

LGNSW SUBMISSION

Driving NSW's Circular Economy: Discussion Paper on Enhancing the NSW Container Deposit Scheme

DEC 2022

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



OVERVIEW OF THE LOCAL GOVERNMENT SECTOR



Local government in NSW employs more than **55,000 people**



Local government in NSW looks after more than **\$136 billion of community assets**



Local government in NSW spends more than **\$1.9 billion each year on caring for the environment, including recycling and waste management, stormwater management and preserving and protecting native flora and fauna**



NSW has 450 council-run libraries that attract more than **34.8 million visits each year**



Local government in NSW is responsible for about **90% of the state's roads and bridges**



NSW councils manage an estimated **3.5 million tonnes of waste each year**



NSW councils own and manage more than **600 museums, galleries, theatres and art centres**

Table of contents

Opening	4
LGNSW Policy Position	4
Response	4
Implementing the proposed changes	5
Shared responsibility to reduce drink container waste	7
Simplifying refunds for consumers	8
Concept of 'first supplier'	8
Exporters	8
Extending responsibilities to all suppliers	8
Managing the relationship with recovery facility operators	8
Payments to facilities outside NSW	9
Broadening participation	9
Maintaining transparency	9
Fraud prevention	9
Recommendations	10
Conclusion	11

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 provide feedback to the NSW Environment Protection Authority (EPA) on the *Discussion Paper: Driving NSW's circular economy* (the Paper) as this is a matter of importance to local councils and other stakeholders within the local government sector. LGNSW has consulted with councils and other key stakeholders to inform this submission.

In developing this response, LGNSW sought feedback from NSW councils and regional waste groups. LGNSW would like to acknowledge the effort EPA staff have taken to seek feedback on this Strategy, especially attending LGNSW's webinar.

This submission was endorsed by the LGNSW Board in February 2023.

LGNSW Policy Position

Councils provide waste, recycling and resource recovery services to the community, provide and operate recycling and disposal infrastructure and work tirelessly to reduce the amount of waste ending up in landfill by educating residents, businesses and schools about waste avoidance and recycling. Councils continue to face significant challenges from increasing waste generation and lack of markets for Australian recycled content.

All levels of government, as well as business and the community need to work together as we move to a more circular economy where materials and products remain within the economy for longer and waste is reduced.

LGNSW advocates for the reinvestment by the NSW Government of the NSW waste levy collected from the community and industry to:

1. Fund the delivery of priority infrastructure as outlined in the Waste and Sustainable Materials Strategy (WASM).
2. Provide a sound regulatory framework and financial support to encourage investment and innovation in circular economy opportunities.
3. Fund and deliver state-wide education campaigns which focus on broad priority areas and concurrently provide funding to support councils with undertaking targeted community education.
4. Work with the Federal Government to introduce producer responsibility schemes for those items included on the Minister's Priority List.

Response

In general, LGNSW supports the expansion of the Scheme and the intention to harmonise Return and Earn with other State schemes by 2025. Councils appreciate the collaborative effort the EPA has taken to improve Return and Earn, both through this paper and EPA actions to date. Overall, councils are supportive of Return and Earn and its expansion to cover more containers.

LGNSW has provided considered feedback below covering the sections and questions outlined in the Paper. Those sections and questions which do not directly relate to Local Government have not been addressed.

Implementing the proposed changes

Do you support an expansion in scope of containers included in the NSW Scheme?

The proposed expansion of the Scheme is supported by local government, particularly the proposal to expand the scheme to capture wine and spirit bottles. This will help reduce the volume and weight of glass in council kerbside bins, decrease paper and cardboard contamination, and increase the value of any remaining glass (through 10c rebates). This will result in savings for council and cleaner glass, plastic, and paper recycling streams.

Do you support the proposed containers that would be included in an expanded scope?

LGNSW broadly supports the proposed containers to be included. Councils generally agree that progressing with the EPA's preferred method (Option 2) provides additional flexibility without drastic change to the Scheme's service.

However, there is concern about including wine satchels/bladders, as these are not currently accepted in NSW material recovery facilities (MRFs). Including them in the scheme and branding them as eligible for a 10c refund may mistakenly imply they can be recycled through kerbside collections. This raises issues around education (satchels will be an anomaly product in the scheme as the only item not usually accepted by MRFs).

