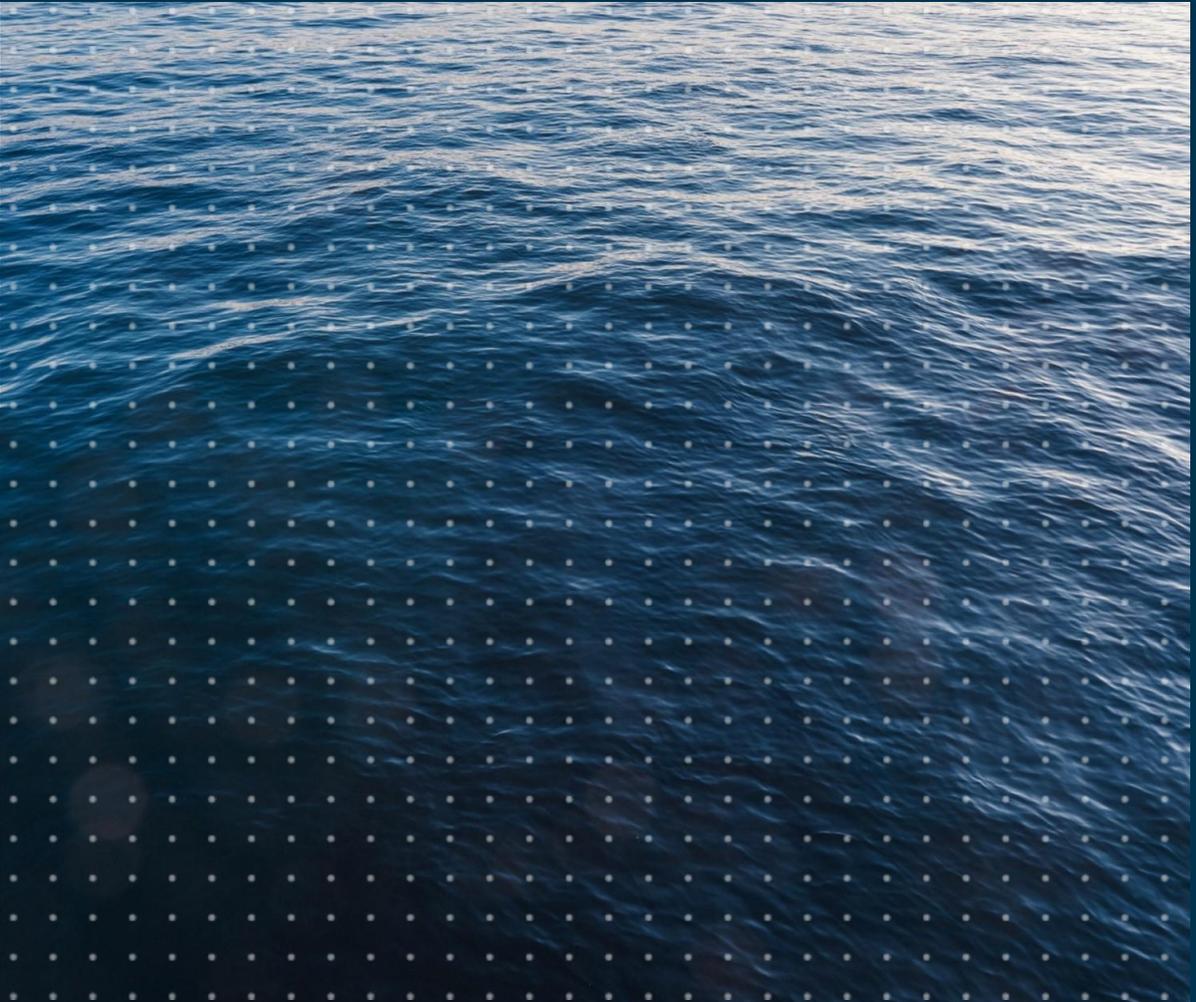




Environment Protection Authority

Towards a Circular Economy: enhancing the NSW resource recovery framework

A delivery plan to implement the recommendations of the *Independent Review of the Resource Recovery Framework* to improve circularity of resources in NSW



