



INTERIM SUBMISSION TO THE DEPARTMENT OF PLANNING, LANDS AND HERITAGE

Draft Position Statement: Container Deposit Scheme Infrastructure

INTRODUCTION

The Western Australian Local Government Association (WALGA) is the united voice of Local Government in Western Australia. The Association is an independent, membership-based group representing and supporting the work and interests of 138 Local Governments in Western Australia.

The Association provides an essential voice for 1,222 elected members and approximately 15,000 Local Government employees as well as over 2 million constituents of Local Governments in Western Australia. The Association also provides professional advice and offers services that provide financial benefits to the Local Governments and the communities they serve.

GENERAL COMMENTS

The Association welcomes the release of the draft Position Statement on Container Deposit Scheme (CDS) Infrastructure. The introduction of this Scheme has been advocated by the Association for many years as an important way to encourage an increase in resource recovery, a reduction in litter, a more appropriate distribution of waste management costs, and an increase in community awareness and involvement in waste management.

As part of the communication strategy when this Position Statement is finalised, it would be beneficial to include the possible locations of the CDS infrastructure, as this will enable those Local Governments to consider the adoption of the proposed Local Planning Policy. This will ensure that resources are not allocated to preparing a Local Planning Policy if the CDS infrastructure is unlikely to be established in their locality.

Type of Infrastructure proposed for exemption

The smooth transition of CDS into WA will require both the operators and the Local Governments to be clear on the various types of infrastructure being proposed and whether the size and scale of the infrastructure necessitates a Planning Approval or whether an exemption will be possible.

Therefore the inclusion in the Position Statement of 'indicative' pictures would assist in understanding the varying scales of infrastructure that has already been provided in Australia, and may be possibly established within WA. It is difficult to understand the exact implications of providing an 'Exemption' within a Local Planning Policy without a clear understanding of the scale and bulk of Collection Cages and the Reverse Vending machines.

Recommendation:

1. That the Position Statement provide a series of 'Indicative' diagrams or photographs of the types of CDS infrastructure that has been established in Australia, to provide a clearer understanding of the scale and bulk of the different types of infrastructure that may be granted an exemption through the Local Planning Policy.

Existing Local Planning Policies for Sea Containers

Currently many rural Local Governments have Sea Container policies, which may specify the specific Zones where sea containers are and aren't permitted. Examples from some of these existing policies state: -

- Sea containers will generally not be permitted in the Town Centre Zone, Special Use Zone and on Local Reserves (including road reserves) without Council specific approval.
- Residential, Special Residential, Mixed Use, Urban Development, Civic & Cultural, and Rural zones. The permanent use of a sea container is not acceptable in these zones under any circumstances.
- Commercial, Business, Service Industrial, Private Clubs/Recreation, Centre zones
The permanent use of sea containers may be acceptable in the above zones, with planning approval, provided:
 - The container is not visible from any street or adjoining property.
 - Where visible from an area internal to the site, the container is painted a colour that matches, or is complementary to, the colour of the existing buildings on the property.
 - The container is not located within any approved car parking or landscaped areas.

Given that the construction style of the Large Reverse vending machines will *generally have a similar front appearance to an automatic teller machine mounted onto a structure similar to a sea container* (Page 2), it is unclear whether adopting a Local Planning Policy on CDS will conflict with the existing locational criteria specified within current Local Planning Policies on Sea Containers. This will need to be clarified to ensure that a Local Government does not prepare a Local Planning Policy that conflicts with an existing Local Planning Policy.

Recommendation:

2. That the Position Statement provide clear guidance on the interface with existing Local Planning Policies on Sea Containers, and whether amendments to an existing policy may be required when preparing a Local Planning Policy on CDS.

SPECIFIC COMMENT AND RECOMMENDATIONS

4.0 Policy Objectives

Within the document there are references to the model Local Planning Policy being 'Adopted' by a Local Government as part of the introduction of the CDS to Western Australia. The WA Planning Commission and the Department of Planning Lands and Heritage are unable to direct a Local Government to 'adopt' a Local Planning Policy, as the ability to prepare a Local Planning Policy resides with the Local Government.

Schedule 2, Part 1, Clause 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, states: -

3. Local planning policies

- (1) The local government **may** prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.
(emphasis added)

Unless the State is proposing to mandate the adoption of this Local Planning Policy through the introduction of a specific 'deemed provision', then the State can only ask a Local Government to 'consider the preparation and adoption' of the Local Planning Policy, as the terminology is that a Local Government 'may' prepare a Local Planning Policy.

