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NSW Environment Protection Agency
59-61 Goulburn Street
Sydney NSW 2000

25 July 2024

To whom it may concern:

Re: Review of the NSW waste levy: Issues paper

The Hunter Joint Organisation (Hunter JO) and its Member Councils welcome the recent invitation from the NSW Environment Protection Authority (NSW EPA) to review and provide feedback on the Review of the NSW Waste Levy Issues paper and look forward to actively collaborating with the EPA to better utilise the waste levy to achieve circular economy outcomes in NSW.

The Hunter Joint Organisation

The Hunter Joint Organisation is the statutory local government entity established by the NSW Government, through the *NSW Local Government Act 1993*, to support the Councils of the Hunter Region work together for better rural and regional outcomes, and to enhance the way local and state governments work together to plan and deliver important regional infrastructure and investment.

Member Councils of the Hunter JO include:

- Cessnock City Council
- Dungog Shire Council
- Lake Macquarie City Council
- Maitland City Council
- MidCoast Council
- Muswellbrook Shire Council
- City of Newcastle
- Port Stephens Council
- Singleton Council
- Upper Hunter Shire Council

The core statutory functions established by the NSW Government for the Hunter JO include:

1. **Strategic planning and priority setting** – to establish strategic regional priorities for the Joint Organisation area and to establish strategies and plans for delivering those priorities.
2. **Intergovernmental collaboration** - to identify and take up opportunities for inter-governmental cooperation on matters relating to the Joint Organisation area.
3. **Shared leadership and advocacy** - to provide regional leadership for the Joint Organisation area and to be an advocate for strategic regional priorities.

The ten Member Councils of the Hunter JO as well as the Central Coast Council (who are included in our voluntary regional waste group) support the policy aims of financially incentivising resource recovery in NSW, however, would like to see improvement in the NSW Government's approach to managing and administering the waste levy. The key barrier to increasing resource recovery rates in NSW is not the internal workings of the waste levy, but rather the lack of investment of waste levy revenue back into the required collection, processing and education systems that are needed to transform the current system to achieve far better circular economy outcomes.

In summary, Hunter JO member councils and Central Coast Council recommend:



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- All revenue generated by the waste levy be hypothecated to fund the significant and sustained level of investment required to drive the implementation of circular economy and local and regional waste management initiatives;
- Harmonisation of waste levy rates across state borders;
- Delegation for the prioritisation and expenditure of waste levy funds to regional place-based decision-making processes in order to adequately address the place-based nature of circular economy and resource recovery issues across NSW;
- Prior to full hypothecation of the waste levy, develop direct financial mechanisms to support councils to fund circular economy infrastructures and strategic initiatives such as a waste levy refund;
- Stronger advocacy for and coordination of mandatory product stewardship schemes;
- Prioritisation of funding and policy interventions for e-waste, solar panels, whitegoods, durable household items, textiles, plastics and tyres for reuse and repair initiatives in NSW (and harmonised nationally);
- Phase out hazardous and hard to recycle consumer goods such as PFAS, composite materials and embedded batteries;
- Streamline planning and approval processes and provide process flexibility to support circular economy innovation;
- Significantly increase the resourcing available for scaled up education, monitoring, and enforcement mechanisms to prevent and reduce illegal dumping activity in NSW;
- Undertake a complete review of Waste Levy Guidelines to remove requirements that currently create perverse resource recovery outcomes e.g. VENM material used for cover on site;
- Redesign the waste levy deduction processes to streamline and reduce resourcing burden on councils.

The position provided below is informed by council feedback as well as the insights gained through the Hunter JO's Circular Economy program work completed to date.

Should you have any further queries please don't hesitate to contact Eloise Lobsey, Program Lead – Circular Economy at the Hunter JO at eloisel@hunterjo.com.au or on 0448 160 800.

Yours Sincerely,

A handwritten signature in black ink that reads "SR Moore".

Cr Sue Moore

Chair Hunter JO



Issue 1: Increasing resource recovery rates in NSW

To increase resource recovery rates and support the circular economy, several key strategies have been identified to compliment waste levy reforms:

- Through harmonising waste levy rates across state borders more consistent and equitable systems can be created, encouraging more uniform practices across the country;
- Streamlining planning and approval processes, along with providing process flexibility, will foster innovation in the circular economy;
- Developing direct financial mechanisms, such as a waste levy refund to provide immediate support to councils, enables them to invest in necessary infrastructure and strategic initiatives.

These measures are crucial for addressing the urgent need for investment to upgrade waste systems in order to move toward more circular and sustainable waste management practices.

Thanks to work undertaken by SSROC, we can clearly see that the reinvestment of the waste levy into the waste industry is much lower than other states, as shown in the box below. This has, and will continue to (if reinvestment reforms are not forthcoming) create legacy waste and emissions issues across the state.

