



21 September 2016

Our Ref: 05-040-03-0001MA:HS
Your Ref:

Mr Stephen Beaman
Director, Waste and Resource Recovery Branch
NSW Environmental Protection Authority
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Sydney South, NSW 1232
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Dear Mr Beaman

**Submission on the NSW Container Deposit Scheme:
Regulatory Framework Discussion Paper**

On behalf of the Western Australian Local Government Association (the Association) I am writing to provide feedback on the NSW Container Deposit Scheme (CDS) Regulatory Framework Discussion Paper. Due to meeting schedules, this Submission is yet to be considered and endorsed by the Municipal Waste Advisory Council. The EPA will be informed of any changes to this Submission following consideration on 19 October 2016.

The Association supports the approach taken by the EPA to develop the Regulatory Framework. It is clear that the lessons learnt from other Product Stewardship Schemes have been incorporated into the draft amendment Bill.

The Association is not a direct stakeholder, however the attached Submission is provided to assist NSW in developing a contemporary approach that can be implemented in other jurisdictions. The announcement by the Western Australian Government that a Container Deposit Scheme will be implemented by mid-2018, could assist in paving the way for a nationally consistent approach.

In developing this Submission, the *WALGA Policy Statement on Container Deposit Systems 2008* has been referenced. For further information please contact Rebecca Brown, Manager Waste and Recycling, on (08) 9213 2063 or email rbrown@walga.asn.au.

Yours sincerely

Cr Michael Aspinall
MWAC Chair

Submission on the NSW Container Deposit System Discussion Paper

The Association commends the EPA on the approach taken in developing and structuring the regulatory framework. The use of Regulations to outline the detailed functioning of the Scheme, will allow a more accommodating approach to be taken in resolving any issues. The proposal to develop approved methodologies for estimating the number of eligible containers collected through co-mingled recycling systems will alleviate Material Recovery Facility operator concerns that there may be a need to re-configure facilities so that whole containers can be recovered.

Section 3: Scheme structure

The Government is interested in feedback on:

An indication of an appropriate amount for the handling fee to be paid by the Scheme Coordinator to Network Operators.

The Association does not have any specific suggestions regarding the amount for the handling fee to be paid – however in setting a handling fee, it is worth establishing clear parameters on what costs it will and will not include. Considerations include, transport, staff time, infrastructure upgrades and overheads.

Whether the handling fee should be different:

- **For containers collected in different geographical regions (e.g., metro, regional or remote areas)**

Yes. The costs associated with delivering services outside of the metropolitan area are likely to be greater, therefore higher handling fees for regional areas may be required to encourage Network Operators to set up collections points. In Western Australia, transport costs are a major barrier to establishing recycling in regional and remote areas. In many cases, the cost of transporting recyclables to market is far greater than the value of the commodity.

Careful consideration is required on what the definition of a regional and remote area should be. The definitions used for the TV and Computer Recycling Scheme – based on a combination of mapping and the population of an area or town from the 2006 Census of Population and Housing, led to perverse outcomes nationally. Large population centres received very low levels of service that were classified as ‘remote.’ The Association would suggest a state based approach that considers population and distance to markets.

- **For different container materials**

The Association considers that the initial focus in setting the handling fee should be to minimise the administrative costs of the Scheme. Different handling fees for different material types could make the Scheme more complicated for Network Operators to deliver, as each handling fee would need to be verified. A methodology could be developed that incorporates the cost of managing all container types into one handling fee. The methodology used could be reviewed periodically to assess if the handling costs and material composition of containers coming through the system have changed. Having one handling fee will assist Network Operators to set budgets and invest in collection infrastructure.

However, as per the WALGA Policy Statement, over time it would be useful to assess the impact that different materials are having. The following factors should be considered in setting the handling fee:

- a) Differentiating between materials to reflect the economic, environmental and social expense of reuse, reprocessing or disposal;
- b) Reflecting changes in the relative values or impacts of container materials; and
- c) Differentiating between different container sizes.

- **For different levels of verification oversight required by the Scheme Coordinator**

It is not clear what issue this question is trying to address. The level of verification required will depend on the type of handling and administration systems used by each Network Operator. The use of self-sorting equipment with inbuilt checks and balances will not require the same level of oversight as a manual sorting system.

- **For any other factor**

There needs to be an awareness that despite the best endeavours of the Scheme's designers, there will be disputes between the Scheme Coordinator, Network Operators and collection points. For Product Stewardship Schemes, it is clear that whichever party 'holds the cheque book' also holds the balance of power. For example, there have been very few ramifications for Arrangements that have reduced services, when compared to those experienced by collection site operators for the National TV and Computer Scheme.

