



WESTERN AUSTRALIAN
LOCAL GOVERNMENT ASSOCIATION

Draft Submission to the EPHC on the Consultation Regulatory Impact Statement on Revised National Packaging Covenant

PREPARED BY THE



MUNICIPAL WASTE ADVISORY COUNCIL
"Getting the Environment Right"

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Summary

The Regulatory Impact Statement (the RIS) was found to be an exceedingly difficult document to respond to. Consequently, only a brief response is provided, outlining two key areas of concern with its methodology and conclusions. The first area relates to section 5 – *Options for Addressing Policy Objectives*, the second relates to section 8 particularly regarding the cost of increasingly packaging recycling.

Section 5 of the RIS was found to have used a flawed methodology to determine that a revised Covenant was the best available policy option. In addition to methodological flaws, poorly reasoned scoring placed the revised Covenant option first among all options. Furthermore, our analysis demonstrated that when these flaws were redressed, other options including mandatory takeback and container deposit systems clearly outperformed a revised Covenant.

Section 8 of the RIS concluded that Local Governments stood to enjoy significantly reduced costs in relation to their kerbside recycling systems under a revised Covenant. Our analysis of this claim identified several reasons to doubt its accuracy. Firstly, it appears that the reviewers have assumed that all regions across the country share common demography and geography as well as system parameters. Furthermore, the standards used by the reviewers appear to be based upon councils which already report the best recycling performance – namely those within urban Victoria. We argue that these assumptions are not justified. Secondly, we note that the conclusion that Local Governments stand to save money by recycling more relies on the implausible assumption that Local Governments are not already motivated by opportunities to be more financially and environmentally responsible. Finally, we point out that regardless of the overall system cost of recycling more, many Local Governments will inescapably pay more to recycle more because of contractual obligations.

Section 5: Options for Addressing Policy Objectives

In section 5, the RIS compared several policy options in order to identify the best approach to achieving the objectives identified in section 4 of the RIS. Unfortunately, the RIS employed a flawed methodology based on an assortment of criteria which display considerable variation in importance, overlap and relevance. In spite of the reviewer's claims that their methodology complied with Australian Standards, it is clear that they have ignored or forgotten principles for multi-criteria analysis which are well established by experts in the field.¹

Firstly, the criteria introduce significant redundancy into the analysis. For instance, "Stakeholder Acceptability" will in large part be a function of "Transition Impacts and Duration" "Administrative Burden", "Flexibility and convenience" and "Material Recovery Rates". When rating "Stakeholder Acceptability", it is inevitable that one will reflect on these other criteria and hence the same aspects come to be counted a second time. Similar redundancies exist for those aspects which are likely to impact upon "Material Recovery Rates" and "Resource Conservation". These redundancies distort the result and conflict with a key principle of multi-criteria analysis – that all criteria should be non-redundant.

Secondly, the criteria have not been weighted. This introduces significant distortions into the analysis because it places equal emphasis on each option's ability to achieve the central waste

¹ See for example Annandale D and Lantze R (2000), *Making Good Decisions: A Guide to Using Decision-Aiding Techniques in Waste Facility Siting*, Institute for Environmental Science, Murdoch University.

reduction objective and several administrative and mechanistic aspects. It is clear that each option's ability to achieve improvements in material recovery rates is more important than whether it involves transitional dislocations or capacity to engender in-house environmental change. The lack of weighting strengthens the impression that additional criteria have been added to dilute the analysis in favour of particular options.

These methodological difficulties are exacerbated by the fact that each criterion received a subjectively evaluated score, with no opportunity for external input. In table 5.10 the reviewers have ascribed values for the criteria on the basis of inscrutable grounds. This is vexing because we would like to challenge many of these values. In particular, we suggest the following:

- *Stakeholder Acceptability*
Several of the alternative options have a very high level of stakeholder acceptability within Local Government and the community and in particular CDL has shown itself to be tremendously popular with residents of SA;
- *Administrative Burden*
The administrative burden of Covenant Mk II promises to be substantial – particularly if compliance is to be vigorously enforced;
- *Scope and Coverage*
In relation to coverage, the Covenant fails to capture roughly 20% of the packaging supply chain yet purports to be the sole instrument for managing packaging waste. On the other hand, levy or deposit schemes will comprehensively cover all those materials which they purport to cover;
- *Non-compliance*
The ability of the Covenant to achieve compliance will not be substantially enhanced because the Covenant and the NEPM have not been adequately. The reality that no jurisdiction intends to deploy the NEPM is a poorly kept secret and the system remains critically compromised with loopholes which will be exploited by companies wishing to avoid compliance. Accordingly, we can see little basis for the reviewers' conclusion that capacity to ensure compliance under the new Covenant will increase by 50% over the existing Covenant.
- *Competitiveness*
We consider that the likelihood that any option would decrease competitiveness to be greatest in cases where there was significant variation in the undertakings and obligations imposed. CDL, advance disposal fees and takeback schemes display substantial consistency of application, to all players in the market based on the quantity of material produced. The enterprise level administrative burden of the Covenant on the other hand is conceded by the reviewers to disproportionately affect small businesses.
- *In-house enviro change*
The ability of the Covenant to stimulate awareness and behavioural change was shown to be limited under the first Covenant and no new mechanisms have been proposed to improve this aspect of the instrument. Therefore we reject the conclusion that the new Covenant will have nearly double the capacity to achieve this outcome as the existing Covenant.
- *Measurement*
The capacity to monitor and measure packaging under a regime which imposed strict obligations upon producers would almost certainly be greater than under the Covenant. Sound data would be absolutely essential to administer a system that imposed financial obligations on the basis of packaging units sold.

