

# Chapter 4

## Waste levies

4.1 Waste levies are a financial contribution required to be paid by licensed waste facilities for each tonne of waste received at the facility. Waste levies are intended to encourage the diversion of waste from landfill to recycling.

4.2 This chapter examines the evidence received relating to issues arising from the implementation of waste levy schemes. This includes issues such as how the harmonisation of levies across jurisdictions could help address the inter-jurisdictional transportation of waste, and the hypothecation of levies for waste management programs.

### Overview

4.3 Waste levies are imposed in New South Wales, Victoria, South Australia, Western Australia and the ACT. In Tasmania, the waste levy is voluntary. Currently, there is no waste levy in Queensland<sup>1</sup> and the Northern Territory. Levies vary between states as well as within jurisdictions according to the type of material being sent to landfill. An overview of the different levies applied by the states and territories is below.<sup>2</sup>

- *Australian Capital Territory*<sup>3</sup>
  - Municipal solid waste (MSW) costs \$90.55 per tonne to dispose of at landfill.
  - Construction and industrial (C&I) costs \$146.20 per tonne to dispose of at landfill.
  - Mixed C&I waste with less than 50 per cent recyclable material costs \$199.20 per tonne to dispose of at landfill.
- *New South Wales*<sup>4</sup>
  - A waste levy of \$138.20 per tonne applies in metropolitan areas and \$79.60 per tonne in regional areas.

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1 As discussed below, there is a proposal to introduce a waste levy in Queensland.

2 Except where otherwise indicated, this overview is based on the detailed table of state and territory landfill levies as at October 2017 contained in the WMAA's submission. See Waste Management Association, *Submission 52*, pp. 8–10.

3 These are 'landfill gate fees' rather than levies as the ACT Government owns the landfill and sets the fees. However, these fees operate in the same manner as waste levies and share the objective of diverting material to recycling.

4 <https://www.epa.nsw.gov.au/your-environment/waste/waste-levy>

- A range of levy rates are in place for particular materials, such as virgin extracted natural material, shredder floc, trackable liquid waste, and coal washery rejects.
- *Queensland*
  - A landfill levy of \$35 per tonne for construction and demolition (C&D) waste, commercial and industrial (C&I) waste, and contaminated soil was introduced in 2011 and removed in 2012. In March 2018, the Queensland Government announced that it will be reintroducing the waste levy.<sup>5</sup>
  - In June 2018, the Queensland Government released a Directions Paper 'Transforming Queensland's Recycling and Waste Industry' detailing the proposed waste levy. The paper details that the waste levy will apply to a designated levy zone which includes 38 of the 77 local government areas in Queensland and will be applied at rates of between \$100 and \$150 per tonne for regulated waste, and \$70 per tonne for C&I, C&D and MSW.<sup>6</sup>
- *South Australia*
  - A metropolitan levy of \$87 per tonne and a non-metropolitan levy of \$38 per tonne are in place. Discounted levy rates apply for materials such as asbestos and shredder floc.
- *Western Australia*
  - A waste levy of \$65 per tonne for putrescible waste and \$90 per cubic metre for inert waste applies to waste generated in the Perth metropolitan region which is disposed in either landfill in Perth or elsewhere in the state.<sup>7</sup>
- *Tasmania*
  - A state-wide levy is not in place, however, a voluntary levy at rates of \$0 to \$5/tonne has been adopted in some regions.

## **Beneficial outcomes**

4.4 Submitters that expressed support for waste levies highlighted the beneficial outcomes of such schemes, including that appropriately designed schemes provide a disincentive for disposal of waste by landfill. Further, they noted that levies provide an important source of funding for investment in waste and recycling management initiatives.

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5 Brisbane City Council, *Submission 4*, p. 2.

6 Clayton Utz, 'Transforming Queensland's recycling and waste industry', <https://www.lexology.com/library/detail.aspx?g=01f5b1f9-d79b-44a7-a805-3c0d4b377d25>.

7 Western Australian Government, *Submission 5*, p. 3.

4.5 Tyrecycle, which described landfill levies as a 'blunt economic instrument', stated that waste levies provide an incentive for waste collectors to find the most economic method to dispose of waste material. By way of example, Tyrecycle provided evidence on the impact of the New South Wales levy on tyre disposal in that state:

The waste management sector is profit driven, and as such waste collectors will look to find the cheapest point of disposal for waste materials. The landfill levy aims to set a price on disposal to landfill that is higher than the cost of recycling, such that recycling becomes a more attractive end-point. We see this successfully applied in NSW, where landfill costs (within the regulated zone) are in excess of \$250/tonne, which makes the landfilling of tyres uneconomical when compared to recycling alternatives.<sup>8</sup>

4.6 In contrast, the disposal of tyres in Queensland, the Northern Territory and Tasmania is mainly to landfill. Tyrecycle commented that in those jurisdictions, the costs associated with disposing items such as end-of-life tyres to landfill, even where there is a requirement for shredding first, are generally lower than those associated with recycling. Tyrecycle stated that 'national data shows high rates of landfill disposal in these three jurisdictions, supporting the contention that levies are an effective means of increasing landfill diversion'.<sup>9</sup>

4.7 Other submitters similarly commented on the use of levies to encourage the diversion of waste from landfill. For example, the Western Australian Government noted that in Western Australia, there has been a significant diversion from landfill for C&D waste and C&I waste since 2011 when levy rates were substantially increased.<sup>10</sup> Similarly, Re.Group noted that New South Wales' relatively high recovery rate for C&D waste and household waste has been driven by the landfill levy.<sup>11</sup>

4.8 The South Australian Government submitted that, in South Australia, 'the waste levy has progressively increased since its initial introduction'. Over this time, 'resource recovery has increased significantly' from around 2 million tonnes in 2003–04 to almost 4 million tonnes in 2015–16'. This represents an increase in the rate of recovery from around 60 per cent in 2003–04 to 81.5 per cent in 2015–16, which is the highest recovery rate in Australia. The South Australian Government also noted that the total volume of waste sent to landfill reduced by 29 per cent from 2003–04 to 2015–16.<sup>12</sup>

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8 Tyrecycle, *Submission 21*, p. 4. See also, Australian Tyre Recyclers Association, *Submission 23*, p. 4.

9 Tyrecycle, *Submission 21*, p. 4.

10 Western Australian Government, *Submission 5*, p. 4.

11 Re.Group, *Submission 32*, p. 5.

12 South Australian Government, *Submission 36*, p. 12.

4.9 The Western Australian Local Government Association (WALGA) commented that there is evidence that the Western Australian Waste Avoidance and Resource Recovery (WARR) levy has been responsible for diverting inert material from landfill. In support of this, it pointed to the reduction in levy payments for inert material, as well as other reporting mechanisms. WALGA added, however, that it is not known where this material has been diverted to.<sup>13</sup>

4.10 The benefits of levies are not limited to the diversion of waste from landfill. Submitters commented that the funds raised by levies can 'finance waste and recycling initiatives', encourage waste avoidance and recycling, and support local economic activity.<sup>14</sup> The Australian Tyre Recyclers Association (ATRA) explained that these outcomes create 'jobs and economic activity, tax revenue and other economic multiplier effects'. ATRA also submitted that:

Landfill levies can additionally help to force up the collection price charges to tyre retailers (levy avoidance is a primary driver for alternate used tyre disposal/recycling options). This in turn can alleviate some of the challenges of lack of capital and investment as outlined above.<sup>15</sup>

4.11 Submitters also pointed to the beneficial outcomes associated with the investment of waste levies in the recycling industry. Mr Tony Khoury, Executive Director, Waste Contractors and Recyclers Association of NSW, (WCRA), told the committee that the waste levy in New South Wales has 'done many positive things' for that state. Mr Khoury explained that:

...we've seen a lot of investment in recycling because of the waste levy. There are many facilities that now operate because of the waste levy.<sup>16</sup>

4.12 The committee also heard from submitters that argued low waste levies can have negative impacts on the rate of recycling. Outcomes in Tasmania, which as noted at paragraph 4.3 does not have a state-wide levy (although voluntary levies are in place in parts of the state) were put forward to support this conclusion. The Local Government Association of Tasmania (LGAT), which supports the introduction of a statewide landfill levy in Tasmania, submitted that 'the absence of a levy has created a market environment where resource recovery has a limited capacity to compete with landfill'. The LGAT went on to comment that:

The low landfill pricing in Tasmania is a financial barrier to recycle, invest in resource recovery and implement practices which reduce waste

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13 Western Australian Local Government Association, *Submission 58*, p. 3.