Recommendation:

3. Throughout the Position Statement change the terminology that a Local Government will 'Adopt' the Local Planning Policy, to 'consider the preparation and adoption of a Local Planning Policy'.

6.0 Assessing CDS infrastructure

In Section 5.0 there is a clear differentiation between a small and large reverse vending machines, as follows: -

Reverse vending machines come in various sizes. Small reverse vending machines are a similar size to 'traditional' food and drink vending machines, and are likely to be located in shopping centres, train stations or other public places where people are likely to be returning one or two containers at a time.

Large reverse vending machines generally have a similar front appearance to an automatic teller machine mounted onto a structure similar to a sea container, with one area receiving glass and the other plastic and aluminium. The location of this form of infrastructure may vary, but it is likely that they will be placed within existing commercial or industrial premises. These machines allow for greater volume of returns and it is likely that participants would travel to these sites with a variety of eligible containers.

However, within the proposed model local planning policy and within the position statement, the reference is just as a 'Reverse Vending machines'. To ensure that small vending machines are clearly exempt from planning approval, it would be appropriate to provide this distinction within the entire position statement and within the model Local Planning Policy.

Recommendation:

4. Inclusion of the following section in 6.0 of the Position Statement, before 'Reverse Vending Machine' to clearly differentiate between the small and large style of this infrastructure: -

Small reverse vending machines

Due to the small scale nature of this type of CDS, it is expected that the small reverse vending machines will be exempt from requiring any development approvals.

5. Throughout the position statement and the model Local Planning Policy, ensure that the reference to the exemptions from Planning Approval are for Collection Cages and 'Large' Reverse Vending machines, to avoid any confusion as to what the Local Planning Policy relates to.

Appendix 1 – Model Local Planning Policy

Specific changes to the policy provisions

The first part of the section specifies how the exemptions would be applied, more specifically mentioning the types of Zones where Development Approval is not required. This section reads that Large Vending machines may be located ‘Community and School sites’, which is not aligned with information provided in the draft Position Statement at Section 5 (Page 2). The Position Statement does not state that Reverse vending machines would be located on community and school sites, only Collection Cages would be. It is therefore recommended in order to provide clarity, that this section be split into two categories.

Recommendation:

6. That the following section within policy provision be amended as follows: -

1. Specified exemption	
1.1	The development or operation of a <u>large</u> reverse vending machine or a container collection cage is development for which development approval is not required where it complies with all the development standards outlined below, and takes place on land in: (a) a commercial, light industry, general industry or service commercial zone; or (b) a residential or rural zone where the land is lawfully used for the purposes of: (i) a community facility; and/or (ii) an educational establishment.
<u>INSERT</u> <u>NEW</u> 1.2	The development or operation of a container collection cage is development for which development approval is not required where it complies with all the development standards outlined below, and takes place on land in: (a) a residential or rural zone where the land is lawfully used for the purposes of: (i) a community facility; and/or (ii) an educational establishment.

Within the section on Visual amenity, it is suggested that additional clarity be provided for an applicant, that any removal of vegetation may require a permit under separate legislation, to ensure that the proposed exemption doesn't inadvertently result in clearing without an approval. Further, a review of the existing Sea Container policies indicated specific requirements for the installation of landscaping as follows: *The applicant may also be required to plant a suitable vegetation screen of a minimum 2 metres in width, using suitable native endemic species, within 3 months of being granted approval.* A Local Government would not be able to seek any additional landscaping as the policy is worded as ‘exempt from development approval’; this type of requirement would only be imposed where the removal of vegetation, landscaping or street tree is proposed, and hence the large reverse vending machine would not be exempt from requiring Development Approval.

Recommendation:

7. That the following section within policy provision be amended as follows: -

Visual amenity	
2.7	Where the development of a <u>large</u> reverse vending machine or container collection cage is proposed outdoors, placement of the equipment must not result in the removal of any vegetation, landscaping or street tree (<u>note: removal of native vegetation may also require a permit under the Clearing Regs of the EP Act 1986</u>)

As most of the material is likely to be recyclable e.g. non-eligible beverage containers, it is suggested that the following clause be amended to provide 2 recycling bins to 1 waste bin. Also the bin size hasn't been specified, therefore it should be the standard 240L bins being provided on site and the waste bins must be regularly serviced to prevent littering.

