



**The Hon Gabrielle Upton MP**  
Minister for the Environment  
Minister for Local Government  
Minister for Heritage



DOC18/603569

Mr David Blunt  
Clerk of the Parliaments  
Parliament House  
Macquarie Street  
SYDNEY NSW 2001

Dear Mr Blunt *David*

Please find attached the Government's response to the Legislative Council Energy from Waste Technology Inquiry.

I request that this be tabled in Parliament at your earliest convenience.

If you have any queries, please contact Kevin Wilde my Chief of Staff on 8574 6111 or at [kevin.wilde@minister.nsw.gov.au](mailto:kevin.wilde@minister.nsw.gov.au).

Yours sincerely

**Gabrielle Upton MP**  
Minister for the Environment  
Minister for Local Government  
Minister for Heritage

*17.9.18*

Enclosure Attachment A Government response to the Upper House Enquiry into Energy from Waste Technology



NSW GOVERNMENT RESPONSE TO THE RECOMMENDATIONS FROM THE “ENERGY FROM WASTE TECHNOLOGY” PARLIAMENTARY INQUIRY

NSW Government Response	
No.	Recommendation
1	<p>That the NSW Government ensure that all funds allocated to the Waste Less, Recycle More program be spent in accordance with the program.</p>
	<p><b>Supported.</b></p> <p>The NSW Government has made a \$802 million investment into <i>Waste Less, Recycle More</i> (WLRM) to deliver waste and recycling services to the community to ensure a clean environment. It is the largest waste and recycling funding program in Australia, and provides funding for business recycling, organics collections, market development, managing problem wastes, new waste infrastructure, local councils and programs to tackle illegal dumping and litter.</p>
2	<p>That the NSW Environment Protection Authority undertake an audit of the Waste Less, Recycle More program to ensure that the funds are fully expended to meet the objectives of the program.</p>
	<p><b>Supported.</b></p> <p><i>Waste Less, Recycle More</i> programs are regularly and independently evaluated, to confirm that program funds are expended to meet the objective of the program.</p>
3	<p>That the NSW Government reclassify Shoalhaven City Council from the Metropolitan Levy Area to either the Regional Levy Area or the unregulated area.</p>
	<p><b>Noted.</b></p>
4	<p>That NSW Government hypothecate 100 per cent of the waste levy funds contributed by local councils back to these organisations to provide waste management services, including waste reduction, avoidance and re-use programs, and environmental programs and to encourage the development of innovative waste management technology.</p>
	<p><b>Noted.</b></p> <p>The waste levy directly funds the \$802 million <i>Waste Less, Recycle More</i> initiative. Under the initiative, local governments are eligible for both contestable and non-contestable funding through a number of grant streams.</p>
5	<p>That the NSW Government investigate opportunities to hypothecate a proportion of waste levy funds contributed by the waste industry back to the industry to support waste management solutions and the development of innovative waste management technology</p>
	<p><b>Noted.</b></p> <p>The waste levy directly funds the \$802 million <i>Waste Less, Recycle More</i> initiative. Under the initiative, Industry is eligible to apply for contestable funding through a number of grant streams.</p>



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No. Recommendation	NSW Government Response
<p><b>6</b> That the NSW Government urgently consider attaching the waste levy to the waste generator in New South Wales, particularly for large waste generators or operators of large sites.</p>	<p><b>Noted.</b></p>
<p><b>7</b> That the NSW Government investigate options for reforming the waste levy grant system, including providing greater flexibility in the grant guidelines for waste management projects.</p>	<p><b>Noted.</b></p> <p>The Government continuously reviews grant guidelines to ensure the stated objectives and governance standards are met.</p>
<p><b>8</b> That the NSW Government amend the Protection of the Environment Operations Legislation Amendment (Waste) Regulation 2017 to make it an offence to exhume waste from landfill sites.</p>	<p><b>Noted.</b></p> <p>The EPA undertook public consultation in 2016 and in 2017 on a proposal to make it an offence to exhume waste from landfill sites and the Government is considering the feedback. A number of environment protection licences have already been varied to ban exhumation of waste from landfill sites.</p>
<p><b>9</b> That the NSW Government allocate additional resources to support the policing of illegal dumping.</p>	<p><b>Noted.</b></p> <p>The NSW Government has allocated \$65 million dollars over four years to tackle illegal dumping. These funds support the EPA to take strategic regulatory action, roll out targeted awareness campaigns, and fund the clean-up and prevention of illegal dumping through grants and partnerships including the Regional Illegal Dumping (RID) Squads.</p>
<p><b>10</b> That the NSW Environment Protection Authority strengthen its liaison with NSW Police when it comes to illegal activity in the waste sector, with formal protocols made public, and specifying the channels through which this liaison occurs.</p>	<p><b>Supported.</b></p> <p>The NSW EPA has established a Memorandum of Understanding between the EPA and the NSW Police, and the EPA has established an internal Waste Crimes Taskforce.</p> <p>The EPA Waste Crimes Taskforce and the Waste and Resource Recovery Branch continues to work closely with the NSW Police.</p>



