

Draft Submission on NSW Container Deposit Scheme

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Introduction

Local Government NSW (LGNSW) is the independent peak organisation representing all 152 general purpose councils, associate members including 12 special purpose councils and the NSW Aboriginal Land Council. In essence, LGNSW is the organisation for all things Local Government in NSW.

LGNSW is a credible, professional organisation that represents the views of councils to NSW and Australian Governments; provides industrial relations and specialist services to councils; and promotes NSW councils to the community. LGNSW facilitates the development of an effective community-based system of local government in NSW.

LGNSW welcomes the opportunity to provide a submission concerning the proposals for a NSW Container Deposit Scheme (CDS) as detailed in the Discussion Paper. LGNSW has sought feedback from a number of Councils' waste staff and Regional Waste Group coordinators, and their feedback informed this submission.

Please note that in order to meet the consultation deadline, this submission is provided in draft form in anticipation of the LGNSW Board approval in April 2016. LGNSW will advise the EPA of any amendments to the submission at that time.

Opening

LGNSW strongly supports the introduction of a NSW Container Deposit Scheme. LGNSW has for many years called for the introduction of an industry-funded scheme to assist with reduction in litter and improved resource recovery of beverage containers.

The State Government discussion paper seeks a general endorsement of one of two options:

1. A refund Container Deposit Scheme: this option proposes a NSW Refund CDS model that is based on either a financial or non-financial incentive.
2. An industry alternative option "Thirst for Good": a \$15-million annual investment by the beverage industry in a suite of programs aimed specifically at reducing litter across the state.

LGNSW supports an effective Container Deposit Scheme in NSW that:

- includes a financial incentive for the return of each container,
- is consistent with existing schemes in South Australia and Northern Territory,
- places the responsibility for managing the lifecycle of beverage containers (in both financial and physical terms) onto the producer and the consumer of beverage containers,
- offers the least number of exemptions in regards to container size and product type,
- delivers reasonable access across NSW by a variety of redemption points,
- makes eligible any in-scope containers presented through kerbside systems with the value of the deposit being returned to the council to offset waste charges,
- allows for an independent, non-profit body to coordinate the scheme,
- effectively contributes to reducing litter, and
- does not place any additional cost burdens on Local Government.

LGNSW supports the proposed Option 1 only for a NSW refund-type Container Deposit Scheme, as it broadly meets the above position.

Option 2 does not meet any of the scheme preferences listed above with the exception of not exempting by container size or product type and contributing to reducing litter. Some comments on Option 2 are made at the end of this submission.

Overall, LGNSW will make high level comment on the proposed scheme and transition arrangements associated with a scheme. Discussion then proceeds to the five key design elements which need to be determined for Option 1 reflecting the layout of the discussion paper.

Response

General comment on the Container Deposit Scheme Discussion paper

LGNSW welcomes the frank and balanced coverage of the proposed CDS in the Discussion Paper provided by the NSW Government.

The Discussion Paper presents the options and design elements largely at an 'in principle' level. For Local Government to truly assess the impacts and benefits accruing to the sector, and to indicate preferences of options and preferences for design elements, a financial analysis of impacts and other supporting data and documents are absolutely necessary. Each design element has ramifications upon other elements (such as the scope of included containers upon kerbside recycling systems) and in the absence of analysis of costs, benefits, and operational details LGNSW is required to make comment while uncertain about how some elements affect the scheme as a whole, or how some elements may impact on some councils and not on others.

LGNSW calls on the NSW Government to provide an opportunity to address a Container Deposit Scheme in the form proposed for adoption, together with a comprehensive CBA based on that design. The impacts (and benefits) of a scheme will be borne by all stakeholders including Local Government from the point of introduction well into the future. A successful and efficient scheme needs to be made as robust and fair as possible from the outset.

A scheme will potentially impact every household in NSW. There is a need for an extensive communication and education program from the NSW Government based upon the proposed CDS design, integrated with anti-litter messages.

Impacts on Local Government contracts

The NSW Government's objective for the CDS is to reduce litter to assist in meeting the target of 40% litter reduction (by volume) by 2020. This has been translated to a Scheme that targets containers consumed 'away from home'. LGNSW's support for a CDS to date has been based on:

- the concept of Extended Producer Responsibility (EPR) to achieve the greatest environmental outcome by those that are responsible for the creation and use of containers, and
- the proposed scheme's effective contribution to litter reduction.

LGNSW notes that Local Government has a number of contracts in place for kerbside recycling collection and processing that will be impacted under a CDS. Around 30% of these contracts will need to be renewed prior to commencement of a CDS. LGNSW seeks to have advice issued to NSW councils on how these contractual negotiations can be progressed, including independent legal advice and/or formal advice from the NSW Office of Local Government that the pending CDS constitutes 'extenuating circumstances' pursuant to Section

55(3)(i) of the *Local Government Act 1993*. This will enable existing contracts to be extended short-term until the mechanics and implications of a CDS are better known.

Most Local Government recycling contracts contain 'change of law' provisions. However, around 25% of those contracts may see penalties related to the change. As part of the transition measures needed to introduce a CDS, LGNSW calls for funding for general legal and technical advice or other support measures to be made available to help Local Government navigate through renegotiation of contracts.