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Contents

Towards a circular economy	1
Purpose of this delivery plan	1
A: Improving guidance and documentation for resource recovery orders and exemptions	2
Recommendations 1, 4, 5, 7 and 9	2
B: Improving transparency, data, and accessibility	3
Recommendations 2, 3, 8 and 19	3
C: Continuing cross-jurisdiction negotiation	4
Recommendation 6	4
D: Investigate regulatory framework changes	5
Recommendations 10, 11, 12, 13 and 17	5
E: Embedding improvements in planning	6
Recommendation 16	6
F: Developing a more targeted regulatory approach	7
Recommendations 14, 15 and 18	7
G: Considering approaches to contaminants	8
Recommendations 20, 21 and 22	8

The EPA is committed to supporting the recovery, remanufacturing, recycling and reuse of appropriate resources in NSW. This delivery plan sets out the pathway we will take, in consultation with key stakeholders, to reform the state's resource recovery framework and facilitate the transition to a circular economy.

The resource recovery framework is the policy, regulatory and compliance framework administered by the EPA to facilitate beneficial resource recovery and circular economy outcomes. This delivery plan implements the 22 recommendations made in the independent review of the resource recovery framework.

Towards a circular economy

The EPA is committed to working with consumers, industries and across government to ensure recovered materials are used efficiently and productively, while protecting the environment and human health.

The resource recovery framework is the policy, regulatory and compliance framework administered by the EPA to facilitate beneficial resource recovery and circular economy outcomes. The EPA is committed to ensuring that the framework supports the higher-order use of materials so they stay in the economy for as long as possible. This will maximise their lifespan and value, and help to reduce carbon emissions, while minimising the risk of harm to human health and the environment.

In 2021, the EPA commissioned Dr Cathy Wilkinson to undertake an independent review of the resource recovery framework. The EPA released its response in December 2022, supporting, or supporting in principle, all 22 recommendations. The recommendations can be found in Appendix 1 and more information is available on the [EPA website](#).

The independent review and this delivery plan also align with or satisfy a number of commitments made by the EPA and NSW government. Under the *Waste and Sustainable Materials Strategy 2041 (WaSM)* and the *Waste Delivery Plan*, the NSW government has committed to review the resource recovery framework and investigate options that incorporate the safe and beneficial reuse of waste. In line with the EPA's Climate Change Action Plan objectives, higher rates of resource recovery can also reduce the use of virgin materials and their associated emissions.

Purpose of this delivery plan

This delivery plan sets out the actions the EPA will take to implement the 22 review recommendations and reform the resource recovery framework to better support the transition to a circular economy. The plan

- groups the 22 recommendations into seven themes (Groups A to G) and sets actions and timelines for delivery.
- strikes the appropriate balance between circular economy outcomes and protecting the environment and human health.
- guides ongoing stakeholder engagement and consultation, including on the scoping, options analysis, and delivery of proposed reforms.

Expected start times are provided for each action. They can be found in the relevant section of the plan, and also in Table 1 at the end of the document, where key project milestones are also shown for each action. Start times are dependent on project priorities and interdependencies. For example, some actions are unable to start until other actions have been completed. The EPA has compiled these timeframes in good faith based on best available information. The timeframes are indicative only and may be subject to change.

The EPA recognises that effective engagement with stakeholders will be key to successfully implementing the identified actions. The EPA will coordinate stakeholder engagement across the groups of actions to ensure that the process is clear and streamlined.

A: Improving guidance and documentation for resource recovery orders and exemptions

The EPA will strengthen the resource recovery framework by ensuring that information about the order and exemption framework is readily available and easy to understand. The EPA recognises that the existing guidance and documentation can be improved to increase its ease of use as industry transitions to circular principles.

Recommendations 1, 4, 5, 7 and 9

Resource recovery orders and exemptions are important regulatory tools that enable the higher order use of resources in a circular economy. To ensure that industry is able to access and use the order and exemption pathway, it is critical that guidance materials are clear and easy to find and understand. The EPA will publish new and updated guidance materials which will increase transparency of assessments and decision making and clarify the regulatory process for issuing and revoking orders and exemptions. This aligns with the *Waste and Sustainable Materials Strategy 2041* which commits to providing clear information requirements in guidance material.

The improved guidance material will build on existing application guidelines for the use of recovered materials as a soil amendment or fill. The EPA will continue to provide advice on applying for orders and exemptions and will respond to any queries about the process via the waste.exemptions@epa.nsw.gov.au mailbox.

