW and 'landfill bans' for</p>                                                                                                                                                                                                                                                                                                                                                                                                                                  |

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|                                                                                                                                                                                                                             | <p>example unprocessed organics- however there must be sufficient infrastructure built as a precursor to these to ensure that there are genuine resource recovery alternatives in place.</p> <p>Further, Australia to date has failed to link consumption and waste creation, rather to date, 'education' in this area has largely focused on linear behaviours and 'what goes in what bin'. WMRR strongly believes that there is a real opportunity to empower the community and business by focusing on strong avoidance campaigns to educate on these links, including the contribution both consumption and waste disposal have on creating carbon, to enable behavioural change to buy less, use longer and create local jobs by also pivoting away from virgin materials to recycled materials and products. By and large the community and businesses want to do the right thing, they also want to manage the cost-of-living challenges- government must show leadership in assisting them to do this- not just continue to focus on what bin 'waste' goes in!</p> |
| Is remoteness an appropriate measure to consider in examining levy area boundaries? Are there other factors we should consider?                                                                                             | Remoteness including distance to facilities and population densities are relevant considerations for levy boundaries. The reality is that there must be sufficient material available to justify sustainable infrastructure investment. When this is not the case, government should support the development of "hub and spoke" infrastructure to transfer these materials to processing facilities that can, via a statewide transfer station network.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| If levy boundaries are expanded, how should we support new levy paying areas?                                                                                                                                               | Any extension should be supported by certainty in levy rates over a five (5) to ten (10) year horizon, as well as the strategic infrastructure analysis that provides certainty as to the volumes that exist in the area to justify investment in the precinct, or alternatively access to processing via transfer stations.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 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? | <p>Material moving interstate (or trying to look like it has via, for example, the ACT) is a challenge given facilities have been developed in NSW because the materials generated in NSW will be processed in NSW. The leakage of material to other states impacts the sustainability of recovery facilities and future investment.</p> <p>WMRR supports the proximity principle established in the European Commission Framework Directive on waste, which implies that waste should generally be managed as near as possible to its place of production, mainly because transporting waste has a significant environmental impact. There should be greater enforcement of this principle in NSW that is already in regulation given it will provide greater investment certainty but also could make 'communities' responsible for their own waste generation.</p>                                                                                                                                                                                                      |
| How can we best prevent opportunities for rogue operators to avoid lawful disposal costs in NSW through illegal or unsustainable activity?                                                                                  | <p>In relation to improved management of the levy, as mentioned above- increased waste tracking, enforcement of proximity principle and creation of portability responsibility.</p> <p>We need to also look to address the lack of generator responsibility in NSW including when classifying waste and tracking it. For example, positive</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

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|                                                                                                                                                                                                                                                                      | <p>obligations must be placed on those that generate the waste material to enter into arrangements with lawful/ licensed operators. We need to ensure that those that dispose of materials have ensured that the materials are being recovered and/ or going to licensed facilities capable of receiving these materials. Ignorance should not be a defence when it comes to managing waste materials given the dangers that some can pose, e.g. chemicals, asbestos, etc.</p> <p>However there also needs to be a paradigm shift in NSW government in relation to managing the levy, as we discuss below NSW has a far more expansive and cumbersome approach to managing waste and the levy. Most operators are not attempting to avoid the levy, however there is a very burdensome system in NSW that does not always lend itself to best practice landfill management.</p>                                                                                                                         |
| What factors need to be considered when looking at current exemptions, discounted (concessional) levy rates and levies on liquid waste and coal washery rejects?                                                                                                     | Please see below where we discuss at length the challenges with exemptions and approaches.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| What are the key aspects of the waste levy deduction framework that make it harder for you to operate?                                                                                                                                                               | There are several issues with the existing framework that impact industry's ability to operate, for example, the definition of waste applied in NSW is fundamentally different to that in other jurisdictions. NSW is unduly onerous, resulting in exemptions becoming even more essential to reduce unnecessary loss of scarce landfill airspace and a descent down the waste hierarchy. NSW also includes virgin material imported for landfill operations in its definition of waste. Please see <b>Annexure B</b> for further commentary on this matter.                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 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? | <p>WMRR would advocate for pre- approval of materials to be used during both construction and operation at the design stage of the facility development. At present NSW treats all materials (even virgin, purchased materials) that arrive at a landfill to be a waste under the current NSW EPA definition of 'waste'. This leads to an unnecessary burden on operators to justify the quantities of virgin materials being used for operational purposes and creates an unnecessary barrier to sites maintaining compliance and implementing 'best practice' controls.</p> <p>WMRR would argue that the definition of waste needs to be revised to be in line with the other states so that virgin materials are considered 'products' instead of automatically being deemed 'waste' by the EPA.</p> <p>Please also see <b>Annexure B</b> and note also that WMRR is very keen to continue discussions about how industry and EPA can work together to streamline the process of record keeping.</p> |