The Association supports the inclusion of mechanisms in the Scheme for resolving disputes, as well as varying and terminating agreements. This will allow for matters such as handling fees, eligible containers and the type of financial audit / verification system to be negotiated. Other Container Deposit Schemes in Australia have been impacted by lengthy and expensive disputes over these issues.

To allow the Scheme to function smoothly, both parties should be required to provide advance notice of any intent to change the agreement. For example, Network Operators would require some notice to reconfigure systems to collect information for the Scheme Coordinator in a new format from its collection points.

The Discussion Paper indicates that the Government will play a key role in contractual management. While this approach will support business continuity, there is a risk that the Government could be required to underpin the Scheme if industry limits its activities to the minimum legislative requirement of the Scheme. There is a need to future proof the Scheme for both good and bad economic times, as the focus of Government may change at a later date.

An appropriate verification process that will provide transparency on the number of containers actually redeemed and recycled.

The Association suggests that random audits could be carried out and paperwork checked to determine where material is sent. An issue which has been raised by some Local Governments relates to the ultimate destination of recyclables. In Western Australia, there is a heavy reliance on international markets. The EPA could examine how material that comes through the Scheme is processed in Australia, and other countries if exported.

Whether the ownership of containers should remain with the Network Operators or be given to the Scheme Coordinator.

In addressing this issue, it is worth considering the relationship between Material Recovery Facility operators and Local Governments. In this relationship, Material Recovery Facility operators will retain ownership of containers, as well as the proceeds from the sale of products (section 6.2). Material Recovery Facility operators will be able to redeem deposits directly from the Scheme Coordinator.

Further clarification is required on the ownership of containers between the collection point operators and Network Operators. Also, which party will receive the proceeds of sold product.

The Association considers that the rule of ownership should be consistently applied across the Scheme. The structure of the regulatory framework suggests that the Scheme Coordinator will never take physical responsibility for containers and/or delivery of containers to end markets. As such, they should not have ownership of the containers. Scheme Coordinator will have skills tailored to managing financial matters, not logistical matters.

Section 4: Obligations on suppliers

The Government is seeking feedback on:

The length of time industry will need before the requirement for the NSW refund mark is required.

The beverage industry has been aware for quite some time that the NSW Government was going to introduce a Container Deposit Scheme if re-elected in March 2015. Given the industry will soon have certainty that a Scheme is being introduced, this could be sufficient time to clear existing stock by mid-2017 (refer to section 4.7). If agreement cannot be reached, the refund mark could be amended to read “*10c refund at SA/NT/NSW collection depots in state/territory of purchase.*”

Section 5: Obligations on collection point operators

Government is interested in feedback on:

Whether there should be a time delay in the provisions allowing collection point operators to refuse to pay the refund amount on containers that do not have the refund mark beyond a transition period required by the beverage and retail industries to clear existing stock (see discussion under ‘Refund mark’ above) and if so, how long.

The Association supports the proposal for a transitional period on refusing containers without the approved refund mark. This initiative will encourage individuals to remove existing litter from the environment. Extending the deadline further could present a financial risk to the Scheme. If all stakeholders were working towards the same date, the Scheme would be easier to administer and communicate.

Whether there should be a time delay in the provisions allowing collection point operators to refuse to pay the refund amount on containers in specific circumstances, and a time delay in the offence for claiming the refund amount on a container acquired before the commencement of the Scheme, to incentivise the community to clean up littered containers from the environment and if so, how should this work and how long should the delay be in place before these provisions come into force.

The Association supports the delay of the various provisions, to incentivise the community to clean up historical litter. To ensure equity, the time period should align with that provided to industry to change packaging labels.

Section 7 Other matters covered by the regulatory framework **State-wide coverage/access target**

The Government is seeking feedback on:

These metrics, and also welcomes suggestions for appropriate levels for a coverage/access target that will ensure reasonable access to refunds across the state.

The Association supports the use of the metrics currently under consideration by the NSW Government. It is imperative that the collection network is designed so that it is convenient for the public to use. After all, it is consumers that will be paying for the system. The language used

to describe the population metric could be problematic, in that industry may restrict their involvement to providing just one collection point per catchment area. There may be some catchment areas where more collection points are required to meet consumer demand. A collection point located in or near a place that is regularly visited may also be used by those outside of the catchment area.

Whether there should be a build-up period to full coverage/access, and if so, what should the build-up look like and how long should it take to reach full state-wide coverage/access.

