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**Parliament of New South Wales
Legislative Council**

**Standing Committee on
State Development**

**Report
on
Waste Minimisation and Management**

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THE INQUIRY'S TERMS OF REFERENCE

Waste Minimisation and Management

(Reference Received 5 December 1996)

That the Standing Committee on State Development inquire into and report on:

- (a) the regulation of waste material (including hazardous waste) and the roles of Local Government, the Environment Protection Authority, the New South Wales Police Service, and the Roads and Traffic Authority in the enforcement of the Waste Minimisation and Management Regulation, 1996;
- (b) the relationship between the collection of levies for waste disposal and hypothecation of funds to the minimisation of waste and waste reduction strategies; and
- (c) the extent to which the Government's pre-election policy on waste and waste minimisation has been implemented through the Waste Minimisation and Management Regulation, 1996.

That the Committee report by 25 April 1997.

CHAIRMAN'S FOREWORD

The Standing Committee on State Development received the reference for the Waste Minimisation and Management Inquiry on 5 December 1996. The Committee also received a fisheries-related reference on that same day. These additional references brought the total number of references before the Committee at that time to five. In order to ensure that the Waste Minimisation and Management Inquiry could be given proper consideration, the Committee resolved to form a Sub-committee to deal with the Waste reference and report back to the full Committee prior to tabling its findings.

In late December 1996, the Committee advertised for public submissions and recruited a specialist Senior Project Officer to assist the Committee with the Inquiry. The Committee received a total of 24 submissions from the public, Local Government, industry, and environmental groups. Evidence was also obtained from 22 witnesses during two public hearings held in February 1997.

Chapter 1 of this report provides a brief history of the waste control legislative environment in New South Wales up to the introduction of the Waste Minimisation and Management Act 1995 and the associated Waste Minimisation and Management Regulation 1996.

Chapter 2 outlines the roles assigned to State Government agencies and Local Government prior to and following the introduction of the Waste Minimisation and Management Act and Regulation.

Chapter 3 describes waste levy collection arrangements before and following the 1995 election of the Carr Labor Government. The Chapter also examines the funding of waste minimisation and management activities, and incorporates financial details and other evidence relating to "hypothecation" obtained by the Committee.

Chapter 4 outlines the views of Local Government, industry, environmental groups, the Environment Protection Authority, and Waste Service NSW in relation to the extent to which the Carr Labor Government's pre-election policy on waste and waste minimisation has been implemented through the Waste Minimisation and Management Act and Regulation.

Chapter 5 of the Report sets out the Standing Committee's findings and recommendations arising from the Inquiry.

In my capacity as Chair and on behalf of the Members of the State Development Committee I would like to thank the Secretariat staff involved in the research and preparation of this report. Thanks must go to the Director, Stewart Webster, and in particular the Senior Project Officer, Richard Bonner, who undertook the background research, sifted the evidence and prepared many drafts for the Committee's consideration. Thanks must also go to Annie Marshall, the Committee Officer, who formatted the final proofs of the Report.

I would also like to thank all of those individuals and organisations who gave of their time and expertise to lodge submissions and appear before the Committee.

Hon Patricia Staunton, AM, MLC
Chairman

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CHAIRMAN'S FOREWORD

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COMMITTEE MEMBERSHIP

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PUBLICATIONS BY THE STATE DEVELOPMENT COMMITTEE

TYPE	DATE	TITLE
Discussion Paper 1	May 1989	Public Sector Tendering & New South Wales: A Survey
REPORT 1	August 1989	Public Sector Tendering & Contracting in New South Wales: Supply of Goods and services

REPORT 2	October 1989	Public Sector Tendering & Contracting in New South Wales: Local Government Tendering & Contracting
Discussion Paper 2	November 1989	Coastal Development in New South Wales: Public Concerns & Government Processes
Discussion Paper 3	June 1990	Public Sector Tendering & Contracting in New South Wales: Capital Works Tendering & Contracting : Management Options
REPORT 3	April 1991	Public Sector Tendering & Contracting in New South Wales: Capital Works Tendering & Contracting: Volume A
REPORT 4	September 1991	Coastal Planning & Management in New South Wales: A Framework for the Future: Volume I
Supplement to 4	September 1991	An Alternative Dispute Resolution Primer
REPORT 5	December 1991	Public Sector Tendering & Contracting in New South Wales: Capital Works Tendering & Contracting: Volume B
REPORT 6	December 1991	Payroll Tax Concessions for Country Industries: Volume I
REPORT 7	June 1992	Public Sector Tendering & Contracting in New South Wales: Supply of Goods and Services: Follow Up Report
REPORT 8	October 1992	Coastal Planning & Management in New South Wales: the Process for the Future: Volume II
REPORT 9	April 1993	Public Sector Tendering & Contracting in New South Wales: Local Government Tendering & Contracting: Follow Up Report
Discussion Paper 4	August 1993	Regional Business Development in New South Wales: Trends, Policies and Issues
REPORT 10	May 1994	Regional Business Development in New South Wales: Achieving Sustainable Growth: Principles for Setting Policy, Volume I
REPORT 11	November 1994	Regional Business Development in New South Wales: Achieving Sustainable Growth: Initiatives for Setting Policy, Volume II
REPORT 12	August 1996	Rationales for Closing the Veterinary Laboratories At Armidale and Wagga Wagga and

		the Rydalmere Biological and Chemical Research Institute
REPORT 13	October 1996	Factors Influencing the Relocation Of Regional Headquarters of Australian And Overseas Corporations to New South Wales
REPORT 14	April 1997	Interim Report on The Fisheries Management Amendment (Advisory Bodies)

ESTABLISHMENT AND FUNCTIONS OF THE STATE DEVELOPMENT COMMITTEE

In June 1988, the Legislative Council of the New South Wales Parliament resolved to establish two Standing Committees, the Standing Committee on Social Issues and the Standing Committee on State Development. After the 1995 elections, a third Committee, the Standing Committee on Law and Justice, was established as well.

The Standing Committee on Privilege and Ethics, which does not have a Secretariat, was also reconstituted by resolution.

The functions of the State Development Committee, as set out in the Resolutions of the Legislative Council, are to inquire into, consider and report to the Council on:

- options for future policy directions and emerging issues to ensure that opportunities for sound growth and wise development for the benefit of the people in all areas of New South Wales are pursued;
- any proposal, matter or thing concerned with economics and finances, resources and energy, transportation, tourism, public administration, local government, the Olympics, primary industry, industrial and technological developments and environmental issues in New South Wales;
- employment practices, issues and conditions; and
- any proposal, matter or thing concerned with the problems or disadvantages uniquely or predominantly experienced in country areas, including the viability of cities and towns in those areas.

OPERATION OF THE COMMITTEE

Matters for inquiry may be referred to the Committee by:

- resolution of the Legislative Council
- a Minister of the Crown
- way of relevant annual reports and petitions.

The Committee reports to the Legislative Council. The Committee's reports may include draft Bills designed to give effect to the report's recommendations. The Committee may publish papers and evidence taken in public, as it considers appropriate. In that connection the Committee may prepare and distribute discussion papers as aids to its inquiries.

Committee reports must be laid before the Legislative Council within ten days of their being adopted by the Committee. The reports are given precedence for debate during General Business.

The Leader of the Government in the Legislative Council is required to respond within six months to any recommendations for Government action that have been set out in Standing Committee reports.

In terms of the Legislative Council resolution establishing the Committee, the Committee may:

- summon witnesses
- make inspections
- call upon the services of government organisations and their staff, with the consent of the appropriate Minister
- accept written submissions concerning inquiries from any person or organisation
- conduct public hearings
- meet and make joint reports with other Committees of the legislatures of the Commonwealth and the States.

GLOSSARY

Term or Acronym	Definition
ACM	Australian Chamber of Manufacturers
ANZECC	Australian and New Zealand Environment and Conservation Council
EOP Act	Environmental Offences and Penalties Act 1989
EPA	Environment Protection Authority of NSW (acquired the waste minimisation, recycling and environmental regulatory functions of the WMA following its disbandment on 1 March 1992)
Hypothecation	The creation of a nexus between a particular source of tax revenue and a particular expenditure program
IWN	Industry Waste Network
IWRP	Industry Waste Reduction Plan
LGA	Local Government Association of NSW
LG Act	Local Government Act 1993
MWDA	Metropolitan Waste Disposal Authority (a State Authority established for the management of waste in Sydney operating between 1971 and 1989)
RIS	Regulatory Impact Statement
Section 29 levy	A levy applied on waste received at waste depots in the Sydney region under Section 29 of the Waste Disposal Act 1970

Term or Acronym	Definition
Section 72 levy	A levy applied on certain wastes received at waste facilities in NSW under Section 72 of the Waste Minimisation and Management Act 1995
Section 73 Fund	See 'Waste Planning and Management Fund'
SPCC	State Pollution Control Commission (a State Authority responsible for pollution control operating up to 1992 when it was replaced by the EPA)
SWAC	State Waste Advisory Council (an waste advisory body established by the Waste Minimisation and Management Act 1995)
Waste Planning and Management Fund	A fund established under section 73 of the Waste Minimisation and Management Act 1995 to provide financial assistance for waste reduction and management in NSW
Waste Service NSW	The trading name of the Waste Recycling and Processing Service of NSW
WD Act	Waste Disposal Act 1970
WMA	Waste Management Authority (replaced the MWDA on 1 July 1989)
WMM Act	Waste Minimisation and Management Act 1995
WMM Regulation	Waste Minimisation and Management Regulation 1996
WRAPS	Waste Recycling and Processing Service of NSW (trades as the Waste Service NSW). Acquired the functions of the WMA in relation to the management of existing waste disposal facilities

Term or Acronym	Definition
WRPS Act	<p>on 1 March 1992</p> <p>Waste Recycling and Processing Service Act 1970 (the renamed Waste Disposal Act 1970)</p>

RECOMMENDATIONS

RECOMMENDATION 1

That Schedule 1, Section 2(1) of the Waste Minimisation and Management Act be amended by replacing it with “One of the members of the State Waste Advisory Council is to be chairperson of the State Waste Advisory Council. The chairperson of the State Waste Advisory Council is to be elected by a majority vote of the members of the State Waste Advisory Council.”

RECOMMENDATION 2

That existing waste generating and disposal facilities and transport licensing thresholds be reviewed by the Environment Protection Authority of NSW within 12 months to determine their effectiveness in managing wastes. The results of this review are to be made publicly available.

RECOMMENDATION 3

That a training program be developed and delivered by the Environment Protection Authority of NSW in consultation with Local Government, the Police Service and the Roads and Traffic Authority. This program should commence by July 1997 and include, where appropriate:

- (a) training on the enforcement of the Waste Minimisation and Management Regulation;
- (b) training on the management of waste facilities;
- (c) training on the implications of changes to the regulation of hazardous wastes;
and
- (d) comprehensive guidelines in manual form, including pro-forma documentation for use by industry and regulators, to ensure consistency in the enforcement of the generic requirements of the Waste Minimisation and Management Regulation.

RECOMMENDATION 4

That the allocation of resources from the Waste Planning and Management Fund and the Environment Protection Authority of NSW to Local Government, for the purposes of waste regulation enforcement, should accurately reflect the requirements of Local Government to effectively undertake this task.

RECOMMENDATION 5

That the determination of resources available to Local Government to carry out its responsibilities in waste management take no account of inspection fees and fines arising from prosecutions.

RECOMMENDATION 6

That the general regulatory business of the Environment Protection Authority of NSW not be funded from the Waste Planning and Management Fund.

RECOMMENDATION 7

That the roles of the Police Service and the Roads and Traffic Authority in the enforcement of the Waste Minimisation and Management Act be limited to the recording of possible breaches of the generic provisions that apply to non-licensed waste transporters and the referral of these observations to the Environment Protection Authority of NSW and the relevant Local Government authority for further investigation and possible prosecution.

RECOMMENDATION 8

That waste-related incomes and expenditures on waste-related programs be fully and transparently accounted for.

RECOMMENDATION 9

That there be a twice-yearly consultative process involving the Environment Protection Authority of NSW and representatives of Local Government, industry and the environment movement to receive feedback about the effectiveness of the Waste Minimisation and Management Act and Waste Minimisation and Management Regulation.

INTRODUCTION

On 1 November 1996, the Waste Minimisation and Management Regulation 1996 (WMM Regulation) was gazetted providing administrative details of the Waste Minimisation and Management Act 1995 (WMM Act), particularly in relation to the licencing and regulation of waste facilities and waste activities.

The gazetting of the WMM Regulation followed the release of a Regulatory Impact Statement (RIS) and an accompanying draft Waste Minimisation and Management Regulation (draft WMM Regulation) by the Environment Protection Authority (EPA) on 8 June 1996. Ninety-two submissions were made to the EPA during the ensuing eight weeks of public consultation, with some amendments made to the draft WMM Regulation.

The WMM Regulation was tabled in the Legislative Council on 12 November 1996. On 4 December 1996 the Hon Ian Cohen MLC moved to disallow the WMM Regulation pursuant to Section 41(1)(b) of the Interpretation Act 1987. On 5 December 1996 the Legislative Council resolved to amend section 18 of the WMM Regulation so as to remove increases in the payment of contributions by occupiers of a controlled waste facility that were due to take effect from 1 July 1997. The Legislative Council also resolved that the Standing Committee on State Development inquire into and report on various aspects of waste minimisation and management as set out in the Terms of Reference on page (i) of this report.

Public submissions in relation to the Terms of Reference were subsequently sought by newspaper advertisement. Written invitations to submit were sent to forty-four organisations and individuals. Twenty-four written submissions were received by the Committee. Public hearings were held in Sydney over two consecutive days beginning 6 February 1997. Evidence was heard from twenty-two witnesses representing the interests of twelve organisations.

1 BACKGROUND

1.1 Waste Management in NSW Up to 1992

Until June 1971 the disposal, management and regulation of solid and hazardous waste in NSW was the responsibility of Local Government. Following the recommendations of the Barton Report¹, the Metropolitan Waste Disposal Authority (MWDA) was established. The MWDA functioned in accordance with the Waste Disposal Act 1970 (WD Act) to manage solid and liquid wastes within the Sydney region. During 1975 the responsibilities of the MWDA were extended to those of a regulator, with powers to license waste disposal operators.

Outside the Sydney region, local councils retained responsibilities for waste management, carrying out these in accordance with the Local Government Act 1919. Various pollution control legislation was also considered by local councils in relation to the operation of their waste services and waste management facilities. The State Pollution Control Commission (SPCC) had limited regulatory powers under this legislation to take action where a waste related threat to the environment was thought to exist.

In 1989, the MWDA was renamed the Waste Management Authority (WMA) and “adopted the waste management hierarchy in recognition that ‘end of pipe’ solutions were no longer appropriate”.²

The WMA was in turn replaced by the Waste Recycling and Processing Service (WRAPS), trading as the Waste Service NSW, on 1 March 1992 with its policy, waste minimisation and recycling functions transferred to the newly created Environment Protection Authority (EPA). The licensing provisions of the WD Act, still limited to the Sydney Metropolitan region, were also transferred to the EPA. Responsibilities of the Waste Service NSW were restricted to the transport, collection, reception, treatment, storage and disposal of waste within the Sydney region.

1.2 The Waste Management Green Paper

¹ Barton, A E 1970, *Report by A E Barton upon investigations into the problem of waste disposal in the metropolitan area of Sydney*, Government Printer, Sydney.

² Waste Service NSW 1996, Annual Report 1995-96, Waste Service NSW, p 2.

In September 1992 the Coalition Government released a Green Paper on waste management³ (Green Paper) adopting the goal advocated by the Australian and New Zealand Environment Council (ANZECC) of a 50% reduction in the amount of waste generated in 1990 by the year 2000. The Green Paper recognised the key regulatory function of the EPA and the right to community-based decision making about the location of new landfill sites.