14 Re.Group, *Submission 32*, p. 11.

15 Australian Tyre Recyclers Association, *Submission 23*, p. 4. See also, Re.Group, *Submission 32*, p. 11.

16 Mr Tony Khoury, WCRA, *Committee Hansard*, 14 March 2018, pp. 27–28. The benefits of investment will be explored further when examining the hypothecation of waste levies.

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generation. The existing regional local government levies are not adequate to significantly encourage investment in resource recovery.<sup>17</sup>

4.13 The LGAT further highlighted that 'resource recovery operations employ more people and require greater investment in infrastructure per tonne of material compared to landfills'.<sup>18</sup>

4.14 The LGAT's position was also supported by evidence from a recycled plastics manufacturer, which submitted that 'landfill levies in Tasmania are at the very bottom of the National Waste Levy Scale' with some sites not charging for waste disposal while those that do charge 'so low that it does not cover the administration cost'. Envorinex stated that, as a result, it has been 'forced' to collect waste in Tasmania as a free service in order to obtain 'valuable waste plastic' for use in manufacturing. It submitted that 'this has impeded our ability to expand due to a very tight cash flow situation'.<sup>19</sup>

4.15 Envorinex highlighted that in Victoria four tonnes of waste black poly pipe would cost \$600 dollars to dispose of at a landfill site, but in Tasmania, disposal would only cost \$40. Envorinex concluded that 'landfill levies should be priced high enough to encourage major business to send their waste to recyclers and not to landfill sites'.<sup>20</sup>

### **Perverse outcomes and limitations**

4.16 While submitters acknowledged the benefits accruing from levies, this view was tempered by the need to ensure that levies are 'appropriately designed' so that there are no perverse outcomes.<sup>21</sup> Many submitters raised concern that current waste levy schemes have also led to a number of unintended and undesirable consequences.

4.17 The National Waste and Recycling Industry Council (NWRIC) submitted that market distortions are occurring because landfill levies vary across jurisdictions. In addition to price disparity, there are variations in the application of levy mechanisms and definitions of leviable waste. It submitted that these variations are causing 'undesirable consequences', such as:

- the unnecessary transport of waste between jurisdictions to avoid levy costs, most notably between metropolitan Sydney and south-east Queensland;
- an uncertain regulatory environment that undermines the ability of private investors to create recycling infrastructure;

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17 Local Government Association of Tasmania, *Submission 19*, p. 3.

18 Local Government Association of Tasmania, *Submission 19*, p. 3.

19 Envorinex, *Submission 1*, p. 2.

20 Envorinex, *Submission 1*, p. 2.

21 Re.Group, *Submission 32*, p. 11.

- high administrative costs, particularly in the application of complex schemes; and
- the potential for fraud created by mislabelled waste.<sup>22</sup>

4.18 The Law Council of Australia (LCA) also commented that levies can encourage stockpiling and illegal dumping.<sup>23</sup>

4.19 The following discussion canvasses the evidence provided to the committee on a number of perverse outcomes that have arisen following the implementation of waste levies.

### ***Cross-jurisdictional transport of waste***

4.20 Submitters noted that differences in regulatory arrangements between jurisdictions, particularly landfill levies, create an opportunity for the transport of waste between jurisdictions to avoid or reduce the amount of levy incurred. For example, it was submitted that the lack of a landfill levy in Queensland has provided a major commercial incentive for waste to be transported to Queensland from New South Wales because it is cheaper to transport and landfill in South East Queensland than to landfill or undertake resource recovery in New South Wales.<sup>24</sup>

4.21 Indeed, the incentives are such that Mr Max Spedding, Chief Executive Officer, NWRIC, commented that one or two companies are mining their landfill and transporting the mined material to Queensland, 'creating more airspace in their Sydney landfill and making a profit'. Mr Spedding added that this is 'not illegal, as it stands, but what is driving it is the disparity [in levies]'.<sup>25</sup>

4.22 Mr Spedding went on to state that the volume of waste being transported from Sydney to South East Queensland is 'enormous' and cited an estimate that 700,000 tonnes of waste per year is being transported.<sup>26</sup> Similarly, WMAA stated that, on average, 60,000 tonnes of predominantly C&D waste is being transported from metropolitan Sydney to South East Queensland each month.<sup>27</sup>

4.23 GCS Consulting stated 'that the "leakage" of C&D material to Queensland represents a small but growing portion' of the New South Wales market. It estimated

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22 National Waste and Recycling Industry Council, *Submission 10*, p. 2.

23 Law Council of Australia, *Submission 30*, p. 3.

24 Australian Sustainable Business Group, *Submission 41*, p. 15; Visy, *Submission 43*, p. 6; SUEZ, *Submission 51*, p. 2; Local Government Association of Queensland, *Submission 7*, p. 7.

25 Mr Max Spedding, National Waste and Recycling Council, *Committee Hansard*, 20 November 2017, p. 3.

26 Mr Max Spedding, National Waste and Recycling Council, *Committee Hansard*, 20 November 2017, p. 3.

27 Waste Management Association of Australia, *Submission 52*, p. 10. See also GCS Consulting, *Submission 14*, p. 6.

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that the C&D material being moved to Queensland represents approximately 7 per cent of the total C&D waste generated in New South Wales.<sup>28</sup>

4.24 The NWRIC put the view that the transport of waste to Queensland occurs 'entirely because of the landfill levy in Sydney—that central core area'. Mr Spedding stated:

In New South Wales there are three levy areas. There's the central area [Sydney] at \$138, the North Coast at \$78 dollars and the rest of New South Wales at zero dollars. From that central area with a \$138 levy, you can take construction and demolition material—not putrescible waste and not domestic waste but the material that's relatively easy to cart, because you can put it into a normal truck. You can run it up the Pacific Highway and the cost of the cartage, the cost of landfill and the cost of transfer is less than \$138, so you can do it and actually make a profit.<sup>29</sup>

4.25 In addition to the absence of a waste levy in Queensland, submitters argued that the interstate movement of waste is encouraged by the metropolitan New South Wales levy being higher than the cost of transport. For example, Visy explained that at inception, the New South Wales metropolitan waste levy was approximately \$50 per tonne, which did not provide an incentive to transport waste interstate due to the additional transport cost. Over the past eight years however, the New South Wales waste levy has increased by over 260 per cent, with significant increases of between 10 and 25 per cent per annum from 2010 to 2016. Visy explained that 'this now provides the necessary arbitrage that makes transportation across state borders financially attractive'.<sup>30</sup>

4.26 The Victorian Waste Management Association (VWMA) submitted that 'it is instructive that the cost of the landfill levy in some jurisdictions [has] reached a point that makes it cheaper to move material out of the state of origin'.<sup>31</sup>

4.27 Submitters also pointed to how the difference in levies within some jurisdictions has resulted in the transport of waste over long distances.<sup>32</sup> The Local Government Association of Queensland (LGAQ) noted that the City of Gold Coast Council recently increased its waste disposal charges for waste originating from outside city limits to \$200 per tonne. This stemmed the flow of waste from New South

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28 GCS Consulting, *Submission 14*, p. 7.

29 Mr Max Spedding, National Waste and Recycling Council, *Committee Hansard*, 20 November 2017, p. 3.

30 Visy, *Submission 43*, p. 7 (citation omitted). See also Mr Tony Monaco, Visy Recycling, *Committee Hansard*, 20 November 2017, p. 26.