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No.	Recommendation	NSW Government Response
11	That the NSW Government allocate additional resources to, and expand the number of, Regional Illegal Dumping (RID) squads.	<p><b>Noted.</b></p> <p>Under the <i>Waste Less, Recycle More</i> initiative \$9 million has been committed to the existing Regional Illegal Dumping (RID) squads and programs to 2021.</p>
12	That the NSW Environment Protection Authority immediately increase the use of vehicle trackers and other surveillance techniques, including drones, to prevent illegal dumping.	<p><b>Noted.</b></p> <p>The EPA has existing powers under the Protection of the Environment Operations Act (1997) to use various surveillance techniques and place GPS trackers on vehicles, and has successfully used trackers to deter and combat illegal activity in the waste industry.</p>
13	That the NSW Government allocate additional resources to support the enhanced use of vehicle trackers in the waste industry.	<p><b>Noted.</b></p> <p>See recommendation 12.</p>
14	That the NSW Environment Protection Authority: <ul style="list-style-type: none"> <li>• develop and implement a state-wide approach to ending the interstate transportation of waste</li> <li>• pursue a national approach to addressing the interstate transportation of waste in collaboration with its counterparts in other jurisdictions.</li> </ul>	<p><b>Supported.</b></p> <p>The NSW Government supports a national approach to address the impacts of unnecessary long-haul transport of waste.</p>



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15	<p>That the NSW Environment Protection Authority provide more detailed information concerning the emissions regime for energy from waste facilities, including explicit reference to international best practice standards, in the Energy Recovery Facility Guidelines.</p>
	<p><b>Noted.</b></p> <p>The emission regime requirements would be supported by EPL conditions from a compliance perspective.</p> <p>Environment protection licences (EPLs) are a central means to control the localised, cumulative and acute impacts of pollution in NSW. The POEO Act contains a list of activities that require an environment protection licence. These are listed in Schedule 1 of the POEO Act.</p>
16	<p>That the NSW Environment Protection Authority set licensing conditions that meet current international best practice for emissions standards, and that licensing conditions be drafted so as to incorporate any future improvements in emissions standards.</p>
	<p><b>Noted.</b></p> <p>When setting environment protection licence conditions and emission limits for a new or expanded industrial source, the EPA ensures that:</p> <ul style="list-style-type: none"> <li>• Emission limits reflect reasonably available technology and good environmental practice</li> <li>• Emission limits reflect proper and efficient operation</li> <li>• Emission limits protect the health and amenity of the surrounding community.</li> </ul>



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17	<p>That the NSW Environment Protection Authority set out the expected community engagement practices and outcomes a proponent must comply with to receive the necessary approvals and community support to operate an energy from waste facility in the Energy Recovery Facility Guidelines.</p>	<p><b>Noted.</b></p> <p>In the EPA’s NSW Energy from Waste Policy Statement, proponents should engage in a genuine dialogue with the community from the concept development stage to the detailed development assessment stage.</p> <p>The Department of Planning and Environment (DPE) is developing guidance for State significant projects on community and stakeholder engagement during the environmental impact assessment process, including prior to lodging a development application. Once finalised, this guidance will be a useful resource for energy from waste projects that are State significant development. Draft guidance is available on the Department’s website.</p>
18	<p>That the NSW Department of Planning and Environment require applicants for energy from waste facilities to provide a short, high-level summary of the Environmental Impact Statement, and that this document be published on the department’s website, in addition to the full Environmental Impact Statement.</p>	<p><b>Noted.</b></p> <p>The Department of Planning and Environment (DPE) is currently reviewing environmental impact assessment in New South Wales, and looking for opportunities to improve the process.</p>