1.3 The Joint Parliamentary Select Committee Upon Waste Management

In October 1992 the Minister for the Environment announced the terms of reference for a ten member bi-partisan Joint Select Committee to examine and report on the Green Paper. Membership of the Committee included the following representatives:

- five from the Coalition Government;
- three from the Labor Opposition;
- one from the Australian Democrats; and
- one Independent.

The Committee tabled its report in Parliament in September 1993.⁴

A majority of the Committee⁵ supported the policy directions outlined in the Green Paper, including:

the transfer of greater responsibility for waste management to Local Government; greater private sector involvement in the waste industry; and a greater emphasis on waste avoidance and minimisation.

The Committee's "Dissenting Views" section detailed the concerns of its non-government members. Amongst these were:

³ Hartcher C 1992, *Waste Management Green Paper, a Discussion Paper by the Hon Chris Hartcher, MP, Minister for the Environment*, The NSW Government.

⁴ NSW Parliament 1993, *Report of the Joint Select Committee upon Waste Management*, NSW Parliament.

⁵ Endorsed by members of the Coalition Government. Non-Government Committee members supported only parts of the report.

- opposition to the transfer of greater responsibility for waste management to Local Government;
- opposition to the private sector ownership of putrescible landfill sites;
- support for the total allocation of monies raised through waste levies to waste minimisation initiatives; and
- opposition to the expansion of the incineration industry in NSW.

1.4 Release of the Coalition Government's Policy

In June 1994 the Coalition Government released a policy statement aimed at reforming the waste management industry.⁶

Key features of this policy were:

- the formation of Regional Waste Authorities from groups of local councils to develop and implement Regional Waste Management Plans for domestic, commercial and industrial solid waste generated within their regions. A Waste Planning and Management Fund would be established for five years to provide the resources needed to establish and run programs of the Regional Waste Authorities. Thirty-five million dollars would be allocated over the first four years;
- the private sector would be permitted to provide the “full spectrum” of waste management facilities, including the ownership and control of putrescible waste disposal facilities;
- the formulation of Industry Waste Reduction Plans (IWRPs) by major industry sectors with the EPA to consider all waste generation aspects of production; and
- allowing the Waste Service NSW to compete on a state-wide basis.

1.5 Release of the ALP's Policy

On 5 March 1995 the Leader of the Opposition launched the NSW Labor Party' strategy on waste minimisation and recycling (Labor' Waste Policy). It was announced that, upon election, the Carr Labor Government would “crack down on waste generation by

⁶ NSW Government 1994, *No Time to Waste - NSW Government Policy on Waste*, NSW Government.

implementing a comprehensive waste minimisation and recycling strategy”.⁷ Labor’s Waste Policy proposed a number of legislative and administrative changes affecting the way waste is managed in NSW. Details of the proposed changes within the Terms of Reference of this Inquiry are discussed in Section 4.

1.6 The Waste Minimisation and Management Act 1995

In November 1995 the Waste Minimisation and Management Bill 1995 (WMM Bill) was introduced to partly implement Labor’s Waste Policy. The aim of the WMM Bill was to achieve a 60% reduction in waste disposal by the year 2000 by establishing a waste management hierarchy based on waste avoidance, then re-use, then recycling and reprocessing and, lastly, disposal. The WMM Bill established Waste Management Regions, IWRPs and increases in penalties for those committing certain waste related offences. It also amended much of the WD Act.

Following amendments made in both houses of Parliament the Waste Minimisation and Management Act 1995 (WMM Act) was proclaimed on 22 December 1995.

Apart from provisions related to the new licensing scheme and contributions by occupiers of certain waste facilities, the WMM Act commenced on 19 January 1996. The contributions scheme and some licensing provisions commenced on 1 November 1996. The remaining licensing provisions relating to trade waste premises and waste transporters will commence on 30 June 1997: until then, relevant sections of the Waste Recycling and Processing Service Act 1970 (WRPS Act)⁸ remain in force.

The WMM Act identifies two underlying principles: achieving a 60% reduction in the amount of waste disposed of in NSW by 2000 (from 1990 levels); and formalising a waste management hierarchy. In accordance with the principles of ecologically sustainable development, the WMM Act identifies a range of objectives in order to met these principles.

Main features of the WMM Act are:

⁷ Australian Labor Party, NSW Branch 1995, *Labor’s Waste Minimisation and Recycling Strategy*, NSW ALP, p 1.

⁸ The *Waste Recycling and Processing Service Act 1970* is the renamed *Waste Disposal Act 1970* as amended by the *Waste Minimisation and Management Act 1995*.

- the establishment of a State Waste Advisory Council (SWAC) to advise the Minister and the EPA on a range of waste related matters (ss. 6-8);
- the establishment of Waste Management Regions based on multiple Local Government areas to provide an integrated approach to the assessment and planning of waste management consistent with State-wide policies (ss. 10-12);
- the establishment of Waste Boards to co-ordinate waste services within each management region and to develop and implement Regional Waste Plans (ss. 13-29);
- the requirement of the Dairy industry, and other industries nominated by the Minister, to prepare an IWRP (ss. 30-36 and 38). In some cases, IWRPs can be prepared by the EPA without negotiating with that industry (s. 37). Contravention of an IWRP can be an offence leading to more onerous requirements upon that industry. (ss. 39-43);
- the requirement for the occupiers of “a controlled waste facility”, persons carrying out a “controlled waste activity” and transporters of certain wastes to hold a licence from the EPA (ss. 44-47 and 49-52). Thresholds which trigger the requirement to hold a licence are set by the Waste Minimisation and Management Regulation 1996 (s. 47). Licences impose conditions upon holders, breaches of which constitute an offence (ss. 53-62);
- a provision allowing putrescible landfill sites to be managed or controlled by the private sector, provided a public authority holds a supervisory licence (s. 48);
- provisions making it an offence to dispose of waste without authorisation (ss. 63-64). The EPA or an “authorised officer” of the EPA can require information from a person, issue directions and inspect premises in relation to the management of certain wastes (ss. 65-71);
- a requirement for the occupiers of certain controlled waste facilities to make payments to the EPA (s. 72);
- the establishment of a Waste Planning and Management Fund (WPMF) to be spent on waste reduction and management activities by Waste Boards as the Minister considers appropriate (ss. 73-74);
- the right of appeal for persons (other than a public authority) opposed to a notice or licensing conditions (ss. 75-77). Disputes over licensing conditions between the EPA and public authorities, or in relation to IWRP and regional waste plans, can be referred to the Premier or the Minister for the Environment (ss. 78-79);
- a requirement that the Minister for the Environment review the WMM Act and report to the Parliament on the outcome of the review by 22 December 2000 (s. 91); and
- significant changes are made to the WD Act affecting the functions and operation of the Waste Service NSW (Schedule 6).

1.7 The Waste Minimisation and Management Regulation 1996

On 8 June 1996 a Regulatory Impact Statement (RIS) containing a draft Waste Minimisation and Management Regulation (Draft WMM Regulation) under the WMM Act was published. During the ensuing eight weeks of public consultation, ninety-two submissions were made to the EPA. Subsequently, amendments were made to the draft WMM Regulation before its gazettal.

On 1 November 1996 the Waste Minimisation and Management Regulation 1996 (WMM Regulation) was gazetted with most provisions commencing on that date. The following provisions are due to commence on 30 June 1997:

- the licensing of waste activities and transporters of waste;
- fees for licensed waste activities and transporters of waste;
- the requirements for non-licensed hazardous waste transporters and storage activities; and
- the requirements for non-licensed transporters of waste.

The WMM Regulation was tabled in the Legislative Council on 12 November 1996. On 4 December 1996, the Hon Ian Cohen, MLC moved to disallow the WMM Regulation pursuant to Section 41(1)(b) of the Interpretation Act 1987. On the following day, the Legislative Council resolved to amend section 18 of the WMM Regulation so as to remove increases in the payment of contributions by occupiers of a controlled waste facility that were due to take effect from 1 July 1997. The Legislative Council also resolved that the Standing Committee on State Development inquire into and report on various issues in waste minimisation and management as set out in the Terms of Reference contained on page (i) of this report.

The WMM Regulation details provisions in relation to the licensing and regulation of waste facilities and activities in accordance with section 87 of the WMM Act. In particular, the WMM Regulation:

- specifies the classes of waste facility that must be licensed;
- dictates that any activity carried on for business or other commercial purposes involving the generating or storage of hazardous waste (except in certain specified cases) is a waste activity that must be licensed;
- prescribes hazardous waste (except in certain cases), and used, rejected or unwanted tyres in loads over two tonnes, as types of waste that must not be transported without a licence;
- prescribes the fees to accompany an application for the granting or renewal of a licence;

- prescribes other matters relating to licences (eg the refunding of fees and the penalties applicable for late licence applications);
- prescribes standard operating conditions and requirements for non-licensed landfill sites, waste generating and storage activities, and waste transporters;
- prescribes the contributions payable by occupiers of controlled waste facilities for the wastes received;
- provides for exemptions and rebates from contributions for some wastes (eg wastes that are to be reprocessed or recycled); and
- outlines standard reporting and monitoring requirements for landfill sites.

2 THE REGULATION OF WASTE AND THE ROLES OF STATE AND LOCAL GOVERNMENT

2.1 The Role of the Environment Protection Authority

2.1.1 Prior to Commencement of the WMM Act and WMM Regulation

Prior to the commencement of the WMM Act and WMM Regulation, waste generated in the Sydney metropolitan region was primarily regulated through the WD Act. The WD Act required the following to be registered or licensed by the EPA:

- generators of non-hazardous waste employing more than 20 employees;
- generators of hazardous waste;
- waste management depots; and
- commercial transporters of waste (both into and out of the Sydney region).

Those activities not licensed or registered could be regulated by the EPA but were in practice left to Local Government.

According to the EPA, the regulatory scheme under the WD Act had a number of limitations:

- it only applied to the Sydney Metropolitan region;
- it required around 5000 licences or registrations irrespective of the quantity or type of waste involved and the relative potential of such activities to harm the environment (Table 2.1 details the number of licences or registrations administered by the EPA over the last three years);
- the role of Local Government was unclear; and
- the fees charged for licences and registrations only recovered around 20% of the \$1.7 million expended by the EPA in administering and enforcing waste related activities.⁹

Apart from the WD Act, the EPA had limited powers within some pollution control legislation to control aspects of some waste related activities. The most relevant of these were the Clean Waters Act 1970 (CW Act) and, to a lesser extent, the Environmentally

⁹ NSW Environment Protection Authority 1996, *Regulatory Impact Statement: Proposed Waste Minimisation and Management Regulation* 1996, NSW Environment Protection Authority, p 6.

Hazardous Chemicals Act 1985 (EHC Act). Under s. 19(1)(a)(i) of the CW Act, EPA approval was required prior to the “installation, construction, or modification of any apparatus, equipment or works for the discharge of pollutants into waters”. Under the EHC Act, the EPA could regulate the movement, storage and disposal of declared chemical wastes which are the subject of a chemical control order.

Broad powers were also available to the EPA under the Protection of the Environment Administration Act 1991 to direct a local council to do anything within their powers which would contribute to the protection of the environment in the opinion of the EPA - this could include waste minimisation and disposal.

TABLE 2.1
Licences Or Registrations Administered by the EPA by Year and Type

Year	Total	Waste Generators	Waste Depots	Waste Transporters
1995-6	4930	3888	137	905
1994-5	5012	3280	121	1611
1993-4	5159	3637	97	1425

Source: EPA 1995/96 Annual Report; EPA 1994/95 Annual Report; EPA 1993/94 Annual Report.

2.1.2 Following Commencement of the WMM Act and WMM Regulation

The WMM Act provides a legal framework for managing waste related activities in NSW. Part of this framework includes the establishment of a licensing system for regulating activities which, according to the EPA, “have the greatest potential to harm the environment”.¹⁰

Under the WMM Act, the EPA is responsible for managing a licensing system which includes issuing licences for the three activity classes:

¹⁰ Submission 16, NSW Environment Protection Authority, p 6.

- controlled waste activities, which include some hazardous waste generating or storage activities;
- controlled waste facilities, which include some landfills; hazardous waste treatment, processing or disposal facilities¹¹; used tyre processing, storage or disposal facilities; some incinerators; composting facilities; and waste storage, transfer or recovery facilities; and
- waste transporters, which includes transporters of over 200 kg or 205 litres of hazardous waste or two tonnes of used tyres.

The EPA regulates licence holders and can take certain action in relation to suspected breaches of licence conditions.

The EPA estimates that thresholds set by a “more focused” licensing system of the WMM Act will involve around 1950 licences across the State: this is around 3000 fewer than are currently in place under the WRPS Act. Annual licence fees of \$2.2 million will ensure full cost recovery to the EPA for administering the system and regulating licence holders.

In addition to the licensing powers, the generic provisions of the WMM Regulations provide the EPA with powers to regulate non-licensed landfills, non-licensed hazardous waste generating or storage activities and non-licensed commercial transporters. Most of these powers are also available to officers of other agencies that have been authorised by the EPA.

Finally, the WMM Act gives the EPA notice powers which it can exercise to address environmental harm being, or likely to be, caused by any person.

These notice powers allow the EPA to:

- amend licences to require certain actions;
- require occupiers of unlicensed waste facilities to take certain action in relation to waste at that facility; and
- require any person to deal with waste in that person’s possession or control.

¹¹ Hazardous waste types are listed in the WMM Regulation with concentrations constituting a hazardous level defined by the EPA on a case-by-case basis. These definitions will be amended prior to the commencement of the licencing provisions for hazardous waste generating and storage activities on 1 July 1997 following completion of a community consultation process.

2.2 The Role of Local Government

2.2.1 Prior to Commencement of the WMM Act and WMM Regulation

Prior to the commencement of the WMM Act and WMM Regulation, Local Government regulated all waste-related activities and facilities not regulated by the EPA with powers provided by Local Government Act 1993 (LG Act).

Under the general grant power of the LG Act, local councils provided a range of waste management services. These included the collection of wastes and the provision of disposal facilities except within the Sydney region, where putrescible waste disposal facilities were provided by Waste Service NSW. All waste disposal facilities within the Sydney region were licensed and regulated by the EPA.

The LG Act required approval from a local council for a range of waste management activities, including:

- transporting waste over or under a public place, for fee or reward;
- placing waste in a public place;
- placing a waste storage container in a public place; and
- disposing of waste into a sewer of a local council.

Within the Sydney region, local council approval for the commercial transport of waste was not required as this was regulated by the EPA.

The LG Act also gave local councils powers to issue orders, in some circumstances, to occupiers of non-licensed premises in relation to the storage, treatment, processing, collection, removal and disposal of waste. These circumstances included where premises were not being maintained in a safe and healthy condition or where waste was not being dealt with satisfactorily. Within the Sydney Region the power to issue such notices was restricted to generators of non-hazardous waste with fewer than 20 employees.

Finally, local councils were also able to control waste related activities in public places by erecting a notice.

2.2.2 Following Commencement of the WMM Act and WMM Regulation

The WMM Act provides a number of regulatory powers to Local Government. The specific waste-related powers available to Local Government under the LG Act, as discussed in 2.2.1, remain, with the exception that local councils can regulate those waste activities and facilities which fall outside the purview of the WMM Act.

The WMM Act also regulates some Local Government-owned or controlled waste-related activities and facilities. Landfill facilities provided by local councils in the extended regulated area¹² may require a licence. In these instances, landfill environmental management plans must be prepared and annual licence fees paid.

The environmental performance requirements of non-licensed facilities and activities are contained in part 5 (the generic requirements) of the WMM Regulation and affect Local Government in two ways.

As occupiers, owners and providers of waste management activities or facilities, local councils must meet the generic requirements and provide certain information to the EPA in relation to non-licensed landfills. The EPA is responsible for enforcing the generic requirements applicable to public authorities.