31 Victorian Waste Management Association, *Submission 27*, p. 4.

32 MRA Consulting, *Submission 25*, p. 10.

Wales to the Gold Coast, but the waste was then diverted to other South East Queensland landfill sites.<sup>33</sup>

4.28 Some witnesses were very critical of the interstate transport of waste. Mr Mark Venhoek, Chief Executive Officer, SUEZ Australia and New Zealand, for example, commented that the interstate transportation of waste for landfill is an 'unsustainable practice, driven purely by profits, and is, in our view, clearly unethical behaviour that should stop as soon as possible'. Mr Venhoek added:

With the majority of the volume going straight to landfill, it completely disregards the importance of resource recovery and puts unnecessary safety risks on our roads. SUEZ, clearly, is opposed to the unnecessary interstate long-distance transportation of waste to landfill and we are committed to managing our customers' waste and resources reliably, responsibly and locally, and we are not engaging in any of those activities.<sup>34</sup>

4.29 While averring that it is 'not advocating for the end of landfill levies', the VWMA also commented that the original intent of levies has been undermined and could result in an adverse impact on recycling:

...we believe it shows that landfill levies which were meant to support recycling, are now being used as a blunt tool of revenue collection by Government. The loss of confidence by the public in the role of the landfill levy will ultimately undermine recycling as people look for cheaper ways to dispose of waste.<sup>35</sup>

4.30 Evidence of the impact of the New South Wales levy on recycling rates was provided by GCS Consulting. It argued that as levies are raised, there are diminishing returns. GCS Consulting submitted that for example, during the period when the amount of the metropolitan New South Wales levy doubled, the New South Wales C&D industry was found to have reduced its recycling rate, which is contrary to expected market behaviour.<sup>36</sup>

4.31 GCS Consulting stated that in New South Wales, the efficacy of the levy as a pricing mechanism was achieved when the levy was at much lower levels. It submitted:

It was becoming apparent that by 2012–13 the continual increases in the waste levy were possibly having a negative effect on C&D recycling rates and certainly were not encouraging further recycling in the NSW market. It is notable that the C&D sector was already recycling 64% of all material as early as 2002–3 when the levy rate was around \$25 per tonne suggesting

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33 Local Government Association of Queensland, *Submission 7*, p. 7.

34 Mr Mark Venhoek, SUEZ Australia and New Zealand, *Committee Hansard*, 14 March 2018, p. 48.

35 Victorian Waste Management Association, *Submission 27*, p. 4.

36 GCS Consulting, *Submission 14*, p. 6.



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that the efficacy of the levy as a pricing mechanism may have already had a majority of its effect at much lower levels and well before the dramatic increases from 2006 onward.<sup>37</sup>

4.32 Mr Gregor Riese, GCS Consulting, stated that while 'state-based levies are okay', levies should be kept at 'a reasonable level, such that your entire waste and recycling system does not become fixated on levy avoidance rather than creating a useful recycled product'.<sup>38</sup> Mr Riese argued that benefits associated with levies occur on a bell-curve and unless levies are appropriately managed benefits become outweighed by negative consequences. Mr Riese described New South Wales as now being a jurisdiction where the benefits of the levy have been outweighed by the negative consequences.<sup>39</sup>

4.33 In addition, Mr Khoury, WCRA, pointed to the negative impact of long-distance transport on the environment and stated that it is a major cost to the economy.<sup>40</sup>

4.34 Submitters argued that to reduce the movement of waste across state boundaries either landfill levies should be reduced to less than the costs of transport or a consistent approach to levies should be introduced across all jurisdictions.<sup>41</sup> Levy harmonisation is discussed later in this chapter.

4.35 The Department of the Environment and Energy indicated that it is currently in discussions with states and territories regarding regulatory tools (including landfill levies) that may be leading to increased transportation of solid waste across state boundaries.<sup>42</sup>

### ***The impact of levies on changing ratepayer behaviour***

4.36 The committee received evidence indicating that waste levies have a limited impact on reducing the waste generated by ratepayers, as they have no direct financial incentive to reduce waste going to landfill.

4.37 Local councils are responsible for paying waste levies on behalf of ratepayers, and this is then recovered through household rates. GCS Consulting stated that the estimated household contribution to the New South Wales waste levy payment is

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37 GCS Consulting, *Submission 14*, p. 6.

38 Mr Gregor Riese, GCS Consulting, *Committee Hansard*, 14 November 2017, p. 2.

39 Mr Gregor Riese, GCS Consulting, *Committee Hansard*, 14 November 2017, p. 3.

40 Mr Tony Khoury, Waste Contractors and Recyclers Association of NSW, *Committee Hansard*, 14 March 2018, p. 24. See also, Mr Gregor Riese, GCS Consulting, *Committee Hansard*, 14 March 2018, p. 2.

41 Victorian Waste Management Association, *Submission 27*, p. 4; Mr Mark Venhoek, SUEZ Australia and New Zealand, *Committee Hansard*, 14 March 2018, p. 48.

42 Department of the Environment and Energy, *Submission 55*, p. 7.

between 10 and 20 per cent of the total rates liability. It cited a 2012 KPMG report on the New South Wales waste levy which stated that:

Because home owners are charged a flat fee for their waste, they do not receive any financial benefit from reducing the amount of waste they produce at the individual household level, even though all households would benefit if they collectively reduced waste.<sup>43</sup>

4.38 The Northern Sydney Regional Organisation of Councils (NSROC) submitted that the New South Wales waste levy does not provide a 'reward or incentive for better waste management behaviour, other than a minor reduction in the waste charge for using a smaller red bin in some council areas'. This is because:

Waste management charges to residents reflect the actual costs to councils of delivering waste services. These charges are applied across the entire community and are not adjusted for actual consumption of waste services by an individual household.<sup>44</sup>

4.39 Similarly, the Brisbane City Council, in considering the introduction of a waste levy in Queensland, submitted that:

A levy is not effective on domestic waste generators as the price signal is not able to be passed on through the rates directly...Applying a landfill levy to domestic waste is challenging as residents cannot avoid the levy in a domestic setting. Council does not have a pay as you throw style of charging so residents are all charged equally.<sup>45</sup>

4.40 Other local government authorities support this view with the Adelaide Hills Region Waste Management Authority (AHRWMA) arguing that waste disposal levies do 'not act as a direct driver for the community to reduce waste generation or increase recycling habits' because any increase in waste levies is 'covered by general rate revenue'.<sup>46</sup>

4.41 GCS Consulting recommended that any jurisdiction seeking to introduce a waste levy should, at a minimum:

...require local governments to introduce weight-based charging to permit its ratepayers to reduce their rate liability. This is based on the user-pays principle where the more a household throws out, the more they contribute to disposal charges and the state government tax.<sup>47</sup>

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43 GCS Consulting, *Submission 14*, p. 9.

44 Northern Sydney Regional Councils, *Submission 29*, p. 11.

45 Brisbane City Council, *Submission 4*, pp. 2–3.

46 Adelaide Hills Region Waste Management Authority, *Submission 33*, p. 3.

47 GCS Consulting, *Submission 14*, p. 13.

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### ***Impact on recycling***

4.42 The committee received a range of evidence on the sometimes negative impacts that waste levies can have on recycling. This includes evidence on the increasing economic pressures on recyclers due to high levies; poorer quality recyclable material entering the market and driving up the cost of treatment; and changes to the market.

4.43 Submitters argued that waste levies are having a detrimental impact on traditional recycling processes such as those for metals, paper, glass and cardboard. The Australian Sustainable Business Group (ASBG) highlighted the findings of the Victorian EPA commissioned report *Impact of Landfill Levy on the Steel Recycling Sector in Victoria*, which concluded that for every \$15/tonne increase in the levy rate, an additional \$738,000 per annum cost is incurred by the steel recycling industry in Victoria. The report suggested that to counter the impact of the landfill levy, options such as the provision of a partial levy exemption for the steel recycling industry, better funding and grants to support the steel recycling industry, and the use of Product Stewardship programs, should be considered.<sup>48</sup>

4.44 Similarly, in noting that high levies can undermine the recycling of some types of material, especially steel, the NWRIC stated that the 'levy on the disposal of recycling residuals reduces the competitiveness of materials sold into the international market'.<sup>49</sup>

4.45 GCS Consulting submitted that in New South Wales, the metal recycling industry has been 'heavily impacted by the waste levy increases'. It noted the findings of the Centre of International Economics which indicated that in 2011 the waste levy of \$120 per tonne would reduce the profit margins of metal recyclers by 3 per cent relative to no levy. GCS Consulting stated that the levy puts existing recyclers with capital infrastructure in hammer mills at a competitive disadvantage to operators who export unprocessed scrap metal directly to international markets. GCS Consulting noted that the quantity of ferrous container exports from New South Wales more than doubled over a five year period during which the waste levy increased. It stated:

While minor in terms of the overall waste tonnages, this 'leakage' from the metal recycling system is symptomatic of broader pressures on all material recyclers operating in the NSW market and the potential commercial penalties that the levy can impose on existing industry players.<sup>50</sup>

4.46 The ASBG also submitted that recycling facilities are under pressure from international prices and the comparatively lower cost of shipping driving the export of collected materials to overseas markets. This, combined with increasing waste levies, creates 'tough economic conditions' for recycling facilities. The ASBG warned that

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48 Australian Sustainable Business Group, *Submission 41*, p. 7.