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| <p>What are the key barriers in the planning system preventing new waste and resource recovery infrastructure being developed in NSW?</p> <p>How can they be overcome?</p> | <p>There are several barriers that impact the development and viability of infrastructure in NSW. Many NSW EPA decisions in recent years continue to highlight the fragility of the current NSW resource recovery framework. For example, the revocation of the Mixed Waste Organic Output Order (MWOO) in 2018 with what appeared to be limited forewarning of industry, and the hastily adopted <i>Environment Protection Legislation Amendment (Stronger Regulation and Penalties) Bill 2024</i>. In both these instances resource recovery orders and exemptions are in place, however the review undertaken by Dr Wilkison Review in 2021 remains incomplete, with several important areas still outstanding such as the actual content of these orders, the EPA processes which remain long, time consuming, uncertain and resource intensive. Unless a resource recovery facility plans to use an existing Order (and even then, there is no certainty on longevity) this process can add a significant barrier (cost and time) to investment and timing.</p> <p>Please note, NSW unlike Victoria, WA and SA does not have a strategic infrastructure plan for WARR infrastructure planning, means there is no overarching strategy for our industry and every facility's planning application must justify the need for its existence in the proposed location on its own individual merits. Every time adding complexity, cost and time when dealing with the NSW Planning system.</p> <p>A strategic infrastructure strategy should also be supported in NSW with clear strategic planning support that assists with identifying where facilities should be located (due to transportation and land use requirement) as well as where necessary, in a bid to reduce the time taken to gain approval for WARR infrastructure which is essential infrastructure for both the community and business. At present there is no recognition in the planning framework for the need for WARR infrastructure albeit extensive growth in NSW is required over coming years that will require WARR infrastructure support. For example, NSW government has committed to increase housing supply by 377,000 by 2029 which will require additional C+D as well as MSW facilities (through the life of development but also once built). Further we need to ensure that we maintain the facilities that we have as Sydney grows and ensure that there are either appropriate buffers in place around existing facilities or sufficient planning and assistance to relocate facilities as we see greater urban sprawl, the recent closure of AJ Bush rendering facility in northwest Sydney impacting over 1,000 butchers is an example that should not be repeated by government.</p> |
| <p>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?</p>                             | <p>Applying a discount or waiver to residuals from resource recovery facilities attempts to address the economics of recycled materials/ products eliminating some of the costs associated, to make them more competitive with virgin products. WMRR strongly believes that making recycle economically competitive with virgin is important to reducing consumption of virgin.</p> <p>When this approach was implemented in Queensland, it also required recovery thresholds by the resource recovery/remanufacturing facilities to gain the exemption- these are no longer being enforced. WMRR queries</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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|                                                                                                                                                                                                                                                              | <p>whether other mechanisms (for example generator responsibility and design standards) could be more effective than establishing another administrative system requiring enforcement that may result in not supporting the preferred behaviour (increasing recovery and reducing residual being processed by these facilities). We do not support this approach as it may result in more waste passing through recycling/ recovery facilities.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>What factors would we need to consider when investigating standardisation of kerbside recycling bins and upgrades to material recovery facilities (MRFs)?</p> <p>What other approaches should we take to reduce contamination in recycling feedstock?</p> | <p>In order to harmonise kerbside bins, it will be necessary to standardise the products that are currently placed on the market. The 'yellow' kerbside bin has traditionally been used to recycle (non-hazardous) packaging from the home. In theory all yellow bins in NSW all accept paper, cardboard, glass, steel, aluminium and plastics 1-7 and all MRFs sort to single bales of these materials with the exception of glass, and some do mix grades of plastics. Bales of material must meet a quality (purity) threshold in order to be sold to a remanufacturer. However, the reality is that even after 26 years of a packaging covenant (APCO) the vast majority of packaging is made of more than one (1) material, sometimes these can be separated for example steel lid/ glass bottle, aluminium foil lid/ Polypropylene tub, however in many instances the packaging is multilayered or composite and cannot be separated into one bale.</p> <p>Materials such as soft plastics have increased in use over recent years, were not considered in council contracts. These contracts underpin MRFs by and large (given short term commercial contracts if at all and no requirement for separate recycling contracts). MRFs have traditionally been built to accept the items mentioned above and soft plastics are of low weight and act like paper. It cannot be processed through MRFs and runs a real chance of contaminating 50% of the MRF yield.</p> <p>The reality is until we have strong design rules that are enforced for packaging including designing out hazardous chemicals such as PFAS and requiring single stream packaging, we cannot expect to harmonise collections and processing. The enforceability of design rules would assist in removing contamination as it would assist in eliminating confusion at the bin as education could be clearer and given that in many cases the different materials contribute to contamination levels. For example, a water bottle has a paper label, HDPE lid and PET bottle. By weight in a PET bale the other materials reflect 10% and therefore would not meet export quality standards.</p> <p>Industry requires a mandated packaging product stewardship scheme that includes enforceable design rules (including recycled content minimum requirements) and financial penalties for not complying as well as requiring the use and buy back of local recycled materials in the making of packaging in Australia.</p> <p>To meet the 80% recovery targets by 2030, NSW should also look to require businesses (C+I) to implement a recycling service like what households do. We should be working to maximise resource recovery across the entire community and reduce our reliance on virgin.</p> |