As regulators, local councils, through officers authorised by the EPA, have powers to enforce the generic provisions that apply to the private sector. These enforcement provisions are also available to authorised officers employed by the EPA (and authorised officers of other State Authorities) but, in practice, local councils will be expected to enforce the generic requirements as the EPA “focus[es] its resources on enforcing provisions for licensed activities and reporting requirements for non-licensed landfills”.¹³

Local Government will incur costs through enforcing the generic requirements of the WMM Regulation. This has been acknowledged by Ms Susan Dawson, the EPA’s Director of Environmental Policy, who has indicated that the primary concern of the EPA is “to ensure an adequate level of funding to those who required funding to perform their tasks”.¹⁴

¹² The ‘extended regulated area’ is the area comprising the Cessnock, Gosford, Kiama, Lake Macquarie, Maitland, Newcastle, Port Stevens, Shellharbour, Shoalhaven, Wingecarribee, Wollongong and Wyong local government areas.

¹³ NSW Environment Protection Authority 1996, *Regulatory Impact Statement: Proposed Waste Minimisation and Management Regulation* 1996, NSW Environment Protection Authority, p 32.

¹⁴ Evidence of Ms Dawson, 7 February 1997, p 8.

The EPA is of the view that “the [waste reform] package provides a very clear funding and resource base for Local Government ... to take up their responsibilities in the waste management schema”.¹⁵

The EPA highlights a range of formal mechanisms available to Local Government to offset their costs. These include:

- funds available through the WPMF;
- section 608 of the LG Act which allows councils to recover fees for services they provide; and
- retaining costs and fines resulting from enforcement activities.

Representatives of Local Government, Industry and the environment movement do not support the views of the EPA that Local Government will have the expertise or funds to effectively carry out its regulatory role under the WMM Act. These arguments are discussed in detail in Section 4.5.

2.3 Other Bodies

2.3.1 Prior to Commencement of the WMM Act and WMM Regulation

Prior to commencement of the WMM Act and WMM Regulation, the EPA was the only State Government authority with powers to enforce the regulatory provisions of the WD Act.

Limited waste related powers were available under other legislation to:

- officers of the Police Service under the Motor Traffic Act 1909 for windblown litter; and
- officers of the State’s land management authorities (National Parks and Wildlife Service, Forestry Commission, Conservation and Land Management) for littering and dumping activities on land under their control.

¹⁵ Evidence of Ms Dawson, 7 February 1997, p 4.

2.3.2 Following Commencement of the WMM Act and WMM Regulation

Powers to enforce the generic environmental provisions of the WMM Act and WMM Regulation are provided to authorised officers of the EPA. Officers of the EPA are currently the only officers of a State Government authority empowered to enforce the generic requirements of the WMM Act. However, a strategy to phase-in the authorisation of non-EPA State Government officers is being developed by the EPA. The Strategy will include officers of the NSW Police Service and the Roads and Traffic Authority.

3 THE COLLECTION OF LEVIES FOR WASTE DISPOSAL AND HYPOTHECATION OF FUNDS TO THE MINIMISATION OF WASTE AND WASTE REDUCTION STRATEGIES

3.1 Arrangements Prior to March 1995

Prior to the establishment of the EPA, State Government responsibility for developing and implementing waste reduction strategies and policies rested primarily with the WMA. Such strategies and policies were restricted to the Sydney region, although the NSW Recycling Committee was established by the MWDA in 1986 “to stimulate and co-ordinate recycling in the State”.¹⁶

At a local level, local councils developed and implemented a range of waste reduction initiatives.

From the late 1980s, an increasing number of local councils provided a collection service for recyclable materials - the associated costs being met through avoided waste disposal charges and the revenue raised by selling collected materials to Industry. As community participation increased and more local councils provided a service, the quantity of materials collected increased. An oversupply of some materials developed, reducing their commercial value and increasing the nett costs of a collection service. At the same time, a greater range of recyclable materials was being collected - typically of materials with lower intrinsic value and higher collection costs.

By late 1990, increasing costs forced some local councils to reduce the scale of the collection service provided. With the threat of a wide-scale cessation of recyclable collection services, the State Government established the Council Recycling Rebate Scheme (CRR Scheme) on 12 January 1991 to provide short-term financial assistance as well as an additional financial incentive for improving recycling services.

Sections 29 and 46 of the WD Act provide for a levy to be applied on waste received at all waste depots in the Sydney region. The levy had been introduced to help fund the administrative costs of the MWDA. On 12 January 1991 the levy was increased, with all funds collected deposited into a WMA- established and managed Research and Waste Minimisation Reserve (RWM Reserve). Funds from the RWM Reserve were then hypothecated to fund waste minimisation initiatives of the WMA, as payments through the

¹⁶ Waste Management Authority of NSW 1991, *Annual Report, 1990-91*, Waste Management Authority of NSW, p 10.

CRR Scheme to Sydney's local councils based on the quantity of eligible recyclable materials they collected or to cover the administration costs of the RMR Reserve and CRR Scheme.

On 1 March 1992, the WMA was replaced by the Waste Recycling and Processing Service (WRAPS), with its regulatory functions transferred to the EPA. In accordance with the Protection of the Environment Administration Act 1991, the administration of, and payment of funds through, the CRR Scheme was transferred to the EPA. From this day, monies collected by WRAPS through sections 29 and 46 of the WD Act were paid to the Consolidated Fund via the EPA.

In March 1993, \$2.74 million, representing the unspent accumulated RWM Reserve, was transferred from WRAPS to the EPA who in turn paid this into the Consolidated Fund.

Table 3.1 details the funds collected from local councils through sections 29 and 46 of the WD Act and paid to local councils through the CRR Scheme to 1995. It shows that local councils received \$13.57 million through the CRR Scheme and paid \$19.09 million in levies.

It should be noted that the amount paid by local councils through sections 29 and 46 of the WD Act represents a portion (around 43%) of the total collected. The remaining portion (around 57% of the total) was paid by other waste "generators" and collectors, eg commercial and building wastes and wastes transported direct to landfill or transfer stations by the general public.

TABLE 3.1
Funds Collected From Local Councils Through Sections 29 and 46 of the WD Act and Paid to Local Councils Through the CRR Scheme to 1994/5

Time period (financial year unless indicated)	paid by local councils through section 29/46 of WD Act (\$ Million)	Monies paid to local councils under the CRR Scheme (\$ Million)
1994/5	5.03	4.10
1993/4	5.13	3.60
1992/3	4.21	3.07
1991/2	2.97	2.06
12/1/91 to 30/6/91	1.75	0.74
Total	19.09	13.57

Note: From 1 March 1992 monies paid to local councils under the CRR Scheme were not related to the monies paid by local councils through Sections 29/46 of the WD Act.

Sources: WMA 1990/1 Annual Report; Information supplied by the EPA.

In addition to funds raised through Sections 29 and 46 of the WD Act, NSW Treasury also received “waste related” income from the EPA derived from waste licence fees and from WRAPS through various dividends and taxes. Details of these are provided in Table 3.2.

TABLE 3.2
Waste Related Fees and Dividends Paid to NSW Treasury by the EPA and
Waste Service NSW (1992/3 - 1994/5)

Year	Item	Paid by EPA (\$ million)	Paid by Waste Service NSW (\$ million) ^a	Total to Consolidat ed Revenue (\$ million)
1994/5	Income Tax	-	1.00	1.00
	Other Corporate Taxes	-	1.20	1.20
	Dividends	-	5.40	5.40
	Waste licence fees and levies	5.79 ^d	6.90 ^b	12.69
	Total	5.79	14.50	20.29
1993/4	Income Tax	-	-	0.00
	Other Corporate Taxes	-	0.30	0.30
	Dividends	-	7.10	7.10
	Waste licence fees and levies	4.15 ^d	7.10 ^b	11.25
	Donations and Industry contribution ^{se}	0.34	-	0.34
	Total	4.49	14.50	18.99
1992/3	Income Tax	-	-	0.00
	Other Corporate Taxes	-	0.30	0.30

Year	Item	Paid by EPA (\$ million)	Paid by Waste Service NSW (\$ million) ^a	Total to Consolidat ed Revenue (\$ million)
	Dividends	-	28.60	28.60
	Waste licence fees and levies	3.15 ^d	5.96 ^b	9.11
	Donations and Industry contributions	4.00 ^c	-	4.00
	Total	7.15	34.86	42.01

Notes: a - Details for Waste Service NSW are on a cash payment basis;
b - transferred to EPA then Treasury;
c - includes \$2.74 million transferred from the RWM Reserve;
d - calculated from "waste-related levies and fees" in the relevant EPA Annual Report less the amount collected in waste levies by Waste Service NSW;
e - minimum that appears waste-related.

Sources: Information supplied by Treasury; EPA Annual Reports for 1992/3, 1993/4, 1994/5.

Apart from the CRR scheme, the State Government provided or managed other waste minimisation initiatives administered by the WMA/WRAPS and the EPA.

In the case of the WMA/WRAPS, these initiatives were funded through the RWM Reserve or general charges for waste disposal. Generally, they were of a capital nature involving the provision of waste separation facilities and infrastructure to enable recycling at its operations. Various waste minimisation education programs were also funded by WMA/WRAPS up until 1993/4.

In the case of the EPA, waste minimisation initiatives were funded from the EPA budget allocation process through the Consolidated Fund. These initiatives primarily involved waste minimisation education and research.

Details of the “non-CRR Scheme” funded initiatives of the EPA and the WMA/WRAPS up to 1994/5 are shown in Table 3.3.

TABLE 3.3
Spending on Waste Recycling and Minimisation 1991/2 to 1994/5 by WMA/WRAPS and EPA (excluding the CRR Scheme)

Year	Authority	Details of waste recycling & minimisation programs
1994/5 (\$9,598,000)	EPA (\$8,330,000)	Waste branch (\$1,330,000) Other areas of the EPA (\$7,000,000)
	WRAPS (\$1,268,000)	Resource Recovery Parks (\$20,000) Composting facilities (\$1,108,000) Landfill gas to electricity (\$140,000)
1993/4 (\$7,089,000)	EPA (\$7,075,000)	Waste management branch (\$1,075,000) Other areas of the EPA (\$6,000,000)
	WRAPS (\$14,000)	50% Reduction campaign (\$14,000)
1992/3 (\$8,359,000)	EPA (\$6,899,000)	Waste management branch (\$899,000) Other areas of the EPA (\$6,000,000)
	WRAPS (\$1,460,000)	Marketing/waste minimisation (\$1,460,000)
1991/2 (\$3,335,000)	WMA/WRAPS (\$3,335,000)	Marketing/waste minimisation (\$3,310,000) Government Recycling Advisory Unit (\$25,000)

Sources: Information provided by the EPA and Waste Service NSW.

3.2 Arrangements Since March 1995

The March 1995 State election resulted in a change of Government. Upon assuming power, the Carr Labor Government set about introducing a legislative framework to implement the Labor Party's pre-election commitments on waste minimisation and management.

3.2.1 Labor's Hypothecation Commitments

In the weeks preceding the March 1995 State election, the NSW branch of the Australian Labor Party (ALP) released its policy on waste – Labor's Waste Minimisation and Recycling Strategy (Labor's Waste Policy). Labor's Waste Policy stated the ALP's position on the role of the State Government in waste management. It also detailed a range of waste minimisation and management strategies on waste planning, waste disposal pricing and waste levies.

With regard to waste levies, Labor's Waste Policy stated:

... there should be a direct link between the Section 29 waste management levy, the EPA and expenditure by the EPA on waste minimisation initiatives such as the Council Recycling Rebate Scheme (CRR).

Labor will ensure that Section 29 funds are hypothecated to the EPA subject to supervision by the Auditor General.¹⁷

3.2.2 The Waste Levy

During 1995, the Minister for the Environment, The Hon Pam Allan, MP, announced proposals to reform waste management in NSW. It was announced that the CRR Scheme would cease and be replaced by a set of financial arrangements under new legislation.

Payments to local councils through the CRR Scheme ended on 31 December 1995.

The collection of monies through Sections 29 and 46 of the WD Act continued until these sections were repealed on 1 November 1996. On that day Section 18 of the WMM

¹⁷ NSW Branch of the Australian Labor Party 1995, *Labor's Waste Minimisation and Recycling Strategy*, NSW Branch of the Australian Labor Party, p 6.

Regulation commenced setting the amounts required to be paid to the EPA by the occupiers of controlled waste facilities for the purposes of Section 72 of the WMM Act.

Until these changes commenced, arrangements for the collection of funds raised by Sections 29 and 46 of the WD Act on waste disposed by local councils at Waste Service facilities continued to be collected by the Waste Service and paid to the EPA, who in turn transferred these to the Consolidated Fund.

Table 3.4 details the funds collected through the Section 29 and 46 levies of the WD Act and the funds provided to local councils through the CRR Scheme from 1 July 1995 until 30 October 1996. It shows that during this period, local councils received \$3.30 million through the CRR Scheme and paid \$11.35 million in levies.

From 12 January 1991 (commencement of the CRR Scheme) until 1 November 1996 (commencement of Section 18 of the WMM Regulation) Local Government paid \$30.44 million in levies and received \$16.87 million through the CRR Scheme.

TABLE 3.4
Funds Collected Through Sections 29 and 46 of the WRPS Act and Paid to Local Councils Through the CRR Scheme from 1995/6

Time period	Funds raised from local councils through section 29/46 of WRPS Act (\$Million)	Monies paid to local councils under the CRR Scheme (\$Million)
1/7/96 to 31/10/96	2.59a	0.00
1995/6	8.76	3.30
Total	11.35	3.30

Notes: a - Funds raised for October 1996 have been extrapolated from EPA figures provided for the period 1/7/96 to 30/9/96.

Sources: Submission 16, NSW Environment Protection Authority.

Arrangements for the collection of funds under Section 72 of the WMM Act are similar to those that existed under the repealed Section 29 of the WD Act - all licenced waste facilities receiving wastes generated in the Sydney metropolitan area continue to pay a contribution to the EPA. The significant change is that licenced facilities receiving waste generated in the extended regulated area are now also required to pay a contribution to the EPA.

In accordance with the EPA's policy "not to hypothecate revenues"¹⁸ these funds are transferred to the Consolidated Fund. There is no relationship between the revenues received through Section 72 of the WMM Act and the amount of money allocated by the EPA to implement waste minimisation strategies. Nor is there any relationship between these revenues and the amount of monies made available to the WPMF established under Section 73 of the WMM Act.¹⁹

3.2.3 Definitions of Hypothecation

¹⁸ Submission 16, NSW Environment Protection Authority, p 28.

¹⁹ Submission 16, NSW Environment Protection Authority, p 28.

The meaning of the word 'hypothecate" received considerable attention throughout the Inquiry. Two dictionaries defined hypothecate as:

To give or pledge as security; to pledge, pawn, mortgage.²⁰

1. To pledge without delivery of title or possession.
2. Suggestion, counsel, pledge, mortgage.²¹

The Committee also sought definitions from numerous witnesses during the Inquiry.

Mr Robert Sendt, Executive Director, Budget Strategy and Policy, NSW Treasury, quoted the Summer 1996 edition of the Economic Roundup:

*Hypothecation involves the creation of a nexus between a particular source of tax revenue and a particular expenditure program. Strict hypothecation involves the quarantining of revenues raised and removing ongoing public review of the level and patterns of expenditure.*²²

Many other witnesses offered definitions that were close to the definition of "strict hypothecation" supplied by Mr Sendt. Hypothecation, in relation to waste levies, was generally held to mean that any money raised by government through such levies or taxes must be directed to waste minimisation and management activities only.²³

This definition was supported by Mr Arthur Diakos, Director of Finance, EPA, who defined hypothecation as:

*... where specific industry-related charges are retained by a regulatory authority for funding of that relevant authority's cost in servicing that specific industry, and targeting industry specific programs.*²⁴

²⁰ *Oxford English Dictionary 2nd Edition 1989*, Clarendon Press, Volume VII, p 581.

