

**PROTECTION OF THE ENVIRONMENT AMENDMENT LEGISLATION (FOGO RECYCLING)  
BILL 2024**

**STATEMENT OF PUBLIC INTEREST**

**Need: Why is the policy needed based on factual evidence and stakeholder input?**

The policy is needed to significantly reduce the amount of recoverable residual waste ending up in landfill. Without intervention, it is predicted that New South Wales, and in particular Greater Sydney, will run out of landfill capacity by 2030 or earlier. This is likely to exacerbate cost-of-living pressures for households and delay the delivery of critical infrastructure across the state. By 2030 in Greater Sydney, the capacity of landfills servicing households will fall short by an estimated 1.1 million tonnes each year.

It is estimated that approximately 1.7 million tonnes of residual waste collected in red bins each year is FOGO waste (food organics and garden organics waste). This Bill targets a waste stream that is biodegradable and, with appropriate collection pathways and processing, can create a valuable end-product rather than ending up in landfill at a cost to the community where it decomposes and emits greenhouse gases.

The mandates represent a step towards the Government's commitment to reducing emissions under the Net Zero Plan Stage 1: 2020-2030. The plan protects NSW's future by growing the economy, creating jobs and reducing emissions over the next decade. The mandates are essential to halving the amount of organic waste disposed of in landfill and reducing overall emissions.

**Objectives: What is the policy's objective couched in terms of the public interest?**

The Bill aims to reduce recoverable food and garden waste going to landfill and facilitate its reuse by mandating the collection of source-separated FOGO waste from households and businesses. The Bill will also mandate that large supermarkets must keep records of food donations to charities.

Key benefits include:

- Diverting an estimated 950,000 tonnes of organic waste from landfill each year in NSW for use as a resource.
- A reduction in greenhouse gas emissions from landfill.
- Relieve stress on already stretched residual waste infrastructure.
- Greater awareness of large supermarkets' food donations.

**Options: What alternative policies and mechanisms were considered in advance of the Bill?**

As an alternative to introducing legislation, the EPA considered:

- a non-regulatory approach – i.e., providing information and program support to councils, industry and businesses about FOGO and encouraging adoption. The EPA has provided non-regulatory support since 2013, with 61 NSW councils having already implemented, or planning to implement, a FOGO service. However, 67 councils have yet to transition to implementing source-separated FOGO collection.

**Analysis: What were the pros/cons and benefits/costs of each option considered?**

The key benefit of mandating source-separate collection is that it maximises the amount of waste diverted from landfill. It also allows for economies of scale through initiatives such as joint procurement for services by councils located near each other. Cost-inefficiencies resulting from mandated source-separated collection of FOGO waste is mitigated by the EPA's power to grant exemptions in appropriate circumstances.

On the other hand, the benefits/costs of a non-regulatory approach to implementing FOGO included:

Benefits:

- some councils may choose not to have FOGO collection to avoid costs
- no enforcement costs as there would be no regulatory framework.

Costs:

- continued slow adoption of FOGO limiting the benefits of waste diversion
- landfill capacity expiration would likely occur sooner than under a mandated model
- inconsistent model across the state where some areas play a greater part in waste diversion.

**Pathway: What is the timetable and steps for the policy's rollout and who will administer it?**

The amendments will commence on the date of assent. The operational commencement of the mandates for businesses and relevant facilities and institutions is:

- 1 July 2026 - for premises with  $\geq 3,840L$  of residual waste bin capacity.
- 1 July 2028 - for premises with  $\geq 1,920L$  of residual waste bin capacity.
- 1 July 2030 - for premises with  $\geq 660L$  of residual waste bin capacity.

The household mandates commence on 1 July 2030. The EPA will consider granting exemptions in certain circumstances until 2035.

The POEO Act is administered by the EPA. The EPA will administer the roll out and ensure that stakeholders are informed of any changes, and make sure they understand what is required from

them. The EPA and councils will have a role in enforcing the business mandates whereas only the EPA will enforce the household mandates.

**Consultation: Were the views of affected stakeholders sought and considered in making the policy?**

The EPA has engaged with local councils, government agencies, waste and resource recovery operators, and large food waste generators to inform the scope of the proposed mandates. The EPA also released the FOGO Mandates Proposal Paper for public consultation in June 2024, seeking feedback from stakeholders to refine the timing, scope, and appropriate exemptions of the proposed mandates.

Through this consultation process, the EPA has heard broad support for the diversion of household organic waste from landfill and 69% of survey respondents to the FOGO Mandates Proposal Paper said the residential mandate should apply across the state with appropriate exemptions.

Stakeholders raised the need for statewide education programs to support the transition to separate FOGO collections, and the need to balance circular economy outcomes with economic and resourcing pressures faced by councils and the community.

Issues raised by stakeholders on the business mandate related to the timeframes for transition and the need for education and support to build industry capacity. When designing these mandates, the EPA considered this feedback when considering the exemption process and the timeframes for introduction.

The EPA also heard from stakeholders that the proposed food donation recording mandate does not impose overly onerous requirements on large supermarkets.