

Draft Submission on Australia's Product Impact Management prioritisation process

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Opening

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing all NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community based system of local government in the State.

LGNSW welcomes the opportunity to make a submission to the Australian Government's Product Impact Management prioritisation process. LGNSW also appreciates the extension of time to 11 May 2018 to make a submission.

This is a draft submission awaiting review by LGNSW's Board. Any amendments will be forwarded in due course.

Purpose

The federal Department of the Environment and Energy is seeking feedback on a draft national approach to product stewardship action to minimise the environmental impacts of waste from products. The department is seeking submissions on:

- The Assessment Action Escalation (AAE) Process outlining the processes for assessing, managing and escalating national priority issues.
- The Product Impact Management (PIM) Work Plan that will track priorities and progress. The draft 2018-19 Work Plan provides an example.

The AAE process will allow other jurisdictions to identify products for inclusion and determine if they should be recommended as a priority action on the PIM Work Plan through the Meeting of Environment Ministers. A product is designated as a priority if it meets the 5 core requirements of the AAE process and is accepted by Meeting of Environment Ministers. This consultation is part of a wider review of the *Product Stewardship Act 2011*.

Background

Australian governments are working together to develop a strategic approach to prioritising national product stewardship action to reduce the environmental impacts of products.

Reducing the social, economic and environmental impact of waste from products in Australia poses a complex challenge. Decisions made at every step in a product's life-cycle (from design through to manufacture, use and disposal) can result in waste.

The Department of the Environment and Energy, in consultation with a working group representing the states, territories and local government, is developing a set of principles and processes to guide strategic national prioritisation of action to minimise the environmental impacts of waste from products.

This consultation is part of a wider review of the *Product Stewardship Act 2011*. Submissions on the review of the *Product Stewardship Act 2011*, which deals with management of the environmental health and safety impacts of products and their disposal, close on 29 June 2018. An information session on the review will be held in Sydney on 16 May.

Response

Introduction

The development of principles and processes to guide the strategic national prioritisation of action on product impact issues is welcomed, particularly if the outcome is the timely introduction of effective product stewardship approaches that address the impacts of priority products.

Local government is on the ground dealing with the impacts of products, particularly at the end of their life, and addressing community concerns. We can add value in assisting jurisdictions to identify priority product impacts of concern to our community, as well as contribute to the appropriate design, implementation and ongoing operation of approaches to product stewardship for priority product impacts.

Individual local governments also support product stewardship outcomes through actions at the local level, such as landfill e-waste bans and plastic bag phase outs. These actions are often precursors to the product's placement on state, territory or national priority lists. Actions at a local level can make industry take note of customer driven change and often are the building blocks for product stewardship by industry as well as governments.

AAE Process

The drivers/incentives for jurisdictions to adopt the AAE Process and the potential benefits of implementation have not been clearly articulated in the consultation documents. It is unclear whether this process formalises an existing informal process or is a new approach.

The scope of work for a jurisdiction to sponsor a product is resource intensive and a sponsoring jurisdiction will need to be adequately resourced and funded to take this on. It is also unclear whether the Federal Government will provide financial assistance.

The process itself is overly complex and would benefit from streamlining and the inclusion of worked examples or case studies. Information on where regulatory, co-regulatory and voluntary actions might be appropriate would be helpful.

Local government is unlikely to have the resources to be a sponsor, and individual councils are unlikely to be viewed as co-sponsors by other jurisdictions. While the process refers to the establishment of a working group that "should be well-represented from various parts of the supply chain relevant to the priority issue", it is also possible that local government may also be overlooked from working group membership.

Local government is on the ground dealing with the environmental impacts of products and community concerns, particularly at end of life. We can add value in identifying priority product impacts and their importance to the community. It is also local government that deals with on the ground failures of product stewardship schemes and fills the gap when schemes do not have 100% coverage.

How local governments (as well as community and environment groups) can bring issues to the table and provide input to the process needs to be considered further. Local governments do play a role in implementing and operating some product stewardship schemes and their practical insight at the design stage of new approaches can often reduce unintended consequences and result in more robust schemes. A mechanism where state, territory and

federal jurisdictions and associated working groups seek local government input at various stages of the process should be considered.

Where measures in a product stewardship scheme are not having an effect, the AAE Process provides for the matter to be escalated within the sponsoring jurisdiction. LGNSW believes the escalation stage should be undertaken by an independent party or the Federal Government, not by the sponsoring jurisdiction and working group that are managing implementation. Threshold timeframes should be set for escalation otherwise the existing extended timeframes for implementing product stewardship may continue. It is noted that the process identifies as a baseline, a two year work plan for each priority issue and a formal review after two years. With 10 products on the Work Plan already, the issue of escalation and timely delivery of product stewardship approaches is a key issue.

The process provides little detail on how a lead jurisdictional approach transitions to a national approach managed by the Australian Government, particularly where regulatory action is required, and the extent of cross jurisdictional support that is required for this to occur. It encourages the devolution for managing product impacts to state jurisdictions that is likely to result in lessened national regulatory action and more individual voluntary schemes being run state by state, which can be less efficient and less effective.

While it is easier initially to implement a scheme in one state or territory, a national approach is likely to be preferable for suppliers and manufacturers who do not differentiate across borders. A staggered timeframe of implementation across jurisdictions may result in a less successful national scheme at higher cost to the community.

