

Attachment H

Waste Management Legislation and Policy

The following information summaries the various roles and responsibilities of waste management in Australia.

Legal obligations relating to the provision of waste services

Legislation name	Summary of provisions
<i>Local Government Act 1993 (NSW)</i>	Does not include an express obligation for a council to collect domestic waste. Where a council has levied a domestic waste charge and committed to providing the service in its operational plan, it follows that it needs to provide that service to residents. There is no specific reference to waste in the City of Sydney Act 1988.
<i>Protection of the Environment Operations Act 1997 (NSW)</i>	Does not include an express obligation for a council to collect and dispose of waste. The legislation gives councils certain rights to regulate certain waste activities through notice and enforcement in a local government area.
<i>Public Health Act 2010 (NSW) (PHA)</i> <i>Public Health Regulations 2022 (NSW)</i>	Imposes obligations on councils to take appropriate measures to ensure compliance with the requirements of the PHA in relation to specific activities contained within a council's local government area. These obligations do not extend to domestic waste collection.
<i>Waste Avoidance and Resource Recovery Act 2001 (NSW)</i>	Imposes an obligation on the Environmental Protection Authority to develop and approve a waste strategy for the State (see section 12). Local councils must comply with this waste strategy and under section 14, the EPA may request a local council to provide the reasons for any specified non-compliance. The waste strategy assumes councils collect domestic waste and is available at: https://www.dpie.nsw.gov.au/our-work/environment-energy-and-science/waste-and-sustainable-materials-strategy
<i>Fair Work Act 2009 (Cth)</i> <i>Fair Work Regulations 2022 (Cth)</i>	Governs employee and employer relationships within Australia. The FWA does not apply to State public sector employees, including local government employees. The FWA applies to the employment arrangements between Cleanaway and its employees, but does not apply to employment arrangements between the City and its employees.
<i>Work Health and Safety Act 2011 (NSW)</i>	Provides a framework to protect the health, safety and welfare of all workers and others in relation to NSW workplaces and work activities. The provisions of the WHSA therefore apply to Cleanaway in relation to providing a safe work environment for its employees. Similarly, the provisions apply to the City in relation to providing a safe work environment for its employees. But the provisions do not apply to the City in relation to any obligations to Cleanaway employees directly.

Also of relevance is the National Waste Policy, which assumes that councils collect domestic waste: <https://www.dcceew.gov.au/sites/default/files/documents/national-waste-policy-2018.pdf>

Federal Government

Management of waste in Australia is primarily the responsibility of state and territory governments who set the legislation, policies and regulate waste activities. However, the Australian Government is responsible for certain national legislation, strategies and policy frameworks for waste, including measures that give effect to obligations under international agreements, specifically the export of waste and recycling.

In 2020, the federal government created the Recycling and Waste Reduction Act 2020 – this legislation introduced a ban on export of certain materials over a specified timeframe. The first materials subject to the ban were glass, mixed plastics and tyres in 2021, mixed paper and cardboard will be banned 1 July 2024 (extended from 2022).

The federal government is also responsible for National Packaging targets to be met by 2025 – 100% reusable, recyclable or compostable packaging (86% currently), 70% plastic packaging being recycled or composted (16%), 50% average recycled content (39%) and phase out of problematic and unnecessary single use packaging (state government is now leading).

There is currently no legislated right to repair, which the City believes will be crucial to achieving circular economy outcomes in the future.

NSW Government

State and territory governments have primary responsibility for regulating and administering waste, including planning for waste management and waste avoidance, minimisation and reuse, licensing and regulation of waste transport, storage, treatment, resource recovery and disposal, and managing the impacts of waste management activities.

Key NSW Legislation relating to waste includes –

- Protection of the Environment Operations Act 1997 (POEO Act) – ensures that waste operations and facilities minimise pollution and maintain minimum compliance.
 - Waste Avoidance and Resource Recovery Act 2001 (WARR Act) – provides for the development of a state-wide strategy for waste avoidance and resource recovery, included in the objectives of the act is to ensure efficient funding of waste and resource management planning, programs and service delivery and to achieve integrated waste and resource management planning, programs and service delivery. The Act also allows for state based product stewardship e.g. container deposit scheme.
- Plastic Reduction and Circular Economy Act 2021 – recently introduced legislation to ban certain single use plastics at a state level, not a local government measure

It should also be noted that NSW state government is also:

- Planning consent authority for waste management facilities
- Administrator of state waste levy