

Our ref: R90/0568 Out-12972
Further contact: Robert Verhey

15 November 2005

«MYR_MR_MS» «MYR_1ST_NAME» «MYR_2ND_NAME» «MYR_GONG»
«MYR_LRD_MYR» of «NAME_SHORT»
«NAME_LONG»
«POST_BOX_ETC»
«POST_LOCALITY» NSW «POST_CODE»

Dear «MYR_MR_MS» «MYR_2ND_NAME»

We are writing to all NSW Mayors and chairs of Regional Organisations of Councils (ROCs) regarding the revised National Packaging Covenant.

The Executives' Planning and Environment Committee considered a detailed report and discussed the matter at some length at their September meeting. The relative merits of becoming a signatory were fully explored.

Ultimately, the recommendation to the Associations' Executives, subsequently endorsed, was as follows:

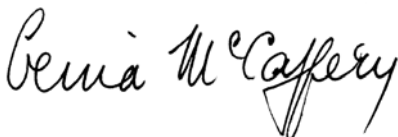
- 1. That the Associations decline to become a signatory to the revised National Packaging Covenant and maintain a firm commitment to extended producer responsibility and container deposit legislation.*
- 2. That the Associations offer to act in an advisory role to the National Packaging Covenant Council on the issues of relevance to Local Government.*

A background paper is attached. We trust that this fully explains the Associations' position on the revised National Packaging Covenant. While it is possible that individual councils and ROCs may be approached to become signatories, and this will ultimately be a decision for each individual council or ROC to make, it is hoped that this detailed explanation of the Associations' position will assist councils in their decision.

The Associations are of the view that there is no significant benefit to councils becoming signatories to the Covenant.

Should you wish to discuss this matter further please do not hesitate to contact either of us or the Associations' Strategy Manager - Environment, Robert Verhey.

Yours sincerely



Cr Genia McCaffery
President
Local Government Association of NSW



Cr Col Sullivan OAM
President
Shires Association of NSW

Background Paper, Associations' position on revised National Packaging Covenant November 2005

The first National Packaging Covenant ran from 1999 to 2004. This was a co-regulatory agreement between the packaging industry and governments. The Associations declined to sign the first Covenant for these main reasons:

1. It was based on the concept of product stewardship or "shared responsibility", which is at odds with the LGSA's position that industry should have life cycle responsibility (or "extended producer responsibility") for their packaging throughout its life cycle,
2. The Covenant precluded the consideration of mechanisms other than kerbside recycling,
3. The Covenant did not provide any financial subsidies to cover the significant ongoing costs of providing recycling services. These are estimated at \$290 million a year nationally or \$50 per household per year.

Following a review in 2004, a revised Covenant was provided to Environment Protection and Heritage Council (EPHC, comprising State and Commonwealth Environment Ministers) in December 2004. The Ministers rejected the revised Covenant, imposing a requirement that it include targets for the reduction of waste packaging disposal. A period of intense lobbying via the Boomerang Alliance (which the Associations are members of) and the preparation of a Regulatory Impact Statement (RIS) by Nolan ITU were followed by a new Covenant being presented to the Ministers on 1 July 2005. Ministers agreed to approve the revised Covenant until 2010, with a mid term review in 2008.

The new Covenant (NPC2) has been amended to incorporate the targets required by the Ministers. The overall target for recovery is 65% (up from the current 48%). For individual packaging materials, the targets to be reached by 2010 are:

- paper and cardboard 70-80% (currently 64%)
- glass 50-60% (currently 35%)
- steel 60-65% (currently 44%)
- aluminium 70-75% (currently 64%)
- plastics 30-35% (currently 20%).

The NPC2 recognises that these targets will not be achievable through kerbside systems and that significantly increased recovery rates from away-from-home (events, commercial offices, government buildings, parks and gardens and strip shopping areas.) will be required. The NPC2 also acknowledges (but does not quantify) the fact that kerbside recycling involves a cost to local councils, stating:

"The objective will be on recovering additional quantities of packaging from the domestic stream where there is additional capacity within existing system parameters, while ensuring that there are no further costs incurred by local government beyond the current system parameters".

The financial commitment from industry signatories towards the achievement of these targets is \$3 million a year nationally, to be matched by State Governments. As was the case in the original Covenant, this matching funding will not involve any new money from the State Governments, but their commitment will be honoured via existing programs and expenditure.

The NPC2 includes a requirement for a mid-term review to report on progress towards targets by the end of 2008. Ministers have also called for a "Parallel Process" during the years 2005-8 to investigate alternative options to the Covenant, should the mid term review indicate a lack of progress towards targets. This will presumably include initiatives such as container deposit legislation, advanced disposal fees, producer take-back and other initiatives which have been applied in Australia and overseas. In the event of poor progress towards targets, the NPC2 specifies:

"should this evaluation clearly demonstrate that the progress of the Covenant / NEPM model against its targets is unsatisfactory, the EPHC and/or participating jurisdictions will give due consideration to the development and implementation of alternative policy options in full consultation with all stakeholders, as a replacement for the Covenant / NEPM model upon its expiry".