EPA action	Starting
A1. Publish new or updated guidance material for orders and exemptions that includes: <ul style="list-style-type: none">a. how decisions are madeb. how to apply, including the information requiredc. the assessment process, including EPA considerationsd. how the EPA determines sampling requirements; ande. how the EPA determines contaminant limits	June 2023
A2. Develop and publish a clear process for issuing and revoking general orders and exemptions	January 2024
A3. Investigate options for an internal review process for certain decisions on resource recovery orders and exemptions	January 2025

B: Improving transparency, data, and accessibility

The EPA is committed to transparent decision-making and evidence-based regulation. Improving the clarity and transparency of orders and exemptions will increase confidence in the framework and in the use of recovered materials.

Recommendations 2, 3, 8 and 19

The EPA will improve the clarity and transparency of orders and exemptions so that legal responsibilities are easier to understand while maintaining their enforceability. This will build on the work already undertaken through public consultation in 2022 on draft orders and exemptions for recovered soil and recovered fines. The EPA will consider a process to increase data collection and publication of resource recovery orders and will work with stakeholders to do so. Investigating opportunities to increase the collection and publication of resource recovery data links to the EPA's *Strategic Plan 2021–24* commitment to build a data and digital strategy that will invest in scientific analysis and data.

EPA action	Starting
B1. Review form, structure and content of resource recovery orders and exemptions to make them easier to understand while maintaining their enforceability.	June 2023
B2. Engage with key stakeholders to determine how to improve public availability of specific orders and exemptions, including <ol style="list-style-type: none">consideration of how existing EPA public registers for other legislative instruments could be used to support the publication of specific orders and exemptions.	January 2024
B3. Set up and publish a clear protocol for constituting and using technical experts and/or panel/s to inform decision-making on resource recovery orders and exemptions. <ol style="list-style-type: none">Review past use of technical experts and lessons learnt to inform protocols.	January 2024
B4. Investigate opportunities for increased collection and publication of resource recovery data, including opportunities to <ol style="list-style-type: none">improve collection, management, and use of datacollect and publish a list of generators and processors operating under a resource recovery orderexamine opportunities to create more accessible and collaborative approaches to data collection and reportingset up annual reporting on progress under WaSM.	July 2023

C: Continuing cross-jurisdiction negotiation

Heads of EPA Australia and New Zealand (HEPA) is an important forum for cross-jurisdictional collaboration. The NSW EPA will continue to actively advocate for consistency in approaches to recovered resources where appropriate.

Recommendation 6

During stakeholder engagement on the resource recovery framework review, stakeholders noted that nationally aligned standards would be beneficial, particularly for high volume recovered waste streams.

The NSW EPA is an active participant in HEPA and values the opportunities it provides to engage with other regulatory agencies and share learnings.

EPA action	Starting
C1. Continue to actively advocate for consistency in approaches to recovered resources where appropriate, including advocating for consistency across HEPA jurisdictions in relation to any relevant results or recommendations of the scientific review in Action G1.	June 2023

D: Investigate regulatory framework changes

The EPA will explore changes to the broader waste regulatory framework in NSW. This work will expand on the NSW Government's *Waste and Sustainable Materials Strategy 2041 Stage 1 plan: 2021–2027*, which outlines initial actions to help deliver priority programs and policy reforms and is backed by \$356 million in funding.

Recommendations 10, 11, 12, 13 and 17

The EPA will work to improve the waste regulatory framework, including the investigation of pathways to enable an end-of-waste outcome, opportunities to streamline the application of the waste regulatory framework for certain activities or materials and the development of a resource recovery innovation pathway.

Many stakeholders are concerned that the definition of waste is too broad and that this impacts the development of resource recovery markets and consumer perceptions of recovered materials. Stakeholders are also concerned that waste storage and stockpiling limits can be barriers to the use of recovered materials.

As a priority, the EPA will work with government agencies to develop a clear pathway to progress innovative trials or pilots within the resource recovery framework, in consultation with stakeholders.