²¹ *Webster's Third New International Dictionary 1986* Merriam-Webster Inc, p.1117.

²² C.W. Trsy 1996, *Economic Roundup*, Commonwealth Treasury of Australia, Australian Government Printing Service, Canberra, p 19.

²³ See evidence of Mr Orton, 6 February 1997, p 11 and of Mr Denlay, 6 February 1997, p 50.

²⁴ Evidence of Mr Diakos, 7 February 1997, p 6.

3.2.4 Evidence Against Present Fiscal Arrangements

Numerous witnesses were critical of the present arrangements that caused revenue raised through the Section 72 of the WMM Act to be transferred to the Consolidated Fund. Mr John Denlay, representing the Waste Crisis Network, stated:

We believe that the Government has failed to honour its pre-election commitment to the hypothecation of the money raised for waste management to be ploughed into waste minimisation.²⁵

... the EPA's argument for the waste levy and the level at which it is set, is that it is an attempt to factor in the externalities of waste management, those additional costs that are not currently factored in by the operating costs and price of waste management. ... You would think that if the money is being raised to address externalities it should be used to try to address those environmental problems.²⁶

This view was echoed by Mr Andrew Doig, representing the Australian Chamber of Manufactures (ACM), who said:

... the New South Wales people have been sold this levy on the basis that it will be used to improve the environment by minimising waste. However, we find that about two-thirds of the levy will not go to improving the environment but will go instead to consolidated revenue.²⁷

The President of the Local Government Association of New South Wales (LGA), Cr Peter Woods, OAM, tabled correspondence from the Treasurer, the Hon Michael Egan, MLC which stated, in reply to his request for the State Government to hypothecate waste levies for waste minimisation and management initiatives:

The Government's election commitment was to "polluter pays" and this has been implemented with the new waste management legislation and the pollution licence unit fee.

²⁵ Evidence of Mr Denlay, 7 February 1997, p 42.

²⁶ Evidence of Mr Denlay, 7 February 1997, pp 42-43.

²⁷ Evidence of Mr Doig, 7 February 1997, p 25.

It will be extended with load based licensing as part of the Government's further legislative reforms.

One effect of waste levies is to create incentives for users to reduce the amount of waste, and this objective is not tied to the overall level of expenditure on waste management. Expenditure on waste management and minimisation has been determined along with the Government's other priorities. To increase expenditure on waste minimisation would reduce the amount available for other initiatives. The new waste management legislation has been established by the Government and the necessary resources have been provided to implement it.

For these reasons, I am unable to grant your request and advise that waste levies will continue to be paid into general revenue to allow the Government to meet its overall priorities.²⁸

Cr Woods claimed this reply was “a clear breach of an election commitment”²⁹ adding:

... Local Government demands that the amount of funding in the WPM Fund be equal to the amount of income from the waste levy under section 72 of the Waste Minimisation and Management Act and that income from the waste levy be fully and transparently accounted for.³⁰

We are not prepared to see a devolution of responsibility to us while the resources are devolved to the Treasury.³¹

A number of witnesses suggested NSW Treasury stood to gain significantly from current waste levy collection arrangements. Cr Woods claimed:

... the State Treasury is likely to receive a gross income from the levy alone from the citizens of this State of some \$20 million, [constituting] a hidden taxation during the financial year 1996-97. Even without the increases it sought, Treasury will receive a much greater levy income in the full financial year

²⁸ Letter from the Treasurer, the Hon Michael Egan, MLC, to Cr Peter Woods, President, LGA, 14 January 1997. Tabled by Cr Woods, 6 February 1997.

²⁹ Evidence of Cr Woods, 6 February 1997, p 26.

³⁰ Evidence of Cr Woods, 6 February 1997, p 24.

³¹ Evidence of Cr Woods, 6 February 1997, p 31.

1997-98. The table included in our submission projects that a 1997-98 net income of \$28,285,000 will go to the Treasury. This is a net profit of over \$28 million after the \$13.5 million has been deducted for waste initiatives.³²

Actual and projected “waste related” income to NSW Treasury from Waste Service NSW and the EPA from 1995/6 to 1998/9 is shown in Table 3.5.

³² Evidence of Cr Woods, 6 February 1997, pp 23-24.

TABLE 3.5
Actual and Projected EPA and Waste Service NSW Waste-related Fees and
Dividends Paid to the NSW Treasury (1995/6 - 1998/9)

Year	Item	From EPA (\$ Million)	From Waste Service (\$ Million)c	Consolidat ed Revenue (\$ Million)
1998/9	Income Tax	-	6.60	
	Other Corporate Taxes	-	2.00	
	Dividends	-	6.60	
	Waste licence fees	2.20	-	
	Waste levies (WMM Act)b	26.30e	-	
	Total	28.50	15.20	43.70
1997/8	Income Tax	-	5.30	
	Other Corporate Taxes	-	2.00	
	Dividends	-	5.30	
	Waste licence fees	2.20	-	
	Waste levies (WMM Act)b	29.60e	-	
	Total	31.80	12.60	44.40
1996/7	Income Tax	-	6.40	
	Other Corporate Taxes	-	1.90	
	Dividends	-	6.10	

Year	Item	From EPA (\$ Million)	From Waste Service (\$ Million) ^c	Consolidat ed Revenue (\$ Million)
	Waste licence fees	0.34	-	
	Waste levies (WRPS Act to 1/11 and WMM Act from 1/11) ^b	24.00 (11.60a)	-	
	Total	24.34	14.40	38.74
1995/6	Income Tax	-	3.30	
	Other Corporate Taxes	-	1.70	
	Dividends	-	2.50	
	Waste licence fees	0.34	-	
	Waste levies (WRPS Act) ^b	20.60 (12.00a)	-	
	Total	20.94	7.50	28.44

Notes: a - Levy contribution from Waste Service NSW;
b - based on the following levy rates: from 1/7/95 to 30/10/96 - \$7.20/t in the Sydney Metropolitan Area, from 1/11/96 - \$10.00/t in the Sydney Metropolitan Area, \$4.00/t in the Extended Regulated Area;
c - Details for Waste Service NSW are on a cash payment basis;
d - assumes a 10% reduction from 1997/8;
e - figure provided by the LGA;
f - figure provided by the EPA.

Sources: Submission 16, EPA; Submission 14, LGA; Regulatory Impact Statement; Information provided by NSW Treasury.

Mr Paul Howlet, representing the Industry Waste Network (IWN) was also critical of the way monies raised by Section 72 of the WMM Act were paid to consolidated revenue:

... the application of the levy should be directly related to the purpose for which it is raised. Therefore, we suggest that if it is to do with environmental

externalities ... the levy be allocated for the purposes of alleviating those environmental externalities.³³

... the application of the levy is very critical in achieving reduction in waste going to landfills. If the levy were hypothecated or applied to measures aimed at reducing waste, substantial amounts of waste reduction could be achieved. However, if it is just raised as a levy and not hypothecated for the purposes of reducing waste ... the imposition of the levy is unlikely to have a significant impact on waste generation levels.³⁴

The IWN did, however, agree that a proportion of the revenue raised by section 72 of the WMM Act should be diverted to the Consolidated Fund:

... we have agreed with the view taken by the Independent Pricing and Regulatory Tribunal that the component of the levy dealing with externalities, that is, the cost to future generations of using up the environment now, should go to consolidated revenue. But the component that compensates a local community for the loss of amenity in having a waste disposal facility located within its area should go back to the community directly as compensation.³⁵

Representatives of the environment movement shared the concern that non-hypothecation of funds raised by Section 72 of the WMM Act to the WPMF would mean inadequate funding for waste minimisation initiatives.

Mr Peter Carroll, Acting Secretary, School Communities Recycling All Paper (SCRAP), gave an example which he believed illustrated the inadequacy of the WPMF as it currently exists:

I am currently drafting a submission to the waste reduction program on behalf of SCRAP which would enable us, with \$100,000, to put composting and other green waste minimisation into effect in up to 100 schools in the Sydney Basin. That is less than 10 per cent of all the educational institutions within Sydney. That program, if effective, would take at least a year to implement. That might lead to the minimisation of waste in those schools and a change in the culture and

³³ Evidence of Mr Howlett, 6 February 1997, p 5.

³⁴ Evidence of Mr Howlett, 6 February 1997, p 7.

³⁵ Evidence of Mr Orton, 6 February 1997, p 14.

behaviour of those students which, hopefully, in the longer term could be passed on to the broader community.

That ... grant, will come out of about \$1.7 million, which is what is left from the approximately \$35 million hypothecated for these purposes. The funds have to go across industry, local councils, the waste board itself in its preliminary programs, as well as community organisations such as mine. That \$35 million might seem a lot in the first analysis but by the time the cake is divided up among the many hundreds of people and organisations who will submit to the EPA for those funds there is very little left.³⁶

A number of analyses of the hypothecation of monies raised by Section 72 of the WMM Act and spending by the State Government on waste minimisation and management included expenditure by the Waste Service. During 1995/96 the Waste Service spent around \$14 million on waste minimisation initiatives, mainly in relation to capital works. This is significantly more than the combined Waste Service expenditure on waste minimisation initiatives over the past three years and considerably less than annual expenditure projected for the next three years. Details of actual and projected State Government “waste related” income and expenditure by the Waste Service, the EPA and through the CRR Scheme and the WPMF on waste minimisation initiatives are detailed in table 3.6.

TABLE 3.6
Actual and Projected Waste-related Income and Expenditure on Waste Minimisation Initiatives of the State Government

Year	Actual and minimum projected “waste related” income of NSW Treasury ^c	Actual and projected expenditure on waste minimisation initiatives ...			
		... by the EPA	... by the Waste Service	... through the CRR scheme or the WPMF	... in total
1992/3	42.32	6.89	1.46	3.07	11.42
1993/4	18.99	7.07	0.14	3.60	10.81

³⁶ Evidence of Mr Carroll, 6 February 1997, pp 60-61.

Year	Actual and minimum projected “waste related” income of NSW Treasury ^c	Actual and projected expenditure on waste minimisation initiatives ...			
		... by the EPA	... by the Waste Service	... through the CRR scheme or the WPMF	... in total
1994/5	20.29	8.33	1.27	4.10	13.70
1995/6	28.44	8.89	14.08	3.30	26.27
1996/7	38.74	10.98	37.34a	14.44b	62.76
1997/8	44.40 or	10.44	37.34a	18.06	65.84
1998/9	43.70 or	10.00	37.34a	14.10	61.44

Notes: Figures above are in \$ Million.

a - \$112 million divided equally between 1996 and 1999 (includes, Green waste composting - \$7 million, Resource recovery parks including MRFs - \$50 million, Biogas recovery for electricity - \$30 million, Advance biowaste project - \$15 million, Energy beads from sludge project - \$10 million);

b - \$1.375 million of this was allocated to the EPA to carry out a waste census and for a statewide education program;

c - refer to Table 3.5 for 1995/6 onwards.

Source: Information provided by the Waste Service NSW and the EPA.

Representatives of Local Government and the environment movement were critical of including Waste Service expenditure in analyses of State Government spending on waste minimisation.

Mr Denlay, representing the Waste Crisis Network, argued that if Waste Service’s capital works were considered:

One could be forgiven for thinking that that somehow implied that the Government has met its hypothecation commitments, but ... they should be seen as completely separate from the waste levy area because those capital works are

*funded in a way that a dividend is provided back to the Government, so it is a commercial interest more than ploughing back of levies.*³⁷

*... I think there was a clouding of ... [the issue] ... to try to bring that money into this debate over the waste levies and hypothecation. I think we should be clear about that money raised through this waste levy. It should be returned, and it is not being returned; it is being channelled off into consolidated revenue and the amount of money allocated to the Government's waste reforms is much less than that amount.*³⁸

This view was supported by Mr Jeff Angel, Director of the Total Environment Centre, who said:

*Everyone thought that when the legislation came in, this meant an absolute increase in the degree of effort to handle waste ... the lack of hypothecation ... clearly prevents an absolute increase in activity in this area and places the burden on a poorly resourced part of government. Therefore, the results may not be as good as we all hoped.*³⁹

Section 3.2.5 details evidence presented by the EPA and NSW Treasury in support of present fiscal arrangements.

Despite widespread concern given in evidence about the hypothecation of funds raised by Section 72 of the WMM Act to waste minimisation initiatives there was recognition, particularly from representatives of the environment movement, that spending on waste minimisation under the present State Government had improved. According to Mr Angel:

*previous programs were basically about digging big holes and throwing rubbish in them; a primitive, cheap attitude. Expectations have now arisen considerably, as they should, if we are to avoid a waste of resources and a whole range of ongoing environmental problems. That means a parallel increase in funding.*⁴⁰

3.2.5 Evidence of the EPA and NSW Treasury

³⁷ Evidence of Mr Denlay, 6 February 1997, p 42.

³⁸ Evidence of Mr Denlay, 6 February 1997, p 46.

³⁹ Evidence of Mr Angel, 6 February 1997, p 54.

⁴⁰ Evidence of Mr Angel, 6 February 1997, p 57.

According to the EPA, Section 72 of the WMM Act is an economic tool formulated to remove undesirable market distortions in waste disposal pricing. Its purpose is not to provide a hypothecated source of finance for the WPMF.

In evidence to the Standing Committee, the EPA's Director of Environmental Policy, Ms Susan Dawson, stated that:

... the levy ... is basically an economic mechanism that is designed to provide a very clear disincentive to the frivolous disposal of waste and a climate within which the more preferred waste management options - such as reprocessing and recycling - can flourish. It is also a mechanism for ensuring that the external and social costs of waste management can be covered.⁴¹

The prevailing policy as it currently applies is ... a policy of non-hypothecation of revenues.⁴²

This (waste) reform package is not based on a principle of hypothecation of revenues and expenditures. It is based on the levy doing a particular job which is to cover ... the external costs of landfill and other forms of disposal in terms of greenhouse gases, loss of amenity, inter-generational and perhaps transport corridor impacts and so on that do not traditionally show themselves in the gate price for waste. ... the intention is to cost those properly so that the reprocessing and recycling alternatives can compete in a level playing field ... without a financial or an economic disadvantage through the free ride that waste disposal might get.⁴³

The non-hypothecation of certain income to particular programs has been a policy of the EPA since its inception. In evidence given to the Joint Parliamentary Select Committee upon Waste Management, Dr Neil Shepard, Director-General of the EPA, stated:

When the EPA was established I was at some pains to separate out the EPA from any other source of funding in terms of licenses, prosecution revenue, or levies

⁴¹ Evidence of Ms Dawson, 7 February 1997, p 4.

⁴² Evidence of Ms Dawson, 7 February 1997, p 8.

⁴³ Evidence of Ms Dawson, 7 February 1997, p 5.

*and the only way it can be separated from those sources of revenue is to go through the consolidated fund.*⁴⁴

NSW Treasury and the NSW Treasurer are also opposed to the hypothecation of taxes, primarily because it reduces the flexibility to control all areas of government expenditure.⁴⁵

This was reiterated by Mr Sendt:

*... one of the arguments that is often put up for hypothecation, that people are more prepared to pay taxes where they can see the direct use of the funds and that is argued by various people. The counter argument is also put that people may be less inclined to pay taxes because they may not approve of a particular use. But generally from a Treasury perspective it thinks that the need for budget decision flexibility by governments generally weighs on the side of not hypothecating revenues.*⁴⁶

*Hypothecation is justified by NSW Treasury "where the charge reflects the costs to the government agency of providing the service".*⁴⁷

It is only supported on theoretical grounds in certain limited cases where:

*... it may normally be expected that the users would voluntarily pay for a service but because of the lack of appropriate market mechanism it is collected through a tax. Administratively it may be very difficult to impose a user charge on a particular user so that a tax is imposed on a group of users. As it is a tax it may lose its direct linkage to the level of usage by individuals.*⁴⁸

In relation to the hypothecation of waste-related revenue and EPA expenditure, Mr Sendt said that:

⁴⁴ NSW Parliament, *Report of Joint Select Committee upon Waste Management*, 1993, p 26.