The NPC2 continues to be based on the principle of product stewardship/ shared responsibility. In the case of Local Government signatories, the requirement is as follows:

"Local Governments will:

- *Implement good practice materials recovery systems.*
- *Apply transparency to municipal budgets and rates so that the financial aspects associated with waste disposal and kerbside collection systems are available to households and the general community.*
- *As appropriate, apply variable rate charging to domestic waste collection with users charged by volume or weight for waste collected for disposal".*

The Associations' Executives considered this matter at their October meetings, noting the following:

- The requirements on Local Government signatories (as listed above) are in effect no more than they are doing now. So becoming a signatory does not impose any additional requirements on the Associations' member councils. Conversely, signatory status could be seen as irrelevant given the ongoing role of councils in the provision of recycling services.
- The funding available (\$3 million from industry matched by State Governments) is a fairly small contribution given Local Government's ongoing financial contribution of \$300 million a year. This "3+3" funding cannot be used for financially supporting losses incurred through kerbside (nor would it go very far in doing so), however it can, by decision of NPCC, be made available to councils (whether signatory or not) to assist them in improving their kerbside and away from home services. In these cases, NPC2 states *"The Mayor and CEO of the proposing organisation make a formal declaration of their endorsement of the principles and objectives of the Covenant"*.
- The NPCC has shown a tendency in the past to interpret (and publicly profess) that any organisations who become signatories are supportive of all aspects and principles of the Covenant. There are, however, aspects of the revised Covenant which are still at odds with long standing LGSA policy positions.
- The Executives were of the view that NPC2 is unlikely to achieve any significant environmental outcomes. As an example, the plastics industry have negotiated a very conservative target (30-35%), while there are systems available (including CDL in SA) which achieve recovery rates for plastic packaging in the order of 70-80%.
- Being a signatory may give a greater opportunity for the Associations to have input into the parallel process, though it is understood that this parallel process will be progressed via the EPHC working group, on which ALGA is represented.
- The Associations could consider becoming a conditional signatory, time limited and with continuation dependent on satisfactory progress within a time frame of 12 months or three years (until the 2008 mid-term review). There are benefits to this, in that it gives a signal that Local Government gave the Covenant a chance to reach targets, which, if not reached, would give a strong case for Ministers to be held accountable for their promise to introduce alternative mechanisms. It is worth noting, however, that the process for considering and introducing these alternative mechanisms post 2008 review (as provided above) is by no means a watertight commitment.

In summary, the Executives identified the following advantages and disadvantages of becoming a signatory:

Advantages of signing

- A seat at the table of National Packaging Covenant Council,
- Local Government able to say they have given the second Covenant a chance to deliver,
- Funding available for NSW councils without them having to pledge allegiance to the Covenant,
- Chance that individual councils /ROCs will be approached to sign ("divide and conquer"),
- Signatory status could be subject to many stringent conditions.

Advantages of not signing

- Covenant unlikely to deliver significant progress in terms of Extended Producer Responsibility (EPR) or recycling rates,
- Local Government able to say it has stuck to principles regarding EPR,
- Covenant Council unable to circulate perception that Local Government supportive of basic principles of Covenant (shared responsibility),
- Covenant will not make much difference to councils: quantum of funds available (matched \$3 million) is very little compared to Local Government's ongoing commitment to kerbside recycling. And importantly, non-signatory status does not preclude access to funds

The Executives considered that signatory or non-signatory status of the Associations will have little if any impact on member councils. The NPC is ultimately a Co-Regulatory instrument between Regulators (State and Commonwealth Governments) and the Packaging Industry. The strength of the Covenant and its outcomes will not be determined by Local Government's signatory status / compliance or otherwise, it will largely be determined by the resolve of the State Governments to diligently pursue the commitments made by industry and impose sanctions on non-performing industry sectors in a timely fashion. Local Government's main role at the NPCC table would be to keep the State and Federal Government's "on the case" so that they in turn would keep the pressure in industry.

Ultimately the Executives resolved:

- 1. That the Associations decline to become a signatory to the revised National Packaging Covenant and maintain a firm commitment to extended producer Responsibility and container deposit legislation.*
- 2. That that the Associations offer to act in an advisory role to the National Packaging Covenant Council on the issues of relevance to Local Government.*

It is hoped that this background paper fully explains the Associations' position on the revised National Packaging Covenant. While it is possible that individual councils and ROCs may be approached to become signatories, and this will ultimately be a decision for each individual council or ROC to make, this detailed explanation of the Associations' position may assist councils in making their decision.

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