Transition Period to refund CDS Option 1

The introduction of a CDS will not only impact Local Government by affecting collection and processing contracts, but will increase the sophistication of infrastructure required to operate local MRFs. Additional sorting, baling and storage may all be required. The indicative timeframe to start a CDS by July 2017 will not be sufficient time to address infrastructure issues across Local Government, especially for councils with lower populations or related issues. These issues and proposed means for addressing them are discussed in more detail against each design element.

LGNSW seeks to have the NSW Government provide a transition to CDS arrangement that is fair and equitable across all councils in NSW. This transition arrangement needs to be formalised as soon as a final CDS option is designed, as Local Government budgets will be impacted by the scheme in varying ways.

Key Design element 1: Incentives

- *How strong should the incentive be?*
- *Should the incentive offered be a financial or non-financial one? Why?*
- *Do you think the financial incentive should be consistent with the ones in South Australia and the Northern Territory?*
- *If you think the scheme should be based on a financial incentive, what format would you prefer the reward to be in (e.g. cash, credit or your choice)?*
- *If you think the scheme should offer a non-financial incentive, what sort of rewards do you think should be offered?*
- *Do you support the idea of providing a choice in the type of reward at the point of refund (e.g. cash or a charitable donation)?*

Consistent with its name, a Container Deposit Scheme must have a financial 'deposit' on the container. The equal refund of that deposit provides the incentive to avoid inappropriate disposal of a container and encourages returns. This financial incentive provides each container a clear and consistent 'value' after the container has been used for its original purpose, providing a motivation for behaviour change. A financial incentive had almost universal support in feedback received from councils.

LGNSW does not consider entries into prize draws, retailer discounts or ability to make donations adequate incentives for a functional scheme. In addition, the need to tailor such non-financial incentives to have localised meaning (such as local retailer discounts) would add significant complexity to the scheme. Administrative costs associated with recruiting non-financial incentive supporters, endorsing these, allocating targeted areas and securing compliance with non-financial schemes would likely add significant costs to a scheme without achieving any additional gain in return (or in fact for less return than a financial incentive). Non-financial schemes targeted to localised incentives may create issues of equity for participation in the scheme across the state, and offer minimal incentive for visitors, travellers or remote community residents unable to effectively redeem rewards.

There appears to be little evidence supporting a financial incentive stronger than around 10 cents per container. LGNSW notes with regard to the South Australian scheme that over time the original 5 cents per container value yielded diminishing returns, but since being adjusted to 10 cents in 2010 yields have returned to former levels.

This experience in South Australia also indicates an additional benefit of a financial incentive is that it is readily “adjusted” at some point in the future to preserve the financial value of a container. Adjusting non-financial incentives to maintain an incentive value over time may not be so simple to effect, undermining scheme effectiveness in the long term.

LGNSW supports a scheme consistent with that in South Australia and the Northern Territory, and therefore it would make sense to have a financial incentive of 10 cents per container.

The financial incentive need not be provided as ‘hard’ cash (at either a machine or depot) but could be electronically transferred to an account via keypad code entry or swipe-card. There is much concern by councils that use of Reverse Vending Machines stocked with cash refunds could lead to vandalism and theft. Similar concerns were raised about depots being required to hold sums of cash on site to operate the scheme, placing them at higher risk of robbery or theft.

LGNSW would prefer that any system of electronic credit also provides the means to direct refunds to a pooled account if desired (whether card or code type systems are used). This would assist charities, social enterprises, community groups and remote communities to co-operatively return containers and then direct any refunds to a targeted project.

LGNSW notes that South Australia still currently operates on a direct cash refund. However, South Australia is actively investigating options to include some type of electronic refund system.

With regard to choice of reward incentive, logistically it seems much easier to implement a scheme with only one form of reward. A ‘cash’ reward provides a much stronger behaviour change signal than a non-financial incentive and therefore this is recommended.

With regard to donations there is no benefit to providing a selection at point of container return. With a ‘cash’ reward, recipients are free to decide how they wish to use those funds: whether for charitable donations or for buying goods and services. LGNSW also notes that it is a common practice in South Australia for unredeemed containers to be donated to charities via “bottle-drives” or trailer collections. This effectively achieves the same end as directing donations at point of return without any additional complications in administering the scheme.

Key Design Element 2: Interaction with Kerbside Recycling

- *How should the scheme interact with the kerbside recycling system?*
- *Should the scheme be designed to keep containers consumed at home in the kerbside recycling system, or should it aim to divert them to the new CDS? Why? Why not?*
- *Should containers collected through kerbside recycling systems be eligible for redemption under the CDS? Why? Why not? Also, by whom and how?*
- *If the scheme provides a financial incentive, and if councils are allowed to claim the incentive on containers collected through the kerbside system, should they be able to claim:*
 - *the full value of the incentive on each container? Why? Why not?*
 - *the same level of handling fee as received by collection-point operators under the CDS?*
- *If councils are able to claim a financial incentive for containers recovered through kerbside, should they be obliged to use those funds to offset waste service fees to*

ratepayers, or should they be able to spend the money as they choose? Why? Why not?

Local Government has long-supported the introduction of a container deposit system on the basis that it demonstrates extended producer responsibility. LGNSW supports the position that both kerbside recycling and CDS need to be as broad in scope and efficient as possible, to maximise recycling and reduce confusion amongst users of either scheme.