Recommendation:

8. That the following section within policy provision be amended as follows: -

2.10	Where the development or operation of a <u>large</u> reverse vending machine is proposed outdoors, and the equipment exceeds a development footprint of 10 square metres, bins for the removal of waste or recyclable materials are to be provided at a rate of 1 waste bin and <u>two (2)-0.5</u> recycling bins per 10 square metres of development footprint. <u>Bins provided should be 240L in size and serviced regularly.</u>
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For a CDS to be exempt from requiring Development Approval, it must not adversely affect the amenity of the area. This is a common planning approval requirement, therefore, if a Local Government receives a complaint about CDS infrastructure, then an operator may need to apply for a Development Approval to manage the specific concerns about the adverse impacts on the local amenity. It is suggested that a new clause be added to cover all environmental 'amenity' issues.

Recommendation:

9. That the following new clause be included, and provisions renumbered after this clause: -

	<i>Operational amenity</i>
New clause 2.11	Any activity is not to prejudicially affect the amenity of the locality due to the emission of light, noise, vibration, electrical interference, smell or waste products.

Clause 2.11 should be removed, as it stipulates that a Large Vending machine may be located in a 'residential or rural zone' which conflicts with the proposed wording of Clause 1.1 (b), which mentions these zones but then specifically only for 'Community and School sites'. As stated on Page 4 of this submission, this clause does not align with information provided in the draft Position Statement at Section 5 (Page 2), which only states that Collection Cages would be located on community and school sites.

Recommendation:

10. That Clause 2.11 be deleted: -

2.11	Where the development or operation of a reverse vending machine is proposed in a residential or rural zone—the machine must operate only: (a) between 7.00 am and 11.00 pm on a Monday, Tuesday, Wednesday or Thursday, and (b) between 7.00 am and 12.00 am on a Friday or Saturday, and (c) between 8.00 am and 8.00 pm on a Sunday.
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Clauses 2.14 – 2.17 specifically mentions the size of the proposed collection cages and reverse vending machines that will be exempt in WA. There is no explanation in the position statement as to why these dimensions have been chosen, whether it has been based on other Schemes around Australia, or whether it is based on advice from the managers of the CDS project.

Development footprint – Collection cages

The Local Planning Policy states that where the development of a container collection cage is proposed outdoors, the cage must not:

- (a) have a development footprint of more than 15 square metres, and
- (b) be more than 3 metres in height.

3m high could pose some problems for servicing of the cages, however, a 3m x 3m x 3m dimension could be exempt if an explanation is provided as to what these dimensions are based on. It is also suggested that an additional requirement be included to ensure that the collection cage is secured, locked and immovable.

Recommendation:

- 11. That the 3m x 3m x 3m dimensions of the collection cages be justified within the Position Statement, and an additional requirement be included to specify that a collection cage is secured, locked and immovable.

Development footprint – Large Reverse vending machines

In regards to large reverse vending machines (or sea containers), the sizes being specified for exemption have also not be justified within the Position Statement or in any of the discussions with the Department of Planning, Lands and Heritage.

The first draft Position Statement provided to WALGA, the dimensions for the development of a reverse vending machine, must:

- (i) not have a floor area of more than 50m²,
- (ii) not be more than 3m in height, 10m x 5m,
- (iii) not exceed 3 car parking spaces (if located in a car parking area).

The proposed 'exempted' dimensions in this public consultation version of the draft Position Statement have been increased to the following:

- (i) not have a floor area of more than 60m²,
- (ii) not be more than 3m in height, 10m x 6m,
- (iii) not exceed 4 car parking spaces (if located in a car parking area).

The standard dimensions for most common sized sea containers are: -

Length	Depth	Height	Floor Area
12.19m (40ft)	2.44m	2.59m	29.74m ²
6.05m (20ft)	(8ft)	(8ft 6 in)	14.76m ²
3.10m (10ft)			7.56m ²

The maximum height of 3m is therefore considered appropriate, the 6m depth would enable two 3m wide sea containers to be placed side by side, but it is not clear how the 10m length has been determined, given the dimensions above. Based on those sizes, two 6m long x 3 wide sea containers would result in a floor space of only 36m², so again it's not clear how 60m² has been chosen as the maximum exempted floor area size.

