



WALGA

**Submission to the Environment Protection and
Heritage Council**

on the

**Consultation Regulatory Impact Statement
Used Packaging Materials**

PREPARED BY THE



MUNICIPAL WASTE ADVISORY COUNCIL

"Getting the Environment Right"

May 2010

Status of this Submission

This Submission has been prepared through the Municipal Waste Advisory Council (MWAC) for the Western Australian Local Government Association (WALGA). The Municipal Waste Advisory Council is a standing committee of the WA Local Government Association, with delegated authority to represent the Association in all matters relating to solid waste management. MWAC's membership includes the major Regional Councils (waste management). The Regional Councils members of MWAC include the Eastern Metropolitan Regional Council, Mandarie Regional Council, Southern Metropolitan Regional Council, Rivers Metropolitan Regional Council, Western Metropolitan Regional Council and the City of Geraldton-Greenough. This makes MWAC a unique forum through which all the major Local Government waste management organisations cooperate. This Submission therefore represents the consolidated view of Western Australia Local Government. However, individual Local Governments and Regional Councils may have views that differ from the positions taken here.

Due to meeting schedules and the short timeframe of the consultation, this Submission has not yet been endorsed by MWAC, however, it will be put before the Council at the earliest opportunity (Wednesday 23 June 2010) and the EPHC will be informed of any changes to this Submission following consideration by the Municipal Waste Advisory Council.

The Municipal Waste Advisory Council's member organisations are:

Eastern Metropolitan Regional Council
City of Geraldton-Greenough
Mandarie Regional Council
Rivers Regional Council
Southern Metropolitan Regional Council
Western Australian Local Government Association
Western Metropolitan Regional Council

Executive Summary

This Submission relates directly to the questions and issues set out in the Environment Protection and Heritage Council's (EPHC) Consultation Regulatory Impact Statement (RIS) on Used Packaging Materials not the effectiveness of the National Packaging Covenant (NPC).

A large portion of Local Government's waste management budget is expended on collection and recycling of post consumer packaging. Community expectations dictate that landfilling this material is not acceptable. Local Government, as a landfill operator, must respond to the increasing cost of landfill by finding ways to divert solid waste from landfill.

The operating cost of Local Government waste management and related activities exceeds \$130 million per annum. Additionally, tens of millions of dollars of new capital are invested each year to meet increased demand and adopt new technologies. As a result, Local Government waste has been identified as the only waste stream to show a decrease in tonnes to landfill over the past few years. Despite increasing population, Local Government waste to landfill has decreased by approximately 1% per year since 1999/2000. This decrease is the result of recycling and resource recovery initiatives and operations by Local Governments.

The termination of the NEPM has the potential to directly impact Local Government activities in regards to increased cost, increased waste to landfill and increased volume of materials that need to be recycled.

The Association supports administrative simplicity in differentiating between the selected options for regulatory support for the proposed Australian Packaging Covenant. As a result, **the Association supports Option 4 as the preferred approach** due to the inclusion of Commonwealth Product Stewardship Framework Legislation rather than different undertakings in each state and as it enhances participation in the Australian Packaging Covenant (APC). Option 3 would be the second preferred option.

The Association considers the proposed APC is only one mechanism to reduce the environmental impacts of packaging. The Association supports complementary mechanisms such as Extended Producer Responsibility (EPR) and Container Deposit Schemes to reduce the impact of packaging.

1 Introduction – Issues for Local Government in Western Australia

The Western Australian Local Government Association (WALGA) appreciates the opportunity to comment on the Environment Protection and Heritage Council's (EPHC) Consultation Regulatory Impact Statement (RIS) on Used Packaging Materials. This Submission relates directly to the questions and issues set out in the RIS, not specifically the effectiveness of the National Packaging Covenant (NPC).