A CDS must provide for the full refund of any financial incentive deposit for containers returned as part of the scheme by any means, including a full value refund to councils through returns using kerbside recycling.

Any container deposit scheme will have an unavoidable impact on kerbside recycling by diverting some containers from the existing recovery to CDS infrastructure. As discussed below, there are design elements and decisions that will influence the extent of this diversion.

Full value refunds for kerbside recycling containers

Kerbside recycling should not be considered as a form of “safety net” for recycling containers not redeemed by individual consumers or collected by other individuals or groups. Nor should any lightly analysed claim of “efficiency” of existing kerbside collection be used as justification for containers in kerbside recycling to be left out of any refund consideration, especially given the costs and benefits of a CDS are not yet fully examined.

There are several reasons why kerbside recycling containers need to be included for full value redemption:

- Ratepayers who include containers in kerbside recycling will have already paid the deposit on purchase, and are entitled to have the full value redeemed - even if using council as an agent of collection and return. There is little distinction between this arrangement and having containers collected by a community enterprise “bottle-drive” instead of being returned by the consumer. Excluding containers in kerbside recycling from redemption under a CDS would be a flawed design.
- Placing a different financial value on consumed “at home” containers recycled using kerbside collection as against containers consumed “away from home” creates a divisive message regarding the social value of recycling. The current value of containers in kerbside recycling is supported only by the value of material in the market, subject to large fluctuations over time, with consequent impacts on council processing contracts and payments. Previous market downturns have seen council costs for processing quickly increase, with a long lag before market upturns are passed through. A CDS will support existing kerbside recycling by providing a “floor” value for unredeemed containers, irrespective of market fluctuations.
- A CDS will improve efficiency in kerbside recycling by allowing for greater compaction rates of material, allowing collection vehicles to load more bins each run. This may provide future expansion options for recycling.
- Councils collect beverage containers via a number of programs, not just kerbside recycling. Street litter collection, street sweeping and collection from gross pollutant traps also recover beverage containers. Local Government does not accept there is any valid distinction that allows redemption from these council collection systems but not from kerbside recycling.

LGNSW believes that an effective CDS scheme will still leave some in-scope containers within kerbside recycling. This has been the case in South Australia despite the long presence of a container deposit scheme, with the kerbside recycling system still presenting around 12% of the eligible beverage containers for recycling.

There are CDS design options that will influence the extent to which containers are kept in kerbside recycling or diverted to a CDS scheme. These include the incentive on containers, scope of containers included within the scheme, and the number of redemption points for CDS containers. It is likely that design attempts to have a low impact on container levels within kerbside recycling will be at the cost of making a CDS ineffective or expensive. A CDS will not replace kerbside recycling which covers a wider range of materials, but it can bolster the existing system.

There have been concerns raised by councils that if a CDS is designed to leave high levels of containers in kerbside recycling, then pilfering of containers from bins will rapidly escalate into a serious problem. Pilfering could become an additional litter clean up burden on councils as unwanted materials may be simply discarded next to recycling bins.

The possibility of not including containers collected via kerbside recycling has generated confusion. Councils are concerned as to whether this means that any council-managed return of containers would not be permitted under a CDS which exempts kerbside recycling. Some councils with space at their depots to manually sort containers from kerbside recycling or litter bins prior to delivery to a MRF question whether such separately presented containers would or could be excluded from the scheme. A small number of councils also provide separate container recycling bins, and these could be rendered financially unviable if their contents were reduced under a CDS but had no complementary redemption value. Many councils were concerned that third party MRFs would be able to benefit financially by returning sorted containers to depots without any potential financial benefit being returned to councils.

Potential Kerbside Collection efficiency gains

A concern with regard to assessing the impact of a CDS on kerbside recycling is that there is little ‘fine-grain’ analysis in the Discussion Paper of the differing impacts on kerbside recycling of glass, plastic and fibre-board containers.

The Discussion Paper makes reference to the kerbside audits of 2011 and notes with regard to kerbside recycling that

“Audits of household kerbside bins have found that NSW households with access to a recycling service already recover on average 79% of the drink containers consumed at home.” (Discussion Paper p. 23)

However, this is only the audited amount of material presented in the bin at kerbside, and is not an accurate representation of the actual or final recycling or resource recovery rate. Recycling losses from breakage, crushing or contamination occur during collection and handling of containers. The Discussion Paper also does not specify if the measure used here is by volume or weight (weight measures were used in the audits). The Discussion Paper’s comparison with the South Australian “return rate” of 79.5% is not appropriate, as that return rate is specifically the number of containers returned compared to sale of units, and is neither a volume nor weight analysis.

With regard to the efficiency of kerbside recycling a key material of concern is glass. The actual recycling rate of glass from containers is not clear for NSW, but national figures show that the rate of glass containers recycled (as opposed to levels of glass containers presented for recycling) has declined from 49% to 42% since 2010-11.¹ Part of the decline has been attributed to breakage losses within kerbside recycling, accelerated since the introduction of

¹ IndustryEdge Pty Ltd and Equilibrium OMG Pty Ltd, *National Recovery and Recycling Survey 2014-2015: Paper Packaging, Glass Containers, Steel Cans and Aluminium Packaging prepared for the National Packaging Covenant*, 2015.

co-mingled recycling and the decline of separated crate recycling. In collecting recycling from kerbside, collection vehicles will mechanically compact co-mingled recycling to improve efficiency, which can lead to significant losses of viable glass for recycling owing to breakage, and in turn can also decrease recycling rates for paper, cardboard and plastics as small contaminating particles of glass are embedded in the paper fibres.

