

Submission on the Australian Packaging Covenant Organisation Towards 2025 Discussion Paper



August 2018

Status of this Submission

This Submission has been prepared through the Municipal Waste Advisory Council (MWAC) for the Western Australian Local Government Association (WALGA). MWAC is a standing committee of WALGA, with delegated authority to represent the Association in all matters relating to solid waste management. MWAC's membership includes the major Regional Councils (waste management) as well as a number of Local Government representatives. This makes MWAC a unique forum through which all the major Local Government waste management organisations cooperate. This Submission therefore represents the consolidated view of Western Australia Local Government. However, individual Local Governments and Regional Councils may have views that differ from the positions taken here.

This Submission was endorsed by the Municipal Waste Advisory Council on Wednesday 29 August.

Executive Summary

The Association welcomes the opportunity to comment on the Australian Packaging Covenant Organisation (APCO) Discussion Paper, *Towards 2025*, which starts the process of identifying how industry, government and the community can work together to achieve the Targets agreed by Ministers at the April 2018 meeting.

Local Government has long advocated that all packaging must be designed for recovery and welcomes the Target set by Ministers that all packaging should be reusable, recyclable or compostable by 2025, or earlier. However, the Association has concerns that the current legislative framework underpinning the APCO will not facilitate the achievement of this Target.

The Association, through the Municipal Waste Advisory Council, was previously a member of the Australian Packaging Covenant but withdrew its membership due to concerns that the Covenant was not having an impact on packaging design, how funds were allocated and the governance arrangements of the Covenant. It is acknowledged that the APCO is actively seeking to address these issues, but as identified in Recommendation 1 of this Submission, the Association considers that industry, through APCO, must be required to deliver specific activities under an alternative legislative framework.

The Discussion Paper outlines a series of Targets designed to achieve the matters agreed by Ministers. It is important that the specific wording agreed by Ministers is reflected in the Targets. For a number of the other Targets, it is difficult to determine if they present a realistic goal, given the limited information that is available on the current position of the industry. For the Targets to be achieved, there may be a need to establish new collection systems. This consideration is particularly relevant for compostable packaging, with the current percentage of households with access to kerbside systems that are able to accommodate compostable packaging unknown.

The Covenant's existing Programs and activities are provided in the Discussion Paper. The Australasian Packaging Label is supported by Local Government, as it provides product specific information to consumers on whether packaging can be recycled through the kerbside collection system. However, there are concerns that the effectiveness of the Label will be undermined by the current voluntary approach to implementation. Use of this Label should be a mandatory requirement.

1. Introduction

The Association welcomes the opportunity to comment on the Australian Packaging Covenant Organisation (APCO) Discussion Paper, *Towards 2025*, which starts the process of identifying how industry, government and the community can work together to achieve the Targets agreed by Ministers. The Discussion Paper follows on from the Meeting of Environment Ministers in April 2018, where there was a strong focus on packaging waste and the impact that China's National Sword initiative was having on recycling in Australia. Ministers agreed to:

- *Reduce the amount of waste generated and make it easier for products to be recycled. Ministers endorsed a target of 100 percent of Australian packaging being recyclable, compostable or reusable by 2025 or earlier. Governments will work with the Australian Packaging Covenant Organisation (APCO), representing over 900 leading companies, to deliver this target. Ministers endorsed the development of targets for the use of recycled content in packaging, and this will be closely monitored.*
- *Encourage waste reduction strategies through greater consumer awareness, education and with industry leadership.*
- *Increase our recycling capacity. Ministers agreed to work together on expanding and developing our recycling industry to not only take the waste that would have gone to China, but also to grow our domestic capabilities.*
- *Increase the demand for recycled products. Ministers agreed to advocate for increased use of recycled materials in the goods that government and industry buy, such as paper, road materials, and construction materials, and to collaborate on creating new markets for recycled materials.*
- *Explore opportunities to advance waste-to-energy and waste-to-biofuels projects, as part of a broader suite of industry growth initiatives, recognising the reduction, reuse and recycling of waste is a priority, consistent with the waste hierarchy. This will include support from the Clean Energy Finance Corporation and the Australian Renewable Energy Agency.*
- *Update the 2009 Waste Strategy by year end, which will include circular economy principles.*

This Submission addresses the broader Product Stewardship context that the Covenant operates in, and the ability of the Covenant to effect change in packaging design. These issues are relevant, as they provide the structure/framework in which the Targets are to be achieved. The Submission then provides comment on the Targets, APCO Resources and Tools, and Definitions.

2. Product Stewardship and the Packaging Covenant

Product Stewardship Act

In considering the APCO's Discussion Paper, it is worth revisiting some of the recommendations made by the Association in its Submission to the Department of Environment and Energy on the *Review of the Product Stewardship Act 2011 and the National TV and Computer Product Stewardship Scheme* (June 2018).