For example, a Standard Car parking bay dimension is

2.5m x 5.5m (or 13.75m²)

Therefore placing a 6m x 2.4m reverse vending machine in a single bay, would extend past the car bays footprint – as shown in the photo to the right.

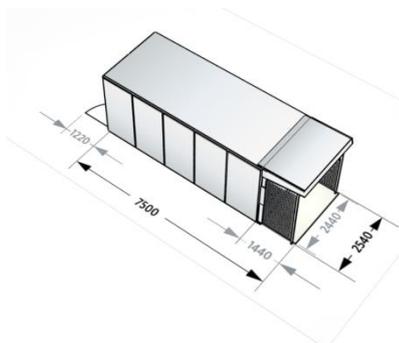


If a single Reverse Vending machine was placed in two tandem bays, then there would be space for customers to wait at the front of the machine, away from passing vehicles, and also to provide a space for a waste bin for any rejected items at the front of the machine.

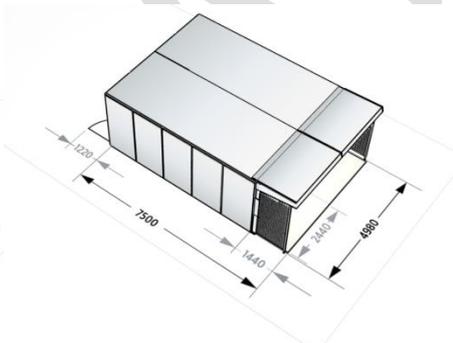


Based on discussions with NSW operators, the current CDS infrastructure being installed in NSW is: -

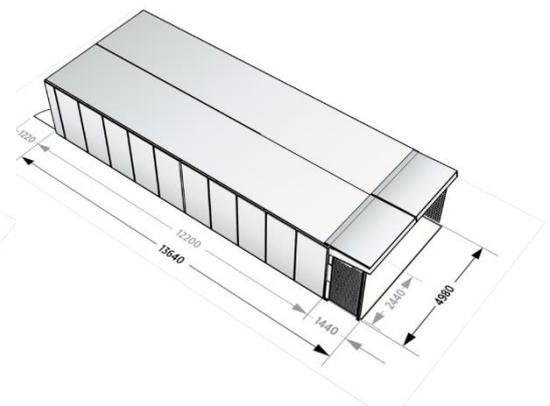
Single Sea container	7.5m x 2.54m	19m ²	(2 car bays – 27.5m ²)
Double Sea container	7.5m x 4.98m	37m ²	(4 car bays – 55m ²)
Long Double Sea containers	13.64m x 4.98m	67.9m ²	(5 car bays - 68.75m ²)



RVM Kiosk S1 (2 x RVMs, Short backroom)



RVM Kiosk S2 (4 x RVMs, Short backroom)



RVM Kiosk L2 (4 x RVMs, Long backroom)

The proposed exemptions within the model Local Planning Policy, 10m x 6m = 60m² and 4 car bays, enables two of the above three CDS infrastructure to be considered as exempt from Planning Approval when located within a car parking area. The 13.6m length of the 4 sea containers does not fit within 2 tandem car bays (only 11m long), so this development footprint would not easily be installed into an existing car parking area.

It is therefore recommended that the Single and Double sea containers be exempt from Planning Approval, as the sizes reflect the NSW examples of single and double CDS infrastructure, however, a larger proposal should not be exempt given the development footprint is much greater within an existing commercial centre, may affect existing vehicle and pedestrian movements, requiring different servicing requirements. As the development footprint for the single and double is no more than 4 car bays, it is recommended that this becomes the dimensions exempt, ie 11m long x 5 m wide = 55m², to enable the operators to provide infrastructure that fits within these car parking dimensions.

Recommendation:

12. That Clauses 2.15 and 2.16 be amended: -

2.15	Where the development of a reverse vending machine is proposed outside an existing building, on land not used for car parking – the machine must not: (a) have a development footprint of more than 55 60 square metres, and (b) be more than three (3) metres in height, or have dimensions greater than 40 metres by six (6) metres. eleven (11) meters by five (5) meters.
2.16	Where the development of a reverse vending machine is proposed within an existing car park, the area occupied by the reverse vending machine must not exceed the greater of the following areas: (a) the area comprising four (4) car parking spaces, or (b) 55 60 square metres.