It can be expected that a CDS similar to the South Australia model will allow for improvements to kerbside recycling compaction rates, with associated benefits. The removal of glass containers to the levels present in South Australian kerbside recycling will allow for increases to compaction rates in the collection vehicles, which a study has shown can be done without significantly increasing breakage or contamination of other recycling.²

As an indicator of the potential level of increased compaction, the NSW EPA *Model Waste and Recycling Collection Contract* currently specifies a maximum compaction rate to 170 kilograms per cubic metre. The South Australian Local Government Association *Model Waste Management Contract* specifies a maximum compaction rate at 225 kilograms per cubic metre for recycling collection. This is over 32% higher, which if applied in NSW would allow for more material to be collected in each vehicle with consequent efficiency and cost improvements in council kerbside recycling. Potentially more recycling or an expanded range of materials for kerbside recycling could be possible.

Potential Litter Collection efficiency gains

Local Government (primarily funded by ratepayers) has to date borne the costs of recovering containers for recycling and also for cleaning up container litter in public spaces such as in parks and on beaches. A CDS shifts the responsibility for the lifecycle of containers onto the producer and the consumer, rather than spreading that cost across all ratepayers. A CDS also opens up opportunities for financially supporting additional recovery by groups not currently participating in recycling or ongoing litter collection, such as charities, social enterprise or community groups.

Assessing the impacts of a CDS on council operations needs to take a broader view than just kerbside recycling. Council operations and costs are impacted by managing beverage containers across a number of services, with kerbside recycling being just one. Councils also operate street litter collection bins, street cleaning, litter enforcement programs and litter 'hotspot' clean-ups (and the resulting disposal of that litter), all of which add to council costs.

Local Government litter services (public place bins, enforcement, hotspot and gross pollutant trap clean up) significantly reduce the levels of beverage container and other litter polluting the environment. Beverage containers form a significant (though varying) component impacting each of the above operations. From a council perspective, while some kerbside recycling programs may be deemed 'efficient', the overall operational management of beverage containers across the board may be far less so. Councils are already managing and paying for the impacts of beverage containers from both 'at home' and 'away from home' sources.

Financially, councils must absorb the impact of beverage containers on recycling and litter collection through differential application of rates. Kerbside recycling is paid for by ratepayers through a Domestic Waste Charge as required under the *Local Government Act 1993*. On the other hand, a LGNSW survey has found that almost 90% of litter collection costs for the

² APC Consulting, *Optimum Compaction Rate for Kerbside Recyclables for Zero Waste SA and Local Government Research and Development Scheme*, 2012.

majority of councils are financed through general rates revenue (with the remainder from fees, charges and litter fines income).³

Rather than concern being directed with regard to “not subsidising kerbside recycling”, a CDS will alleviate a number of litter collection cost burdens on councils. These can be in the form of

- Reduced litter in street litter bins
- Reduced litter in street cleaning
- Reduced litter in gross pollutant traps
- Reduced ‘hotspot’ clean-up

These reductions will have benefit in the form of

- Lower service costs of collection
- Lower service costs for clean-up
- Less material volume and weight collected, reducing transport and landfill costs (litter is almost exclusively landfilled).

The above reduction in costs will make existing Local Government litter responses more efficient. Rather than solely affecting kerbside recycling, a CDS targets litter by reducing the existing cost to councils of litter responses. Councils may then expand litter programs or avoid any rate increases to preserve existing litter programs.

Impacts on recycling infrastructure

Research carried out by LGNSW shows that even with reduced numbers of containers in the kerbside recycling, the CDS value will provide a financial benefit to councils (and Material Recycling Facility (MRF) operators).⁴ By reducing the volume of containers in kerbside recycling, councils have an opportunity to avoid moving to larger volume recycling bins or expanding recycling of existing or even new materials. Less frequent recycling collection services (and associated costs) are possible only in a limited number of cases.

Handling fees could be paid to the waste collection operator and/or the materials recovery facility. With regard to bulk or mixed loads of containers, regular audits could be conducted to determine a proportionate price per tonne so as to account for the ratio of eligible and ineligible containers (that is, to allow for inclusion containers other than beverage containers). A standard independently audited method could be used but the ratios would need to be determined between each council (or other collection avenue) and the recovery facility. A CDS must ensure that such market-negotiated values are allowed to consider pragmatic levels for bulk returns and keep the system as simple to operate as possible.

LGNSW notes that unlike South Australia MRFs in NSW have been set up to primarily deal with recycling delivered via kerbside recycling. There is potentially a high impact on MRF capital expenses should containers be required to be kept mostly whole or with readable barcodes without exception. Additional processing lines may be required in any event, but the ability to redeem container value in bulk needs to be addressed to take into account the different operating environments and design from the South Australian model. The scheme Coordinator should have latitude in determining how this may apply, and will require the right to audit under the scheme any accredited MRF or depot operators to ensure compliance.

