



WESTERN AUSTRALIAN
LOCAL GOVERNMENT ASSOCIATION

Draft Submission to the EPHC on the Proposed Revised National Packaging Covenant

PREPARED BY THE



MUNICIPAL WASTE ADVISORY COUNCIL
"Getting the Environment Right"

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Summary

Three general points are made in this submission about the proposed Covenant. Firstly that the redrafted version has not fixed the problems with the original Covenant in terms of poorly defined obligations, inadequate interlinking between the voluntary and NEPM regimes and a lack of clarity surrounding the role of the targets. Secondly, the redrafted version has not created any mechanisms which are likely to change individual behaviour such that the targets have a realistic chance of being achieved. Finally, the evaluation provisions of the Covenant do not create of the type of evaluation process which would be acceptable to Local Government. The only acceptable evaluation process from our perspective must consider alternative mechanisms to the Covenant, be administered by the EPHC rather than the Covenant Council, be securely funded and begin now.

Covenant redraft has not addressed the problems with NPC Mkl

The approach to managing packaging waste which was identified by the EPHC in December 2004 was substantially different to the approach which lead to the drafting of the original National Packaging Covenant. By requiring the achievement of targets, environment ministers fundamentally redefined their expectations of the packaging supply and recovery chains. Unfortunately, the Covenant document has received a modest makeover, rather than a fundamental overhaul.

The targets have been referred to and recovery infrastructure expanded to include non-kerbside systems. Schedules to the Covenant have been reviewed and several additional schedules have been added. These modifications are acknowledged and are no doubt an improvement. However, the Covenant remains loosely worded, insufficiently specific document which is poorly engineered to bring about a change in the behaviours of individual companies or government departments. Specific problems with the document include the following:

- The core document is largely devoted to motherhood and contextual statements;
- The core document has a convoluted and poorly defined objective, the achievement of which will be difficult to assess;
- The collective document establishes many indeterminable obligations for signatories but no specific and measurable obligations which will directly impact on the achievement of the targets;
- The collective document creates no link between substantive non-contribution to achieving the targets and liability under the NEPM (the proposed NEPM also fails to create this link);
- Schedule 5 was clearly drafted prior to the December 2004 communiqué and makes no reference to the potential of a project to contribute to the achievement of targets as a criterion of eligibility;
- The collective document remains a poorly integrated assortment of parts.

Of particular importance is the fact that the redraft has failed to properly identify what the targets mean for the success of the Covenant. Local Government firmly believes that the targets should provide a quantitative and measurable expression of the Covenant objectives and provide the primary basis for determining whether Covenant succeeds or fails. The Ministers may not agree that meeting the targets should be the primary criterion of Covenant success. However, no matter what their intentions for the role of the targets, these intentions must be unambiguously expressed in the Covenant document. Neglecting to specify what the significance of the targets is will perpetuate the confusion which surrounded the evaluation of NPC Mkl.

Lack of Substantive Mechanisms

The most important shortcoming of the Covenant is the absence of logical mechanisms to ensure that behaviours change to the extent required if the objective is to be achieved. We have explained in past submissions on the Covenant, that there is a disconnect between the behavioural changes necessary at an individual level and what the Covenant actually requires individuals to do. Under MkII, this disconnect has become even more apparent. To achieve the targets, more packaging material must be recycled (or less consumed) and use of non-recyclable packaging must decrease. However, the Covenant does not obligate or motivate any individual company to recycle more packaging or reduce their use of non-recyclable packaging.

The statements of goodwill and intent contained within the Covenant do not constitute mechanisms for engendering behavioural change. The system of action plans retains the flaw that companies can comply with their obligations even if their substantive performance remains completely at odds with the achievement of the targets. The funding system incorporates no reference to the achievement of targets and retains the requirement for matching funds to be provided by jurisdictions (a limitation likely to prevent funding allocations exceeding the \$6 million per annum minimum).

The types of mechanisms which are required are those which will import simple drivers into individual decision making. For companies, the only meaningful driver will be the additional costs associated with 'doing the wrong thing'. These might take the form of bad publicity through public shaming or compliance costs associated with relegation to the NEPM regime. For governmental officials, key drivers will include clear statutory responsibilities to take action or clearly stated outcomes which, if not achieved, will reflect poorly on their minister or government. The Covenant has retained its original vagueness about the consequences of poor performance for individuals and hence lacks the capacity to motivate behavioural change. Companies will continue to use more packaging in whichever combinations sell best and governments will continue to avoid enforcing the NEPM.

Need for a Parallel Process

We have several reasons for considering that work must begin now to ensure that independent and comprehensive research into the performance of the Covenant and alternative mechanisms is completed by 2008. Firstly, we are not confident that the Covenant will achieve the targets set for it. No plan has been delivered to explain how the Covenant will achieve the necessary level of 65% packaging recycling by the year 2010. The Covenant has not redressed its lack of mechanisms to drive changes in individual behaviour and the packaging industry has already declared that this level of improvement lies outside what can reasonably be expected. Secondly, we consider that the assessment of policy options carried out in the RIS was unreliable. Finally, we wish to avoid a repeat of the disorganisation and delays which accompanied the development of a replacement for NPC MkI.

In believing that this work should begin now, we concur with remarks made by the Australian Local Government Association, the Local Government and Shires Association and the Boomerang Alliance in their submissions to the EPHC on the Covenant proposal. We also endorse the following description of the work required:

"A comprehensive, independent evaluation of the progress of the Covenant against its overarching and disaggregated targets by 31 December 2008. This evaluation will also compare and contrast the NPC performance against fully costed and modelled alternative policy options."

(Boomerang Alliance, Submission C, May 2005, p7)

We agree with the Boomerang Alliance's proposal that the Covenant be updated to make reference in section 9 to this independent evaluation, but we do not consider that it should be the responsibility of the Covenant Council to report on the findings. This is clearly not a project over which the National Packaging Covenant Council should exercise authority. In all previous evaluations the Covenant Council has shown itself to be an advocate of the product stewardship philosophy and the continuation of the Covenant, whereas the project in question must have broader terms of reference. The EPHC must retain direct oversight over this project or create an independent and representative sub-committee to assume this role.

This research project must run independently from the Covenant Council, yet the Covenant is the most logical source of funding for the project. The packaging industry and the jurisdictions are able to raise money under the auspices of the Covenant in pursuit of the Covenant objective. Even though the Covenant Council would not control the investigation, it is appropriate that the parallel research project be financed out of these funds because it has obvious relevance to the achievement of the Covenant objective. If Covenant funding for this parallel evaluation process is rejected, then secure funding for this ambitious project must be guaranteed by the EPHC.

END OF SUBMISSION