Within the draft position statement it states the following: Car parking - is additional parking required to service the collection point? Will it impact the existing car parking requirements of the development site? (Page 3). There isn't a corresponding clause within the Local Planning Policy for an operator to specifically considered this, other than a clause that states that the infrastructure must not alter the conditions or requirements of any development approval which applies to the land (Clause 2.1 on Page 6), which would include car parking.

Clause 2.17 of the draft Local Planning Policy does provides a new clause for an operator to consider, but includes a discretionary component through a 'variation' to car parking provision as follows:

2.17	Notwithstanding 2.1, where the development of a reverse vending machine is proposed within an existing carpark, a variation to the car parking requirements under an existing development approval shall be supported in the following circumstances: (a) the development approval provides more car parking bays that that which is required to service the existing land use(s) under the Scheme; and (b) the variation seeks to reduce the number of car parking bays by no more than 10 percent, to a maximum of 16 bays.
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This new Clause is very unusual and could be ultra vires, as it may conflict with existing parking requirements in Local Planning Schemes. Has this proposed clause been checked with State Solicitors office that it is possible to include this specific level of discretion within a Local Planning Policy?

A quick review of several Local Planning Schemes shows different approaches to the consideration of a variation to car parking requirements, however, none of the clauses currently specify a percentage or a maximum number of bays, as each site must be considered on its merits. Existing Local Planning Schemes provide clauses that allow the consideration of a variation, or a relaxation of car parking standards, having regard to the nature of development, the number of vehicles likely to be attracted to the development and the maintenance of desirable safety, convenience and amenity standards.

Clause 2.17 also fails to acknowledge the existing Cash-in-Lieu of parking Local Planning Scheme Provisions, which are considered in all discussions on variations to car parking requirements. Again, has this proposed clause been checked with State Solicitors office that it will or won't affect existing cash-in-lieu requirements?

Discussions between the operator and the individual local government would ensure that parking variations may be considered for a specific site based on the existing Local Planning Scheme requirements, rather than trying to provide a 10% reduction for all sites, without understanding the site context and the specific clauses in the Local Planning Scheme.

It is therefore recommended that Clause 2.17 be deleted, as there are too many variables and different existing Local Planning Scheme provisions to be able to provide a blanket exemption across all of WA, and the position paper does not provide any clarification that it is legally possible to include very specific variation percentages and maximum number of bays within a Local Planning Policy.

Recommendation:

13. That Clause 2.17 be deleted.

Additional Clauses

Based on the advice and feedback from the NSW operators of the CDS project, it is further recommended that additional clauses be included in the model Local Planning Policy that covers the following requirements: -

- Additional space for truck pick-ups and bins to be wheeled out;
- Must be located near a power source; and
- Compliance with disability access requirements (AS1428.2 – Enhanced and additional requirements – Buildings and Facilities).

Recommendation:

14. That the model Local Policy provides new clauses to ensure that an operator provides additional space for truck pick-ups and bins to be wheeled out, that the facility must be located near a power source, and that the design of the infrastructure complies with disability access requirements.

Additional Advice notes

The proposed model Local Planning Policy provides one advice note on the possible requirement for Building Permit application, however, it is recommended that two additional advice notes are provided, to ensure any operators are aware that a development approval may be required and the information that would be needed as part of that application, and that compliance actions may be undertaken by a Local Government if the operator fails to comply with the 'exemptions' that are provided for in the policy.

Recommendation:

15. That the following advice notes be included at the end of the model Local Planning Policy

If an application for development approval is required, it shall be made on an Application for Development Approval form together with the following information:

- (i) A site plan showing the proposed location of the large reverse vending machine or container collection cage on the property and the location of any existing buildings/structures;
- (ii) Plans, dimensions and details of the large reverse vending machine or container collection cage(s);
- (iii) Photographs of the proposed structure(s);
- (iv) Details of proposed modifications and other works to be carried out to improve appearance and address amenity concerns

**** Local Government to insert more specific requirements in accordance with Local Planning Scheme and/or Local Planning Policy requirements ****

Local Government reserves the right to instruct a landowner to remove infrastructure installed in accordance with this Policy, if any or all of the conditions of the exemptions, contained in the Local Planning Policy are not carried out to the satisfaction of the Local Government.