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| What other actions should the Government take to improve investment in waste and resource recovery infrastructure and technology?                                                 | <p>Besides the items raised above, government should also commit to whole of government public procurement of recycled material to stimulate market demand for materials, similar to what we have seen in Victoria with Ecologi that has incorporate significant investment in recycled through the Victorian Big Build programme.</p> <p>Government should also look to require separation at source of recycling from commercial premises to grow investment infrastructure that can process these materials given the extremely low recovery rate of C+I.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>What products and materials should we prioritise for reuse and repair?</p> <p>What role can the NSW Government play in supporting the reuse and repair of these materials?</p> | <p>In the absence of granular data looking at product types and volumes in NSW we would advocate that it is important to focus on the materials/products that have the greatest impact (both via tonnes to divert from landfill and amount of carbon avoided). However before diving into materials NSW should establish a clear framework utilizing both the product stewardship head of power it used for CDS and the design rules that exist to establish a framework that includes design obligations (for re-use and repair and recycling). While working with Fair Trading to require right to repair in NSW in order that all these interventions become commonplace across all products placed on market in NSW.</p> <p>We would encourage 'buy back' contracts for all recycling contracts undertaken by state and local government, to purchase back the compost, glass and water bottles, street furniture, etc. products made from material collected from the entities recycling contract.</p> <p>Government procurements should incorporate 'avoidance' options, such as service as a model (as opposed to buy and own), opportunities to share (rather than cars in contracts we can carpool for example), and opportunities to reuse rather than refurbish buildings. There are great examples of policy and procurement guides in the EU (including Wales and Scotland) that have developed pathways to reduce both consumption and production.</p> |
| What characteristics of a product or material make it difficult to recycle? What interventions could we take upstream to improve product recyclability?                           | As mentioned above, poor design and poor material selection (hazardous chemicals and composite materials) are a real inhibitor to recovery. Australia needs to rapidly adopt EU Sustainable Design Obligations and generator responsibility obligations like we see under the EU waste directives to address this. This would also incorporate clear safety standards, like within the battery directives, and create financial support for infrastructure to recover and recycle. Australia needs to move away from treating waste as a negative externality that someone else down the supply chain will pick up, and rather see the value in material at the start of life and work to maintain and prolong this value.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 5. What other actions do you think the NSW Government could do to support the                                                                                                     | NSW needs to focus on the whole of life system and implement all the policies discussed in this paper including sustainable design, designing out chemicals and contaminants, generator responsibility (EPR/ polluter pays) government procurement, right to repair, systems for avoidance (share and                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