In a practical sense, a 'build up period' would be sensible, to ensure the Scheme is operating effectively. However, there may be a public perception that the Scheme will be immediately accessible in all areas, given the original announcement by the Government on Saturday 21 February 2015:

“By 1 July 2017, communities will be rewarded for their recycling efforts through the use of reverse vending machines at popular beaches, parks, and public spaces across NSW.”

Section 7 Other matters covered by the regulatory framework
Recovery target

The Government is seeking feedback on:

The level of recovery that should be targeted to make a significant reduction in litter at a reasonable cost to the community.

Neither the South Australian nor Northern Territory Schemes currently have a mandated target for recovery or litter reduction. The approach in South Australia, has been to raise the refund amount when return rates started to drop. The Northern Territory legislation allows the Minister to set targets for reuse, recycling or other disposal of approved containers, which must be published on the EPA website.

If targets are legislated for the NSW Scheme, an alignment could be made with the return rates of existing Schemes, or the NSW 2014-21 WARR Strategy Targets. An alignment with the performance of existing Container Deposit Schemes is the preferred approach.

In 2015–16 the return rate for beverage containers in South Australia was 76.5%. More than 582 million containers (43,165 tonnes) were recovered by collection depots for recycling. \$58 million was refunded to the community during this period.

In the 2014-15 financial year the return rate was 52% of containers sold in the Northern Territory. Over 83 million containers were redeemed at collection depots. There has been an increase of approximately 10% from the previous year. \$8.3 million was refunded to the community during this period.

Whether there should be sub-targets for container materials or by beverage type and if so why and what amount.

There are no mandated targets for different container material types in either the South Australian or Northern Territory Schemes. If targets are to be required in NSW, it is worth viewing the return rates for the existing Schemes. The following information has been extracted

from the South Australian EPA website¹ and the Northern Territory Annual Reports for the 2014-15 Financial Year².

Table 1: Annual returns by material type (2014-15 Financial Year)

Container Material	Northern Territory Return Rate (%)	South Australian Return Rate (%)
Glass	56	82.3
Aluminium	59	83.5
PET	38	69.5
HDPE	26	60.7
LPB	44	67.2
Other	2	-
TOTAL	52%	78.5%

This data highlights that there are lower return rates for plastics, than glass and Aluminium. This could mean specific strategies are required to focus on these material types in NSW, such as material specific targets.

Whether it is possible to have regional recovery targets given the difficulties in measuring the number of containers supplied and consumed in a particular area, and if so, how.

State sales figures are available. Therefore, a per capita consumption rate could be used to estimate recovery targets for regional areas. Over time, more specific consumption data could be developed based on, for example, audits of specific locations.

Whether a linkage can be made between the container recovery rate target and the beverage container litter rate, and if so what how should it work.

The Association does not consider that targets should be included in the Scheme for litter, as they are two separate measures of different environmental outcomes and behaviours. While there are linkages between the recovery rate of containers and litter reduction, it is likely that doing so will overcomplicate the Scheme.

Whether the recovery target should commence in year one, or whether the first year should be used to determine the starting recovery level.

In the event that recovery targets are introduced, it would be sensible to use the first year as a starting point, then phase in targets over time. It is important that targets are designed to encourage activity, rather than limit it. The way that the targets of the National TV and Computer Recycling Scheme were designed, provided industry with the opportunity to cease activities once the target for any given year had been met. This caused major disruptions for collection points and consumers.

Whether there should be a ramp up period and if so from what level and how long it should take to reach the full target.

The Association cannot recommend a specific ramp up period, but would suggest that information from other jurisdictions could be used to predict the initial return rates. It is important to set reasonable targets based on an understanding of what the barriers to recovery

¹ South Australian EPA (2016). Container Deposits. Available online. http://www.epa.sa.gov.au/environmental_info/container_deposit.

² Northern Territory EPA (2015). Reports. Available online. <https://ntepa.nt.gov.au/container-deposits/reports>.

are. For example, why plastic containers are recovered at a lower rate than glass and aluminium.

Section 7 Other matters covered by the regulatory framework
Cross-border movement of empty containers

The Government is seeking feedback on:

These provisions and also welcomes any further suggestions for reducing the risk of cross-border arbitrage.

The requirement for a declaration to be completed when returning large volumes of containers will reduce the risk that containers will be brought over the border from Victoria. Likewise, having a scope of containers that is consistent with the existing Schemes.

An additional strategy that could be adopted, involves establishing systems where collection points can report the declarations, vehicle registration plates etc to a central monitored system. The EPA could also share information with neighbouring jurisdictions on return rates from collection points to identify if there is leakage from the system, and what areas may require targeted surveillance.