These concerns led the Municipal Waste Advisory Council to produce an alternative set of results using table 5.10 as a starting point. Two permutations of table 5.10 were produced, the first clumped the criteria into weighted categories, while the second also modified the scores assigned in the RIS to each criteria. The weightings used are shown in Table 1, below. These weightings were selected on the basis that the ultimate measure of success for any of the options should be whether it was likely to achieve the desired outcome – namely increased recycling and reduced waste to landfill. It is recognised that these weightings may be the subject of debate, but at least then the stakeholders will be forced to be explicit about their priorities.

Table 2 shows that when outcomes focussed weightings are applied the Updated Covenant option is not the best option. Table 3 shows that when more reasonable scores are entered and weighted, ADF, CDL and Mandatory takeback all perform much better than the Updated Covenant option.

Table 1: Criteria categories and weightings assigned to each category.

Type of Criteria	Weighting
Cost effectiveness - political, social and economic terms	10%
Mechanisms for achieving outcomes	10%
Ability to achieve the outcome	60%
Ability to monitor and measure the outcome	20%

Table 2: Weighted version of RIS Table 5.10 – in this version, the scores are left unchanged.

	Stakeholder Acceptability	Transition Impacts and Duration	Labelling education program	Administrative Burden	Flexibility and convenience	Coverage scope	Non-compliance	Competiveness	Material recovery rates	Net energy usage	Resource conservation	In-house enviro change	Measurement	Total	Weighted Total
Voluntary Approach	2	1.5	3	2.5	3	1.5	1	2.5	2	2	2	1	1.5	25.5	24.5
Current Covenant	2.5	5	5	3	4	3	3	4	2.5	2.5	3	2	2	41.5	35.3
<i>Updated Covenant</i>	<i>3.5</i>	<i>3.5</i>	<i>4</i>	<i>4</i>	<i>3.5</i>	<i>4.5</i>	<i>4.5</i>	<i>4.5</i>	<i>3</i>	<i>3</i>	<i>3.5</i>	<i>3.5</i>	<i>5</i>	<i>50</i>	<i>48.5</i>
ADF	2.5	2	2	1.5	2.5	3.5	4	3.5	4	3.5	4	2	3.5	38.5	47.6
Mandatory takeback	2	2	1.5	1	1.5	3	4	2	5	3.5	4.5	3.5	4	37.5	54.0
CDL	3	2	2	1	3	1.5	4	2	4	3.5	4	2	3	35	45.2
Increased landfill disposal levies	2	3	3.5	4	2	2	2.5	3	3	3	2.5	1.5	1.5	33.5	32.1

Table 3: Weighted and re-scored version of RIS Table 5.10 – in this version, the scores are changed.

	Stakeholder Acceptability	Transition Impacts and Duration	Labelling education program	Administrative Burden	Flexibility and convenience	Coverage scope	Non-compliance	Competiveness	Material recovery rates	Net energy usage	Resource conservation	In-house enviro change	Measurement	Total	Weighted Total
Voluntary Approach	2.0	1.5	3.0	2.5	3.0	1.5	1.0	2.5	2.0	2.0	2.0	1.0	1.5	25.5	24.5
Current Covenant	2.5	5.0	5.0	3.0	4.0	3.0	3.0	4.0	2.5	2.5	2.5	2.0	2.0	41.0	33.4
Updated Covenant	3.5	3.5	4.0	4.0	3.5	4.0	3.5	4.5	3.0	3.0	3.0	2.5	3.5	45.5	41.9
ADF	2.5	2.0	2.0	4.0	2.5	3.5	4.5	3.5	4.0	3.5	4.0	3.0	4.0	43.0	49.9
Mandatory takeback	2.5	2.0	4.0	1.0	1.5	5.0	4.5	3.0	5.0	3.5	4.5	4.5	4.5	45.5	57.4
<i>CDL</i>	<i>4.0</i>	<i>2.0</i>	<i>4.0</i>	<i>3.0</i>	<i>3.0</i>	<i>3.5</i>	<i>4.5</i>	<i>3.0</i>	<i>4.0</i>	<i>3.5</i>	<i>4.0</i>	<i>4.0</i>	<i>4.0</i>	<i>46.5</i>	<i>50.7</i>
Increased landfill disposal levies	2.0	3.0	3.5	4.0	2.0	2.0	2.5	3.0	3.0	3.0	2.5	1.0	1.5	33.0	31.9

Notes on Tables:

The Weighted total takes the average of each colour group and applies the percentage nominated for each group. Then this is multiplied by 13 (the number of criteria) to allow comparison to the total. The row in italics is the option with the highest total score. The row in bold is the option with the highest weighted score.