EPA action	Starting
D1. Investigate pathways to enable end-of-waste outcomes for suitable common, low risk recovered materials. a. If an end-of-waste outcome is implemented, update framework and existing guidance materials so that language reflects transition of waste to resources (including definition of waste).	March 2023
D2. Investigate opportunities to streamline application of waste regulatory framework. a. Investigate if some activities that use, process and/or store recovered materials should be excluded from certain aspects of waste regulatory framework.	July 2023
D3. Develop a resource recovery innovation pathway to support development, demonstration and assessment of new and innovative technology and processes. a. Work with other Government agencies to make sure the approach takes account of other legislative requirements. b. Consult with key stakeholders to make sure the innovation pathway is designed and targeted appropriately.	March 2023
D4. Review role and application of NSW waste classification system to resource recovery sector.	July 2024

E: Embedding improvements in planning

The EPA is a leader in improving waste management and environmental outcomes and will liaise with other authorities to improve waste management practices of waste generators through the planning system.

Recommendation 16

Supporting and growing a circular economy in NSW relies on many different elements within government and industry. While the EPA has some ability to guide and encourage a circular economy through its regulatory framework, other government agencies also have the ability to support the circular economy and regulate waste in different ways.

The EPA will work with planning authorities to address upstream waste management practices to achieve better resource recovery outcomes. This will focus on waste generator practices to help reduce contaminants and improve the quality of materials received at resource recovery facilities.

EPA action	Starting
E1. Seek to liaise with relevant planning authorities to investigate embedding requirements for improved waste management practices by waste generators in the planning framework.	October 2023

F: Developing a more targeted regulatory approach

The EPA is committed to improving protections for consumers of recovered resources. The EPA will consider how it could better apply the ‘regulatory elements’ of the EPA’s *Regulatory Strategy 2021–24* to achieve higher quality materials from waste generators and improve protections for consumers of recovered resources.

Recommendations 14, 15 and 18

The EPA will develop and publish regulatory plans to target specific waste and resource recovery industry sectors, building on the elements outlined in the EPA’s *Regulatory Strategy 2021–24*. Stakeholders support a strong regulatory presence in the resource recovery sector to help industry achieve high quality recovered materials and maximise resource recovery. The regulatory plans will build on the EPA’s existing compliance audit program and apply a risk-based approach to address the highest risks to human health and the environment.

EPA action	Starting
F1. Develop and publish regulatory plans to target specific waste and resource recovery sectors and link to specific regulatory elements including opportunities to engage with stakeholders.	January 2024
F2. Consider how regulatory elements available under the EPA’s <i>Regulatory Strategy 2021–2024</i> could be better applied to achieve higher quality materials from waste generators.	July 2023
F3. As part of a regulatory plan for the resource recovery sector, investigate ways to enhance protections for consumers of recovered resources and place greater responsibility on waste generators and processors.	January 2025

G: Considering approaches to contaminants

The EPA will take an evidence-based approach to identifying and managing asbestos contaminants as well as emerging contaminants in the resource recovery framework. This will support work underway to implement the EPA's *Strategic Plan 2021–24*, which sets one of five focus areas for the EPA as legacy and emerging contaminants.

Recommendations 20, 21 and 22

During the review, stakeholders asked for more flexibility in dealing with contaminants. The review also identified the need for clear communication around legacy and emerging contaminants. An external scientific expert will review and advise on the NSW approach to the management of asbestos contaminants in waste and recovered materials. The EPA will then consider how current approaches to asbestos contaminants could be improved. The EPA will also develop and implement a program to proactively investigate emerging contaminants. The program will consider how the EPA will engage with stakeholders regarding emerging contaminants.

EPA action	Starting
G1. An external scientific expert will review and provide advice on the NSW approach to management of asbestos contaminants in waste and recovered materials including protection of human health and the environment, and opportunities and constraints of beneficial reuse. a. The EPA will identify synergies and utilise NSW Asbestos Coordination Committee (NACC) expertise when providing input into terms of reference for review.	June 2023
G2. Consider advice from external scientific expert on the NSW approach to management of asbestos contaminants in waste and recovered materials and determine how the existing approach could be improved.	April 2024
G3. Implement a program to proactively investigate emerging contaminants including a stakeholder engagement plan	October 2023

Table 1 Action timeframes

Action summary

Quarter commencing
 July 23 Oct 23 Jan 24 April 24 July 24 Oct 24 Jan 25 April 25 July 25 Oct 25 Jan 26 April 26 July 26 Oct 26 Jan 27 April 27 July 27 Oct 27 Jan 28 April 28



Priority key

- █ High
- █ Medium
- █ Low

Appendix 1

Recommendations of the Independent Review of the Resource Recovery Framework

Recommendation 1:

EPA to clearly articulate its decision-making considerations for orders and exemptions, in order to

- a) Better document and explain how the EPA makes decisions on orders and exemptions
- b) Ensure that the sector and broader community is aware of the EPA's considerations to provide confidence that the rationale is credible and sound.