The Association supports the assessment of the 'Problem' with packaging as outlined within the Consultation RIS and established in the National Waste Policy. It is the Association's view that without the National Environmental Protection (Used Packaging Materials) Measure (the NEPM), there is no Covenant. The NEPM goal is to 'reduce environmental degradation arising from the disposal of used consumer packaging and conserve virgin materials... by supporting and complementing the voluntary strategies in the Covenant.' The NEPM also ensures the protection for brand owner Covenant signatories against 'free riders'. It is therefore important to raise the possibility of a long-term NEPM in order to support the effective implementation of the future Australian Packaging Covenant (APC). This Submission will briefly outline the potential consequences of a possible termination of the NEPM as well as making a recommendation as to the preferred option for reform.

This Submission also includes an outline of waste and recycling in Western Australia, comments on the importance of this Consultation RIS, discussion on the preferred option for regulation and complimentary mechanisms supported by Local Government. The questions outlined in the Consultation RIS (Section 6.3) are largely directed at business, rather than other stakeholders however, the Association has undertaken to answer the questions that are appropriate and to provide further information where needed.

If you are a Covenant Signatory, why did you join?

WALGA is currently a signatory of the NPC and is actively involved in the Covenant process, through representation on the NPC Council, National Projects Group and Jurisdictional Projects Group. Local Government's twin role as representative of the community and as a service provider is a major consideration of this participation. Local Government must represent community values since these are the fundamental basis for undertaking new challenges and continuing past work. Local Government must also apply its service provider expertise when considering means by which to achieve community benefits. This twin role is particularly significant with regard to Extended Producer Responsibility and Product Stewardship approaches, such as the Covenant, taken by Government. Local Government has significant investment in resource recovery and their role as service provider in this area will be impacted on by any development in these areas.

A major part of Local Government's budget for recycling is spent on collection and recycling of post consumer packaging. Community expectations dictate that sending this material to landfill is not acceptable. Given Local Governments in WA are responsible for the management and operation of 87 of the 97 landfills throughout the metropolitan and south west of WA, Local Government as a service provider has a strong interest in diverting this waste from landfill. Independent of these pressures, Local Government must respond to the increasing cost of landfill by finding ways to divert solid waste, of which packaging is a large component, from landfill. Consequently, Local Governments are tied to dealing with this packaging waste via recycling programmes, which consume a large proportion of waste management budgets. Local Government continues to seek ways of making packaging more sustainable and at a reduced financial burden the community.

Collectively, Local Government is the main caretaker of litter in WA, and Local Government expenditure on litter abatement covers a broad scope of activities. There are often 'hidden' costs associated with litter, especially when many Local Government officers may end up managing litter as part of their day to day activities, such as cleaning up after community events, rubbish bin vandalism etc. As a result, the true cost of litter may not be fully realised.¹ In 2009, the Association undertook a survey of 29 WA Local Governments to gather information about the financial costs of litter and illegal dumping to Local Government. The survey found that the cost of litter and illegal dumping for these 29 Local Governments alone was in excess of \$4 million annually. Local Government supports increased penalties for illegal dumping and littering offenses. However, due to the size of the State, enforcement of anti-littering measures are difficult and a range of approaches are needed.

There are substantial costs to the community to ensure that packaging is managed in a sustainable manner – the Covenant is one tool that can be used to address these costs and reduce the environmental impact of packaging.

2 Waste and Recycling in Western Australia

The *Waste Avoidance and Resource Recovery Act 2007* identifies the roles and responsibilities for Local Government in WA, specifically in regards to 'Local Government waste', which has been defined as:

- (a) *waste from residential sources; and*
- (b) *any other waste of a kind prescribed by the regulations for the purposes of this paragraph, but does not include sewerage or waste of a kind prescribed by the regulations as excluded for the purposes of this definition.*

Although Local Government responsibility is clearly outlined, waste other than Local Government waste, does not have a directly responsible body under the Act. The result is that discretionary services, such as recycling, will only be provided if a business or commercial service requests them from a contractor. In practice, many Local Governments are taking responsibility for a far greater range of materials than they are legally obliged to. In some areas, Local Government is the *only* service provider.