In 2018-19, NSW reinvested only 11.5% of Waste Levy revenue into the sector versus:

- 66% in Victoria applied to EPA/Sustainability Victoria or other bodies,
- 50% in South Australia allocated to the Green Industry Fund,
- 70% in QLD,
- 25% in WA,
- 100% in TAS
- Neighbouring countries like New Zealand achieve 100% reinvestment of their Waste Levy comprised of 50% allocated to councils, 50% allocated to Ministry of the Environment.

Source: SSROC's *Legislative and Regulatory Reforms for Achieving a Circular Economy September (2020)*

The comparatively low levels of waste levy funding being reinvested back into the sector, particularly to local government who hold statutory responsibilities to deliver waste services, does not provide the necessary financial support to improve resource recovery and circular economy outcomes in NSW.

Since its establishment, the proportion of funds returned to councils from the Waste Levy over time has changed significantly, with less and less funding being proportionately reinvested directly back into local communities. In the Hunter Region alone, during the 2022/23 financial year, around \$70 million in waste levy contributions were collected and provided to the NSW Government, however only around \$1.2 million of this has been returned to Councils to fund resource recovery projects. This is symptomatic of a broader trend over the past decade where the proportion of waste levy funds returned to local communities (both in real and percentage terms) has been declining, despite substantial increases in the amount of revenue collected (refer Attachment 1). Across the ten Hunter JO Member Council areas this trend includes:

- Total funding collected by the waste levy has increased from \$29.7M (2011/12) to \$71.4M in (2021/22).
- The proportion of funding returned to Councils has decreased from 9.9% of total waste levy collected in 2011/12, to 3.04% in 2021/22.



- The total value of funding returned to Councils has decreased from \$2.95M in 2011/12 to \$2.17M in 2021/22.

The loss of these funds from the region's communities, from whom it was collected, represents a considerable level of investment that could otherwise be utilised to prioritise and strategically invest in circular economy and waste management initiatives in the Hunter, as a key driver of the region's new jobs, economic growth and sustainability.

In the interim prior to full hypothecation of the waste levy, the Hunter JO recommends the NSW Government develop direct financial mechanisms to support councils to fund circular economy infrastructure and strategic initiatives, such as a waste levy refund. Investment is required now to urgently build the sectors capacity to deal with current and future circular economy challenges and policy objectives (such as 80% diversion target).

Recommendation: That:

- **All revenue generated by the waste levy be hypothecated to fund the significant and sustained level of investment required to drive the implementation of circular economy and local and regional waste management initiatives**
- **Delegation for the prioritisation and expenditure of waste levy funds to regional place-based decision-making processes in order to adequately address the place-based nature of circular economy and resource recovery issues across NSW**
- **Prior to full hypothecation of the waste levy, develop direct financial mechanisms to support councils to fund circular economy infrastructures and strategic initiatives such as through a waste levy refund**

1.1 Waste Levy Area Boundaries

Appropriate measures to consider in examining levy area boundaries should include appropriate measures of remoteness, distance from recycling facilities, population size and specific recycling options available. It should also consider the percentage of bushland in an LGA, given that these areas are often prone to more illegal dumping activity.

The critical way to support existing and any new levy paying areas is by 100% hypothecation of waste levy funds back to the locations where they were raised. In this way, councils will be better able to afford capital upgrades and maintenance of existing waste facilities, and to allocate funds for new waste management landfill or diversion facilities. This is the only way that the intention of the waste levy can be realised.

If levy boundaries are expanded, then slow phase-in periods can assist new levy-paying areas to adjust to the new conditions.

1.2 Waste Levy Rates

Increasing waste levy rates above inflation will have a detrimental impact on smaller regional councils, in particular. This is due to the fact that for many small regional communities there are simply no realistic options for further resource recovery activities or facilities. Distance to existing resource recovery facilities and the associated transportation costs should be a key factor in determining regional waste levy rates. For example, in the Upper Hunter Shire more than \$1million is paid per annum in waste levies, which has a significant impact on the local economy, without the financial ability to access resource recovery processes and services, nor the capital funds to provide improved infrastructure locally. All funds collected from the waste levy should be returned directly into the waste sector to help build



resource recovery processing facilities where gaps exist, thereby increasing the chance of diversion from landfill.

A schedule for future levy rates should be set at a minimum of five years in order to provide greater certainty for decision-making. The current practice of making next year's levy rate known in May/June means that most councils have already set their budgets for the coming financial year and are unable to make any change to accommodate the increase. Large increases in the order of approx. 8% cannot be absorbed by local government in one year without significant flow on impacts.