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No.	Recommendation	NSW Government Response
19	<p>That the NSW Government establish an expert advisory body on energy from waste chaired by the Chief Scientist to examine and report on the energy from waste regulatory framework to create certainty for the market and communities, with particular reference to:</p> <ul style="list-style-type: none"> <li>• (1) changes required to the Energy from Waste Recovery Guidelines to guarantee that New South Wales uses only world’s best practices in emissions, emissions monitoring and residual waste disposal</li> <li>• (2) consent conditions required in any planning approval to guarantee that New South Wales uses only world’s best practices in emissions, emissions monitoring and residual waste disposal</li> <li>• (3) the impact of energy from waste on human health</li> </ul>	<p><b>Noted.</b></p>
20	<p>That, subject to the current assessment process being conducted by the NSW Department of Planning and Environment, the NSW Government not approve the energy from waste facility proposed by The Next Generation at Eastern Creek.</p>	<p><b>Noted.</b> On 19 July 2018, the Independent Planning Commission refused development consent for this project.</p>
21	<p>That the NSW Government investigate options to restructure the NSW Environment Protection Authority so it can improve its performance.</p>	<p><b>Noted.</b> The NSW Government seeks to continually improve the way the EPA performs.</p>



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No.	Recommendation	NSW Government Response
22	<p>That the NSW Government conduct an independent review into the NSW Environment Protection Authority, with particular reference to:</p> <ul style="list-style-type: none"> <li>• assessing the adequacy of funding for the performance of its compliance, enforcement and other roles</li> <li>• improving its community engagement role and the effectiveness of its enforcement and compliance roles</li> <li>• the perceived conflict of interest between its compliance and policy and education roles.</li> </ul>	<p><b>Noted.</b> The NSW Government seeks to continually improve the way the EPA performs.</p>
23	<p>That the NSW Government seek to amend the Protection of the Environment Administration Act 1991 to provide for the appointment of a chairperson of the board independent of the Chief Executive Officer of the NSW Environment Protection Authority.</p>	<p><b>Noted.</b> The NSW Government seeks to continually improve the way the EPA performs.</p>
24	<p>That the NSW Government allocate additional resources to the NSW Environment Protection Authority to conduct investigations into large-scale illegal dumping activities.</p>	<p><b>Noted.</b> The Government has allocated \$65 million over 4 years to tackle illegal dumping as outlined in the Illegal Dumping Strategy 2017-2021.</p>
25	<p>That the NSW Government introduce a ‘fit and proper person’ test for proprietors and company directors to assess whether individuals may work in the waste industry, incorporating a risk assessment based on a sliding scale.</p>	<p><b>Noted.</b> The <i>Protection of the Environment Operations Act 1997</i> already contains a fit and proper person test, that is a consideration in assessing an Environment Protection Licence application, including for waste related facilities.</p>
26	<p>That the NSW Environment Protection Authority complete the draft protocol on calculating the quantum of the monetary benefit of illegal dumping and illegal landfilling as soon as practicable</p>	<p><b>Noted.</b></p>



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No.	Recommendation	NSW Government Response
27	That the NSW Government establish an independent inquiry to investigate the operation, regulation and approvals of the Mangrove Mountain Landfill site.	<p><b>Noted.</b></p> <p>The site is regulated through a Development Consent and an Environment Protection Licence. The Development Consent provides the approval for the activity and the Environment Protection Licence sets the operational controls. The landfill has not received waste since 2014 and this matter is now before the Land and Environment Court to determine.</p>
28	That the NSW Environment Protection Authority regularly publish up-to-date waste data.	<p><b>Noted.</b></p> <p>The NSW Government publishes a range of waste data, including Local Council Data Reports and the Waste and Resource Recovery Strategy Progress Reports, and is committed to improving the accessibility and timeliness of waste data published.</p>
29	That the NSW Environment Protection Authority Waste and Resource Recovery Infrastructure Strategy provide guidance on matters including: <ul style="list-style-type: none"> <li>• (1) identifying appropriate precincts and locations, including buffer zones, for waste facilities</li> <li>• (2) facilitating new infrastructure, particularly alternative waste management options and energy from waste plants</li> <li>• (3) enabling the circular economy, including waste generator education, product stewardship, waste levies, market support initiatives and avoidance, reduction and re-use support subsidies</li> <li>• (4) creating ‘real markets’ for secondary materials from waste.</li> </ul>	<p><b>Noted.</b></p> <p>The Greater Sydney Commission’s district plans include principles and actions relating to waste management. The NSW Government will continue to work with local government, industry and the community to achieve these strategic outcomes.</p> <p>At the 7th Meeting of Environment Minister, the NSW Government committed to supporting the development of a national circular economy policy.</p> <p>In March 2018 the NSW Government also publicly announced a commitment to develop a NSW specific circular economy policy.</p> <p>The Inter-Governmental Taskforce established by the NSW Government in response to China’s National Sword policy is conducting rigorous economic modelling of a range of potential long-term solutions. These include strengthening local capacity to improve the quality and marketability of recycled materials and expanding domestic markets for these materials.</p>