The operating cost of Local Government waste management and related activities exceeds \$130 million per annum. Additionally, tens of millions of dollars of new capital are invested each year to meet increased demand and adopt new technologies. As a result of this investment, Local Government waste has been identified as the only waste stream to show a decrease in tonnes to landfill over the past few years. Despite increasing population, Local Government waste to landfill has decreased by approximately 1% per year since 1999/2000.² This decrease is the result of recycling and resource recovery initiatives and operations by Local Governments.

Despite the advances in recycling and resource recovery by Local Governments, Local Governments in WA are presented with a number of unique challenges in undertaking waste management activities, for example:

¹ Nolan-ITU Pty Ltd (2002) 'Litter Management Options in Western Australia', p. 12.

² Cardno (2008). Review of Total Recycling Activity in Western Australia 2006/07. Available online http://www.zerowastewa.com.au/documents/review_total_recycling_wa_0607.pdf

- **Distance of WA from markets for recyclables and lack of local reprocessing** – With the closure of the ACI glass reprocessing plant in 2004 and the AMCOR facility in 2005, WA effectively lost most of its local reprocessing of materials. Material is now transported internationally or interstate to be recycled. The Covenant and the WA State Government have assisted in providing funding for glass reprocessing in WA.
- **Markets and pricing** – As the recent market downturn in the price of recyclables has shown, consistent pricing is a huge issue for the viability of the recycling industry. Without structures in place to ensure consistent pricing, recycling services are at the mercy of the market.
- **Issues for non-metropolitan areas** – In non-metropolitan areas, waste management is likely to be more expensive due to low population density, low volume of material collected and a greater distance to travel (most recyclable materials is transported to Perth, then to market). Many non-metropolitan Local Governments have limited revenue raising capacity.
- **Alternative markets** – Some Local Governments are actively seeking alternative markets for their products to increase the viability of services.

There has been limited strategic planning for waste management activities in Western Australia. As waste management has largely been seen as the purview of Local Government, there has been limited planning at a state level and virtually no consideration of waste management infrastructure in planning schemes. The Waste Authority is currently developing the final draft of the Waste Strategy for WA, which is expected to go some way to address these issues.

3 Consultation Regulatory Impact Statement – Used Packaging Materials

The Consultation RIS developed by the EPHC outlines the nature of the problem being addressed, and the potential consequences. The Association is concerned that the impacts on Local Government, as a result of the termination of the NEPM, are not fully taken into account. For example, the consequences of uncertainty for businesses in the packaging sector are given as follows:

- Loss of industry commitment to the environmentally sound management of packaging developed over the ten years of operation of the Covenant;
- *A progressive increase in the total amount of packaging disposed to landfill with consequential increase in greenhouse gas emissions and increased use of materials included energy and water;* and
- Potential for discouraging more active participation by signatories, particularly in areas requiring investment of resources (e.g. to implement a new design process) or longer term actions, and in compliance monitoring.

The point emphasised above outlines a significant concern of Local Governments. A consequence of the potential termination of the NEPM involve direct impacts on Local Government activities in regards to increased cost, increased waste to landfill and increased volume of materials that need to be recycled.

3.1 Preferred Option for Reform

The RIS considers four options for achieving the stated objective. These include:

- **Option 1** – Implementation of the Australian Packaging Covenant without the NEPM which would terminate on 30 June 2010.
- **Option 2** – Implementation of the Australian Packaging Covenant, supported by a renewed NEPM which would lapse in June 2015.

- **Option 3** – Implementation of the Australian Packaging Covenant supported by a renewed NEPM which would be ongoing, subject to review every 5 years.
- **Option 4** – Implementation of the Australian Packaging Covenant supported by a renewed NEPM which would be ongoing and subject to review every 5 years, at a maximum, with the first review being conducted for the purpose of bringing the APC and the NEPM under the Commonwealth Product Stewardship Framework legislation.