Given the Meeting of Environment Ministers agree to the priorities, roles and responsibilities for a product stewardship approach, consideration should be given to including mechanisms that encourage sponsoring jurisdictions (typically assigned to environment agencies) to ensure that a whole of government approach is taken in the design, implementation and operation of the approach. This will help ensure that all areas within the sponsoring government, including those overseeing manufacture and importation of goods, are aware of and committed to the product stewardship approach.

Each jurisdiction that does sponsor a product is likely to complete the stages of the AAE process to a differing standard and timing, depending on resourcing and competing priorities. Consideration should be given to jurisdictions undertaking the Assessment stage only and the Federal Government completing the process to ensure a unified standard, with sign off from Environment Ministers. Or alternatively a grant system could be used, via a collaborative body, that could work with jurisdictions to ensure consistency of approach.

Consideration should be given to including a clear process to determine how products are prioritised for inclusion on the list once they have gone through the AAE process, especially considering there is a limit of 4-5 products per year. A process is also needed for the 'disaster level' product that is time critical for a rapid product stewardship approach.

Accessing industry data may also be an issue if industry does not cooperate. Whether industry should be legally required to provide information to sponsoring jurisdictions necessary for the AAE Process should be explored.

Consideration should be given to regular monitoring, evaluation and review of the AAE Process itself to ensure currency and continuous improvement. A longer term monitoring and

evaluation framework should be put in place to measure the effectiveness of and continually improve operational product stewardship approaches.

The AAE process is focussed on existing product impacts. A corresponding process to proactively stop product impacts before they occur for new products entering the Australian market either through import or through local manufacture should be considered as part of a broader holistic systems approach to product stewardship.

The working principles for Australian governments set out in the AAE process refer to promoting and supporting industry-led action, yet the Work Plan does not have any industry-led actions. Some form of high level agreement regarding product stewardship principles, processes and approaches between federal government and industry, for example peak industry groups, could be considered to raise the importance of product stewardship within industry.

PIM Work Plan

The PIM Work Plan should assist all jurisdictions to be better informed about current priorities and their progress towards product stewardship.

Only some of the priorities listed on the draft work plan are known by all councils. Some priorities on the plan are viewed as individual state rather than national priorities. The existence of an overarching national strategy and associated work plan on these products is not generally known. Most products on the work plan that have progressed have been driven by individual state jurisdictions, rather than being the result of a national approach.

Consideration should be given to developing a communications strategy to ensure that information on national priorities is known by all stakeholders. This could include the concept of an 'umbrella' tag line for use in lead jurisdictional communications to inform the community that product impact management is part of a national approach.

It is unclear if there is to be public consultation on the draft PIM Work Plan prior to its finalisation each year, considering the limit of 3-4 priorities in a rolling two-year timeframe. Consideration should be given to local government having the opportunity to comment on the priorities within the draft work plan on an annual basis.

Given the baseline of a two year work plan for each priority issue, consideration should be given to how to progress the existing 10 products already on the list, some of which have been around for a number of years.

The way the information is presented in the Work Plan is confusing. The headings are not consistent and the terminology ambiguous, for example the term 'action' is used both as a stage of the AAE Process as well as a reporting term for activities to be undertaken. Consideration should be given to making the objectives 'SMART' and including measurable targets that reflect the outcome to be achieved.

Currently the Minister for the Environment and Energy sets priority products for stewardship actions under the Product Stewardship Act. The Minister's priorities are included in the Work Plan, however they are not differentiated from those priorities set by the Meeting of Environment Ministers. Including a key to distinguish between these two lists would be helpful.

Products from the Minister for the Environment and Energy's list are sometimes sponsored by state jurisdictions on the Work Plan and do not have the Commonwealth as the jurisdiction

responsible for action, despite these products being considered for some form of accreditation or regulation under a Commonwealth Act.

Some products included (for example, large energy storage batteries) have no action, no sponsoring jurisdiction and no responsible jurisdiction for action (and are not on the Minister's list). It seems premature for these to be put on the list.

Given limited government resources and the risk to human and environmental health these products can pose, LGNSW believes there should be a process outlined to prioritise products within the Work Plan. There is also no process outlined for how products will be managed when they are on both the Meeting of Environment Ministers list and the Minister for the Environment and Energy list.

Consideration should be given to how, when and why products are taken off the list. This stage needs to be transparent and form part of the AAE Process. Leaving products on the list until a thorough evaluation has proven that the product stewardship approach is working (regardless of sponsor) should be considered and this could form part of a longer term monitoring and evaluation framework to ensure continuous improvement of operational product stewardship approaches.

Consideration should also be given to tracking all product stewardship schemes operating in Australia so synergies between schemes and approaches including reverse logistics opportunities can be identified.

Conclusion

LGNSW welcomes the development of an agreed process to guide strategic national prioritisation of actions on product impact issues and the accompanying PIM Work Plan. However, without an overarching strategy it is difficult to determine how this shared approach to product stewardship by Australian, state, territory and local governments will work in practice.

Summary of Recommendations

- Develop a mechanism to ensure local government input is sought as part of the AAE process.
- An independent party from the sponsoring jurisdiction, such as the Federal Government, should oversee the escalation of ineffective product stewardship schemes.
- More detail is required on how to transition a scheme from a state/territory to a national approach.
- Develop a process for how products on the Work Plan are prioritised including input from local government.
- Explore mechanisms to ensure industry data is available for the AAE process.
- Develop a corresponding process to proactively manage product impacts before new products enter the Australian market.
- The Work Plan should use clear language and use 'SMART' objectives to measure outcomes.
- Develop criteria for when a product should be removed from the Work Plan based in a thorough evaluation of the effectiveness of the stewardship approach.

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