49 National Waste and Recycling Industry Council, *Submission 10*, p. 2.

50 GCS Consulting, *Submission 14*, pp. 7–8.

'if closures occur they [recycling facilities] will be very difficult to re-establish given the large economies of scale and similar levels of investment required'.<sup>51</sup>

4.47 As a consequence of concerns that metal shredders in New South Wales would have to close due to competitors exporting scrap overseas, they have been given a 50 per cent reduction in waste levy. The ASBG submitted that the New South Wales Environment Protection Authority also offered funding to metal shredders to find alternative methods to deal with their floc.<sup>52</sup>

4.48 Submitters highlighted that waste levies also impact the recycling industry when recycling businesses are forced to pay the levy for the disposal of contaminants which have entered the recycling stream. The Australian Council of Recycling (ACOR), for example, commented that although it supports landfill levies, the impact on recycling companies can be such that it is a 'disincentive towards being involved in the recycling industry'.<sup>53</sup>

4.49 Some of Australia's largest recycling companies—Re.Group, Visy, Owens-Illinois and SKM Recycling—provided the committee with additional information on this issue. Re.Group explained why recyclers need to dispose of material:

There are residual waste components from recycling facilities, which require disposal. The amount of residual waste depends on the specific type of facility; for example, a 'yellow bin' recycling facility may have circa 10–15% residual waste, compared with a 'red bin' recycling facility with circa 30–40% residual waste. The disposal of residuals generally represents a significant cost for recycling facilities, which can obviously create commercial incentives to seek lower disposal cost options.<sup>54</sup>

4.50 Mr Stuart Garbutt, Director, Operations, Re.Group, outlined further the concerns of the imposition of the waste levy. Mr Garbutt noted that Re.Group does not experience a 'vast impact' from the levy as only the material processed at Re.Group's material recovery facilities (MRFs)<sup>55</sup> that is unrecyclable is landfilled. In addition, the Re.Group considers that levies are 'an important part of diverting material from landfill'.<sup>56</sup>

4.51 However, Re.Group suggested that the application of the waste levy to New South Wales recyclers seeking to dispose of residual contaminants provides a

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51 Australian Sustainable Business Group, *Submission 41*, p. 8.

52 Australian Sustainable Business Group, *Submission 41*, pp. 8–9.

53 Mr Peter Shmigel, Australian Council of Recycling, *Proof Committee Hansard*, 30 April 2018, p. 25.

54 Re.Group, *Submission 32*, p. 11.

55 Material recovery facilities may also be called materials reclamation facilities, multi re-use facilities or material recycling facilities.

56 Mr Stuart Garbutt, Re.Group, *Proof Committee Hansard*, 30 April 2018, p. 5.

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commercial incentive to transport waste to interstate locations. It submitted that, despite its commitment to managing waste as close as possible to its source of generation, it is competing with organisations which minimise operating costs through the interstate transport of waste. Re.Group commented:

If other organisations are able to undercut our operations due to disposal savings via transport to Queensland (or elsewhere), then Re.Group will need to evaluate its options to remain competitive. At present, we are aware of several of our competitors that do transport waste to Queensland, and we do risk competing against this practice in the future.<sup>57</sup>

4.52 Re.Group concluded that 'the introduction of a Queensland price signal is the best (if not only) way to ensure that waste is not unnecessarily transported interstate for disposal'.<sup>58</sup>

4.53 Visy also expressed concern that landfill levies penalise the recycling industry for the disposal of residual rubbish that enters the recycling stream when householders place non-recyclable items in recycling bins. Visy submitted:

Rather than being incentivised for providing this environmentally sustainable essential service of landfill diversion, the recycling industry (as distinct from the waste disposal industry) is being penalised by being charged excessive waste levies for their disposal of residual rubbish that inadvertently ends up in the recycling stream due to householders incorrectly placing it into kerbside recycling bins.<sup>59</sup>

4.54 Visy recommended that reforms to current policy and regulatory frameworks should include 'a waiver of landfill levies on the disposal of residual waste from recycling operations'. In addition, landfill levies should not apply to 'companies that utilise kerbside recyclable materials for raw material feedstock in further re-manufacturing activities'.<sup>60</sup>

4.55 Similarly, Owens-Illinois, which has 11 glass making plants and one glass recycling plant in Australia, submitted that:

Companies that are being proactive and investing considerable capital into recycling facilities should not be penalised with landfill levies to dispose of material that has been incorrectly disposed of in kerbside collection bins.<sup>61</sup>

4.56 Further, Owens-Illinois stated that 'companies who actively use recycled materials in their manufacturing process should be rewarded and provided with a benefit that recognises their contribution to recycling and waste minimisation'.<sup>62</sup>

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57 Re.Group, *Submission 32*, p. 11.

58 Re.Group, *Submission 32*, p. 11.

59 Visy, *Submission 43*, p. 5.

60 Visy, *Submission 43*, p. 6.

61 Owens-Illinois, *Submission 56*, p. 8.

4.57 SKM Recycling submitted that 'the imposition of landfill levies on recyclers imposes an undue cost burden on the recycling industry'. It went on to comment that:

By undertaking costly sorting processes, SKM is performing an essential public good, enabling both government and business to achieve landfill diversion targets, and promoting the development of the circular economy. After bearing the costs of sorting, it is unfair that SKM should have to pay a landfill levy with respect to any residual materials, the cost of which would otherwise be borne by the suppliers of SKM's feedstock. This is effectively a pass-through of landfill charges to SKM.<sup>63</sup>

4.58 SKM Recycling recommended that the Australian Government should 'consider the systemic impacts that landfill levies have on the recycling industry'. As such, it argued that the Australian Government should:

...support the exemption of landfill levies for resource recovery industry operators in relation to the small percentage of waste contained within residential recycling materials those operators receive (or the introduction of a reduced levy), by engaging with state governments to reform landfill levy regimes.<sup>64</sup>

### ***Illegal landfill***

4.59 Some submitters expressed concern that waste levies can result in increases in illegal dumping. To mitigate this risk, it was argued that waste levies should be allocated to the management and clean-up of illegally dumped material.

4.60 Local Government New South Wales (LGNSW) submitted that since the introduction of the waste levy in New South Wales, 'regional and rural councils in the regulated area have seen a noticeable increase in the incidences of illegal dumping...[including] the illegal dumping of asbestos'. The LGNSW submitted that the costs of cleaning up illegally dumped waste where the offender cannot be identified rests with local councils. It stated that 'some councils have seen a tripling of the funds they must set aside for this purpose since the levy was introduced'. The LGNSW also submitted that:

NSW councils are being charged the levy for the proper disposal of large scale, illegally dumped waste. Councils have said that it is a disincentive for public land managers to clean up these large piles of waste.<sup>65</sup>

4.61 Councillor Linda Scott, President of the LGNSW, told the committee that, in particular, the LGNSW has campaigned for the New South Wales Government to remove the waste levy on asbestos. This is due to concerns that the levy acts as a

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62 Owens-Illinois, *Submission 56*, p. 8.