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NSW Government Response	
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30	<p>That the NSW Government investigate opportunities to enhance the collaborative powers of Regional Organisations of Councils to encourage investment in waste facilities, to be funded by the waste levy.</p>
	<p><b>Supported.</b></p> <p>The NSW Government has enabled the establishment of networks of voluntary partnerships between councils, and Joint Organisations, to enhance their collaborative powers. Joint Organisations were established to support improved collaboration, planning, priority setting and delivery of projects on a regional scale, including investment in waste facilities.</p> <p>Joint Organisations provide a structured and effective way for regional councils, State agencies and other interested groups to collaborate on short and long-term projects, such as investment in waste facilities.</p>
31	<p>That the NSW Government identify a government body, either an existing department or agency or a newly-created body, responsible for leading waste management infrastructure planning in New South Wales, including:</p> <ul style="list-style-type: none"> <li>• leading the development of a waste management infrastructure plan for metropolitan Sydney, in collaboration with local government</li> <li>• identifying and zoning land, including buffer zones, for waste management facilities, in collaboration with the NSW Department of Planning and Environment and other stakeholders such as local councils</li> <li>• leading the development of a waste management infrastructure State Environmental Planning Policy, in collaboration with the NSW Department of Planning and Environment.</li> </ul>
	<p><b>Noted.</b></p> <p>The Department of Planning and Environment is the government body responsible for leading waste management infrastructure planning in NSW.</p> <p>The State Environmental Planning Policy (Infrastructure) 2007 already prescribes zones where waste and resource management facilities are permissible.</p>
32	<p>That the NSW Environment Protection Authority develop and implement resource recovery criteria for landfills in New South Wales.</p>
	<p><b>Noted.</b></p> <p>As part of the Government's response to China National Sword impacts, the Government has agreed to develop a NSW specific circular economy policy. The development of the policy will investigate a range of initiatives, including resource recovery criteria for landfills.</p>



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No.	Recommendation	NSW Government Response
33	<p>That the NSW Environment Protection Authority provide additional support to local councils and resource recovery organisations to meet recycling targets and manage issues such as stream contamination, bureaucratic barriers, lack of product stewardship, and limited market opportunities.</p>	<p><b>Supported.</b></p> <p>In March 2018 the NSW Government has announced a \$47million support package to assist local councils and industry to respond to the impacts of China’s National Sword policy and maintaining kerbside recycling services.</p> <p>The NSW Government has also established an inter-governmental taskforce to urgently progress a longer-term response to strengthen local recycling in partnership with industry and councils.</p> <p>The taskforce will examine the need and options for longer term funding solutions.</p> <p>In the interim, the NSW Government is working closely with councils and resource recovery organisations to provide other forms of support to ensure continued kerbside recycling collections. This includes considering applications to temporarily increase stockpile limits, and making support available to councils and the NSW Container Deposit Scheme refund sharing agreements with resource recovery organisations.</p>
34	<p>That the NSW Environment Protection Authority urgently investigate, identify and implement alternative solutions to the ban on the importation of recyclable plastics by China.</p>	<p><b>Supported.</b></p> <p>See answer 33.</p>
35	<p>That the NSW Environment Protection Authority, in collaboration with stakeholders, investigate opportunities to embed zero waste strategies and the circular economy in New South Wales.</p>	<p><b>Supported.</b></p> <p>In March 2018, the NSW Government announced a commitment to develop a NSW specific circular economy policy and at the 7th Meeting of Environment Ministers the NSW Government committed to supporting the development of a national circular economy policy and will work with the Australian Government and other states and territories to develop national circular economy principles.</p>



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36	That the NSW Government allocate additional resources to the NSW Environment Protection Authority to develop and implement Extended Producer Responsibility schemes.	<p><b>Supported.</b></p> <p>NSW continues to support Extended Producer Responsibility (EPR) schemes/product stewardship at the national level and is active in supporting initiatives being coordinated by the Australian Packaging Covenant Organisation and a variety of product stewardship schemes like the National Television and Computer Recycling Scheme.</p>

Supported
Noted