Section 8: Estimates of Cost

Section 8 of the RIS provides the detail of the RIS's assessment of the costs associated with an Enhanced Covenant. This section provides a large number of estimates of financial costs related to meeting each of the target areas. Many of these estimates are difficult for the Municipal Waste Advisory Council to accept because they are highly counter intuitive. However, these estimates have been difficult to analyse because they are based on largely hidden modelling. Nevertheless, the Municipal Waste Advisory Council wishes to express the following concerns with the financial cost estimates.

Extrapolation from a Small Sample of Councils

It is our understanding that the cost estimates for increasing the recovery of packaging material at kerbside were based upon the conclusions of previous Nolan studies and the Waste and Recycling Cost Model. In turn, it appears that much of this work has focused upon a number of Councils within Victoria. Much has been said of the improved financial situation enjoyed by the recycling services of several key Victorian councils in recent years and Nolan ITU has been one of the organizations keen to promote their experience as an example to other councils. The extremely favourable assessment of cost presented in the RIS is consistent with an extrapolation of the experience of these councils. However, we stress that we have not been able to assess whether this is the case without access to the underlying data and assumptions of the reviewer's cost modelling.

The experience of a number of large urban councils within Victoria is not representative of the experience of other councils around the country. Differences in demographics and geography make the feasibility of recycling in other parts of Australia considerably more precarious. Moreover, even if the conditions were assumed to be identical, the contractual arrangements and physical infrastructures of councils elsewhere are, in many cases, very different from those of Victoria. So best practice systems might not work as effectively and cost efficiently in other regions of Australia and even if they did, these systems would have to be created in many places – with associated start-up and transition costs. These observations undermine the RIS conclusion that recycling rates can be readily achieved across Australia, comparable to those found in leading Council areas, without substantial system upgrade.

Different "Rational Actor" Assumptions for Business versus Local Government

The RIS notes on p115 that "economics and not environmental sentiment" is what motivates companies. On account of this fact, the reviewers assume that "all easily recoverable materials... are already recovered for recycling" and that "any increased quantities can **only** [emphasis added] be recovered at an additional cost." On this basis, the reviewers set about assigning an estimated cost to each tonne of additional packaging material recovered from each enterprise.

On the other hand the reviewers used a computer based model to estimate the cost of getting additional tonnes from kerbside. In uncritically presenting their estimate of a net financial benefit for Local Government, the reviewers appear to have chosen not to apply the same "rational actor" assumption to Local Governments. In other words according to the reviewers, Local Governments can be assumed not to be motivated by their own financial self interest to pursue opportunities for increased recovery.

In fact, financial responsibility and accountability are extremely important issues for Local Government and the overwhelming majority of Councils are continually on the lookout for opportunities to reduce operating costs. In addition, councils are motivated to operate a convenient and effective recycling system by virtue of their 'environmental sentiment'. In view of these things,

why would any council ignore the opportunity to be simultaneously more financially and environmentally responsible by recycling more material at lower cost? It is difficult to understand why the reviewers do not seek to explain the misalignment between the clear motivations of councils and the model's estimate that if councils were to recycle more packaging than they currently do, they would save money.

The Kerbside Recycling System treated as a single financial equation

Even if the RIS is correct in its prediction that increased recycling will reduce the cost of operating the kerbside recycling system, it has failed to show that this will protect Local Governments from the need to spend more, especially in the short term. The RIS analysis of Local Government costs treats the kerbside recovery system as though it functions as a monolithic unit. It is as though the RIS treats all the costs and revenues associated with collecting, sorting, selling and reprocessing recycled materials as items within a single Local Government ledger book. In reality, a large number of different arrangements and different participants must be considered within the kerbside recovery system.

The clearest example of the RIS's failure to incorporate a real world perspective in costing the recycling targets for Local Government relates to recycling contracts. For a large number of Local Governments, recycling service providers charge a flat rate of \$X per tonne of recyclables received at the gate of the Materials Recovery Facility (MRF). The service providers may or may not warrant that they will recover certain proportions of materials and the materials which they target for recovery vary from service to service. Such arrangements are set out in commercial contracts between councils and service providers and will need to be observed or varied / terminated at a cost. To increase the quantity of material recovered, councils will need to send additional tonnes to their MRF (at a cost) or seek to vary the agreement with their service provider to ensure that a wider range and higher proportion of materials is recovered (at a cost).

The model used by the RIS has taken no account of these necessary financial transfers because they are internal to the kerbside recycling system. However, these financial transfers are of critical importance to the acceptability of the Covenant to Local Government. The Covenant provides no mechanism to defray these costs – they can only remain the liability of Local Government. We acknowledge that, in the longer term, any reductions in the operating costs of service providers will be passed onto Local Government. However in the five years of the Covenant's operation, a significant number of recycling contracts will remain in place and modifications within those contracts will cost money – money which Local Government has made clear it has no intention of spending.

END OF SUBMISSION