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| circular economy objectives of the waste levy?                   | repair), etc. We cannot expect to go circular by focusing on waste alone, in the absence of a clear framework for using less for longer.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Is there anything you would like to provide further feedback on? | <p>Asbestos and asbestos containing material are a public health risk and where effectively managed under respective regulatory frameworks, should be automatically exempt from a levy (that is, it cannot simply be claimed that material 'contains asbestoses for it to be exempt). Such an exemption will discourage illegal dumping and / or inappropriate stockpiling of this material. WMRR supports the <a href="#">Queensland</a> approach taken to this where lawfully managed and transported asbestos material is levy exempt.</p> <p>Materials arising from emergencies and natural disasters are often hazardous to public health and safety, and generally need to be removed and properly disposed of as soon as possible. Where a state of emergency or similar has been declared by appropriate authorities, waste arising from that event should be automatically exempt from a waste levy.</p> |

## Annexure B

WMRR undertook in 2023 a national review of levy deductions to determine a recommended approach to landfill levy exemptions nationally, noting that these are deductions proposed for both during the constructing and operating of a landfill site.

The criteria used to determine the recommended approach included:

1. Preserves scarce and valuable landfill space in an environment where landfills are reaching capacity and approval of new facilities or expansion of existing facilities can be difficult and time consuming.
2. Minimises the volume of waste buried in landfills in order to move higher up the waste hierarchy.
3. Promotes best practice landfill management and a consistent national approach.
4. Ensures accountability to regulators.
5. Facilitates compliance with applicable regulations and license conditions.
6. Encourages practical and feasible operational uses for waste.
7. Minimises the administrative burden on regulators and operators.
8. Facilitates timely approvals.
9. Protects public health; and
10. Facilitates timely and efficient assistance with disaster recovery and emergencies.

Exemptions from, as well as the dollar amount of, levies have the potential to affect transport of material between jurisdictions. This effect has not been considered in this study. After determining a recommended approach, the exemptions available in each Australian jurisdiction where a waste levy is applied were compared with it.

### National Recommended approach – operational use

The following approach is recommended regardless of whether a gate fee is charged for its acceptance at a landfill.

1. Waste used in landfill operations and construction must satisfy the same standards as virgin material used for the same purpose.
2. Landfill operations for the purpose of levy exemptions must include construction (internal haul roads, landfill cells, leachate systems, stormwater management systems, final capping, etc.) as well as daily cover, interim cover, and other day to day activities- a details list proposed to be exempted is at **Annexure C**.
3. Waste (material) that satisfies point 1 above and is used in landfill operations as described in point 2 above should be automatically exempt from a landfill waste levy.
4. The volume of waste (material) exempt for operational purposes should be able to be sufficient to comply with applicable regulations and licence conditions.
5. Actual usage of this material for landfill operational and construction purposes should be recorded clearly.
6. Records kept by landfills should be capable of proving how much, what, how, where and when waste was used for its operations.
7. Records are subject to regular audits by the regulator.
8. Additional waste and / or uses may be approved on a case-by-case basis.