Table 9 in the RIS has been updated to include the Association's additional criteria (Administrative Simplicity) for each Option, as outlined in Table 1.

Table 1: RIS Options Analysis

Criterion	Option 1	Option 2	Option 3	Option 4
<i>Participation</i>	Least effective	Second highest effectiveness	Highest effectiveness (equivalent to Option 4)	Highest effectiveness (equivalent to Option 3)
<i>Certainty</i>	Least effective	Second highest effectiveness (given 2015 termination date for NEPM)	Highest effectiveness (equivalent to Options 2 and 4)	Highest effectiveness (equivalent to Options 2 and 3)
<i>Competition</i>	Lowest level of restriction on competition (Voluntary measure)	Equivalent to Options 3 and 4	Equivalent to Options 2 and 4	Equivalent to Options 2 and 3
<i>Cost burden</i>	Lowest cost	Equivalent to Options 3 and 4	Equivalent to Options 2 and 4	Equivalent to Options 2 and 3
<i>Administrative Simplicity*</i>	High	Low	Low	Medium/High
<i>WALGA Ranking</i>	Least preferred Option (along with Option 2)	Least preferred Option (along with Option 1)	2 nd preferred Option	1 st preferred Option

* Administrative simplicity based on whether or not this Option requires separate undertakings by each state, low levels of administrative simplicity exist where there is a need for multiple regulations in all jurisdictions.

As outlined in the Association *Submission on Consultation Regulatory Impact Statement, Code of Practice and Final Report on Willingness to Pay for E-waste Recycling* (2009), the Association supports administrative simplicity in differentiating between the selected options. As mentioned, the focus of the Consultation RIS is the cost to business of the NEPM, however the substantial cost to the community of packaging has been highlighted and should be considered as more significant in final decision making. Therefore in weighting of the options the Association recommends that Participation (understood as effective implementation) is the primary criteria. As a result, the Association supports Option 4 as the preferred option; as there is greatest participation and the eventual inclusion of the NEPM under the Commonwealth Product Stewardship Framework Legislation will assist in administrative simplicity. Option 3 would be the second preferred option due to the implementation of an ongoing NEPM.

Recommendation – Option 4 is the preferred approach.

3.2 Complementary Mechanisms

The Association would like to highlight that the proposed Australian Packaging Covenant is only one tool to reduce the environmental impacts of packaging. The Association also supports complementary mechanisms such as Container Deposit Schemes to reduce the impact of packaging. The proposed Australian Packaging Covenant should not be viewed by Government as the only approach or government intervention necessary to ensure reduced environmental impacts of packaging.

Strong public support exists for specific items to be incorporated into a Container Deposit System (CDS) for a variety of reasons including their iconic nature, their potential as a revenue source for community groups, their resource value and the level of nuisance they cause (e.g. broken glass, litter). Introduction of a CDS has the potential to achieve appropriate distribution of waste management costs. 'Appropriate distribution' is considered to be the redirection of waste management costs onto the producer, distributor and/pr retailer and the consumer of an item to better enable the market to transmit information about the total economic, environmental and social costs of container waste.

4 Conclusion

The Western Australian Local Government Association (WALGA) appreciates the opportunity to comment on the EPHC Consultation Regulatory Impact Statement (RIS) on Used Packaging Materials. The Association is currently a signatory of the National Packaging Covenant, and as such, must consider Local Government's twin role as a representative of the community and as a service provider.

The termination of the NEPM and consequences for the Covenant has the potential to directly impact Local Governments in WA, given Local Government significant investment in recycling collection and infrastructure and its role in litter management.

The Association supports Option 4, particularly due to the inclusion of the proposal that would see the APC and the NEPM under the Commonwealth Product Stewardship Framework legislation.