³ LGNSW (Impact Environmental), *The Potential Impacts of CDS on Local Government Kerbside Collection*, 2015.

⁴ LGSA NSW (MRA Consulting), *The impacts (cost/benefits) of the introduction of a container deposit/refund scheme (CDS) on kerbside recycling and councils*, 2012.

Feedback from regional councils has indicated a number of infrastructure concerns that need to be addressed in the detail of the CDS.

- Leaving infrastructure adjustments solely to the market may adversely impact on smaller or council-operated MRFs, distorting the recycling market in favour of larger operators.
- Regional councils operating their own MRF are uncertain as to whether accounting operates solely on barcode reading of returns, which will require a secondary sorting at the MRF to ensure all in-scope containers are accounted. These concerns could be allayed if simpler operations for bulk returns under a CDS are permitted as described above.
- The establishment of any secondary sorting at MRFs will only be accomplished by either labour-intensive hand sorting of in scope containers, or capital-intensive high speed scanning and sorting lines. Either system would add significantly to cost and contract risk as a clear understanding of the containers remaining in kerbside recycling will take time, rather than be known at the introduction of a CDS in 2017.
- Lead time for infrastructure is a key design element to be more fully explored and considered. Councils in particular are already preparing budgets for 2016-2017, and key items such as new or expanded sites for recycling infrastructure, upgrades to existing MRFs or new sorting requirements are too little known to be included at this time. Additional technology for automated sorting lines will also take extended periods to construct and commission.
- The NSW Government should consider how funding or a low cost loans scheme for new infrastructure can be assured to help implement the CDS.
- The NSW Government should consider a fair and equitable transition arrangement following the introduction of a CDS, such as the audit-based accounting of bulk returns.

Since the levels of redeemable containers likely to remain within kerbside recycling is not known, LGNSW considers that a satisfactory transition time to a CDS would be required to work out these issues.

Any return of value to councils for containers in kerbside recycling should be at the full 10 cents deposit value for the containers redeemed. Over time, publicly contested contracts could deliver this return either based on numbers of containers or reduced processing costs. The NSW Government should consider oversight mechanisms for ensuring no unfair advantage or profiteering by recycling processors occurs as the CDS is introduced.

Equitable application of a CDS across all regions

LGNSW calls on the NSW Government to consider all regions of NSW when designing a CDS scheme. The interaction of a CDS with kerbside recycling will differ depending upon population and the distance to recycling markets.

A CDS that removes the financial burden on councils of transporting the in-scope containers portion of kerbside recycling will more strongly support kerbside recycling for regional councils than for urban councils. The average recycling service costs (the total of both collection and processing of recyclables costs) are around 120% higher per tonne for a Non-Regulated Area council compared to a Sydney Metropolitan Area council.⁵ Broad design considerations on the impact of a CDS on kerbside efficiency must take this differential into account.

⁵ LGSA NSW (MRA Consulting), The impacts (cost/benefits) of the introduction of a container deposit/refund scheme (CDS) on kerbside recycling and councils, 2012.

Local Government control of redeemed deposits from kerbside recycling

LGNSW considers that there is no effective means to distinguish at the point of return between containers recovered through kerbside recycling and those returned directly or through litter collections. If a deposit is charged on every container within the scheme, then a full refund should be made on every container returned as part of the scheme. Containers collected through kerbside recycling systems must be eligible for redemption under the CDS, with the full value of the deposit being returned to council. As the original 'generator' of the container, the value of the deposit should be returned to council (as the surrogate for the householder, on whose behalf they provide collection and transport systems).

For practical reasons it is not possible to return individual deposits to householders, however councils would use any refund value to offset waste service fees to ratepayers and/or expand waste and recycling services.

With regard to councils' obligations for directing any financial return from containers in kerbside recycling under a CDS, the *Local Government Act 1993* already constrains how any return is to be accommodated. Section 504 (3) of the *Act* requires consideration of 'reasonable cost' in the setting of a Domestic Waste Charge, and reasonable cost includes all the costs of service delivery less any revenue offsets arising from that service. Some councils might contractually be able to achieve lower gate fees for recycling, or in some cases an actual revenue for numbers of containers within the kerbside recycling. Either eventuality would mean that any benefit arising from redeemed containers will apply to the setting of the domestic waste charge. This would be transparent within a Council Management Plan as required under section 402 of the *Local Government Act*. Some councils operating their own MRF may be in a special position to set up as a depot and offset costs of other recycling processing by using revenue from CDS. However, such offsets would be a reduction in operating costs rather than unallocated revenue.

Key Design Element 3: Scope of containers

- *Which containers should be covered by the scheme?*
- *Should the scheme focus only on the types and sizes of drink containers found in the litter stream in the largest amounts?*
- *What should be included in the scope of containers in the NSW CDS, particularly if the target of this scheme is the reduction of litter?*
- *Should the NSW CDS have a container scope consistent with that of Northern Territory and South Australia? Should milk, wine and spirits be included or excluded from the scope of containers?*
- *What advantages/disadvantages would there be if the NSW scheme aligned its scope of containers with those utilised in existing Australian CDSs (in South Australia and the Northern Territory)?*

A CDS with the least number of exceptions in regards to container size and product type is preferred, as the scheme should be easier to administer and operate, and less confusing for the consumer. This will increase participation rates, improve resource recovery and ultimately render a more successful scheme.