⁴⁵ Submission 21, NSW Treasury, p 2.

⁴⁶ Evidence of Mr Sendt, 7 February 1997, p 45.

⁴⁷ Submission 21, NSW Treasury, p 3.

⁴⁸ Evidence of Mr Sendt, 7 February 1997, p 45.

There is only a very vague linkage between the overall EPA budget and the level of revenue that could be seen as deriving from production of waste or use of sites for waste disposal. There is no linkage of specific amounts of revenue and specific amounts of expenditure. When I say there is a very indirect link, simply through the normal course of budget decision-making processes it may be seen that the costs of a particular program or agency are at a certain level and the view might be taken that relevant revenues somehow related to those services should be increased to match. There is no formal linking legislatively certainly, and no linkage in any real budget allocation sense.⁴⁹

However, NSW Treasury did make the point that:

It is not a Treasury decision to hypothecate or not hypothecate taxes. That would be a matter for the Government to determine.⁵⁰

The current position of the State Government does not appear to favour the hypothecation of revenue raised by waste disposal levies to funding waste minimisation strategies. The Minister for the Environment, The Hon Pam Allan, MP, in relation to the link between the then proposed increases in waste disposal levies and the WPMF stated:

... there is no formal hypothecation of that money (ie. that raised by section 29 and 46 of the WD Act).⁵¹

At the time the Minister emphasised there was no formal hypothecation because it is not the policy of the State Government. The Minister then went on to say:

while no formal hypothecation actually exists ... it is our policy to ensure that waste initiatives are fully funded.⁵²

Much of the EPA's evidence addressed the funding to be provided by the State Government for waste minimisation initiatives.

⁴⁹ Evidence of Mr Sendt, 7 February 1997, p 44.

⁵⁰ Evidence of Mr Sendt, 7 February 1997, p 45.

⁵¹ NSW Parliamentary debates (Hansard) 1995, *Estimates Committee No 2*, 1 November 1995, p 2823.

⁵² NSW Parliamentary debates (Hansard) 1995, *Estimates Committee No 2*, 1 November 1995, p 2824.

The allocation of funding to support waste minimisation and management initiatives ... has been determined on the basis of the estimated level of support which would be required by Local Government and the broader community to establish regional waste management throughout NSW and to support other community initiatives to achieve the 60% waste reduction target.⁵³

*... for ... 1996 to 1999 in terms of expenditure ... from the Waste Planning and Management Fund there is a guaranteed commitment of \$46.6 million. In addition, we have EPA ... tagged money that goes to waste expenditures "\$10 million per annum" which adds another \$30 million over the three-year period ... So we ... find a total expenditure over that three-year period of around \$76 million. If you project the levy revenue for that same three-year period, you will find that it is around the order of \$73.5 million. So, give or take a couple of million in favour of expenditure as it happens, there is roughly a parity, setting aside the question of hypothecation.*⁵⁴

Similar calculations provided by the EPA for income and expenditure from 1995 to 1998 lead to their conclusion that:

*almost whatever snapshot you take of years ... there is parity between the incoming and the outgoing.*⁵⁵

This position was supported by Treasury. Mr Sendt stated:

*Certainly, if you take \$76 million as being the three-year projection of the levy, if you take off \$35.8 million [for the WPMF], and if you take off another \$30 million that the EPA is currently spending over three years, you come to virtually square.*⁵⁶

Details of actual and projected spending by the EPA on the development, review and communication of waste policy and the integration of waste concerns into mainstream environmental management activities are detailed in Table 3.7.

⁵³ Submission 16, NSW Environment Protection Authority, p 28.

⁵⁴ Evidence of Ms Dawson, 7 February 1997, p 7.

⁵⁵ Evidence of Ms Dawson, 7 February 1997, pp 17-18.

⁵⁶ Evidence of Mr Sendt, 7 February 1997, p 48.

TABLE 3.7
Actual and Projected Expenditure by the EPA on the Development, Review and Communication of Waste Policy and the Integration of Waste Concerns Into Mainstream Environmental Management Activities (1995/6 - 1998/9)

Section of EPA	Branch allocation for waste (\$000)		
	1995/96	1996/97	1997/98
Waste Policy Section	1,651	1,778	2,041
Regional Offices	3,105	2,948	3,221
Regulation and Audit	468	851	887
Economics and Environmental Reporting	193	56	66
Education and Community Programs	1,684	1,321	1,298
Environmental Policy and Science	775	1,724	1,841
Administration and Corporate Support	772	837	895
Special waste funding: Co-operative Research Centre Kerbside recycling costs and benefits Recycling Data Collection Green Waste Grants Landfill Guidelines	250	1,490	169
TOTAL	8,897	11,005	10,418

Source: Information provided by the EPA.

The EPA also advised that:

... the allocation under the Waste Planning and Management Fund for the first three years is best regarded as a minimum guaranteed allocation. There is still somewhere between \$26 million and \$29 million left in that three-year allocation for the next 18 months. We feel pretty confident at this stage that we are not

going to fall short but if, for argument's sake, we did find ourselves falling short in 12 months time, the standard processes of budget supplementation apply.⁵⁷

On the question of the capital spending by Waste Service NSW on waste minimisation initiatives, the EPA stated:

We think that the expenditure that [the] Waste Service makes on initiatives such as waste education, green waste reprocessing plants, recycling initiatives and so on cannot be ignored as they are important contributions to the 60 per cent waste reduction target. That is why we factor them into the equation. They are not neutral or ineffective contributions; they are very substantial, and valued as part of the total environmental endeavour and the waste management endeavour of the Minister for the Environment.⁵⁸

⁵⁷ Evidence of Ms Dawson, 7 February 1997, pp 18-19.

⁵⁸ Evidence of Ms Dawson, 7 February 1997, p 20.

4 THE GOVERNMENT'S PRE-ELECTION POLICY ON WASTE AND ITS IMPLEMENTATION THROUGH THE WMM REGULATION

4.1 Introduction

The WMM Regulation is an integral component of the WMM Act. Any consideration of the WMM Regulation therefore requires due consideration of the WMM Act, the combined effects of which represent the actions taken by the Government to implement the strategies outlined in Labor's Waste Policy.

This chapter outlines the views of industry, Local Government, the environment movement, Waste Service NSW and the EPA on the extent to which Labor's Waste Policy has been implemented through the WMM Act and WMM Regulation.

4.2 Views on the WMM Act and WMM Regulation

4.2.1 Concerns with the WMM Regulation

A number of witnesses appearing before the Committee supported the general direction of the WMM Act but had major concerns with the WMM Regulation. Mr John Denlay, representing the Waste Crisis Network, stated:

... during the debate for the passage of the Waste Minimisation and Management Act, the Waste Crisis Network was quite supportive of the Government's waste reforms and we regard the reforms that occurred as probably the strongest waste legislation in Australia. In our press release we described the legislation as a gutsy framework for waste management. We also said it is now up to the Government to grasp the nettle of this most pressing urban problem. We are most concerned that the regulations could well unravel a lot of the good work that has been done to date, so we look hopefully for some readdressing and some limitation of these regulations.⁵⁹

Mr Jeff Angel, Director of the Total Environment Centre, agreed with these views:

⁵⁹ Evidence of Mr Denlay, 6 February 1997, p 41.

*We feel it (the WMM Act) certainly marked a new phase in waste minimisation and management in New South Wales; it opened up the horizons and, in theory, had a lot of promise. However, as was quite clear from the legislation, there were some quite significant regulatory actions and resourcing actions to be taken.*⁶⁰

*... to the extent that regulations are the machinery of legislation ... legislation contains provisions which are often quite specific and concrete ... it is clear that there is a potential for regulations to undermine the Act.*⁶¹

Mr Peter Carroll, Acting Secretary, School Communities Recycling All Paper, stated:

*I echo the comments made by John Denlay and Jeff Angel to a large degree that the Waste Minimisation and Management Act is a good piece of legislation on the whole but it is being fettered in its application and implementation by the restrictions of the regulation.*⁶²

4.2.2 EPA Views of the WMM Regulation

The EPA challenged these criticisms of the WMM Regulation. Ms Susan Dawson, Director, Environmental Policy, EPA, advised:

From the EPA's perspective it is very important for us to convey a sense that the current NSW waste policy is really a suite of interrelated initiatives of which the waste regulation is only one part.

*... Previously, of course, the Waste Disposal Act was very much focused on the Sydney region and assigned the EPA a primary role in licensing a fairly wide range of activities in the Sydney region which did not really have regard to their particular environmental impact.*⁶³

4.3 Sixty Percent Reduction in Waste Disposal by 2000

⁶⁰ Evidence of Mr Angel, 6 February 1997, p 53.

⁶¹ Evidence of Mr Angel, 6 February 1997, p 57.

⁶² Evidence of Mr Carroll, 6 February 1997, p 59.

⁶³ Evidence of Ms Dawson, 7 February 1997, p 4.

Contained within Labor's Waste Policy was a commitment:

enshrining in law, Labor's waste reduction goal of 60% by the end of the decade.⁶⁴

This goal is contained in section 3(1)(a) of the WMM Act.

4.3.1 Concerns About the Waste Reduction Goal

A number of witnesses from the environment movement doubted that the new waste reforms, particularly the WMM Regulation, will be sufficient to achieve the waste reduction goal. Mr Denlay, representing the Waste Crisis Network of NSW, said:

I also wonder whether the regulations are sufficient to meet the 60 per cent waste reduction target. Without any such financial and other analysis of these non-licensing components it is difficult to come to that conclusion.⁶⁵

One thing we need to understand is that a waste levy, by itself, is not the only tool that should be used to achieve a waste reduction; it should complement other programs. I suppose one comment would be that even though we do have a good framework for waste minimisation to bring in industry waste plans, to bring in other areas, such as education and planning, it has been slow to implement and the pace of reform is probably not in keeping with our objective of meeting a 60 per cent reduction by the year 2000.⁶⁶

Mr Angel, Director of the Total Environment Centre, also had doubts that the waste reduction target would be reached:

The Government will not achieve much in 1997 because we are still in the process of developing plans at regional level and industry-specific plans. In effect, that leaves two or three years ... to achieve that 60 per cent level. It may be possible that close to 60 per cent may be achieved for some of the more simpler aspects,

⁶⁴ Evidence of Ms Dawson, 7 February 1997, p 1.

⁶⁵ Evidence of Mr Denlay, 6 February 1997, p 42.

⁶⁶ Evidence of Mr Denlay, 6 February 1997, p 45.

*hopefully, green waste. I do not think that anyone would be courageous enough to suggest that we will have a 60 per cent reduction across all types of waste. Probably that will not happen in relation to the total quantitative amount of waste without significant efforts and additional resources.*⁶⁷

4.3.2 Waste Service NSW and EPA Views on the Waste Reduction Goal

Mr John Cook, Managing Director, Waste Service NSW, provided a positive view on achieving the waste reduction target. Mr Cook praised the WMM Act for the encouragement it provided to invest in waste minimisation. Referring to the Waste Service's new waste minimisation enterprises, Mr Cook, stated:

*Our investments and our whole thrust are very much to do with developing new businesses that will recover resources from the waste stream, add value to them and put them back in the marketplace ... more and more we are helping Local Government, industry and commerce to manage waste and recover materials from the waste stream. We are helping those responsible for achieving the target by providing new infrastructure and services.*⁶⁸

*The biggest single problem that we had under the previous legislation ... was that we did not have the confidence to move forward to invest in these new businesses. Unfortunately, the cheapest waste management option is landfill. ... The new Act ... has given us the confidence to make those investments in the future. Without that Act, you would not take the risk; there is a risk that the waste would just keep going to landfill.*⁶⁹

The EPA was more guarded in its opinion of the waste reduction target. Asked if present funding will be sufficient to meet the target Ms Dawson, EPA Director of Environmental Policy, stated:

... I would not necessarily be signing over my mortgage papers. However, what I would say is that we have done what we think is a fairly close match between

⁶⁷ Evidence of Mr Angel, 6 February 1997, p 55.

⁶⁸ Evidence of Mr Cook, 7 February 1997, p 35.

⁶⁹ Evidence of Mr Cook, 7 February 1997, p 39.

*what Local Government and industry have indicated they will need to execute their waste management obligations.*⁷⁰

4.4 Community Involvement in the Development of Waste Management Programs

Labor's Waste Policy included a commitment to:

*promoting community involvement in the development of waste management programs and encourag[ing] industry to liaise with the public on waste minimisation strategies.*⁷¹

4.4.1 Concerns About the Consultative Process

A number of witnesses were critical of the consultative process used for the WMM Act, the WMM Regulation or both.

While acknowledging effective consultation on the WMM Act, Cr Peter Woods, OAM, claimed that NSW Treasury had an undue influence on the financial provisions of the WMM Act:

*Our discussions all took place around the principles of hypothecation and the principles that had been outlined in the Government's policy in opposition. Therefore we felt very confident in the consultative processes that these were going to be addressed. So it causes us concern that those well-entrenched policies have been subverted. It causes a considerable lack of confidence in the consultative processes when you see not a variation but a complete disregard of those fundamental policy positions.*⁷²

⁷⁰ Evidence of Ms Dawson, 7 February 1997, p 7.

⁷¹ Australian Labor Party, NSW Branch, 1995, *Labor's Waste Minimisation and Recycling Strategy*, NSW ALP, p 2.

⁷² Evidence of Cr Woods, 6 February 1997, p 31.

I am afraid that with what is occurring - the intervention of the Treasury seeing this as a great opportunity to rip people off - it is not working in the interests of ensuring the operation of the Act.⁷³

Cr Woods also claimed that the consultation process of the WMM Regulation was inadequate:

I am aware that the EPA received a great number of submissions from a wide variety of councils and other bodies and that there was a great deal of consistency in the concerns expressed in these submissions.

I understand that this information and the EPA's analysis of the submissions were finally made public earlier this week. ... I believe that the Committee should study this information closely as it provides a clear indication of the views communicated to the EPA relating to the draft regulation. It also clearly shows that these views were not acknowledged and incorporated in the regulation as gazetted on 1 November 1996.⁷⁴

Cr Woods cited other examples of the failure of the consultative process, including waste levy increases which took effect upon gazettal of the WMM Regulation:

A letter was sent from the EPA bureaucracy dated 1 November. It was received by the councils on 6 November. Consequently there was to be a retrospective element within that charging mechanism. ... The timing makes a total joke of the whole process of community consultation and involvement in the decision-making processes relating to the raising of revenues.⁷⁵

Industry representatives were also critical of the consultation on the WMM Regulation and the WMM Act. Mr Orton, representing the IWN, stated:

... the legislation was rushed through at the end of the then parliamentary session. The mere fact that it was part of the new Government's election platform is not sufficient consultation. Meaningful consultation involves discussing with industry, or bouncing off it, if nothing else, the regulatory regime that was being proposed

⁷³ Evidence of Cr Woods, 6 February 1997, p 32.

⁷⁴ Evidence of Cr Woods, 6 February 1997, p 18.

⁷⁵ Evidence of Cr Woods, 6 February 1997, p 30.