63 SKM Recycling, *Submission 50*, p. 2.

64 SKM Recycling, *Submission 50*, p. 2.

65 Local Government New South Wales, *Submission 13*, p. 2.

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disincentive for people to manage asbestos responsibly, safely and legally, resulting in councils incurring significant expenditure to clean up asbestos that has been illegally dumped.<sup>66</sup>

4.62 The Hunter Joint Organisation of Councils also highlighted the impact of the levy on councils already bearing the costs associated with the detection, collection and transport of illegally dumped material. It submitted that 'member councils request the review of levy charges for the disposal of illegally dumped material' in New South Wales.<sup>67</sup>

4.63 The Law Institute of Victoria similarly submitted that in Victoria, increases in landfill levies have seen an increase in illegal landfilling in rural areas. It stated:

...the increase in landfill levies has caused an increase in the amount of landfill being disposed of illegally on rural land, under the guise of the fill being deposited in association with a rural land use purpose, a practice designed to avoid the landfill levy.<sup>68</sup>

4.64 In considering the impact of the introduction of a Queensland waste levy, the Brisbane City Council observed that 'a levy is likely to increase the risk of illegal dumping and levy funds would need to be allocated to management of such activities for clean-up, education and enforcement'.<sup>69</sup>

4.65 However, South Australian Government officers stated that it has found that there is 'no apparent correlation' between increases in the South Australian levy and changes to illegal dumping. Ms Tiana Nairn, Waste Reform Policy Program Manager, South Australian Environment Protection Authority (SA EPA), told the committee:

We're aware, for example that, whilst Queensland has had no levy in place, they have continued to have illegal dumping. Often illegal dumping relates to being a convenience factor. It is certainly a significant issue for state and local government. Our government has focused on increasing and improving the powers of both the environment protection authority officers and local councils to be able to respond...<sup>70</sup>

4.66 The Western Australian Government also submitted that it had not detected an increase in illegal landfills related to the waste levy. It stated:

Western Australia has not detected an increase in illegal landfills. There is an increase in stockpiling of material awaiting a market. The creation of a

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66 Councillor Scott explained that cleaning-up illegally dumped asbestos costs local councils thousands of dollars. Councillor Linda Scott, Local Government New South Wales, *Committee Hansard*, 14 March 2018, p. 45.

67 Hunter Joint Organisation of Councils, *Submission 22*, p. 6.

68 Law Institute of Victoria, *Submission 57*, p. 3.

69 Brisbane City Council, *Submission 4*, p. 2.

70 Ms Tiana Nairn, SA EPA, *Proof Committee Hansard*, 30 April 2018, p. 37.

dedicated illegal dumping enforcement area has seen an increase in the number of offences detected. It appears that offences are primarily committed by individuals as a matter of convenience and to avoid landfill gate fees rather than as a means of avoiding commercial waste levy liability.<sup>71</sup>

### **Strategies to mitigate negative impacts of waste levies**

4.67 Multiple submitters suggested that to eliminate these perverse outcomes, waste levies should be harmonised across jurisdictions. In addition, they argued that governments must do more to combat illegal landfilling. Some submitters also advocated for the hypothecation of waste levies to fund waste management programs.

4.68 It was also emphasised that there are limits to what can be achieved through levies. The Hunter Joint Organisation of Councils submitted that 'a waste levy alone cannot solve waste and recycling issues'. It noted:

As a market mechanism, it requires a range of complementary approaches such as land use planning, education and compliance, regulation and a range of market incentives to recover the resources in 'waste' streams.<sup>72</sup>

It's our view that there's not a direct linear relationship between increasing the landfill levy and reducing waste. It's a more complex problem. As has been shown, it can lead to perverse outcomes such as interstate movement and illegal dumping. The industry believes that the reliance on the landfill levy to drive change is now outdated and should be re-examined.<sup>73</sup>

4.69 Submitters outlined a number of strategies to mitigate the negative consequences of waste levies. This included the enforcement or implementation of the 'proximity principle', the national harmonisation or inter-jurisdictional portability of levies, and the hypothecation of waste levies to recycling and waste management programs. The following sections provide an overview of the evidence received in relation to each of these strategies.

#### ***Proximity principle***

4.70 Submitters argued that the enforcement or implementation of the proximity principle, which requires waste to be disposed of within a distance proximate to its place of generation, would prevent the movement of waste between jurisdictions to avoid or minimise waste levy liabilities.

4.71 In New South Wales, the Protection of the Environment Operations (Waste) Regulation 2014 (NSW) prohibits the transport of waste more than 150 kilometres

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71 Western Australian Government, *Submission 5*, p. 3.

72 Hunter Joint Organisation of Councils, *Submission 22*, p. 6.

73 Mr Andrew Tytherleigh, Victorian Waste Management Association, *Committee Hansard*, 20 November 2017, p. 20.



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from its place of generation. It should be noted that since its inception, this regulation has been subject to significant criticism. For example, in 2016, the New South Wales Government settled a challenge to the regulation's constitutional validity. The removal of the proximity principle is being considered.<sup>74</sup>

4.72 Mr Khoury, WCRA, told the committee that the proximity principle in New South Wales had been 'an absolute failure' because there had not been any prosecutions. Mr Khoury did however express the view that a federal proximity principle could be effective. Mr Khoury stated:

Perhaps there is a role for the federal government to play with the proximity principle. If the federal government were to introduce a proximity principle that would apply across the whole country, that might work.<sup>75</sup>

4.73 Other submitters expressed support for the broad application of the proximity principle. The LGAQ submitted that:

Waste should not be transported unnecessarily long distances and all tiers of government should assist local communities to manage their waste as close as practicable to its place of generation and should clearly support the principles of the waste management hierarchy.<sup>76</sup>

4.74 Ms Gayle Sloan, WMAA, told the committee that the WMAA called for its members to cease the practice of long-distance transportation of waste. Ms Sloan stated:

So we do not agree with long-distance transportation; we actually agree there has to be a proximity principle in place to stop the excessive and unnecessary movement of waste across distances, particularly if there is the infrastructure in place. You can't actually invest and develop infrastructure if you haven't got certainty about what's coming through the front gate. In Europe you do have a proximity principle, so we need to solve how we do that.<sup>77</sup>

4.75 The AHRWMA expressed its support for the proximity principle. However it also stated that any legislation to manage the transport of waste between states should be considered carefully to ensure that it does not prevent improved environmental outcomes resulting from the transport of waste, such as national schemes for the

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74 Law Council of Australia, *Submission 30*, p. 5. In October 2017, the New South Wales Environment Protection Authority released a suite of documents aimed at reforming the C&D waste industry. These documents include a public consultation draft Protection of the Environment Operations Legislation Amendment (Waste) Regulation 2017 which (amongst other amendments) proposes to abolish the proximity principle. For more information see <http://www.epa.nsw.gov.au/your-environment/waste/industrial-waste/construction-demolition/construction-and-demolition-waste>.

75 Mr Tony Khoury, WCRA, *Committee Hansard*, 14 March 2018, p. 24.

76 Local Government Association of Queensland, *Submission 7*, p. 7.

77 Ms Gayle Sloan, WMAA, *Committee Hansard*, 14 March 2018, p. 20.

disposal of certain types of material. The AHRWMA submitted that for 'controlled wastes, interstate agreements or principles for transferring of such waste streams across state should be established to appropriately regulate the disposal/treatment/recycling of such waste'.<sup>78</sup>

4.76 The Law Council of Australia (LCA) suggested that the Australian Government could implement a federal proximity principle. It acknowledged that it is unclear whether any head of legislative power in the Constitution could support such a proposal. The LCA noted, however, that the power to implement such a principle could be referred to the Commonwealth by the states under section 51(xxxvii), as occurred for the implementation of the *Corporations Act 2001* (Cth).<sup>79</sup>

4.77 The LCA also commented that the proximity principle could arguably breach section 92 of the Constitution, which provides that 'trade, commerce and intercourse among the States...shall be absolutely free'. It noted that section 92 does not operate with unqualified effect and that the High Court has upheld numerous laws restraining trade between states. The LCA submitted that a federal proximity principle must be considered in light of section 92, but that section 92 does not necessarily preclude the enactment of one.<sup>80</sup>

4.78 The LCA went on to suggest that a national and uniform proximity principle could be constituted by complementary federal and state law, and that this would be unlikely to contravene section 92. The LCA submitted that precedent generally suggests that a uniform federal scheme is significantly less likely to contravene section 92 than legislation enacted by the states individually. The LCA concluded that 'these considerations provide compelling reasons for the Commonwealth to consider enacting a national proximity principle and for the States to consider referring the constitutional power to do so'.<sup>81</sup>

### ***Harmonisation and portability***

4.79 In exploring the causes of the interstate transport of waste, it was suggested by a number of submitters that the national harmonisation of waste levies would remove the incentive to send waste to other jurisdictions. For example, the NWRIC submitted that 'the national harmonisation of landfill levies is essential to prevent unnecessary waste transportation (market distortions) and to provide regulatory certainty for investors'.<sup>82</sup>

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78 Adelaide Hills Region Waste Management Authority, *Submission 33*, p. 5.