Recommendation 2:

The EPA should consider changes to the drafting of orders and exemptions to make them easier to understand while maintaining their enforceability.

Recommendation 3:

The EPA should consider how further transparency could be provided around orders and exemptions. This should include working with stakeholders to investigate how specific orders and exemptions could be made publicly available.

Recommendation 4:

The EPA should publish clear and comprehensive guidance materials for the application and assessment of orders and exemptions.

Recommendation 5:

The EPA should publish information regarding how sampling requirements and contaminant limits are generally determined for resource recovery orders and exemptions.

Recommendation 6:

The EPA should continue to advocate for nationally aligned standards with the Heads of EPA Australia and New Zealand (HEPA). This should include issues such as contaminant limits and sampling requirements for recovered resources.

Recommendation 7:

The EPA should improve clarity of process by establishing and publishing a clear process for the issuing and revocation of general orders and exemptions. This should include investigating options for revocations, including thorough stakeholder engagement.

Recommendation 8:

The EPA should seek the advice of independent technical experts through establishing an expert panel/s and publishing a clear protocol for constituting such group/s.

Recommendation 9:

The EPA should investigate options for an internal review process for certain decisions on resource recovery orders and exemptions.

Recommendation 10:

The EPA should investigate a pathway to enable an end-of-waste outcome for suitable common, low risk recovered materials to better enable reuse, particularly for remanufacturing while ensuring the EPA can still address environmentally problematic and undesirable uses and dumping of those materials.

Recommendation 11:

If the EPA implements an “end-of-waste” outcome, the EPA should review relevant elements of the resource recovery framework and associated guidance materials to ensure language appropriately reflects the transition of waste to resources.

Recommendation 12:

The EPA should investigate whether some activities that use, process and/or store recovered materials should be excluded from certain aspects of the waste regulatory framework to reduce administrative and regulatory burdens and enhance circular outcomes.

Recommendation 13:

The EPA should seek to work with relevant agencies across government to develop a resource recovery innovation pathway to support the development, demonstration and assessment of new and innovative technology and processes. This could include consideration of approaches across the environment protection and environmental planning legislation.

Recommendation 14:

The EPA should periodically develop and publish regulatory plans targeting specific waste and resource recovery industry sectors. The plans should make better use of the full range of elements in the EPA’s regulatory approach, outlined in the *Regulatory Strategy 2021–2024*, by identifying the specific elements that the EPA intends to use. Plans should also include more opportunities to engage with stakeholders.

Recommendation 15:

The EPA should consider the regulatory elements available under the Regulatory Strategy and determine how they could be better applied to achieve higher quality materials from waste generators.

Recommendation 16:

The EPA should seek to liaise with relevant planning authorities to investigate embedding requirements for improved waste management practices by waste generators, including through planning instruments and development consents.

Recommendation 17:

The EPA should review the role and application of the NSW waste classification system to the resource recovery sector.

Recommendation 18:

As part of a regulatory plan for the waste and resource recovery sector, the EPA should investigate ways to enhance protections for consumers of recovered resources and place greater responsibilities on waste generators and processors. This could include through compliance campaigns targeting resource recovery orders and exemptions and other safeguards.

Recommendation 19:

The EPA should investigate opportunities for the increased collection and publication of resource recovery data that could assist in the transition to a circular economy, including collection and publication of the generators and processors operating under a resource recovery order.

Recommendation 20:

A scientific expert external to the EPA should review and provide advice on the NSW approach to management of asbestos contaminants in waste and recovered material. The review should include, but not necessarily be limited to, protection of human health and the environment and consideration of opportunities and constraints of beneficial reuse.

Recommendation 21:

Taking into account the advice of the external scientific expert, the EPA should consider how existing approaches to management of asbestos contaminants in waste and recovered materials could be improved.

Recommendation 22:

The EPA should implement a program to proactively investigate emerging contaminants and better engage with stakeholders regarding emerging contaminants.