*to implement it. One would have to say that the concern expressed by us and Local Government about its capacity to assume this new role is evidence of lack of sufficient consultation. We would like to see that happen now and for industry, Local Government and the State Government to jointly work out a solution that provides the best outcome for taxpayers and the best outcome for the New South Wales business environment.*⁷⁶

Another representative of the IWN, Mr Howlett, expressed concern over the level of consultation with industry in relation to IWRPs:

*... we represent the people who generate the waste and the people who manage the waste. We believe that industry has a vital role to play in the input to the development of industry waste reduction plans. If consultation with industry is left too late, such that positions are fixed into scoping papers or whatever is going to be implemented, the opportunity for industry to provide valuable input is considerably compromised.*⁷⁷

Mr Doig of the ACM further confirmed the view of industry on the consultation process:

*Consultation on the Act was very poor. Consultation on the actual regulation was reasonable - it was a bit short, but it was reasonable in comparison to other regulations. No action was taken on many of our recommendations. I think we had one recommendation on the definition of biosolids that was taken up, but apart from that there was very little action taken in relation to our recommendations. The other issue regarding the regulation was a lack of notification of the date when it would become effective. Even a few days before 1 November I rang the EPA to ask if it would come in on 1 November, and it said, "Possibly, but we can't guarantee it." You cannot really run a business in that type of climate. I think that impacted a lot on many waste contractors.*⁷⁸

Environmental groups were also critical of many aspects of the consultative process, particularly with respect to the WMM Regulation. Mr Denlay, representing the Waste Crisis Network of NSW advised:

⁷⁶ Evidence of Mr Orton, 6 February 1997, p 7.

⁷⁷ Evidence of Mr Howlett, 6 February 1997, p 14.

⁷⁸ Evidence of Mr Doig, 7 February 1997, p 28.

Yes, the consultation has occurred, although the outcomes of those consultations have been quite disappointing. My understanding is that representatives from the three key sectors - industry, Local Government and the environment movement - have been arguing, for example, on the issues of hypothecation and better regulation. All of those have been consistently put to the Government, and yet the final regulations we saw did not take account of those views. So we were consulted, but we were disappointed with the outcome. We would have thought that such a strong, consistent view being put forward by diverse groups would be reflected in the final regulations.⁷⁹

While being generally satisfied with consultation on the WMM Act, Mr Angel, Director, Total Environment Centre, expressed similar concerns regarding consultation on the WMM Regulation, particularly in relation to the waste levies:

I suppose my view of waste levies is that the Government figured it was going to have a battle and it certainly tried very hard to convince people that the legislation should go through Parliament. Because it is of such significance to the quality of environmental regulation there was not enough discussion or creative thinking about that levy. The Government was essentially in a defensive mode as soon as the issue came up. In relation to the level of consultation about broader issues, I think there was a reasonable amount of intensive discussion about the legislation. The legislation process probably contains sufficient public consultation on specific and regional issues.⁸⁰

4.4.2 Evidence in Support of the Consultative Process

The EPA did not concur with the views of industry, Local Government or the environment movement that the consultation process for the WMM Act or the WMM Regulation was inadequate. Defending the consultation process, Ms Dawson, the EPA's Policy Director, stated:

The consultation process was, in our view, genuine and extensive and open ended in its outcomes.⁸¹

⁷⁹ Evidence of Mr Denlay, 6 February 1997, p 44

⁸⁰ Evidence of Mr Angel, 6 February 1997, p 55.

⁸¹ Evidence of Ms Dawson, 7 February 1997, p 11.

Mrs Lynne Neville, Senior Policy Officer, explained the consultation process for the WMM Regulation as follows:

The draft regulation and regulatory impact statement was exhibited for two months from last June. As part of the public consultation process the EPA held a series of seminars across the State, nine or ten seminars attended by a variety of stakeholders from community, environmental, industry and Local Government groups. As well as those general seminars, there were specific seminars for stakeholders such as the Local Government and Shires Associations of New South Wales, community environmental groups and some operators such as the road transporters association. The EPA also held meetings and discussions with parties which had particular concerns. At the end of the process the EPA produced a determination report, which the Committee would have a copy of. That report outlines the issues raised in various submissions and how the EPA dealt with particular issues.⁸²

⁸² Evidence of Mrs Neville, 7 February 1997, p 11.

4.5 State and Local Government Regulation of Waste

Labor's Waste Policy criticised the Fahey Coalition Government for supporting:

the abrogation of State Government responsibility for waste management to Local Government and the private sector.⁸³

A number of issues about the role of the State Government and Local Government in enforcing the WMM Act and WMM Regulation arose during the Inquiry.

Evidence from Local Government representatives, the environment movement and industry groups expressed concern that the transfer of some regulatory powers to Local Government under the WMM Act would not result in the best management of waste in NSW. Some were of the opinion that the additional resources being made available to Local Government would be inadequate.

These concerns were detailed in submissions to the EPA from bodies representing Local Government, the environment movement and industry during the consultative process on the WMM Regulation.

This section reviews evidence received on these issues and the response of the EPA.

4.5.1 Concerns About Waste Regulation and the Roles of State and Local Government

Referring to Labor's Waste Policy support for retaining a central role for the State Government in waste management, Cr Woods claimed the WMM Regulation:

... involves a wholesale devolution of responsibility for the identification and regulation of waste generating premises and transporters to Local Government. There is an expectation that Local Government will be able to effectively identify, monitor and regulate waste generating premises and transporters individually. Local Government has serious concerns about its ability to effectively regulate waste generators and transporters.⁸⁴

⁸³ Australian Labor Party, NSW Branch, 1995, *Labor's Waste Minimisation and Recycling Strategy* NSW ALP, p 1.

⁸⁴ Evidence of Cr Woods, 6 February 1997, p 26

... rather than abandoning its licensing responsibilities for the major proportion of waste generating transporters, it would be far more appropriate for the EPA to retain its role with additional resources to properly perform the task or otherwise provide Local Government with adequate resources to do the same.⁸⁵

Representatives of industry and the environment movement also expressed concern about the regulatory roles of the State Government and Local Government under the WMM Act.

Mr Orton of the IWN said:

We are concerned that there is potential under the system whereby Local Government assumes a greater role for regulating parts of industry that it has neither the resources nor the capacity to do in a way that maintains consistency and certainty. From industry's point of view those are the key elements to providing a conducive environment to investment and job creation. In fact, at the national level a regulatory objective has been to obtain uniformity. We have seen that through mutual recognition agreements between the States. It seems to us somewhat counterproductive within a State to be stepping back from that principle and devolving responsibility for what is a statewide regulation and, in fact, what has a national and, I guess, global impact on well over 100 discrete administrative bodies. The question of consistency and inefficiency would be or should be of concern to policy makers.⁸⁶

The IWN expressed particular concern about the risk of low or inconsistent environmental standards. Such a situation, the IWN contends:

... may invite less reputable operators to enter the industry opportunistically and to compete across territorial lines to exploit local differences.

A consistent set of rules should apply to companies that operate across regional or state boundaries to avoid increasing costs to industry and ultimately the community.⁸⁷

⁸⁵ Evidence of Cr Woods, 6 February 1997, p 22.

⁸⁶ Evidence of Mr Orton, 6 February 1997, p 4.

⁸⁷ Submission 10, Industry Waste Network, p 4.

Industry would argue that even within the EPA system, with its system of regions, there is already scope for inconsistency of application of the laws. To multiply that 100 fold seems to us not to be a sensible thing to do. We would argue that even if it had the resources, it would be inefficient to duplicate the specialist skills needed to regulate particular substances and areas of the law to have each council with a specialist of its own.⁸⁸

These views were supported by the ACM who have similar concerns about the consistent application of the generic requirements of the WMM Act to non-licensed waste activities by local councils. Mr Doig cited, as an example:

the placement of containers for the disposal of ordinary waste - builders' rubble - on the roadside. There is a recommendation that containers be placed in a particular way. Of the 42 councils in Sydney there would be 38 different interpretations of that recommendation.

Consistency is important, particularly for transporters. If transporters have to pick up waste from one suburb and cross the boundary of other councils, they could cross six boundaries and encounter six different regulations.⁸⁹

The possibility of unscrupulous waste generators or transporters translocating their wastes to local government areas where waste regulation enforcement was less rigorous, or to those where waste levies are lower, was also canvassed by a number of witnesses. Cr Woods stated:

If industry in this State were less responsible, it would be jumping with glee at the prospect of an unlicensed, piecemeal system of regulation. It would not take long to sort out the easy places to set up business or cart waste across.⁹⁰

Mr Orton of IWN stated:

We are concerned that there might be scope for forum shopping whereby disparate implementation of existing statewide law may create opportunities for less than

⁸⁸ Evidence of Mr Orton, 6 February 1997, p 10.

⁸⁹ Evidence of Mr Morrissey, 7 February 1997, p 30.

⁹⁰ Evidence of Cr Woods, 6 February 1997, p 21.

environmentally sound producers to take advantage of particular local government areas that are not as up to speed as others may be with resources and capacity to analyse waste issues.⁹¹

Mr Angel, Director, Total Environment Centre, agreed that:

If some companies believe that they will be less regulated in rural areas because of a lack of resources or interest of Local Government, that may lead to a diversion of such activities to country areas because it would make business cheaper and easier.⁹²

4.5.2 EPA Views About Waste Regulation and the Roles of State and Local Government

The EPA disagreed with concerns raised about the ability of local councils to carry out its new regulatory role:

... Local Government ha[s] a long tradition and an excellent of history of involvement through its authorised officers network of enforcement in other aspects of pollution control and environmental management. Through its service delivery role in the provision of waste services, the operation of landfills and so on, it has an army of subject-specific experts. Recognising that base of expertise, we have to make sure that the expertise is applied in a constructive and consistent way across the State and that it is properly resourced.⁹³

Basically, the principle is that local councils will have an opportunity to use enforcement and regulation as part of their tool kit for waste management. They may well choose to just focus their enforcement effort on a particular sector and to keep their enforcement and regulation quite circumscribed, or they may choose to do it across a whole gamut of activities. What we are saying is that local councils, through their waste boards and so on, have an opportunity to develop a strategic enforcement and regulation program, put a dollar value on that and seek funding through the Waste Planning and Management Fund. So it is a process

⁹¹ Evidence of Mr Orton, 6 February 1997, p 4.

⁹² Evidence of Mr Angel, 6 February 1997, p 55.

⁹³ Evidence of Ms Dawson, 7 February 1997, p 15.

of matching their role with their funding needs through the Waste Planning and Management Fund.⁹⁴

In answer to the suggestion that the new regulatory regime would fragment waste minimisation and management in NSW, the EPA advised that:

...we are alive to the need to ensure a level of consistency across Local Government boundaries; in that regard we have quite a few tools to use. we have an authorised officers manual. Individual council officers are aware of the need for a consistent approach to the problems they focus on We have the mechanism in the regulation to produce what we describe as generic regulations. The rules are a point of reference for each council, from which it is fairly straightforward to extract consistency. In addition, if we use the regional waste planning mechanism for giving councils the opportunity to identify what they will do in enforcement, there is a review process for the regional waste plans that they will produce. There is an opportunity for the Minister, SWAC and the EPA to look at how consistently the themes are coming through in terms of the industries and activities that the boards may want to focus on in enforcement. The final mechanism available to us is the broad education role that we are committed to performing in this area through various seminars and so on ...⁹⁵

In terms of the consistent application of the abilities of those experts across the State, we have boosted the waste component of the authorised officers manual ... In the training that accompanies that manual we have started to talk them through what things they might usefully focus on in performing their waste management duties.⁹⁶

4.5.3 Concerns About the Licensing of Waste Facilities and Activities

The licensing of various waste-related activities by the EPA are a major provision of the WMM Act. A number of witnesses doubted the environmental effectiveness of these licensing provisions.

⁹⁴ Evidence of Ms Dawson, 7 February 1997, p 10.

⁹⁵ Evidence of Ms Dawson, 7 February 1997, pp 11-12.

⁹⁶ Evidence of Ms Dawson, 7 February 1997, pp 15-16.

Mr Denlay, in relation to the licencing requirements for landfills, stated:

... the environment movement has had considerable concerns about the fact that landfills under 5,000 tonnes were not required to be licensed.

We believe a landfill is something of such environmental significance that all should be licensed. We understand that should not be an onerous requirement on small landfills, but at least some basic reporting should be provided.⁹⁷

The environment movement also expressed concern about the cumulative impact of the many small hazardous waste generators that fall below licencing thresholds as the generic provisions that apply are considered inadequate.⁹⁸

Mr James Sloan, Waste Coordinator, Sutherland Shire Environment Centre, believed the new licencing arrangements would create “a potential loophole for people to dispose of waste on their properties”.⁹⁹ Mr Sloan illustrated the potential for a loophole in the tyre recycling business:

[Under the WMM Regulation] a licence is required to store more than 50 tonnes of tyres at one time - 50 tonnes is 6,000 tyres. It does not matter whether it is 4 tonnes or 49 tonnes of tyres, one does not have to be licensed.

Tyres are one of the easiest products to dump and can become a hazard to any regulation that you are trying to enforce when it comes to keeping tabs on where waste is going.¹⁰⁰

The LGA criticised the thresholds that apply for the licencing of waste disposal facilities and the transporters of hazardous waste arguing that those activities and premises that will

⁹⁷ Evidence of Mr Denlay, 6 February 1997, p 42.

⁹⁸ Evidence of Mr Denlay, 6 February 1997, p 42.

⁹⁹ Evidence of Mr Sloan, 6 February 1997, p 61.

¹⁰⁰ Evidence of Mr Sloan, 6 February 1997, p 61.

be licenced are largely self regulating. Cr Woods suggested the reason for the licencing threshold levels is that:

the EPA does not want to venture out into the real world any more. Financially stifled by Treasury, it is being forced to retreat to its twin towers and direct the actions of others to do the job it was created to perform ...

... [the EPA is] not acting as a protection authority at all but, in fact, merely functioning as a bureaucracy and policy maker. Indeed the policies are being generated and determined by the bureaucracy to boot.¹⁰¹

Cr Woods also claims that:

The massive reduction in EPA responsibility is somewhat paradoxically accompanied by a huge increase in EPA income from waste licence fees - indeed from \$340,000 to \$2.2 million - and this is achieved by significantly increasing the waste licence fees for the remaining licensed premises and transporters. It is obvious from these figures and other figures that have been provided in the submission that the major accountability of the EPA is not to the environment or the community of New South Wales but increasingly to the Treasury. For the non-licensed waste-related premises the regulatory impact statement states, "by eliminating the need for these activities to be licensed, the proposed generic requirements may reduce administrative costs for both industry and the EPA relative to the current situation". It is assumed that the many small waste generators, as well as all non-hazardous waste transporters and transporters of smaller quantities of hazardous waste, will be regulated by Local Government. What about Local Government's administrative and operational costs? ¹⁰²

In relation to the potential difficulties for Local Government in effectively monitoring the actions of waste transporters across Local Government areas, Cr Woods stated:

In our original submission to the regulations we proposed that if waste transporters were not to be licensed, they should at least be registered so that local government officers could identify them and readily ascertain whether they were acting beyond their limits.

¹⁰¹ Evidence of Cr Woods, 6 February 1997, pp 19-20.

¹⁰² Evidence of Cr Woods, 6 February 1997, p 20.

*What was the response of the EPA? It agreed that waste transporters should be registered, but it said it was a role for Local Government.*¹⁰³

Representatives of the environment movement also see difficulties in regulating the transporters of non-hazardous waste when they cross local government boundaries. Mr Denlay argued

*“it would make much more sense for such regulation to occur in a centralised way”.*¹⁰⁴

Representatives of Industry agreed that the licencing requirements of the WMM Act for waste transporters may have potentially undesirable environmentally consequences. Mr Doig, representing ACM, stated:

*... anyone who is licensed has a very good appreciation of the level of severity of environmental law, and certainly would not be in the business if he or she considered anything was unlawful in terms of waste disposal. We believe that this should be extended across the State. In terms of hazardous waste licences, you are talking about specialised vehicles requiring dangerous goods licences to transport hazardous waste that may or may not be dangerous goods. They, of course, need to be specially licensed. To assist anyone who is hiring one of these companies, there is a current practice of having a window sticker on licensed vehicles. This should give reassurance to anyone hiring one of these contractors that at least they have been licensed; that they have been checked over by the EPA; and that a hazardous waste licence is also included on that. That helps the companies because they are also very much under pressure to ensure that their waste goes where they want it to go under their due diligence requirements, otherwise they could be held responsible and prosecuted if that transporter does the wrong thing with their waste.*¹⁰⁵

Mr Saunders of Pacific Waste Management was concerned that the licencing requirements of the WMM Act:

¹⁰³ Evidence of Cr Woods, 6 February 1997, p 22

¹⁰⁴ Evidence of Mr Denlay, 6 February 1997, p 42.