79 Law Council of Australia, *Submission 30*, p. 6.

80 Law Council of Australia, *Submission 30*, p. 6.

81 Law Council of Australia, *Submission 30*, p. 6.

82 National Waste and Recycling Industry Council, *Submission 10*, p. 2.

4.80 The Maitland City Council submitted that the 'harmonisation of landfill levies across states and territories along the eastern seaboard must be considered as a matter of urgency'.<sup>83</sup> SUEZ suggested that the harmonisation of waste levies should occur as part of a broader strategy which prioritises the reuse and recycling of materials, and the disposal of waste within jurisdictions. SUEZ submitted that as part of this strategy, 'the harmonisation of levies will encourage waste to be managed at the closest location of origin'.<sup>84</sup>

4.81 Some submitters argued that the Australian Government should establish waste levies. For example, Envorinex submitted that 'landfill levies and incentives should be set at a federal level to overcome' the issue of transporting waste between jurisdictions to avoid levies.<sup>85</sup>

4.82 Similarly, the LCA submitted that:

...the Federal Government could consider implementing uniform landfill levies. The primary motivation for interstate waste-dumping appears to be the avoidance of relatively high landfill levies in the waste's place of generation. This advantage would disappear if uniform levies are introduced. Introduction of uniform levies may, however, be less politically feasible than a national proximity principle.<sup>86</sup>

4.83 However, other submitters argued that rather than a Commonwealth waste levy being established, levies could instead be harmonised between jurisdictions. For example, the Australian Landfill Owners Association submitted that:

The current system of landfill levies, whereby adjoining states have significantly different levies, encourages the interstate movement of large volumes of waste for the economic benefit of the transport and waste facility operators. Harmonisation of environmental legislation across the states would provide a great environmental benefit for the community.<sup>87</sup>

4.84 Similarly, the LCA submitted that:

Inconsistency in landfill levies and over-aggressive waste management regulations can create increases in illegal and environmentally irresponsible activities. A consistent, national approach would reduce such incentives.<sup>88</sup>

4.85 The WMAA noted that it 'strongly advocates for a common approach to levies nationally'. The WMAA recognised that any reduction in levies would undermine existing infrastructure investment, so it instead advocated for other states to follow the

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83 Maitland City Council, *Submission 40*, p. 2.

84 SUEZ, *Submission 51*, p. 2.

85 Envorinex, *Submission 1*, p. 3.

86 Law Council of Australia, *Submission 30*, p. 6.

87 Australian Landfill Owners Association, *Submission 2*, p. 2.

88 Law Council of Australia, *Submission 30*, p. 6.

lead of New South Wales in providing 'strong market based instruments to encourage investment in resource recovery'. The WMAA went on to explain that in the absence of a common approach to levies and the proximity principle, alternatives such as levy portability should be explored.<sup>89</sup>

4.86 ResourceCo noted that the harmonisation of waste levies would 'eliminate unnecessary interstate transport of waste'; however, it also submitted that 'harmonisation of levies in a state based EPA structure is a long-term ambition that will take time to achieve'. ResourceCo suggested that in the short term, 'states should move their landfill levies at least closer together to negate the financial incentives to transport waste between states'.<sup>90</sup>

4.87 Levy portability, that is a waste levy determined by where the waste is generated rather than where it is landfilled, was also suggested by other submitters as a mechanism to prevent the inter-jurisdiction movement of waste. The NWRIC told the committee that it has advocated for landfill levy portability to be introduced. Mr Max Spedding, Chief Executive Officer, NWRIC, stated:

What we as an association have put forward is that we believe we should have what we call landfill levy portability. In other words, say a state government applies a landfill levy of \$138 to waste in Sydney. When it creates that levy legislation, the legislation should clearly state that if that waste goes to landfill, wherever—including the moon, if it were landfill on the moon, as one of the consultants said—the levy should be due. So you shouldn't get a situation where you can get to the border and suddenly the rules change with respect to levies. If the levy applies wherever the material is landfill, whether it's in the home state or in a non-levy area or whether it applies in another state, the levy should be paid.<sup>91</sup>

4.88 Mr Spedding noted that levy portability already occurs within states but 'the problem is that it doesn't apply if you go...over the border'.<sup>92</sup> The NWRIC submitted that levy charges based on point-of-waste-generation occur in New South Wales, South Australia and Western Australia (within state boundaries). Further, several large operating landfills currently use point-of-waste-generation levies. For example, Veolia's Woodlawn Facility is not located in the Sydney Metro Levy Zone, but because it receives the majority of its waste from this region, it charges a levy accordingly. Similarly, the Cleanaway landfill located southeast of Bunbury charges the Perth Metro Levy for waste received from that area.<sup>93</sup>

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89 Waste Management Association of Australia, *Submission 52*, Attachment 1, p. 3.

90 ResourceCo, *Submission 26*, p. 4.

91 Mr Max Spedding, National Waste and Recycling Industry Council, *Committee Hansard*, 17 November 2017, p. 4.

92 Mr Max Spedding, National Waste and Recycling Industry Council, *Committee Hansard*, 17 November 2017, p. 4.

93 National Waste and Recycling Industry Council, *Submission 10*, Appendix A, p. 7.

4.89 Mr Spedding, NWRIC, explained that the NWRIC has had discussions with state environmental protection authorities and is:

...now working state by state to have discussions in each state as to whether they will change their legislation so that levy portability will be added to the package of legislation that covers the creation of a landfill levy.<sup>94</sup>

4.90 The NWRIC submitted that levy portability could be introduced by reciprocal agreement between states. It suggested that the process could begin between New South Wales and Queensland, and then extend to other states. The NWRIC submitted that 'this process will strongly incentivise waste being processed as close to its point of generation as possible'.<sup>95</sup>

4.91 The NWRIC submitted that the process could be 'legally achieved by aligning the levy legislation within these states, and then by inserting additional levy licence conditions into all landfill licences in the relevant states'. The NWRIC suggested that any landfill levies collected for interstate waste should be initially remitted to the host state. Further, reporting obligations should remain with waste generators while levy remittance obligations should remain with landfill operators. The NWRIC also suggested that landfill operators could request a statutory declaration to confirm the point of waste generation.<sup>96</sup>

4.92 The NWRIC told the committee that preliminary legal advice suggests that levy portability would not be in conflict with either sections 90 or 92 of the Constitution.<sup>97</sup>

### ***Hypothecation***

4.93 Waste levies which are hypothecated are 'returned to, or reinvested in environmental and waste management activities rather than directed back into consolidated revenue'. The Hunter Joint Organisation of Councils noted that:

Hypothecation can be investment back into state-based waste management activities...or directly back to local government for use in local waste management activities such as waste avoidance, reuse, recycling, education and enforcement activities.<sup>98</sup>

4.94 This section explores the evidence received by the committee in relation to the benefits of waste levies being hypothecated to waste and recycling management programs, and whether the current rates of hypothecation are adequate. In particular,

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94 Mr Max Spedding, National Waste and Recycling Industry Council, *Committee Hansard*, 17 November 2017, p. 4.

