**Consultation Regulatory Impact Statement**

**Packaging Impacts**

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**Submission to: Standing Council on Environment and Water**

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**CONSULTATION REGULATION IMPACT STATEMENT on PACKAGING IMPACTS**

**Executive summary**

The collection of litter is clearly one way to keep our environment clean. We believe that by changing behaviour through education and community engagement in programs that encourage positive attitudes towards recycling and litter reduction we can achieve this objective. There needs to be a holistic approach as one program or initiative will not achieve these results.

The litter cycle commences with the manufacturer or producer who generates the product therefore an extender producer responsibility exists on the principle that if you bring something to the consumer you are responsible for its packaging and recycling after consumption. The consumer needs to be educated to recycle the product and not discard it as litter. The responsibility of litter therefore lies with several groups and any program to reduce litter and increase recycling must involve these parties.

Currently Australia has the Australian Packaging Covenant (APC) and the Packaging Stewardship Forum (PSF) with a primary focus on packaging and recycling. The current position is that there is no obligation on producers or users and the approach depends on a voluntary commitment. This clearly is not satisfactory as many producers are not members and therefore have no legal obligation to do the right thing. For litter prevention strategies to be successful there needs to be Commonwealth legislation governing Extender Producer Responsibility that requires all producers to ensure packaging which is guaranteed to be recycled after consumption of their products.

The *packaging impacts consultation regulation impact statement* has four options. Option 2 has been put forward by the PSF as a proposal to reduce litter and increase recycling. The proposal relies on the National Bin Network (NBN) as a method of reducing litter and increase recycling. This proposal allows for a substantial increase of bins around Australia to encourage and educate people to place litter in appropriate bins; rubbish in rubbish bins and recyclable material in recycle bins. There is no stated plan for an infrastructure to support these bins leaving questions as to who would service them and where would the rubbish and recycled material be taken and at what cost?

Currently in Western Australia there are several different methods adopted by Local Government Councils/Shires in their bin collection and recycling practices. Many of these Councils currently have difficulty in keeping up with current waste from bins supplied without the addition of further bins. This proposal does not provide any incentive to the community to recycle other than providing bins.  It equally provides no incentive to reduce the creation of packaging materials at source relying on rubbish collection as the solution.

To change consumer behaviour we need to provide incentives to encourage people to think about recycling and not discarding the container. Option 4, a mandatory Container Deposit Scheme (CDS) provides an incentive for people not to discard the container and an incentive to collect a discarded container thereby achieving a higher rate of recycling and a reduction of litter. The suggestion in this option to limit the containers to beverage containers should be expanded to include other containers. One of the recommendations in the Stakeholder Advisory Group report on best practice CDS for Western Australia suggested a broader range of containers should be considered. It is our understanding that if this option was accepted then the APC would continue this would incorporate both approaches by changing behaviour and better packaging to reduce litter and increase recycling.

In order to achieve the objectives as stated in the paper it requires a two pronged approach, one focused on manufactures and producers and the other on the community’s willingness to participate.

To achieve this, KABC holds the opinion that a two-pronged approach is required where the APC should continue with the support of legislation for requiring all producers/packagers to be members and to have targets and penalties (2C) and a CDS (4) introduced across Australia to engage the community who have already indicated their support for the system.

**Background**

Keep Australia Beautiful Council of Western Australia is established by the Litter Act 1979 to make provisions for the abatement of litter in Western Australia. Our vision is to strive for a litter free Western Australia. It is our aim to reduce litter and littering by developing and implementing effective policy, education and enforcement initiatives. This direction has been articulated in our Litter Prevention Strategy 2009-2014. The Council supports initiatives that increase recycling and reduce litter, in particular away from home litter.

Key initiatives underpin litter abatement and waste management and resource recovery. Programs include Tidy Towns Sustainable Communities, Adopt-a-Spot, Clean Marine, Clean Schools education, Bin Your Butt, the Litter Reporter Scheme, Outback Packs to name a few.

KABC participates in the National Litter Index as a way of monitoring progress of their initiatives and programs.