It is noted that the containers listed for expansion on page 19 are different to the details of Option 2 as noted throughout the paper (and in the appendix on page 37). This submission assumed that this list should also have included wine and spirit bottles and larger juice containers up to three litres with no limitation on concentration of fruit content.

What factors will need to be considered and addressed during the transition period?

Councils are concerned about some key factors during transition, including:

Planning for increased emptying of reverse vending machines (RVMs). Given the increased volume of returns to RVMs, and the increased size of containers, councils have noted some concerns about increased collection from collection sites, mainly RVMs. Councils urge the network operator to comprehensively plan for this change to prevent full machines stopping consumer returns, servicing outside of accepted or preferable hours (where applicable) and increased noise complaints.

Increase in litter. Councils are already concerned with the removal of litter bins from many collection sites, particularly RVMs, and have not seen reported litter issues resolved. Councils consistently receive complaints about litter at return locations. The transition period is likely to amplify the litter around RVMs as consumers adjust to new eligibility and RVMs respond to new container shapes and beverage registrations. Given the expanded scheme will contain substantial quantities of glass containers prone to breakage, additional safety issues are expected. Councils strongly urge the EPA to reinstate and enforce the requirement to provide litter bins at each collection site at minimum, and co-mingled recycling bins where appropriate.

Need for clear community education. A clear community education program across several mediums will be required to ensure clarity in the messaging. This will be particularly important given the anticipated exclusion of plain milk containers and health tonics.

Provide resources to assist councils well before the change date. Councils expect to receive a significant volume of enquiries from the community regarding these changes. While councils understand this is not a local government program and that councils will not be required to lead community education efforts, councils will none-the-less receive a high volume of enquiries. It is important that supporting materials are provided to councils well in advance of the change date, including FAQs, contact phone numbers to report urgent issues and copies of community education materials for those councils that would like to assist with sharing the message.

Communicate any changes in kerbside auditing. Councils would like to see clear communication from the EPA to all councils should there be any changes to the auditing program as a result of wider eligibility. Councils anticipate that new baseline auditing will be needed and urge advanced warning for kerbside audits in local government areas. Councils should be provided copies of any data obtained.

Responding to issues occurring from 'bin diving'. Councils continue to receive community complaints for 'bin diving'. Bin diving is a term that describes people external to a residence going through the kerbside recycling bin when presented on the kerb to remove eligible containers for personal redemption. There is concern that with an increase in larger volume beverages and a greater glass component now eligible for redemption, spillage, litter, container breakage, noise and other complaints that ultimately end up made to councils will increase. The NSW EPA and Exchange for Change should consider how to increase the role they play in managing adverse effects of bin diving in preparation for increased complaints following the change in container eligibility.

Variety of shape and size of new eligible items. Spirit bottles are produced in a variety of sizes, shapes and even glass colour. While local government supports all spirit bottles being eligible, there is concern that RVM technology may not be advanced enough to identify all types.

Storage of containers in smaller return locations. Smaller collection points, often located in small businesses and charities, are expected to be impacted by an increase in size and scope of containers. There is some concern that there may be some withdrawal of these locations from the scheme due to the increased volume required for storage, or the availability for increased collections to counter this.

Re-assessment of collection point distribution. Several councils note that some rural and regional population centres are still not serviced by the Scheme network. This is a common complaint received by councils throughout rural and regional NSW. This is highly inequitable for regional Australians and should be addressed as a matter of priority. This effectively excludes certain communities from participating in the Scheme (unless they stockpile and transport containers great distances). One council noted 20 council owned sites for a RVM had been recommended to the Scheme operator, but all had been rejected.

Yellow bin analysis. Councils need to understand how the Scheme expansion would affect yellow bin contents and value. This is expanded in sections below.

What period of transition would be required to prepare impacted stakeholders?

The length of the transition period should be influenced by how effective the accompanying education campaign is.

The transition period needs to consider upgrades to infrastructure at all Return and Earn locations, especially those in regional areas where refunds are not semi-automated through RVMs. In regional areas, many collection points are over the counter so collecting large and heavy wine/spirit bottles may not be viable. There is already a storage issue threatening the

viability of these counters. There is concern that bigger and heavier containers may have a negative impact on involvement of community providers.