95 National Waste and Recycling Industry Council, *Submission 10*, Appendix A, p. 7.

96 National Waste and Recycling Industry Council, *Submission 10*, Appendix A, pp. 7–8.

97 National Waste and Recycling Industry Council, *Submission 10*, Appendix A, p. 7.

98 Hunter Joint Organisation of Councils, *Submission 22*, p. 6.

submitters highlighted that hypothecated levies can be used to invest in technology, research, infrastructure and the development of markets for recycled material. Submitters also expressed concern that waste levies are being treated by state governments as general revenue, and that insufficient investment in waste and recycling is occurring.

#### *Current approaches to hypothecation*

4.95 Ms Gayle Sloan, WMAA, noted that currently, the rate of levies being returned to industry varies between states, and that 'anywhere between 10 and 50 per cent...goes back to industry'.<sup>99</sup>

4.96 Mr Andrew Tytherleigh, Executive Officer, VWMA, explained that waste levies in Victoria are collected by the Sustainability Fund, which is tasked with determining how the money should be spent. Mr Tytherleigh stated that there are a number of criteria for determining spending including that programs must 'improve resource recovery and reduce waste'. Mr Tytherleigh explained that 'in that sense it is a hypothecated fund' and that it has been used to fund waste management groups such as Sustainability Victoria, and to run small grant programs. Mr Tytherleigh stated:

...there are a number of waste programs by Sustainability Victoria, which is the program delivery government organisation here in Victoria, that they have utilised over the years, and there have been some positive outcomes from that. The programs don't tend to run for more than the length of a government. The processes of getting those grant programs up, getting the criteria developed, calling for expressions of interest, getting the grants out, getting the activity generated and then getting the grant acquitted often runs for longer than three or four years. These are long-term things.<sup>100</sup>

4.97 The South Australian Government submitted that the hypothecation of waste levies in South Australia is established by the *Greens Industries SA Act 2004*. Fifty per cent of collected levies are paid into the Green Industry Fund, 5 per cent are paid into the Environment Protection Fund, and 45 per cent directed to the SA EPA to deliver its regulatory and administrative functions. The South Australian Government noted that since 2003, \$107 million has been spent from the Green Industry Fund on programs 'that have stimulated councils, businesses and the community to reduce, reuse, recycle and recover, thereby cutting the amount of waste going directly to landfill'.<sup>101</sup>

4.98 WALGA submitted that in Western Australia, 75 per cent of funds collected through waste levies go to consolidated revenue with the remaining 25 per cent

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99 Ms Gayle Sloan, WMAA, *Committee Hansard*, 14 March 2018, p. 20.

100 Mr Andrew Tytherleigh, Victorian Waste Management Association, *Committee Hansard*, 20 November 2017, p. 22.

101 South Australian Government, *Submission 36*, p. 14.

hypothecated to the Waste Avoidance and Resource Recovery (WARR) Account managed by the Waste Authority.<sup>102</sup>

*Stakeholders' views on the need for hypothecation*

4.99 In advocating for levy hypothecation, witnesses suggested that waste levies should be used to ensure the future of recycling in Australia. For example, Mr Stuart Garbutt, Re.Group, told the committee that levies 'provide the opportunity for building infrastructure and processing that waste...we certainly see a levy as being an important part of the waste strategy'.<sup>103</sup> Similarly, Mr Tony Kane, Executive General Manager, Visy Recycling, told the committee that levies should be used to develop the market for recyclable material. Mr Kane stated:

We would suggest that the levies on landfill waste, the waste levies generated, should be put back into the market, whether it's low-interest loans or incentives—and R&D was talked about earlier; a couple of previous witnesses talked about that as well. So we would support those landfill levies being used to support and generate new end markets. From our position, the end market is the key issue. It is having an end market for the material. How can we get plastics into roadways? How can we get glass into roadways? How can we use other materials and generate new markets?<sup>104</sup>

4.100 The WMAA submitted that it 'supports hypothecation of landfill levy funds to support the development of alternate and more sustainable management approaches for waste, whilst not necessarily advocating for 100% hypothecation of funds back to industry'.<sup>105</sup> Ms Sloan told the committee that it is not 'realistic to expect government to hand over 100 per cent' of the waste levy, but the WMAA advocates for a 'great proportion' to be returned to industry.<sup>106</sup>

4.101 The LGAQ argued that funds raised through the implementation of waste levies 'should be fully returned to the resource recovery industry', as this would provide industry with 'the confidence to invest in new waste management and recycling infrastructure and technology'.<sup>107</sup> Similarly, Brisbane City Council, in considering a possible waste levy in Queensland, submitted that:

Funds collected through a landfill levy must be hypothecated to the waste and resource recovery sectors (including local government) in the first five

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102 Western Australian Local Government Association, *Submission 58*, p. 3.

103 Mr Stuart Garbutt, Re.Group, *Proof Committee Hansard*, 30 April 2018, p. 5.

104 Mr Tony Kane, Visy Recycling, *Committee Hansard*, 17 November 2017, p. 27. See also Mr Max Spedding, National Waste and Recycling Industry Council, *Committee Hansard*, 17 November 2017, p. 2.

105 Waste Management Association of Australia, *Submission 52*, p. 4.

106 Ms Gayle Sloan, WMAA, *Committee Hansard*, 14 March 2018, p. 20.

107 Local Government Association of Queensland, *Submission 7*, p. 6.

to 10 years post levy introduction to ensure the sector is robust and able to provide genuine alternatives to landfill.<sup>108</sup>

4.102 Mr Bryce Hines, Acting Chief Operating Officer, Works, Parks and Recreation Department, Ipswich City Council, told the committee that hypothecation of a waste levy in Queensland for 'looking at alternative waste treatment is critical to enabling us to truly address the issues that we have'.<sup>109</sup>

4.103 Mr Mark Venhoek, Chief Executive Officer, SUEZ Australia and New Zealand commented that 'it is important to use those levies as support measures for new technologies, new infrastructure, new innovations'. Mr Venhoek stated:

They could be used to support communication in order to get a better understanding of source separation. But I think reinvesting the majority of that back into new infrastructure is the absolutely the way to go.<sup>110</sup>

4.104 ResourceCo similarly submitted that 'waste levies should be used for the purpose of improving the waste and recycling industry'. Further, levies:

...should be hypothecated back to the industry for enforcement and improvement rather than be used as just another tax by State Governments and included in general revenue.<sup>111</sup>

4.105 The Maitland City Council argued that waste levies should be used to establish markets for recyclable materials. It submitted:

A significant proportion of the levy received by the EPA must be diverted to encourage the establishment of markets for recyclable materials and demand by end users. This could occur on a similar basis as the Australian Renewable Energy Agency (ARENA). Most importantly state governments must be fully transparent on how the landfill levy is used as well as the hypothecation rate.<sup>112</sup>

4.106 The committee received evidence from witnesses who submitted that waste levies have already been used to support more sustainable waste management approaches. The WMAA commented that the New South Wales waste levy has supported the development of five mixed waste processing facilities in that state. By comparison, other states have either no mixed waste processing facilities (Victoria) or only one (Queensland) or two (Western Australia).<sup>113</sup>

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108 Brisbane City Council, *Submission 4*, p. 2.