Another key principle that should determine the scope of materials covered by the scheme is to provide for consistency with existing systems in South Australia and Northern Territory, and thus minimise cross-border issues, as well as simplify industry labelling requirements. Of the two models, the South Australian scheme accepts the broadest range of containers and is preferred.

Councils have generally sought to have a broad scope to avoid consumer and resident confusion, and simplify sorting at MRFs of any kerbside recycling. However, there is a tension over whether smaller containers should be included or not, and councils have expressed a range of views. For example, to avoid the practical issues noted in other jurisdictions with very small containers, some accept the size range could be from a minimum 150mL up to 3L. To reduce any complexity in consumer education or sorting requirements, other councils prefer not to limit the scheme and include all beverage containers from zero to 3L.

A number of councils seek to have the definition of beverage containers within the scope of the scheme made explicit. Clarity is needed as to whether soy, almond or coconut milks are to be treated as “plain milk” and outside the scope, or “flavoured” milks and included in scope. The Discussion Paper refers to “drink containers” and councils have also questioned whether containers such as coffee cups and take away soft drink cups would be included under that definition. From a litter reduction perspective their inclusion could be warranted.

While containers of 2L or larger are less prevalent in the litter statistics, their size would make a bigger contribution to achieving the Government’s 40% litter volume reduction target. The differential costs of excluding these larger containers (in terms of additional sorting, labelling costs, customer confusion etc.) should be compared to the marginal cost to include them, with regard to simplifying the education of consumers, and minimising the sorting requirements for MRFs.

The materials covered by the Scheme should include plastic (PET, HDPE), glass, aluminium, and liquid paperboard. It is essential that it is the beverage definition that determines whether any container is included or excluded from the scheme. The legislation needs to include provision to modify the beverages or containers covered by the scheme in future e.g. as markets change, and as new container materials (or combinations of) or beverage types are developed. New technology packaging such as foil/plastic laminate ‘pouches’ need to be included from the outset when sold as containers for beverages. These pouches are an expanding industry packaging technology, and under existing kerbside recycling systems cannot be recycled. However, if pouches are included in a CDS, the potential for return via kerbside recycling systems should be considered.

With regard to focusing the CDS on container sizes most commonly used ‘away from home’, care must be taken to ensure the CDS does not have perverse outcomes such as making the purchase of smaller containers more cost effective than larger containers, which would incentivise the generation of waste. Similarly, limiting the scope to only containers up to 1 litre may incentivise beverage producers to alter product container sizes to by-pass the scheme.

The Discussion Paper does not address the issue of “legacy” containers. The NSW Government should consider a short introductory period at the start of a Refund CDS that will incentivise the clean-up and return of existing littered containers by allowing for full redemption of containers in any reasonably whole condition. Such a transition approach would provide a large positive benefit in removing litter from the environment.

Many councils have noted that although wine bottles are not prevalent in the litter bin stream data used in the Discussion Paper, this methodology will not be used to measure on-ground litter reduction if the National Litter Index is used for litter counts. It is suggested that if wine and spirit glass containers are not included at the outset of a CDS for NSW, that their inclusion be reviewed at an early stage.

LGNSW believes that the question of extension to wine, spirit or plain milk containers is not one that needs to be addressed at the outset of a Container Deposit Scheme. A scheme consistent with the South Australian model can be initially introduced. The NSW Government should commit to negotiating with other jurisdictions operating a Container Deposit Scheme to

rationalise the inclusion of other containers such as wine, spirit or plain milk. Discussions between LGNSW and South Australian scheme operators have indicated no pre-existing barrier to extending the scheme to include some of these containers.

The Discussion Paper does not address the issue of litter from beverage container lids. It is noted by LGNSW that lid litter remains an issue in South Australia. The NSW Government should take steps to ensure lids from beverage containers are addressed under any CDS.

Key Design Element 4: Collection infrastructure

- *What type of collection infrastructure should be used to collect containers as part of this scheme?*
- *How convenient should this infrastructure be for people to access?*
- *Should the scheme provide universal access for all NSW residents?*
- *Where should collection points be located to best achieve the litter reduction target and to minimise the transfer of containers out of the kerbside system?*
- *How can the scheme give incentives for the take-up of collection infrastructure at sites that focus on away-from-home consumption?*
- *How can modern technology be used to deliver a cost-effective scheme?*

A key design principle is that there should be reasonable access across NSW to redemption points. Given the coverage of the state by kerbside recycling systems operated by Local Government, the scheme should be initiated with a minimum point of return located in every local government area, whether privately operated or council-run.

Overseas experience indicates locating collection points in places where people regularly visit (such as shopping centres/supermarkets) supports higher returns. At a minimum there needs to be consistency in the types or locations of collection points so that the average person can have some certainty in knowing where/how to return their containers – this is necessary regardless of whether targeting away from home, litterers or householders. It is not economical to place a Reverse Vending Machine (RVM) at every park or street corner, therefore in order to change behaviour the community needs to readily know where they can take their containers. It is also less favourable to the inclusion of RVMs to design a CDS based on the Discussion Paper's preference for "return to depot" as opposed to a "return to retailer" model. The CDS should consider incentives to encourage RVMs especially into areas such as urban centres and shopping precincts where depot location is likely to be non-existent or financially unviable.