¹⁰⁵ Evidence of Mr Doig, 7 February 1997, p 26.

appear to be skewed towards transporters of hazardous waste without covering all waste transporters. The EPA licence does not cover all waste transporters. I guess it is as much a commercial concern as it is an environmental concern. Commercially, it lowers the barrier for entry to other operators. Any waste collection company which may carry hazardous waste at any time needs to be licensed. There could be other waste transporters that cart and transport domestic waste only who would not be subject to an EPA licence.106

Mr Saunders gave an example illustrating his concern:

I guess the simplest one is an unlicensed transporter collecting non-hazardous waste and illegally disposing of it at unlicensed facilities. If everyone was licensed one would think that they would have to go through some sort of checking process and the EPA would have the ability to audit particularly the waste transport aspects of the company.107

Mr Saunders also expressed concern regarding the trans-location of waste generated in Sydney to regional areas to avoid paying the waste levy at the Sydney rate:

I think that is the way the regulations are framed, but it would not necessarily be easy to police. A vehicle registered in the local area could come from an outlying area. For example, it could be registered on the far south coast and collect waste on the southern outskirts of Sydney and drive back. To all intents and purposes it would have picked up that waste in the local area.108

The ACM suggested one way to address these problems would be for “the EPA [to] take prime responsibility”¹⁰⁹ for non-licensed waste generating activities.

Greater EPA responsibility for non-licensed activities is also supported by the Waste Crisis Network:

...we regard the generic regulations as being inadequate. It is also difficult to see how the transporters of non-hazardous waste will be adequately regulated when

¹⁰⁶ Evidence of Mr Saunders, 7 February 1997, p 57.

¹⁰⁷ Evidence of Mr Saunders, 7 February 1997, p 57.

¹⁰⁸ Evidence of Mr Saunders, 7 February 1997, p 58.

¹⁰⁹ Submission 12, Australian Chamber of Manufacturers (NSW Branch), p 4.

*they cross many different Local Government boundaries. It would make much more sense for such regulation to occur in a centralised way.*¹¹⁰

4.5.4 EPA Views About the Licensing of Waste Facilities and Activities

In relation to criticisms about the regulatory role of the EPA under the WMM Act, the EPA pointed out that it had a number of powers to intervene in non-licensed activities if problems arose.

For example, there are particular notice powers under sections 65 and 67 of the Act that the EPA can give notice to any type of waste activities to rectify environmental problems, whether they are licensed or not, and quite heavy penalties apply there.¹¹¹

The EPA also stressed it did not intend to abandon the regulation of non-licensed activities to Local Government.¹¹²

4.5.5 Concerns About the Resources Available to Local Government

Local Government expressed significant concern about its ability to implement the regulatory provisions of the WMM Act with the planned level of resources. The LGA believe the cost implications of the WMM Regulation on Local Government have been inadequately considered and that an annual \$13.5 million allocated from the WPMF for all aspects of waste management “will not stretch to allow councils to fully undertake this regulatory role”.¹¹³

These concerns were shared by representatives of the environment movement:

... the regulatory impact statement ... was inadequate in terms of addressing the impact of non-licensed activities. The RIS was thorough in analysing the costs, for example, to the EPA in fulfilling its licensing roles, but when it came to local

¹¹⁰ Evidence of Mr Denlay, 6 February 1997, p 42.

¹¹¹ Evidence of Mrs Neville, 7 February 1997, p 17.

¹¹² See evidence of Ms Dawson, 6 February 1997, p 17.

¹¹³ Submission 14, Local Government Association of NSW, p 1.

government and others who would be asked to fulfil non-licensing regulations there was barely any financial analysis, so it is difficult to work out exactly: are the proposed regulations a net desirable outcome in terms of environment and financial aspects? 114

The Department of Local Government (DLG) also have doubts about the capacity of local councils to effectively enforce the generic waste transport standards of the WMM Regulation.

The lack of a stable revenue stream to cover the overhead costs of maintaining an enforcement capacity and the lack of information about the activities of transport operators is likely to make enforcement of generic standards difficult for councils.¹¹⁵

The EPA, as detailed in section 2.2.2, suggests that funding sources, other than the WPMF, are available to local government to enable them “to take up their responsibilities in the waste management schema”.¹¹⁶

The LGA expressed serious doubts about the viability of these funding options:

... any system of regulation which relies to any large degree on the payment of fines for its operational and administrative income is fraught with difficulty and uncertainty ...

If you ask the EPA how readily they will take an event to court you will see that it is not very often - only when they are very sure that they are going to win.¹¹⁷

With respect to local councils raising revenue through inspection fees, the LGA advised:

Local councils can charge an inspection fee under section 608, but this needs to be put in the context of a draft management plan and go out for consultation annually. Bearing in mind there are 177 local councils throughout the State, what is the sense in individually developing and implementing a charging system

¹¹⁴ Evidence of Mr Denlay, 6 February 1997, p 42.

¹¹⁵ Submission 22, Department of Local Government, p 4.

¹¹⁶ Evidence of Ms Dawson, 7 February 1997, p 4

¹¹⁷ Evidence of Cr Woods, 6 February 1997, p 21.

*for inspecting, advising and regulating waste generating premises and transporters?
Where is the economy of scale? Where is the consistency?118*

As an example of the potential financial problems faced by Local Government, Cl Leo Kelly, Metropolitan Vice President of the LGA, cited Blacktown City Council, where:

the costs and difficulties in going around and identifying many of the small industries and, in some instances, family businesses will require [the] ... council to have seven persons for two years at a cost in excess of half a million dollars. The simplistic attitude of some people that the licensing fees and fines will enhance council's income is nothing but a nonsense ...119

The LGA assert that the regulation of all commercial waste transporters by an approval or license issued by the EPA would provide a more efficient, cost-effective means of control. The DLG consider:

application fees provide a means of generating revenue from those who benefit from the regulatory service and, for a commercial waste operator, the risk of withdrawing an approval may be a more effective deterrent than the risk of an occasional on-the-spot fine. The requirement for operators to lodge an application greatly reduces the investigation and information gathering costs associated with effective monitoring of waste transfers.120

¹¹⁸ Evidence of Cr Woods, 6 February 1997, p 21.

¹¹⁹ Evidence of Cr Kelly, 6 February 1997, p 28.

¹²⁰ Submission 22, Department of Local Government, p 5.

4.5.6 EPA's Response to Concerns About the Resources Available to Implement the WMM Act

The EPA did not concur with views that the resources available to implement the WMM Act, particularly to Local Government, were inadequate.

Defending the funding that is being made available, Ms Dawson stated:

The resourcing comes through a commitment to moneys for enforcement and regulation as part of the Waste Planning and Management Fund, and it comes from a measure that ensures that local agencies can retain their costs and fines that they expend on enforcement to, in turn, make sure that that activity is self-financing, if you like. There is a wide range of educational tools that the EPA produces for Local Government to train authorised officers and to take them through various case studies and ways that they can apply their powers.¹²¹

... we have done what we think is a fairly close match between what Local Government and industry have indicated they will need to execute their waste management obligations. We have also built in, at the end of the first three-year period, a review of the funding level. So we have said, 'This is how it looks in terms of what money will be needed to get well on our way towards 60 per cent waste reduction. Let us build in a review and just double-check that we have the right levels of funding going to the right places.' That is quite an important review point. The State Waste Advisory Council ... will have a role in that review to work out whether Local Government and others are getting the right kind of financial support.¹²²

When asked how the EPA determine the resources available in the WPMF, the Committee was advised:

that figure is ... based on discussions, deliberations and thinking through about what the priorities in service delivery terms might be for Local Government. I think that it is very difficult to project into the future just how much the

¹²¹ Evidence of Ms Dawson, 7 February 1997, p 9.

¹²² Evidence of Ms Dawson, 7 February 1997, p 7.

enforcement component of Local Government's effort might cost. ... We are confident that that will resource them amply for their role.¹²³

In relation to the alleged inequity of funding being made available to Local Government, Ms Dawson pointed out that:

Local Government is expected to receive \$31.08 million in funding for waste minimisation and management between 1995-96 and 1997-98. Over that same period, Local Government is expected to have to pay \$31.46 million in waste levies.¹²⁴

The projected allocation of funds from the WPMF is detailed in Table 4.1.

TABLE 4.1
Projected Spending from the Waste Planning and Management Fund (19/1/1996 - 1999/2000)

Time period (financial year unless indicated)	actual or projected spending from fund (\$ million)	Minimum allocation to local government (\$ million)
19/1/96 to 30/6/96	0.036	0
1996/97	14.44a	11.50
1997/98	18.06	16.28
1998/99	14.10	12.32
1999/2000	10.10	8.32

Notes: a - \$1.375 million has been allocated to the EPA to carry out a waste census and for a statewide education program.

Source: NSW EPA 1995/96 Annual Report, Submission 16, NSW EPA.

¹²³ Evidence of Ms Dawson, 7 February 1997, p 10.

¹²⁴ Evidence of Ms Dawson, 7 February 1997, p 18.

The EPA did, however, agree that revenue derived through prosecutions should be seen as an adjunct to the Local Government income base and not an absolute source of income.¹²⁵

¹²⁵ Evidence of Ms Dawson, 7 February 1997, p 16.

5 FINDINGS AND RECOMMENDATIONS

5.1 Term of Reference (a): The Regulation of Waste Material and the Enforcement of the WMM Regulation

5.1.1 Regulation of Waste Material

The Standing Committee considers that there should be a mechanism for the regular review of the effectiveness of the waste regulation environment and notes that, in accordance with Section 8 of the WMM Act, this is a function of the State Waste Advisory Council (SWAC).

SWAC currently has its Chairperson appointed by the Minister. The Committee heard views expressing concern that the Chairperson of SWAC can have a major influence on SWAC's ability to provide independent advice to the Minister, and that the Ministerial appointment of the Chairperson may jeopardise this independence. The Committee considers it essential that SWAC be in a position to provide independent advice and that its advice to the Minister be perceived as independent by the wider community. To this end, the Standing Committee recommends:

RECOMMENDATION 1

That Schedule 1, Section 2(1) of the Waste Minimisation and Management Act be amended by replacing it with "One of the members of the State Waste Advisory Council is to be chairperson of the State Waste Advisory Council. The chairperson of the State Waste Advisory Council is to be elected by a majority vote of the members of the State Waste Advisory Council".

The Committee received evidence suggesting that the licensing thresholds set by the WMM Regulation were too high to ensure that waste generation, transport, and disposal would be carried out in a responsible manner. This evidence is set out in Section 4.5 of this report. The Committee was unable to determine on what basis licensing thresholds had been determined. The proposal of a zero licensing threshold for landfills and the transport of hazardous waste advocated by representatives of some groups could not be supported by the Committee due to the administrative and practical difficulties of implementation.

The Committee could reach no conclusion on alternative licence thresholds but considers the operation of existing licensing thresholds contained within the WMM Regulation should be closely monitored. Accordingly, the Standing Committee recommends:

RECOMMENDATION 2

That existing waste generating and disposal facilities and transport licensing thresholds be reviewed by the Environment Protection Authority of NSW within 12 months to determine their effectiveness in managing wastes. The results of this review are to be made publicly available.

5.1.2 Roles of the Environment Protection Authority of NSW and Local Government

The Standing Committee heard evidence expressing concern in relation to the altered roles of the EPA and Local Government in waste minimisation and management as a result of the WMM Act and WMM Regulation. In particular, the Committee notes the concerns expressed by some about the expertise and resources required by Local Government to effectively carry out its role. On balance, however, the Committee believes Local Government is well placed and has the capacity to take on this role, but is concerned that Local Government receives appropriate training and resources.

With respect to training, the Standing Committee recommends:

RECOMMENDATION 3

That a training program be developed and delivered by the Environment Protection Authority of NSW in consultation with Local Government, the Police Service and the Roads and Traffic Authority. This program should commence by July 1997 and include, where appropriate:

- (a) training on the enforcement of the Waste Minimisation and Management Regulation;
- (b) training on the management of waste facilities;
- (c) training on the implications of changes to the regulation of hazardous wastes; and
- (d) comprehensive guidelines in manual form, including pro-forma documentation for use by industry and regulators, to ensure consistency in the enforcement

of the generic requirements of the Waste Minimisation and Management Regulation.

The Committee has some concerns that the resource requirements of Local Government to effectively carry out its responsibilities have not been adequately considered or assessed by the EPA. The Standing Committee recommends:

RECOMMENDATION 4

That the allocation of resources from the Waste Planning and Management Fund and the Environment Protection Authority of NSW to Local Government, for the purposes of waste regulation enforcement, should accurately reflect the requirements of Local Government to effectively undertake this task.

The Committee also believes no reliance whatsoever should be placed on inspection fees and fines as a source of income to Local Government due to their uncertain nature. The Standing Committee recommends:

RECOMMENDATION 5

That the determination of resources available to Local Government to carry out its responsibilities in waste management take no account of inspection fees and fines arising from prosecutions.

In relation to the funding of the EPA for waste minimisation initiatives, the Committee has some concern that funding from Consolidated Revenue should not be substituted by grants from the Waste Planning and Management Fund. Accordingly, the Committee recommends:

RECOMMENDATION 6

That the general regulatory business of the Environment Protection Authority of NSW not be funded from the Waste Planning and Management Fund.

5.1.3 Roles of the Police Service and the Roads and Traffic Authority

Given the present duties, responsibilities and current priorities of the Police Service and the Roads and Traffic Authority, the Standing Committee believes it unrealistic to expect these agencies to have a significant role in enforcing the generic provisions of the WMM

Act that apply to non-licensed waste transporters. Nevertheless, the Standing Committee recognises that providing officers of these agencies with some regulatory powers would have a significant effect on the behaviour of non-licensed waste transporters. These powers should not be too onerous and should be able to be carried out during the course of their present duties. Accordingly, the Standing Committee recommends:

RECOMMENDATION 7

That the roles of the Police Service and the Roads and Traffic Authority in the enforcement of the Waste Minimisation and Management Act be limited to the recording of possible breaches of the generic provisions that apply to non-licensed waste transporters and the referral of these observations to the Environment Protection Authority of NSW and the relevant Local Government authority for further investigation and possible prosecution.

5.2 Term of Reference (b): Hypothecation of Waste Levies

5.2.1 View of Hypothecation

The Standing Committee heard many definitions of the word hypothecation. Regardless of the specific definition adhered to, the Standing Committee finds that the literal hypothecation of revenue from one source to a particular area of spending is a questionable fiscal practice that restricts the discretionary power of government over its programs and renders such programs subject to cyclical influences.

5.2.2 Spending on Waste Minimisation Initiatives

The Standing Committee found that State Government spending on current waste minimisation initiatives is significantly more than the revenue raised through Section 72 of the WMM Act.

Discounting the capital expenditure of the Waste Service NSW, proposed State Government expenditure on waste minimisation initiatives is similar to that expected to be raised through Section 72 of the WMM Act.

With respect to the funds collected from levies for waste disposal, the Standing Committee found that from 1 March 1992 there has been no strict hypothecation of the revenue raised

through Sections 29 and 46 of the WRPS Act. The Standing Committee also found there is no strict hypothecation of the revenue raised through Section 72 of the WMM Act to fund waste reduction strategies.