The packaging industry is currently regulated by Government through the legislative framework provided by the *National Environmental Protection (Used Packaging Materials) Measure 2011 (NEPM)*, as opposed to that of the *Product Stewardship Act 2011*. The NEPM outlines the requirements that industry participants must meet if they are not a member of the Covenant. The

recent announcement¹ by the APCO that businesses will be notified of the requirement to comply with the NEPM through a brand audit, raises questions as to how effectively the Government and Covenant has been monitoring industry's compliance with NEPM requirements. NEPM's require resourcing and implementation in each jurisdiction, and regulation is likely to vary based on the priority given to the issue by each State and Territory.

There is a need for a consistent approach in implementing Product Stewardship Schemes in Australia, as the current mixture of mechanisms and approaches does not facilitate consistent outcomes. One way this could be achieved, is by regulating all Schemes under the same legislation. In the Association's recent Submission to the Department of Environment and Energy on the *Review of the Product Stewardship Act 2011 and the National TV and Computer Product Stewardship Scheme*, the following key recommendations were made:

Recommendation: That the term 'shared responsibility' is clearly negotiated, understood and agreed to by all parties on a long term basis, with respect to roles and responsibilities in implementing Product Stewardship Schemes, in terms of financial and physical responsibility for end-of-life management.

Recommendation: That Product Stewardship Schemes are designed to fund the implementation of each party's roles and responsibilities, on an equal basis.

Recommendation: That Product Stewardship Schemes are designed to address multiple classes of products, and engage the community, Local Government and the resource recovery industry in a consistent manner.

Recommendation: To demonstrate the effectiveness of a Scheme, there must be a thorough and clear adherence to all objects of the Act, with respect to the entire lifecycle of the product.

Recommendation: That Product Stewardship Schemes are designed to reflect all objects of the Act, by:

- *Assigning manufacturers, importers, distributors and Arrangements with a financial or physical responsibility for managing actual end-of-life impacts, as opposed to projected end-of-life impacts and/or*
- *Prohibiting the sale or distribution of new products, where there is no clear pathway to manage end-of-life impacts in an environmentally sound manner.*

All of these recommendations focus on the need for a consistent, and equitable approach to the design and implementation of Product Stewardship Schemes. To develop and maintain a respected 'brand,' of Product Stewardship, it is imperative that the same expectations on what outcomes are to be achieved, are reflected in the design of all Schemes. The Association is of the view that the APCO should be held to the same standard as that of other Product Stewardship Schemes. Given its prior performance, this industry must be regulated by Government through either a mandatory or co-regulatory Scheme under the *Product Stewardship Act 2011*.

Recommendation: That the Australian Packaging Covenant be reconstituted as a mandatory or co-regulatory Product Stewardship Scheme under the *Product Stewardship Act 2011*.

Packaging Covenant

WALGA, through the Municipal Waste Advisory Council (MWAC), actively represented the interests of Local Government on the Covenant Council from 1 November 2005 to 24 June 2015. In 2015, WALGA withdrew from the Covenant for the following reasons:

- *Unclear Governance - The National Packaging Covenant Industry Association (NPCIA) is the service delivery unit for both the Australian Packaging Covenant and an anti-container deposit*

¹ APCO (25 June 2018). Empowering Australian businesses to meet their sustainable packaging obligations. Available online. <https://www.packagingcovenant.org.au/news/empowering-australian-businesses-to-meet-their-sustainable-packaging-obligations>.

legislation lobbying organisation. This presents a fundamental conflict of interest for employees of the NPCIA and for the delivery of the Covenant.

- *Limited improvement and impact on Packaging Design - The Covenant aims to have an impact on packaging design, to make packaging more sustainable. However, aside from a few case studies, there is no clear sector wide data to demonstrate that this is the case. Feedback from a number of companies, gathered from responses to complaints lodged by WALGA, indicated that the main driver in designing packaging, was to make packaging attractive to consumers. Research undertaken by the Covenant indicates packaging is moving towards lighter weight plastics and composite packaging – both of which are difficult to recycle in many areas. There is no consistent labelling as to the general recyclability of packaging and attempts to introduce this through the Covenant have failed.*
- *Ineffective Funding - Local Government and the community spend an enormous amount every year to recycle material and collect litter. These costs are not addressed or minimised by the Covenant. Project funding is sometimes useful but has not, in Western Australia, shown any broad impact on costs of recycling. Other Product Stewardship options such as Container Deposit Systems present a system change in how material is managed and the value it has. The TV's and Computers Product Stewardship Scheme has set the standard for future Schemes – the producer / manufacture should ensure the majority of the costs are cover at point of purchase, not left to be collected at end of life through the rates system.*

While the new APCO is actively seeking to address some of these issues, a robust legislative framework is required to ensure that outcomes are achieved. The *Product Stewardship Act 2011* provides a way for a consistent, national approach to be taken on this important issue.