Issue 2: Creating a level playing field

2.1 Reducing Opportunities for Illegal Activity

Significant increase the resourcing available for scaled up education, monitoring, and enforcement mechanisms are needed to meaningfully prevent and reduce illegal dumping activity in NSW, and should be fully funded by the Waste Levy.

The best way to prevent the illegal dumping of waste is to significantly increase the level of resources available for prevention activities. Such as a dedicated state-based workforce (employed directly by the NSW EPA) to undertake the full range of prevention (including communications and community education), compliance and enforcement activities. Currently, councils are unable to fund adequate staffing levels from within their own budgets, and many are opting for generalised investigations and enforcement staff to cover all compliance matters. In addition, it is becoming increasingly difficult to recruit and retain qualified staff due to the short-term nature of contracts and grant funding. This is leading to a cumulative dilution of local efforts to combat illegal dumping

The experience of some Hunter councils suggests that it is very difficult to determine exactly where waste materials bound for landfill have originated, despite the fact that they may have policies in place of not accepting waste that has come from outside their local government area. Some businesses are happy to transport their waste large distances if there is a financial incentive, for example lower waste levy fees. Similarly, it is often difficult to determine where illegally dumped waste material has originated.

Any avoidance of lawful disposal costs adds an additional cost burden to councils. Without specific action from the NSW Government to return a higher percentage of waste levies collected back to councils, this heavy cost burden on local communities will continue and ultimately reduce general service provision due to lack of resources. Communities with large bushland areas within their boundaries will continue to suffer from higher rates of illegal dumping activity, due to access difficulties and higher costs associated with monitoring and enforcement of these areas.

A further suggestion is to better track waste from large-scale projects. This would have the benefit of determining exactly where waste has originated.

In NSW, the recent introduction of significantly higher fines and penalties for both individuals and corporations found to have participated in illegal dumping activities is welcomed by Hunter councils and should act to deter some rogue operators from committing these offences.

2.2 Waste Levy Exemptions and Concessional Levy Rates

Hunter and Central Coast councils support a complete review of Waste Levy Guidelines to remove requirements that currently create adverse resource recovery outcomes. For example, all virgin excavated natural material (VENM) for daily, intermediate and/or final cover on landfills should be exempt from the



waste levy given that this practice is required in order to comply with regulations. Currently, some councils find that it is cheaper to buy virgin material from a quarry and claim the levy deduction than to use a recycled material, as the recycled material is not exempt. In addition, virgin clay for future works should be levy-free (if it is approved VENM and has the right properties for a capping clay).

It is not logical to impose the waste levy on material that is being recycled for roads on a landfill site such as in the case of road millings or crushed concrete. The aim should be for councils to be able to use as much recycled material as possible on these sites, hence contributing to circular economy outcomes.

Exemptions for the disposal of illegal dumping, street sweeping and litter management should also be enabled as part of this review. These relate to services councils manage where there is no direct correlation between the waste generator and the levy payer, therefore no clear rationale for its inclusion. The levy cannot act as an incentive for recycling for these products because there are no viable recovery pathways available. This places councils in a difficult situation - they cannot use the Domestic Waste Management Charge (DWMC) to manage litter, dumping or public place recycling, and there is no longer any non-contestable funding available to councils (such as the Better Waste and Recycling Fund) to fund such initiatives. Without levy relief, these costs force council staff to reduce actions in other areas, such as prevention, education and enforcement, particularly in Crown- or State-owned bushland, thereby undermining NSW Government objectives.

Levy exemptions should also be considered for disposal of dredging material from stormwater treatment devices, such as gross pollutant traps and stormwater treatment facilities. Dredgings and spoils from these devices can be beneficially reused as cover in licensed waste facilities, though since November 2022 have been eligible for the Waste Levy. These cost increases threaten maintenance programs for stormwater quality infrastructure and water sensitive urban design programs, and potentially lead to increased sedimentation and pollution in the marine ecology and water quality.

For example, Lake Macquarie City Council (LMCC) pays \$744,000 per year in waste levy fees for disposal of stormwater treatment material. These costs are in addition to the \$1.2 million spent annually on maintaining councils 462 gross pollutant traps, which prevent around 4,800 tonnes of sediment and pollution from entering the lake and waterways in the LGA. This cost increase threatens LMCC's maintenance programs for stormwater quality infrastructure, potentially leading to increased pollution in the NSW marine estate.

Recommendation: A waste levy exemption category should be created for materials reused by councils onsite at landfills or other council sites. This should include material collected through council managed illegal dumping, street sweeping and stormwater management systems and services.