### New South Wales (NSW)

Turning to NSW specifically, it was noted that NSW takes a quite challenging approach to these issues. For example, the definition of waste applied in NSW is fundamentally different to that in other jurisdictions. The former is more onerous, resulting in exemptions becoming even more essential to reduce unnecessary loss of scarce landfill airspace and a descent down the waste hierarchy. NSW includes virgin material imported for

landfill operations in its definition of waste. A comparison of the recommended approach with that adopted in NSW is as follows:

| Recommended approach                                                                                | New South Wales                                                                                                                                                   | Comment                                                                                                                                                              |
|-----------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Waste used in operations is the same standard as virgin material                                    | Virgin material is included in the definition of waste in NSW                                                                                                     | This makes exemptions even more important, particularly to allow compliance with environmental requirements                                                          |
| OPD exemptions to include:                                                                          |                                                                                                                                                                   |                                                                                                                                                                      |
| Constructing internal haul roads                                                                    | Exemption can be applied for, including some recycled material                                                                                                    | Exemption for recycled material is limited                                                                                                                           |
| Constructing landfill cells                                                                         | Exemption can be applied for, but quantities are insufficient                                                                                                     | Compacted clay liner thickness is restricted to a depth non-compliant with minimal environmental requirements, some recycled material is allowed for bedding layers. |
| Constructing leachate systems                                                                       | Exemption can be applied for                                                                                                                                      | Drainage layer thickness in this case allows for minimum environmental requirements                                                                                  |
| Constructing stormwater management systems                                                          | Exemption can be applied for                                                                                                                                      | Drainage layer thickness in this case allows for minimum environmental requirements                                                                                  |
| Final capping                                                                                       | Exemption can be applied for                                                                                                                                      | Allows for compliance with license conditions and includes recycled material                                                                                         |
| Daily cover                                                                                         | 10% exemption for VENM and 75% exemption for recovered fines-having a levy on daily cover is a disincentive to the environmentally sound operations of landfills. | Exemption to allow compliance with environmental requirements is recommended                                                                                         |
| Interim cover                                                                                       | Exemption can be applied for                                                                                                                                      |                                                                                                                                                                      |
| Other activities (please see extended list attached, landfill gas management system not all exempt) | No exemption                                                                                                                                                      | Exemption to allow compliance with environmental requirements is recommended                                                                                         |
| Appropriate waste is automatically exempt                                                           | Waste includes new material, and none is automatically exempt                                                                                                     | The possibility of retrospective approval provides some mitigation                                                                                                   |
| Actual usage reported monthly                                                                       | Not required                                                                                                                                                      | Survey results must be provided                                                                                                                                      |
| Appropriate records are required                                                                    | Required                                                                                                                                                          | The type, format, retention period etc. of records are specified                                                                                                     |
| Records are audited                                                                                 | Possible                                                                                                                                                          |                                                                                                                                                                      |
| Additional waste may be approved on application                                                     | Limited options                                                                                                                                                   |                                                                                                                                                                      |

|                                                      |                              |                                                                                                                               |
|------------------------------------------------------|------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| Appropriately certified asbestos containing material | Asbestos is not exempt       | Levying asbestos and asbestos containing material increases risks to public health by making illegal disposal more attractive |
| Properly declared natural disasters and emergencies* | Exemption can be applied for | Delays in disposal while waiting for approval may increase risks to public health and safety                                  |

A comparison of the recommended approach criteria with that operating in NSW is as follows:

| Criterion                              | NSW |
|----------------------------------------|-----|
| Preserves landfill space               | No  |
| Moves waste up the hierarchy           | No  |
| Ensures accountability                 | Yes |
| Facilitates environmental compliance   | No  |
| Encourages feasible uses of waste      | No  |
| Minimises administrative burden        | No  |
| Facilitates timely approvals           | No  |
| Protects public health                 | No  |
| Facilitates timely disaster assistance | No  |