3. Targets

The intent of the Discussion Paper is to inspire stakeholders to develop their own ideas on how to achieve the Targets set by Ministers in April 2018. In considering how industry can achieve the Targets through the APCO, its past performance must be taken into account. As discussed in section 2 of this Submission, the Association considers that the structure of APCO provides limited ability to effect change, particularly in relation to packaging design. The Association is not confident that a voluntary phase out of certain unrecyclable packaging will achieve this Target. All activity needs to be underpinned by compulsory requirements, with the packaging industry regulated by Government through either a mandatory or co-regulatory Scheme under the *Product Stewardship Act 2011*.

100% of packaging to be reusable, recyclable or compostable

The Discussion Paper suggests that this is an “ambitious” Target. Local Government has long advocated for packaging to be designed for recovery and welcomes this Target. Industry and Government inaction have resulted in the current situation, where packaging is not designed for recovery.

The specific wording of the Target that was agreed at the Meeting of Environment Ministers, was that the packaging outcomes should be achieved by 2025 or earlier.

Recommendation: That the Target be reworded to state ‘By 2025, or earlier, 100% of packaging to be reusable, recyclable or compostable’.

In relation to the compostable and reusable element of the Target – consideration must be given to the configuration of collection systems and market outlets that are required to recover this type of material. International Recycling Organisations noted that “*materials must demonstrate that they can be collected and sorted in sufficient quantities, must be compatible with existing industrial recycling processes or will have to be available in sufficient quantities to justify operating new recycling processes*”². This is also a necessary condition for compostable packaging. In order for compostable

² Waste Management World (2018). Global Definition of Plastics Recyclability from International Recycling Associations. Available online <https://waste-management-world.com/a/global-definition-of-plastics-recyclability-from-international-recycling-associations>

packaging to be recovered, a dedicated collection, sorting and processing system must first be in place. Both residents and commercial businesses must have a clear understanding of how to use the system. There must also be sustainable, local market outlets for recoverable material.

By 2025, phase-out problematic or unnecessary single-use plastic packaging items through redesign, innovation or alternative (reuse) delivery models

The sector welcomes the phase-out of problematic or unnecessary single-use plastic packaging. A number of Local Governments are already working to achieve this objective at events and in their own operations. It should be noted that in June 2018, the Senate Standing Committees on Environment and Communications completed an inquiry into waste and recycling in Australia, the findings of which include a call for single-use plastics to be banned by 2023³.

The Association is concerned with the use of the phrase “problematic or unnecessary,” as these are highly subjective terms. A complete ‘phase out’ of all single-use plastic items which cannot be recycled, composted or reused would provide the industry with a more specific outcome to achieve.

70% of plastic packaging recycled or composted by 2025

The 2015/16 National Recycling and Recovery Survey for plastic packaging⁴, indicates that the recycling rate for all plastics at this time was 31%. Table 1 of this Report identifies the different recovery rates for different types of plastic. The Report also identifies the amount of flexible plastic recovered in 2015/16 - 48,100 tonnes. However the amount that was used is not identified which means the recovery rate is not known. The Report also states that “*it is expected that strong growth in flexible plastic packaging will be seen nationally over the next 5 years, driven by increasing recovery through kerbside collections from households.*” This is unlikely to be the case in Western Australia, as the major Material Recovery Facilities have agreed that flexible plastic should not be collected through the kerbside recycling system. Industry will need to consider alternative ways to reduce and recycle this type of material.

The Target set by the Ministers requires that all packaging is recyclable, reusable or compostable by 2025, or earlier. Local Government considers that this Target also applies to plastic packaging.

³ Senate Standing Committees on Environment and Communications (26 June 2018). Waste and recycling industry in Australia. Available online. https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/WasteandRecycling/Report.

⁴ Australian Packaging Covenant (12 December 2016). National Recycling and Recovery Survey (NRRS) 2015–16 for plastics packaging (IND 299/16). Available online. <https://www.packagingcovenant.org.au/documents/item/1070>.

Table 1 – Packaging consumption and recycling by polymer type in 2015–16

Polymer	Packaging consumption (updated method)	Domestic reprocessing of packaging	Export of packaging for reprocessing	Total reprocessing of packaging	Packaging recycling rate
	(tonnes)	(tonnes)	(tonnes)	(tonnes)	(%)
PET (1)	116 800	26 200	39 400	65 600	56.2%
PE-HD (2)	301 400	27 400	52 500	79 900	26.5%
PVC (3)	23 600	100	1 600	1 700	7.2%
PE-LD/LLD (4)	218 100	31 900	29 000	60 900	27.9%
PP (5)	88 500	15 500	17 400	32 900	37.2%
PS (6)	11 700	900	4 100	5 000	42.7%
PS-E (6)	23 500	1 800	5 100	6 900	29.4%
ABS/SAN (7)	2 900	400	0	400	13.8%
Unknown polymer	57 900	9 700	0	9 700	16.8%
Totals	844 400	113 900	149 100	263 000	31.1%

Notes: 1. In the table above minor discrepancies may occur between the stated totals and the sums of the component items. Totals are calculated using component item values prior to rounding, and therefore a minor discrepancy may occur from those that could be calculated from the rounded figures given above.