A hub and spoke system with aggregation points is favoured. Where existing infrastructure is to be used or upgraded, such as community recycling centres (CRCs), transfer stations or MRFs, these locations are largely known. RVM operator(s) could determine the location of RVMs as part of their business model. RVM operators may choose to negotiate deals with take back locations like supermarkets, food courts and council CRCs. It should be recognised that despite many benefits they provide in terms of reporting, RVMs will form only a limited collection function within the scheme. Liquid paperboard, pouches, and large size containers may never be suited for RVMs and locations are restricted by a number of economic, operating and servicing requirements.

RVMs require public access, a power supply, and ready access for emptying and servicing of the machine, and therefore they are more suitable for privately managed locations such as shopping centres/supermarkets, sporting/entertainment venues and train stations. Advice needs to be prepared for Local Government as part of the implementation of a scheme regarding how to handle Development Approvals and management of out-of-scope containers or material associated with RVM operation.

Operating on high throughput to justify the capital expense, RVMs are also likely to be situated only in more populated areas and higher traffic areas within those. Power supply constraints, potential for vandalism and public safety concerns associated with the siting of RVMs means they are less suitable for some highly littered areas controlled by Local Government such as parks and open spaces.

Volumes and transport costs also mean RVMs may be less suitable for rural/remote areas, whereas community collection points (for example, a council depot) may be more appropriate. In sparsely populated areas the market is less reliable, therefore in order to meet the 'reasonable access principle' it is likely that incentives (or market subsidies) for collection points in rural areas will be needed, at least initially or during a transition period to a CDS.

Council-run CRCs, transfer stations and MRFs regardless of initial funding arrangements should not be made mandatory collection points for a CDS, but options to seek accreditation or incentives should be offered. These existing infrastructures handle a number of other recycling streams, and the separation and storage of in scope containers will be an additional and largely unknown cost at this stage. If a Local Government facility is available in a region to provide a depot for redemption of deposits under a CDS, then handling fees need to be set to fully cover the additional cost to operate the scheme.

Key Design Element 5: Governance and the role of government

- *How should the scheme be coordinated and by whom?*
- *What role should the government (state/local) have in the scheme?*
- *What role should the beverage industry have in a Refund CDS?*
- *Should a Refund CDS be run by a single organisation or multiple organisations?*
- *What requirements should be placed on the administration of the scheme?*
- *What checks and balances are needed?*
- *How will the scheme make sure that drink manufacturers and importers participate?*
- *How can the scheme be designed to prevent fraudulent activity?*
- *How will disputes be resolved?*
- *How should the scheme deal with cross-border arbitrage risks?*

It is vital that the Scheme is well governed and regulated. There should be one independent, non-profit body coordinating the scheme rather than competing coordinators. This body would have a board of directors made up of representatives from a variety of stakeholders including government (State and Local), industry and community. The establishment of this board of directors should ensure that there is equitable balance of stakeholders and with regard to the beverage or recycling industry ensure that directors are drawn from representative bodies where possible rather than from individual companies.

The scheme Coordinator would be responsible for acting as the clearing house for data, accrediting and registering collection points, and coordinating the exchange of funds between the beverage producers and those collecting the containers. For example,

- Registered beverage companies and importers should pay into a funding pool prior to commencement of redemptions. Accredited depots, RVM operators and collection points should be provided "seed" scheme funding to be able to refund deposits and cover start-up and additional handling costs from scheme commencement. Without such an up-front funding provision, operators would be out of pocket until industry reimburses the scheme Coordinator based on share of redeemed containers. In South Australia, during the transition from a 5c deposit to a 10c deposit, a short

period where the new deposit was collected prior to redemption at the higher rate allowed for a pool of funds to be built up to cover the adjustment.

- The Coordinator operates a central server to receive data from all RVM operators and collection hubs/points on the containers they have collected and paid refunds on via their respective take back outlets.
- The Coordinator uses the data to invoice the liable parties (beverage companies).
- The beverage companies (and importers) then pay the Coordinator the deposits plus handling fees for their share of containers and the Coordinator in turn reimburses the RVM operator/collection point for the deposits they have already refunded to the consumer plus the handling fees for each container. Where bulk return averages are used, the Coordinator may need to investigate payments by companies based on market share or some convention as a proxy for returns. These reimbursements can acquit the “seed” scheme funding over an agreed time period.
- It is expected that the scheme Coordinator will account for deposit refunds, service fees, handling fees and transport costs associated with the scheme. The depot/RVM operator makes their money out of the handling fee (e.g. 4-5c per container).

Legislation to establish the Scheme should require all manufacturers and importers of eligible containers to participate. This includes identifying products that are eligible as they are introduced to the NSW market, labelling, and requirements for contributions.

The scheme Coordinator will need to be vigilant on containers redeemed in border areas to identify potential cross-border flows, and report these to the EPA as the regulator. The EPA must have strong regulatory and compliance powers (and resourcing) to follow up such instances. The EPA would also be an appropriate party to resolve disputes where regular mediation has failed.