109 Mr Bryce Hines, Ipswich City Council, *Proof Committee Hansard*, 30 April 2018, p. 23.

110 Mr Mark Venhoek, SUEZ Australia and New Zealand, *Committee Hansard*, 14 March 2018, p. 52.

111 ResourceCo, *Submission 26*, p. 5.

112 Maitland City Council, *Submission 40*, p. 2.

113 Waste Management Association of Australia, *Submission 52*, p. 3.



4.107 Other witnesses also provided evidence of investment made possible due to hypothecated waste levies. ResourceCo, a fully integrated resource recovery business, stated that it had invested heavily in waste to energy plants that sort C&D and other waste into its constituent parts. This investment (up to \$30 million per plant) was only possible due to the waste levy and the ability to divert high calorific material to energy use rather than landfill. ResourceCo submitted that:

Waste levies should be used for the purpose of improving the waste and recycling industry and should be hypothecated back to the industry for enforcement and improvement rather than be used as just another tax by State Governments and included in general revenue.<sup>114</sup>

4.108 Similarly, Tyrecycle, a subsidiary company of ResourceCo, submitted that it has 'been the beneficiary of hypothecated landfill levy funding, particularly in Victoria'. This included grant funding provided by Sustainability Victoria for improvements to Tyrecycle's tyre crumbing facility, and for the development of a mobile tyre shredding unit.<sup>115116</sup>

4.109 The VWMA, however, submitted that it is not in favour of hypothecating landfill levies. Rather, it supported levies being made available for low interest/subsidised business loans to create new markets for recycled and waste materials.<sup>117</sup> Similarly, the NWRIC supported landfill levy revenue being made available for low-interest loans, modelled on the Clean Energy Finance Corporation's approach. Mr Spedding told the committee that 'if you were able to do that, you would then encourage value-adding and more material being used in Australia rather than it all going to China and then being bought back at a discount'.<sup>118</sup>

#### *Concerns about the degree of levy reinvestment by state governments*

4.110 Evidence provided by key stakeholders identified that state governments may choose to use landfill levies to fund other priorities rather than reserving the revenue for waste management and recycling programs. The Hunter Joint Organisation of Councils acknowledged that although waste levies are primarily designed to encourage diversion of materials away from landfill, they can also become a source of general income 'to which the state quickly becomes addicted'. It noted that these competing interests are a 'crucial element to the administration of a waste levy in any jurisdiction'.<sup>119</sup>

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114 ResourceCo, *Submission 26*, p. 5.

115 Tyrecycle, *Submission 21*, p. 5.

116 Mr Max Spedding, NWRIC, *Committee Hansard*, 20 November 2017, p. 8.

117 Victorian Waste Management Association, *Submission 27*, p. 3.

118 Mr Max Spedding, NWRIC, *Committee Hansard*, 20 November 2017, p. 8.

119 Hunter Joint Organisation of Councils, *Submission 22*, p. 6.

4.111 Several submitters noted that levies were raising substantial revenue for state governments, however, only limited amounts of funds are being returned. For example, the ASBG stated that hypothecation of all landfill levies towards waste management purposes, especially to assist recycling, is generally non-existent with often only small fractions of revenue allocated to waste. ASBG argued that most waste levies are for revenue collection and stated that levies in most jurisdictions are well above external costs of landfill environmental impacts.<sup>120</sup>

4.112 Mr Craig Mynott, Regional Cullet Director, Owens-Illinois, told the committee that Owens-Illinois considers that the waste levy in Victoria 'is not being spent as best as it could be'. Mr Mynott noted that Owens-Illinois 'had the advantage of having some funding to help establish our glass-recycling facility in Queensland' and concluded 'there could be a lot more done in Victoria and in New South Wales'.<sup>121</sup>

4.113 Tyrecycle expressed concern that, in Victoria, although significant revenue has been collected through landfill levies, 'there has been a notable decline in the degree of levy reinvestment'. Tyrecycle submitted that there is:

...more than \$500 million in levy revenue [which] remains locked away in the Sustainability Fund where it is used as a budget offset mechanism. Only a small portion, less than 5% is, currently reinvested back into waste and resource recovery initiatives.<sup>122</sup>

4.114 Tyrecycle went on to explain that in Victoria, grant funding initiatives and funding for enforcement and waste education activities have decreased. Tyrecycle noted that funding for Sustainability Victoria has decreased 56 per cent from almost \$70 million in 2009–10 to around \$30 million in 2015–16. Tyrecycle commented that 'Victoria is not unique in this regard' with levy reinvestment in other states such as New South Wales and Western Australia remaining 'significantly lower than the total amount collected'. Tyrecycle stated that 'South Australia stands alone as the only state to commit to fully reinvesting levy revenue back into waste, environmental and climate change programs'.<sup>123</sup>

4.115 The Hunter Joint Organisation of Councils stated that the waste levy has increased 501 per cent over 12 years for councils in the Sydney Metropolitan Area, which includes six of the ten councils in the Hunter/Central Coast region. During 2016–17 the Hunter/Central Coast Region councils collected approximately \$60 million in levy payments, of which only 10 per cent was hypothecated through the

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120 Australian Sustainable Business Group, *Submission 41*, p. 6.

121 Mr Craig Mynott, Owens-Illinois, *Committee Hansard*, 20 November 2017, p. 45.

122 Tyrecycle, *Submission 21*, p. 5.

123 Tyrecycle, *Submission 21*, p. 5.

New South Wales Waste Less, Recycle More Initiative.<sup>124</sup> The Hunter Joint Organisation of Councils submitted that:

Individual Councils, and local government more broadly across NSW, have consistently argued the case that a major portion of the waste levy, which is collected and administered by them on behalf of the state, should come back to the communities who generate that income.

4.116 The Northern Sydney Regional Organisation of Councils also commented unfavourably on the rate of hypothecation and stated that 'the high rate of the levy has had the perverse effect of creating a Budget dependency issue, as only about one-third of the total collected through the levy is returned to local government or industry through waste policy and programs'.<sup>125</sup>

4.117 In Western Australia, WALGA noted that of the 25 per cent of funds collected through waste levies that is hypothecated to the WARR Account, over 60 per cent is used to fund the activities of the Department of Water and Environmental Regulation. It submitted that in recent years, this practice has resulted in unexpended funds exceeding \$30 million and, in the 2015–16 financial year, only 58 per cent of budgeted items received funding. It concluded that 'overwhelmingly, expenditure was directed towards the activities of the Department'.<sup>126</sup> WALGA advised that:

The use of, and access to, WARR Levy funds is a constant source of concern for Local Government. Local Government's support for the WARR Levy is predicated on the funds being used for strategic waste management activities—and that is currently not the case.<sup>127</sup>

4.118 WALGA went on to comment that the current rate of investment is insufficient to encourage local councils to make changes to municipal waste management. WALGA submitted:

The Better Bins Program provides up to \$30 per household to Local Governments that move to a three bin system. This is only a fraction of the cost associated with such a service change, and may not be enough of an incentive to encourage Local Governments to progress this option.<sup>128</sup>

4.119 The Northern Adelaide Waste Management Authority (NAWMA) submitted that in 2016–17 it 'contributed approximately \$6 million in levy payments', but was only 'successful in one infrastructure funding round of \$300,000, a return of 5%'. NAWMA described the continued increase of waste levies in order to drive waste

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124 Hunter Joint Organisation of Councils, *Submission 22*, p. 6. Lake Macquarie City Council provided similar evidence about hypothecation of around 10 per cent under the Waste Less, Recycle More Initiative: see *Submission 37* p. 4.

125 Northern Sydney Regional Organisation of Councils, *Submission 29*, p. 11.

126 Western Australian Local Government Association, *Submission 58*, p. 3.

127 Western Australian Local Government Association, *Submission 58*, p. 3.

128 Western Australian Local Government Association, *Submission 58*, p. 3.

diversion and enable new recycling technologies as a 'well used justification...[that is] difficult to swallow for most Councils' in South Australia. It concluded that:

NAWMA supports 100% hypothecation of the landfill levy back to local government and industry to support further resource recovery services and infrastructure, and to develop a local remanufacturing sector which would reduce the need to export recyclable commodities.<sup>129</sup>

4.120 Other witnesses, however, urged caution in relation to the hypothecation of waste levies. Mr Jeffrey Angel, Director, Total Environment Centre and Boomerang Alliance, told the committee that governments may need to extend the tender and assessment processes to ensure that funding is given to successful projects. Mr Angel stated:

New South Wales certainly has been quite adventurous in its application of funding. I understand the need to be cautious about allocating public funds. There are businesses out there who take \$5 million and nothing happens. They just wander off into the sunset with the \$5 million. I think we are at the point where we have to start picking winners. If the bureaucracies haven't been particularly good at allocating those funds to projects that have been successful and continue to be successful, then I think you have to extend the tender and assessment process for some other people. I know it's important not to waste public money, but I also know that it's incredibly important not to let recycling collapse.<sup>130</sup>

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129 Northern Adelaide Waste Management Authority, *Submission 39*, p. 2.

130 Mr Jeffrey Angel, Total Environment Centre/Boomerang Alliance, *Committee Hansard*, 14 March 2018, p. 62.