30% average recycled content across all packaging by 2025

The current level of recycled content in packaging is not included in the Discussion Paper. Without this information, it is difficult to conclude if 30% is a reasonable Target to set. Further investigation will be required to identify and address barriers to the use of recycled content, including potential market requirements for collected material. Other approaches that have been used, for example by the European Union Commission, include a campaign to achieve the use of 10 million tonnes of recycled plastics in new products in the EU Market.

APCO members purchase recycled content products containing recyclate equivalent to 30% of packaging tonnages sold per annum

The Target does not make clear if this is to be achieved by individual companies, or collectively. For example, one company could purchase 100%, whereas another may only purchase 5%. Again the data to support, or oppose, 30% as a Target is not presented in the Discussion Paper. It should also be qualified that Australia should be the preferred source of recyclate, in order to deliver on the Minister’s request to improve the recycling industry.

100% of Government Departments have implemented a procurement standard that includes the purchase of recycled content

The Association supports the adoption of this Target.

4. APCO Resources and Tools – current and planned

This Discussion Paper contains a number of suggested actions that the Covenant and industry could use to achieve the Target, focusing predominately on the APCO Packaging Recycling Label Program, the APCO Packaging Sustainability Framework and the Sustainable Packaging Guidelines.

APCO Packaging Recycling Label Program

Local Government supports the introduction of consistent labelling on packaging recyclability, as a matter of urgency. This is one way to reduce community confusion on what packaging can or cannot be recycled in the existing kerbside recycling system. Based on the feedback provided by beverage manufacturers in the design and implementation of various Contain Deposit Schemes, the

Association is aware that the industry can accommodate changes to packaging labels within two years. The label should be a compulsory requirement for all packaging. The Label is likely to require further refinement over time, as all packaging transitions to recyclable, compostable or reusable.

Sustainable Packaging Guidelines

The Covenant aims to have an impact on packaging design, to make packaging more sustainable. However, aside from a few case studies, there is no clear sector wide data to demonstrate that change has occurred as a result of the Covenant. Industry's uptake of the Guidelines has varied, with differing interpretations as to what constitutes sustainability. Some companies have even justified the provision of products to consumers that cannot be recycled at end of life as sustainable, by focusing on the economic return that a particular product design delivered to the company. Research undertaken by the Covenant indicated packaging is moving towards lighter weight plastics and composite packaging – both of which are difficult to recycle.

The APCO has indicated that it is reviewing the Sustainable Packaging Guidelines. The review of these Guidelines should accommodate the achievement of the Target that all packaging should be recyclable, compostable or reusable.

APCO Recycled Products Marketplace

The APCO is aiming to establish a marketplace that their members can use to access recycled materials. This seems to be a duplication of existing market mechanisms. A more effective use of resources could be for the APCO to provide guidance to their members on existing suppliers of this materials – or an industry quality standard for recycled products.

5. Definitions of Reusable, Recyclable and Compostable

The approach used to define these terms, and practically apply them is supported. There is general support for the definitions that have been used, however some points of clarification are required:

- Compostable packaging – composting does not need to be limited to aerobic processes, as composting can occur through anaerobic processes.
- It is not clear whether the intent is for compostable packaging to be composted at home or in an industrial system.

6. Conclusion

Local Government strongly supports the application of Targets to ensure all packaging is reused, recycled or composted by 2025, or earlier. This will necessitate a number of changes in how packaging is designed and the types of materials that it is made of. The EU Commission has commented that *“if greater levels of high-quality recycling are to be reached, design issues must be addressed far more systematically”*⁵. This is an essential consideration in achieving the Targets. As the organisation tasked with delivering the systematic change required by Ministers, the APCO must be empowered by industry. The Association is concerned that the Covenant, as currently constituted under the NEPM, may not be able to achieve the required change.

Changes in packaging must also take into account the configuration of collection systems and market outlets available to recover it at end of life. Without dedicated collection, sorting and processing systems, different types of packaging cannot be recovered. Packaging must be clearly labelled to ensure that the community is equipped to sort material into the correct bin at kerbside.

⁵ European Commission (2018). A European Strategy for Plastics in a Circular Economy. Available online <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1516265440535&uri=COM:2018:28:FIN>