KABC supports any initiative which encourages community participation in litter abatement and waste reduction activities.

**KABC response to the ConRIS Proposed Options**

1. *Non-regulatory national waste strategy funded from additional government resources – jurisdictions working together to coordinate programs and to increase recovery and recycling of packaging (and not implementing any further regulation). This does not place any onus on the packaging industry or other industries that use packaging.*

**Comment 1:** This would be a more coordinated approach than the current situation but places the onus on governments (Commonwealth, State and Local) and utilises their funding to develop strategies for packaging reduction.

This approach does not obligate the producers or users of packaging to alter their behaviour in terms of improving design, reducing production and / or use of packaging and who will have to be enticed into actions which will be voluntary. This approach will also lead to inconsistent and varied approaches among jurisdictions based on budgets and priorities at the time.

A non-regulatory approach does not give any responsibility or obligation to the industry producing and using the products which means there is little incentive for them to seriously address the issue to minimise its impacts.

**This option is not supported.**

*2. Industry co-regulatory packaging scheme under the new Packaging Stewardship*

*Act.*

*a. Bringing the APC under the Act as it currently operates and initial advice received is that this option is conceptually possible.*

*b. Industry Packaging Stewardship – a greater commitment by packaging*

*industry to address problems.*

*c. Extended Packaging Stewardship*

Under each of these options, the current Australian Packaging Covenant and the NEPM arrangement would transition under co-regulatory provisions of the Act. The C’wealth Government would develop regulations under the Act specifying liable parties and setting minimum outcomes and operational requirements for approved co-regulatory arrangements.

The various options a-c represent increasing levels of industry action and funding. Each sub-option would focus on a greater number of problems and barriers. Sub-option 2a targets strengthening the packaging compliance regime and targets away-from-home recovery and recycling through infrastructure and other initiatives.

A co-regulatory arrangement under the Act would differ from the current APC Covenant including liable parties, enforceable targets and penalties. Options a-c increase in target number of tonnes of recycling and amount of litter.

Because of the constitutional limitations of the Act, state, territory and local governments and NGOs would not be liable parties – the liable parties must be, or have been, manufacturers, importers, distributors or users of the products in question – that is, consumer packaging.

Funding comes from the packaging brand owners and the beverage industry. Industry has estimated the cost of initiatives under the National Bin Network (NBN) to be $20 million per year.

**Comment 2:** The 2a and 2c Options are co-regulatory arrangements which means that industry is liable for changes in recovery and recycling rates with enforcement and penalties being a feature of the process to enforce required outcomes. This approach has the flexibility for the packaging industries to choose the way the initiatives are determined and implemented which may have inconsistencies throughout jurisdictions.

Option 2c has greater onus placed upon industry in terms of types of materials and levels of recycling than 2a.

Because of the flexibility, some jurisdictions which have Container Deposit Schemes may be penalised as the packaging industries may view that in those jurisdictions initiatives already exist for the accumulation of those tonnages.

**Options 2a and 2c have merit and are supported** but not as the total solution to the problem of packaging.

Option 2b, introduced as an option by industry itself relies on the NBN (National Bin Network) which largely targets the locating of thousands of bins throughout the nation and is an end of pipeline approach to recovery of packaging rather than any initiatives aimed at the reduction and re-design of more appropriate packaging. The co-regulatory approach aims at increasing tonnages of packaging collected rather than reduction in packaging produced.

Problems have also been identified by local governments, recyclers and private land owners with the implementation and operation of an NBN, where consideration of servicing and maintaining these bins has not been considered. In addition, the inherent problems of contamination associated with away from home recycling pose a real risk to the success of the NBN.

As the regulations are yet to be formulated, there would need to be consultation in determining these and the associated penalties for non-compliance.

**Option 2b has some merit, as the regulation of the industry where all packaging related industries have obligations and targets and ensuing penalties if targets are not met. This support however, is not in isolation but as a pert strategy to reduce packaging and increase its recycling rates.**

*3. Mandatory advance disposal fee (ADF). Government levy a fee to create a pool of funds.*

This option would involve the government placing a mandatory ADF on all packaging materials. As this option may have broadly similar initiatives to those of 2c, it would address similar problems and barriers.