2.3 Waste Levy Deductions and Reducing Administrative Burdens

Hunter and Central Coast councils consider that the current waste levy deduction framework relies upon an overly complex administrative process. This deters some councils from seeking genuine deductions due to the time required to claim simple operational deductions such as road construction materials. For example, there is too much administration required to make a straightforward deduction such as moisture loss.

Streamlining Waste Levy deduction requirements and processes could consider:



- Simplifying documentation and reporting requirements for deductions that apply to operational materials;
- Implementing a centralised digital platform for submitting and processing levy deductions;
- Providing clear guidelines and training for facility operators on how to comply with levy deduction processes;
- Establishing a dedicated support team to assist with queries and resolve issues related to levy deductions promptly.

Recommendation: The NSW Government redesign the waste levy deduction processes to streamline and reduce resourcing burden on councils.

Issue 3: Amplifying Circular Economy Outcomes

While there exists substantial and increasingly strong alignment in the policy directions of Local, State and Commonwealth Governments to the approaches needed to drive the transition to a circular economy, current government funding and investment frameworks to support this change are not effective in driving the step-wise and sustained change in systems and investment that is needed.

Key challenges in this regard include:

- Local Councils, working either individually or at regional scales to drive this change are largely reliant on competitive based grant programs delivered through the NSW EPA. While these programs provide assistance, they are neither strategic enough nor adequate in their level of funding to facilitate the strategic and sustained planning and investment that will be required over longer-term planning and investment cycles. This is in contrast to significant declining return of levy funds to councils as shown at Attachment 1. For example, while the Hunter JO has developed a Regional Circular Materials Strategy for the Hunter and Central Coast, produced at the direction of the NSW EPA, there exists no sustained or core pipeline of funding to deliver on the priorities it identifies.
- Transitioning to a circular economy is complex. A collaborative and intergovernmental approach to structural and systems change across all levels of government and industry will be central to achieving the transformation to circularity that is required. Regions provide the most appropriate scale for the collaboration and action needed to successfully achieve this objective. However, investment in regional scale, multi partner collaboration, strategic planning, business case analysis and sustained facilitation of the circular economy ecosystem is currently limited compared to the scale of activity that is needed to drive the change necessary.
- Councils continue to face significant challenges from ever changing consumer behaviours, changes to legislative and policy settings, and increasing levels of waste generation. Local government needs support, critically from State Government, to plan and deliver the services that have been mandated. While the Hunter region has been working innovatively in this space, Councils are finding it increasingly challenging to adapt. In the absence of considerable funding and support from other levels of government, Local Government will not be able to achieve established waste reduction targets.

Recommendation:

- **All revenue generated by the waste levy be hypothecated to fund the significant and sustained level of investment required to drive the implementation of circular economy and local and regional waste management initiatives**



- **Delegation for the prioritisation and expenditure of waste levy funds to regional place-based decision-making processes in order to adequately address the place-based nature of circular economy and resource recovery issues across NSW**
- **Prior to full hypothecation of the waste levy, develop direct financial mechanisms to support councils to fund circular economy infrastructures and strategic initiatives such as through a waste levy refund**

3.1 Waste Levy and Resource Recovery Infrastructure and Technology

Waste management and resource recovery infrastructure should be classified as an essential service, with the NSW Government responsible for undertaking and enabling its strategic planning and infrastructure delivery.

Significant reinvestment of waste levy revenue into the sector (as happens in other Australian state and territories) could enable significant upgrades to collection and processing infrastructure in NSW to unlock circular economy outcomes. For example, investment of waste levy revenue could be used to fund the exploration of strategic sites across NSW for circular economy hubs and precincts, whereby collocation of industry and resource recovery infrastructure can create symbiotic circular outcomes. International and local experience would suggest that there is a need for government-led involvement in enabling establishment and facilitating collaboration between organisations.

The Department of Planning, Housing and Infrastructure must also have a leading role in strategic planning for circular economy precincts.

3.2 Complementary Actions for Hard-To-Recycle Products and Materials

The phasing out hazardous and hard to recycle consumer goods (such as PFAS, composite materials and embedded batteries) through incentivising treatments, markets, product stewardship schemes and landfill bans should be considered and enacted as a matter of urgency.

Levy investment in onshore reuse, repair and remanufacturing capability across the state at meso and macro levels is required. State-led research and development for products and markets as well as advocacy for enabling legislation such as right-to-repair, should also be prioritised.

The introduction of landfill bans for valuable material streams should also be considered where at scale and accessible reuse and recycling pathways exist. Where they do not exist, the State government should prioritise investment of levy funds to plugging those gaps. For example, e-waste, solar panels, whitegoods, durable household items, textiles, plastics and tyres.



Attachment 2. Decline in waste levy funds collected in the Hunter Region (2011 - 2022)