## Annexure C

| Stage                                                                   | Materials Proposed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Comment                                                                                            |
|-------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| <b>Constructing internal haul roads</b>                                 | Wood mulch<br>Some recovered construction material<br>Other potential material that meets the engineering specifications and not introduce contaminant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Operator needs to maintain the record of quantity, quality and location of the material for audit. |
| <b>Constructing landfill cells and liner</b>                            | Select fill/general fill any imported fill used for shaping the cell geometry and peripheral bunds<br>Caly imported to be used as Clay liner and clay bunds to manage leachate<br>Geosynthetic material<br>Pipes for underliner drainage system<br>Aggregates for underliner drainage system<br>Soil to be used a cushion layer over and above liner<br>Shotcrete (including reinforcement) to prepare lining subgrade<br>Anchor trench backfills<br>Stabilised sand to be used in anchor trenches and subgrade preparation for lining<br>Filling concrete to fill voids, construction of anchor trenches or surface preparation for liners<br>Concrete pit for underliner drainage system<br>Mechanical and electrical equipment required for underliner drainage systems<br>Concrete well rings and shoring box used to provide temporary stability for excavations<br>HDPE manholes and chambers<br>Rockfall protection nets<br>Fill material to build retaining walls<br>Retaining walls facing elements<br>Geogrids for reinforced soil retaining wall<br>Drainage aggregates for draining the retaining walls<br>Separation/filtration geotextile used for separating drainage material from other fills<br>Bentonite powder for sealing purpose |                                                                                                    |
| <b>Constructing Leachate Collection, Extraction and Storage Systems</b> | Geosynthetic drainage material that meet the conductivity requirement<br>Leachate collection pipes<br>Drainage aggregate<br>Precast concrete elements for vertical leachate extraction risers<br>Precast concrete pits<br>Leachate collection pipes<br>HDPE manholes and chambers<br>Separation/filtration geotextile used for separating drainage material from other fills<br>Clay soil for pond liners                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Operator needs to maintain the record of quantity, quality and location of the material for audit. |

|                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                            |
|-----------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
|                                                                 | <p>Geosynthetics utilised for pond liners</p> <p>Geosynthetics used for underliner pond drainage</p> <p>Concrete to construct concrete seals and other intake and outtake structures including reinforcement</p> <p>Mechanical and electrical equipment required for transfer and storage of leachate</p>                                                                                                                                                                                                                                                                                                               |                                                                                            |
| <b>Constructing Stormwater Management System</b>                | <p>Geosynthetic drainage material that meet the drainage and separation requirement for stormwater management</p> <p>Gabion baskets</p> <p>Precast concrete drains</p> <p>Clay material to be used as the pond liner</p> <p>Geosynthetics to be used as pond liner</p> <p>Concrete to construct concrete seals and other intake and outtake structures including reinforcements</p> <p>Riprap</p> <p>Topsoil used for drains</p> <p>Pre-grown turf, hydro mulch and similar pre-grown vegetation to be used in drains</p> <p>Mechanical and electrical equipment for stormwater management</p>                          | Operator to obtain qualified/recognised (by EPA) 3rd party endorsement for the application |
| <b>Constructing Landfill Gas Collection and Disposal System</b> | <p>Aggregate for drainage and filtering</p> <p>All the gas pipes and other material used for the LFG extraction system and connection.</p> <p>Sealing material on the surface, e.g. bentonite</p> <p>Geosynthetic drainage material</p> <p>Precast concrete tank tanks and chambers for piping protection or condensate storage</p> <p>HDPE manholes and chambers</p> <p>Mechanical and electrical equipment for condensate and force main management</p>                                                                                                                                                               |                                                                                            |
| <b>Other activities</b>                                         | All the operational material for disaster waste landfilling                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                            |
| <b>Final capping</b>                                            | <p>Topsoil used for drains</p> <p>Pre-grown turf, hydro mulch and similar pre-grown vegetation to be used in capping</p> <p>Any exported fill material used as subsoil</p> <p>Clay imported to be used as clay liner and clay bunds to manage leachate</p> <p>Geosynthetic liner and drainage material</p> <p>Geogrids used for capping stability</p> <p>Drainage aggregate</p> <p>Separation/filtration geotextile used for separating drainage and riprap material from other fills</p> <p>Gabion baskets and infills aggregate</p> <p>Riprap</p> <p>Erosion control geosynthetics</p> <p>Artificial grass covers</p> |                                                                                            |

|                     |                                                                                                   |                                                                                             |
|---------------------|---------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| <b>Daily covers</b> | VENM imported as cover material<br>All approved ADC, including but not limited to recovered fine. | Operator to keep all the record of quantity, quality and location data for audit/reporting. |
|---------------------|---------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|