An ADF is intended to influence producer choices toward particular policy objectives. There are a number of ways that an ADF may reduce packaging waste being sent to landfill including:

* Source reduction by manufacturers and brand owners
* Reduction in consumption of packaging
* Increased recovery of used packaging.

An ADF provides for the end-of-life management of packaging and for other environmental initiatives. An ADF would require new legislation.

**Comment 3:** While the ADF could supply funds for the management of packaging similar to option 2c, there is no mention of any onus on the consumer packaging brand owners and what body or how this levy would be administered.

This approach does not obligate the producers or users of packaging and who will have to be enticed into actions which will be voluntary. This approach will also lead to inconsistent and varied approaches among jurisdictions based on budgets and priorities at the time.

**This is the least preferred approach as at any time this source of funding could be directed and used for purposes not related to the packaging issue**.

*4. Mandatory Container Deposit Scheme (CDS)*

*a. Boomerang Alliance scheme model*

*b. Hybrid container deposit scheme (SA & Overseas).*

This option involves establishing a mandatory CDS to deal with beverage container packaging waste. This would be a deposit-refund arrangement under the co-regulatory and /or mandatory provisions of the Act. This also requires new legislation to authorise the scheme.

This option targets away-from-home recovery and recycling and litter reduction by introducing a deposit on all beverage containers and **not the broader packaging industry.** It is assumed that the APC would continue under this option.

The difference between option a) and b) is in the number of collection points suggested and that body that coordinates the system – in 4a) it is suggested a not-for-profit run the scheme and in 4b) that its is an industry (manufacturers and importers) run the scheme.

**Comment 4:** As shown by recycling rate in South Australia of 80% (confirmed by PSF report on the NBN) for beverage containers, a CDS is very effective in the recovery and recycling of items which have a refundable deposit on them. This form of incentive involves and encourages community participation in the task of recycling their packaging containers. None of the other options so directly and clearly involve the individual consumers in the collection process as shown where South Australia is the only state that has this level of recycling of beverage containers. Therefore, KABC is supportive of a CDS that can raise other jurisdictions recycling rate to this level.

One of the issues of concern is that those businesses being affected by a CDS may not participate in any of the broader range of stewardship initiatives such as the APC, which suggests that some mandatory requirements should be deemed necessary to overcome this possibility.

The impacts of the current fragmented and inconsistent recycling and litter management of packaging means there are duplicated costs of administration to state and local governments and increased costs to businesses working under varying jurisdictional requirements. Another impact is the lack of capacity for resource recovery and litter management education and awareness campaigns to be widely spread because of jurisdictional differences. The current inconsistency and duplication is the source of constant frustration to many.

A common CDS throughout the nation would allow for streamlining the collection and recycling process and the ability to communicate the requirements to the Australian community. **This option is supported but not in isolation as there is a need for industry regulation as well.**

KABC would question the economic analysis of the two proposed schemes which make them seem perhaps more expensive to implement than they really are. Also, the ‘other benefits’, not taken into account in the cost benefit analysis seem to make all ,options far more appealing and bring values close to positive in even the worst case scenario.

These Schemes limit the collection to beverage containers only, which creates an issue with regard to all other packaging. The ConRIS makes the assumption that the Australian Packaging Council (APC) will continue with funding for other initiatives to address other packaging issues. This would mean the APC continues their voluntary participation with regard to initiatives to increase recycling.

KABC would suggest that to achieve the behaviour change that we are looking for in industry (that is redesign and reduction), there should be a requirement under legislation (either Option 2A or 2C) for there to be targets and penalties for the packaging industry.

**Conclusion**

KABC is committed to litter reduction and prevention and therefore submits the proposal that packaging waste cannot be reduced through one of the proposed options only because both outcomes are not targeted by any one option. A **hybrid approach**, one designed and directed at the packaging industry and one that is directed at enlisting community support and action could achieve significant gains in the waste management story for Australia.