Several councils noted wait times for RVM are already prohibitively long, so expanding the scheme without significantly increasing RVM capacity will only increase delays. Long wait times for RVMs act as a significant disincentive to participate in the scheme.

Councils would like to see the proposed start date occurring after RVM capability upgrades are complete. There is concern about the speed of physical and software transition for RVMs to accepting all newly eligible items. A significant level of container rejections will impact participation, litter and safety, as detailed above.

What activities should be included to prepare impacted stakeholders?

As discussed above, a significant state-wide education campaign (funded by the NSW EPA or Scheme Operator) is essential.

A detailed audit of all return facilities would provide confidence that the community was being serviced adequately by the Scheme. There are several communities with populations of almost 1,000 with no collection points. This issue has been raised with the Network Operator before to no avail.

Additionally, an annual Return and Earn budget (provided through the Regional Waste Groups) would help councils promote the Scheme to residents on a more permanent basis. Councils have more active and effective media channels to help inform residents of changes and educate them on the Scheme in general.

How should stored wines and spirits be treated in an expanded Scheme?

Stored containers should be eligible for the scheme to ensure increased recovery and higher order circular outcomes are achieved. This is consistent with the initial introduction of the scheme to other containers. It is not clear how return points could distinguish between stored or new containers unless the beverage is no longer sold and therefore not registered for redemption.

Shared responsibility to reduce drink container waste

Do you think the Scheme is achieving the objects of Part 5 of the Act?

Yes, the Scheme is achieving the objectives of Part 5 of the Act.

Do you think the objectives remain valid?

Yes, these objectives remain valid. LGNSW supports producers bearing responsibility for promoting recovery, reuse and recycling.

Do you think the terms of the Act remain appropriate for securing those objectives?

Yes, LGNSW sees no reason to amend Part 5 of the Act. Ultimately producers are selling products into the economy that have the potential to cause environmental harm.

Simplifying refunds for consumers

Do you support NSW removing the penalty for redeeming containers purchased outside NSW?

Yes, LGNSW supports a harmonised approach across jurisdictions. This includes a reciprocal relationship with other scheme providers.

Concept of ‘first supplier’

Is the exclusion of contract bottlers supported?

Yes, LGNSW supports excluding contractor bottlers so brand owners (who ultimately sell containers) must enter a supply arrangement with the Scheme Coordinator. Again, LGNSW strongly supports harmonising these rules across all States.

Exporters

Would the NSW Scheme benefit from referring to exporters and or exports in the legislation? Why or why not?

Yes, as including exports and exporters in legislation would create levers to address and deter non-compliant and/or fraudulent behaviour.

Extending responsibilities to all suppliers

Do you support holding the entire supply chain accountable for metal ring pull lids and barcode requirements? Why/why not?

Yes, as this is an effective way to use supply chain pressures to deliver a high level of compliance (as seen with the requirement to have the refund mark).

Do you support holding the entire supply chain accountable for ensuring containers have a container approval? Why/why not?

Yes, as this is an effective way to ensure the supplier (brand owner) can only sell eligible containers.

Managing the relationship with recovery facility operators

When Return and Earn was introduced in 2017, councils and MRFs had to negotiate how CDS revenue would be split between them. For many councils this was an exhaustive and, in some cases, expensive process.

Although most councils/MRFs have since agreed on a refund sharing approach, some councils have commented that it would be simpler and provide more certainty for all if the share was pre-determined by Government.

LGNSW encourages the NSW Government to undertake further in-depth consultation with councils to determine how refund revenue distribution should be established, including consideration of:

- How the extra revenue from new eligible containers is split,
- How the decrease in weight and volume (as wine bottles etc are diverted to RVMs) is accounted for,

- The expected decrease in paper and plastic contamination.

LGNSW understands that the EPA is currently completing analysis of how the Scheme expansion would affect yellow bin contents and value. This information is critical for councils to understand the implications of the Scheme expansion and for future negotiations on revenue sharing.

To strengthen the governance of the Scheme, should MRFs be required to have a commercial relationship with the Scheme Coordinator?

Yes, as it would give the Scheme Coordinator greater standing in the event of a default and would also align with the schemes operating in other States.