However, the Standing Committee did find there is widespread community opinion that a nexus exists between the funds raised through Section 72 of the WMM Act, the Waste Planning and Management Fund established through Section 73 of the WMM Act and spending by the State Government on waste minimisation initiatives.

With respect to the relationship between waste-related income and spending on waste reduction strategies the Standing Committee recommends:

RECOMMENDATION 8

That waste-related incomes and expenditures on waste-related programs be fully and transparently accounted for.

5.3 Term of Reference (c): Government's Pre-election Waste Policy

5.3.1 Achieving the Government's Waste Reduction Goal

The Committee heard evidence that achieving the ambitious, but laudable, waste reduction target will be difficult without the allocation of significant resources and the support and co-operation of the major players in waste management. These views are shared by the Standing Committee which found that current State Government spending on waste minimisation initiatives is at its highest level ever, in both real and nominal terms.

5.3.2 Consultation

The Standing Committee received evidence critical of some aspects of the consultation process used in developing the WMM Regulation. There was concern that, despite consistent views put to the EPA about certain aspects of the Draft WMM Regulation, these views were not incorporated in the final WMM Regulation. There was also criticism about the time allowed for the consultation process.

The Standing Committee has concerns about some aspects of the consultation process and accordingly recommends:

RECOMMENDATION 9

That there be a twice-yearly consultative process involving the Environment Protection Authority of NSW and representatives of Local Government, industry and the environment movement to receive feedback about the effectiveness of the Waste Minimisation and Management Act and Waste Minimisation and Management Regulation.

**MINORITY COMMENT BY THE HON DR BRIAN PEZZUTTI, RFD,
MLC, THE HON JENNY GARDINER, MLC AND THE HON IAN COHEN,
MLC.**

Term of Reference (a): The Regulation of Waste Material and the Enforcement of the WMM Regulation

So as to obtain an accurate reflection of the requirements of Local Government to effectively undertake this task, the Liberal, National and Greens Members recommend the following alternatives to Recommendation 4 on page 71:

RECOMMENDATION 4A

That within three months of the tabling of the Standing Committee's report the EPA consult with the Local Government and Shires' Associations to determine the current financial (recurrent and capital) and other requirements of Local Government to carry out its responsibilities under the WMM Act and WMM Regulation.

RECOMMENDATION 4B

That within six months of the tabling of this report, the EPA shall produce a report detailing the actual capital and recurrent financial requirements of Local Government and, thereafter, such reports be made available to the public annually after consultation with the Local Government and Shires Associations.

RECOMMENDATION 4C

That all commercial transporters of waste be registered with the EPA and that enforcers of the generic requirements applicable to commercial waste transporters have access to the register of commercial waste transporters.

The Liberal, National and Greens Members of the Standing Committee found that was no widespread community opinion that a nexus exists between the funds raised through Section 72 of the WMM Act, the Waste Planning and Management Fund established through Section 73 of the WMM Act.

With respect to the relationship between waste related income and spending on waste reduction strategies the Liberal, National and Greens Members of the Standing Committee recommend the following in place of majority Recommendation 8 on page 73:

RECOMMENDATION 8A

That a report detailing all income generated by waste levies or any other income obtained by the Government or its agencies in relation to the depositing or processing of waste and all expenditure pursuant to the Waste Minimisation and Management Act, be reported in an annual report produced by the State Waste Advisory Council. Such report should be tabled in Parliament by the Minister for the Environment, annually.

RECOMMENDATION 8B

That any future increase in the waste levy should be matched by an equivalent increase in expenditure on new waste minimisation and reduction programs (which could include the development of new recycling methods).

The Liberal, National and Greens Members of the Standing Committee found, in analysing the evidence submitted by Local Government, industry and the environment movement, that there is no direct relationship between higher waste levies and a reduction in landfill.

RECOMMENDATION 8C

That there be no further increases in waste levies without reference to the Auditor-General who shall be asked to report upon whether or not an increase can be expected to aid in reaching the 60% waste reduction target.

The Liberal, National and Greens Members of the Standing Committee dissent from Sections 5.2 and 5.3 of this Report, except for paragraph 5.3.2 Consultation and Recommendation 9 on page 74. The dissenting comments to the remainder of Sections 5.2 and 5.3 are detailed below.

Term of Reference (b): Hypothecation of Waste Levies

The Inquiry's Central Issues

The Standing Committee's inquiry was triggered by two developments.

Firstly, there were expressions of alarm from Local Government, industry, the environment movement and a sub-committee of the State Waste Advisory Council about the Carr Government's Waste Minimisation and Management Regulation of 1 November 1996.

The Regulation was to increase levies, from July 1 1997, on occupiers of controlled waste facilities from \$10 to \$15 per tonne in the Sydney region and, for the first time, to impose a levy (to be \$4 a tonne) on local government areas in the Hunter and Illawarra regions.

As the levy had already been lifted by the Carr Government from \$7.20 per tonne to \$10 per tonne, the Regulation making this further impost was knocked out when the Liberal and National Parties and the Hon R S L Jones, MLC, supported the disallowance motion of the Hon Ian Cohen, MLC, in the Legislative Council. This inquiry by the Standing Committee ensued.

Secondly, community outrage about the intended increase in the levies was heightened by the breaking of the ALP's pre-election pledge to hypothecate waste levies and the ALP's consequent failure to honour its promise to have the Auditor-General supervise the hypothecation.

The debate over the definition of hypothecation

The Standing Committee examined definitions of the word "hypothecation" and particularly noted the context in which the word is used in the ALP's Waste Minimisation and Recycling policy issued for the 1995 NSW general election.

The ALP policy states:

Labor believes there should be a direct link between the Section 29 waste management levy, the EPA and expenditures by the EPA on waste minimisation initiatives such as the Council Recycling Rebate (CRR) Scheme.

Labor will ensure that Section 29 funds are hypothecated to the EPA subject to supervision by the Auditor-General. (See page 24 of this report).

(The underlining of the words "direct link" above is copied from the ALP policy statement. Note also that the policy does not refer to capital works programs).

The Liberal, National and Greens Members of the Standing Committee find that it is quite clear that the ALP, in its pre-election waste minimisation policy, used the word hypothecation as it is commonly understood in government and economic circles and spelt

this out by underlining its commitment to ensure there would be a direct link between the Section 29 waste levy and expenditures by the EPA on waste minimisation initiatives.

In an attempt to give further credence to the genuineness of this promise of a direct link, the ALP added its commitment to have the flow of revenue subject to supervision by the Auditor-General. The obvious implication of those words is that the Auditor-General was to be asked to ensure that the revenue from the levy was not siphoned off to consolidated revenue.

The Liberal, National and Greens Members of the Standing Committee find that there is no evidence that the Government has, in fact, asked the Auditor-General to supervise the hypothecation of the levy through to the EPA.

The NSW Treasury told the Standing Committee that:

Hypothecation involves the creation of a nexus between a particular source of tax revenue and a particular expenditure program. Strict hypothecation involves the quarantining of revenues raised and removing ongoing public review of the level and patterns of expenditure. (See page 26 of this report).

Unanimously, the Standing Committee found that hypothecation, in relation to waste levies, was generally held to mean that any money raised by government through such levies or taxes must be directed to waste minimisation and management activities only (see page 27 of this report).

The EPA agreed with this definition (see page 27 of this report).

The Standing Committee also found that when the Local Government Association of NSW wrote to the NSW Treasurer, The Hon M Egan, MLC, on 12 December 1996, seeking the hypothecation of waste levies for waste minimisation and management initiatives, the NSW Treasurer replied on 14 January 1997 (in a letter tabled before the Standing Committee, see pages 28 and 29 of this report):

*... I am unable to grant your request and advise that waste levies will continue to be paid into general revenue to allow the Government **to meet its overall priorities.** (Bold type added).*

The Liberal, National and Greens Members also found (see page 38 of this report) that the Minister for the Environment, The Hon Pam Allan, MP, also agrees that:

There is no formal hypothecation of that money (ie of that raised by the levy).

The Standing Committee found that the NSW Treasurer, the Minister for the Environment and the NSW Government, despite the Government's pre-election policy to hypothecate (to directly link) revenue from waste levies flowing to the EPA and expenditures by the EPA on waste minimisation initiatives, have failed to implement the Government's policy.

In examining the relationship between the collection of levies for waste disposal and the (non-) hypothecation of funds to the minimisation of waste and waste reduction strategies, the Liberal, National and Greens Members of the Standing Committee made these additional findings, based on advice given to it by NSW Treasury:

Finding 1A

The increase in the waste levy, which was disallowed by the Legislative Council in December 1996, was not linked to increased expenditure on waste services. It was a tax imposed to boost the Government's general revenue.

This was made clear to the Standing Committee when NSW Treasury, were asked whether any EPA programs would be cut as a result of the Legislative Council's disallowance of the increase in the waste levy, and replied:

The EPA's annual expenditure on waste management initiatives is not related to the amount of revenue raised by the waste levy or any revenue paid to the Consolidated Fund. All of the expenditure was planned before the increases in the waste levy were proposed, and none of the expenditure will be affected by the increases being disallowed by the Legislative Council (answer to a question taken on notice on 7 February 1997 provided by NSW Treasury on 26 February 1997).

Finding 2A

Capital costs for waste management are funded entirely from commercially-based cost recovery operations conducted by the Waste Service NSW.

The Liberal, National and Greens Members of the Standing Committee agree with Mr Denlay, Waste Crisis Network, (see pages 33 and 34 of this report) who criticised those analyses of the amount raised by the s. 72 waste levy and the amount to be expended by the State Government on waste minimisation and management activities which included expenditure by the Waste Service NSW.

Mr Denlay said that if Waste Service NSW capital works were considered:

One could be forgiven for thinking that that somehow implied that the Government has met its hypothecation commitments, but...they should be seen as completely separate from the waste levy area because those capital works are funded in a way that a dividend is provided back to the Government, so it is a commercial interest more than ploughing back of levies.

...I think there was a clouding of ... [the issue] ... to try to bring that money into this debate over the waste levies and hypothecation. I think we should be clear about that money raised through this waste levy. It should be returned, and it is not being returned; it is being channelled off into consolidated revenue and the amount of money allocated to the Government's waste reforms is much less than that amount.

The Liberal, National and Greens Members also note the remarks of Mr Andrew Doig, representing the Australian Chamber of Manufactures:

..the New South Wales people have been sold this levy on the basis that it will be used to improve the environment by minimising waste. However, we find that about two-thirds of the levy will not go to improving the environment but will go instead to consolidated revenue. (see page 28 of this report).

Term of Reference (c): Government's Pre-election Waste Policy

Hypothecation of Waste Levies

As detailed above, the Liberal, National and Green Members of the Standing Committee find that the Carr Labor Government has reneged upon its pre-election promise to hypothecate, or directly link, waste levies to the EPA.

Consequently, the Auditor-General was not requested to oversight the hypothecation. This is another of Labor's broken promises.

Achieving the Government's Waste Reduction Goal

The Standing Committee heard evidence that achieving the waste reduction target set out in the WMM Act (60% reduction by 2000) will be difficult without the allocation of significant resources and the support and cooperation of the major players in waste management. Proper consultation with all the players involved is one of the essential requirements for the target to be achieved (see majority report 5.3.2 Consultation and Recommendation 9 on page 74 of this report).

MINORITY COMMENT OF THE HON IAN COHEN, MLC.

Amend Section 5.1.1 by deleting the last sentence on page 69:

The proposal of a zero licensing threshold for landfills and the transport of hazardous waste advocated by representatives of some groups could not be supported by the Committee due to the administrative and practical difficulties of implementation;

and inserting:

Despite this, the proposal for zero licensing thresholds for waste disposal facilities and the transport of hazardous waste, advocated by representatives of industry, Local Government, and the environment movement, is supported as the associated potential environmental effects are significant and considered to far outweigh the perceived administrative difficulties of a wider licensing scheme.

Alternative recommendation to Recommendation 7 on page 72:

RECOMMENDATION 7A

To facilitate consistent and effective state-wide enforcement of the generic provisions applicable to non-licensed waste transporters, that officers of the Police Service and the Roads and Traffic Authority be authorised to issue infringement notices for breaches of section 17 of the Waste Minimisation and Management Regulation 1996 (the generic provisions applicable to non-licensed waste transporters).

WITNESSES AT HEARINGS

Thursday 6 February 1997

Paul Orton, Manager, Policy, Australian Business Chamber
Paul Howlett, General Manager, Environment Industry Development Network
Michael Carolin, Environmental Adviser, Australian Business Chamber
Steve Ransome, Consultant, Industry Waste Network
Peter Woods OAM, President, Local Government Association of NSW
Leo Kelly, Metropolitan Vice President, Local Government Association of NSW
Bob Verhay, Senior Policy Officer, Environment, Local Government Association of NSW
John Denlay, Environmental Consultant and Environmentalist, Waste Crisis Network
Jeff Angel, Representative, Total Environment Centre
Jim Sloan, Waste Co-ordinator, Sutherland Shire Council Environment Centre
Peter Carroll, Acting Secretary, School Communities Recycling All Paper

Friday 7 February 1997

Sue Dawson, Director - Environmental Policy, Environment Protection Authority
Arthur Diakos, Director - Finance, Environment Protection Authority
Lynne Neville, Senior Project Officer, Environment Protection Authority
Andrew Doig, NSW Environment & Technical Services Manager, Australian Chamber of Manufactures, New South Wales Branch
Anthony Brian Morrissey, National Commercial and Development Manager, Collex Waste Management Pty Ltd

Waste Service NSW

John Bernard Cook, Managing Director, Waste Service NSW

Raymond Ernest Moran, Director of Finance,

Robert J Sendt, Executive Director, State Budget Strategy and Policy, NSW Treasury

Eric Swan, Economist, NSW Treasury

Gary Brian Saunders, NSW State Manager, Pacific Waste Management Pty Ltd

Andrew Thaddeus Kosciuszko, Business Development Manager, Pacific Waste Management Pty Ltd

SUBMISSIONS TO INQUIRY

- 001 Ms Pat Berghius, Work Co-ordinator, Parameadows School
- 002 John B Cook, Managing Director, Waste Service NSW
- 003 H H Healey, Chairman, Keep Australia Beautiful Council (NSW)
- 004 Hylde A Rolfe
- 005 John Denlay, Friends of the Earth (Sydney)
- 006 Gary Saunders, Pacific Waste Management
- 007 Dr Danny Wiggins, Blinkhorn & Wiggins, Planning & Design
- 008 Graham Brookes, Development Manager, Local Government Recycling Co-operative Limited
- 009 David Cameron, President, Private Landfillers Association
- 010 Peter Lazar, Representative, Industry Waste Network
- 011 Gerard van Rijswijk, Executive Director, Association of Liquidpaperboard Carton Manufacturers Inc
- 012 Andrew Doig, NSW Environment & Technical Services Manager, Australian Chamber of Manufactures, New South Wales Branch
- 013 Cr Stephen Gurney, Chairperson, The Northern Sydney Waste Planning & Management Board
- 014 Cr Peter Woods OAM, President, Local Government Association of NSW
- 015 Bill Healey, Executive Director, The Retail Traders' Association of New South Wales
- 016 Neil Shepherd, Director General, Environment Protection Authority
- 017 Mark Gorta, Chairman, Hazardous Chemicals Advisory Committee
- 018 Sue Dawson, Chairperson, State Waste Advisory Council
- 019 David Cameron, President, & Terry Martin, Secretary, Private Landfillers Association
- 020 R D Christie, Chief Executive, Roads and Traffic Authority
- 021 The Hon Michael Egan MLC, Treasurer, NSW Treasury
- 022 Garry Payne, Director General, Department of Local Government
- 023 R K Stewart, Director of Environmental Services, Carbone Council
- 024 B A Lawson APM, Deputy Commissioner, (Field Operations), NSW Police Service

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