The use of local Government staff to enforce compliance with a CDS should not be assumed at any stage.

The handling fee, any service fees and transport reimbursement should be determined by IPART, with regular reviews of the scheme operation and financials including beverage pricing. The costs of operating collection points, such as security and power would need to be factored into the handling costs.

Feedback from councils has shown that the raiding of kerbside bins for redeemable containers (‘bin diving’ or pilfering) is a minor but consistent concern. LGNSW calls on the NSW Government to address concerns over such practices by adding a provision (in the form of a penalty) to the *Local Government Act* or other legislation and regulations.

The introduction of a deposit on containers and restrictions on sale of only CDS-registered beverage containers will need to address international considerations, such as obligations under the World Trade Organisation, Free Trade Agreements and competition considerations in both the framing and implementation arrangements.

Comment on Option 2 – Thirst for Good

The Discussion Paper is silent as to whether industry will seek a deposit to fund the proposed \$15 million per year cost of this scheme. Some legislative support may be required but it is unclear where this may need to be applied.

LGNSW has concerns that Option 2 may be funded by a rise in container prices without industry support of the scheme to a financial level equivalent to the price increase.

This Option also imposes administrative and resourcing burdens on Local Government without any clear return of benefit. LGNSW does not support an option that adds to the costs or resourcing of Local Government to implement. A CDS should be wholly funded by the producers of beverage containers in the scope of the scheme.

LGNSW notes that the beverage industry has had 20 years to introduce this Option as an alternative to a CDS, but has only acted when a CDS is an imminent alternative.

Community Cash for Containers

The Option proposes to provide councils with a caged trailer which when filled with containers will receive \$300. It is anticipated that councils will loan out this trailer to charities or community groups to fill, which may lead to unfair demands on councils to determine order of bookings for these trailers.

No specifics are provided on where this material derived, whether these are sourced fully from litter or by donations from charity group members and supporters. It is unclear if damaged containers are accepted or allowance made for contamination. It is unclear what will be the result of returning only a partially filled trailer.

This option will likely also impact on kerbside (6000 containers represents the average weekly kerbside recycling output of 600 households). There is concern containers may be more easily sourced from donations of containers rather than litter. In smaller communities this may impact significantly on materials in kerbside recycling.

Duration of scheme

It is not clear from this Option as to the period for which a \$15 million per year contribution will continue. There is concern that this level of industry support will be downgraded in future.

Impact in regional and remote areas

The option as proposed will have very limited impact in low population or remote areas. Reverse vending machines and litter pickers are not likely to succeed in such areas, and the option will default to disproportionate support for litter collection in urban and urban fringe areas.

The use of litter collectors in hotspots such as highway verges raises WHS concerns left unaddressed in the Option.

Litter bin provision

Providing additional litter bins does not on its own address the fundamentals of underlying litter behaviour, nor do extra bins provide a clear incentive for behaviour change to prevent littering. Litter bin content continues to be disposed to landfill so this would not contribute to resource recovery.

Community Education

The Thirst for Good option provides for community education, and LGNSW supports messages directed at improving community behaviour around preventing litter. Communications that raise community understanding of the environmental cost of litter and seek to embed good social norms over time are welcomed.

The reservation concerning the Thirst for Good option is that the Discussion Paper indicates the education and communications are limited to supporting the Thirst for Good programs such as Cash for Containers, use of RVMs and use of additional litter bins.

Broader campaigns to foster behaviour change in the community to prevent litter would need to be included within this option to attract support.

Conclusion

LGNSW strongly supports an effective Container Deposit Scheme in NSW that:

- includes a financial incentive for the return of each container,
- is consistent with existing schemes in South Australia and Northern Territory,
- places the responsibility for the scheme (both financial and physical) onto the producer and the consumer of beverage containers,
- offers the least number of exemptions in regards to container size and product type,
- delivers reasonable access across NSW by a variety of redemption points,
- makes eligible any in-scope containers presented through kerbside systems with the value of the deposit being returned to the council to offset waste charges, as happens in South Australia,
- allows for an independent, non-profit body to coordinate the scheme,
- effectively contributes to reducing litter, and
- does not place any additional cost burdens on Local Government.

For Local Government to truly assess the impacts and benefits accruing to the sector, and to indicate preferences of options and preferences for design elements, a cost benefit analysis (CBA) and other supporting data and documents are absolutely necessary. LGNSW calls on the NSW Government to provide an opportunity to consider a Container Deposit Scheme in the form proposed for adoption, together with a comprehensive CBA based on that design.

In the interim, LGNSW seeks to have advice issued to NSW councils on how contractual negotiations for kerbside recycling can be addressed, including independent legal advice and/or formal advice from the NSW Office of Local Government that the pending CDS constitutes 'extenuating circumstances' pursuant to Section 55(3)(i) of the *Local Government Act 1993*. This will enable existing contracts to be extended short-term until the mechanics and implications of a CDS are better known.

LGNSW also notes that there is a need for an extensive communication and education program to be developed for the proposed CDS design, integrated with anti-litter messages.

LGNSW welcomes the NSW Government's commitment to introduce a container deposit scheme in NSW, and the constructive approach the EPA has taken in its development to date. We look forward to continuing to work closely with the NSW Government and other stakeholders in designing an efficient and truly world-class scheme.