Payments to facilities outside NSW

Should interstate MRF operators be able to claim refunds on containers collected in NSW kerbside services?

In theory, LGNSW supports allowing interstate MRF operators to claim refunds as this would contribute to a more national harmonisation. However, the complexities of administering this may outweigh the environmental benefits.

Broadening participation

Would you support the creation of a category of commercial-only MRF operators to participate in the Scheme?

Yes, LGNSW would support this change to capture a greater volume of containers in the Scheme.

Maintaining transparency

Are there any other matters that should be included in the annual report, or that should be published from time to time on the EPA or Scheme Coordinator's website?

Councils request more frequent publication of returns data by local government area. While it appears that the publication of data transitioned to quarterly in March 2022, this is the most recent report published on the website. A quicker turnaround in publishing this data would be appreciated; if data was able to be published before the next quarter commences this would be ideal.

Councils appreciate the publication of returns data in both tonnage and container count, and request that this does not change. Councils also request the publication of this data in excel format in addition to PDF, to enable additional analysis without having to replicate the data into another format.

Fraud prevention

Do you support adding additional prohibited activities to reduce the risk of fraudulent refund claims?

Yes, any action to reduce fraudulent activities is supported by LGNSW.

Recommendations

LGNSW recommends that:

1. The network operator comprehensively plan for increased RVM use to prevent full machines stopping consumer returns, servicing outside of accepted or preferable hours (where applicable) and increased noise complaints.
2. The EPA set and enforce better management of litter at RVM locations by the Network Operator. Each collection site should have adequate recycling bins / compactors to collect cardboard, co-mingled recycling bins for non-CDS eligible material (e.g. milk containers and others that are unredeemable), and litter bins.
3. The Scheme expansion be preceded (and then accompanied) by a state-wide community education campaign across several mediums to ensure reach and clarity in messaging. This will be particularly important given the anticipated exclusion of plain milk containers and health tonics.
4. The EPA provide supporting materials to councils well in advance of the change date, including FAQs, contact phone numbers to report urgent issues and copies of community education materials for those councils that would like to assist with sharing the message.
5. The EPA clearly communicate to all councils about any changes to the auditing program resulting from wider eligibility. Councils anticipate that new baseline auditing will be needed and urge advanced warning for kerbside audits in local government areas. Councils should be provided copies of any data obtained.
6. The EPA and Exchange for Change should consider how to increase their role in managing adverse effects of bin diving, as complaints are expected to increase following the proposed changes.
7. The NSW EPA re-assess the distribution of return points so all rural and regional communities are adequately serviced by the Scheme. An audit of all return points would provide confidence that the community was being serviced equitably.
8. The NSW EPA urgently share its analysis on how the proposed changes will affect kerbside yellow bin contents and value. This will enable councils to provide more informed feedback on the proposed expansion and associated changes.
9. The NSW Government undertake further in-depth consultation with councils to determine how refund revenue distribution should be established, including consideration of:
 - a. How the extra revenue from new eligible containers is split;
 - b. How the expected decrease in weight and volume in the yellow bin (as wine bottle etc are diverted to RVMs) is accounted for in light of the EPA's analysis;
 - c. The expected decrease in paper and plastic contamination.
10. The Scheme Coordinator more frequently publish returns data by local government area. Councils request the publication of all Scheme data be released in excel format.
11. The EPA provide an annual Return and Earn budget to the Regional Waste Groups to help councils promote the Scheme to residents on a more permanent basis.

Conclusion

LGNSW thanks the EPA for the opportunity to provide feedback on this Discussion Paper.

Overall, LGNSW and its members support the expansion of the Scheme to include more containers. The Scheme has been highly successful since its introduction in 2017, and it is hoped any changes build on that success.

Of particular note is the intention by the NSW EPA (and other State agencies) to harmonise Scheme rules by 2025. This is an excellent example of environment ministers working together and should be replicated in other areas relating to the circular economy (design laws for circularity, EPR schemes, landfill item bans, PFAS regulation, FOGO standards etc). Many of these issues simply can't be addressed on a state-by-state basis, even though the responsibility for environmental protection largely rests with the States.

For further information or to discuss this submission, please contact [Christian Pagliaro](#), Senior Policy Officer Waste.