

National Packaging Covenant

**Summary of submissions received in response to the
draft National Packaging Covenant &
Regulatory Impact Statement
and responses to these submissions**

FINAL – July 2005

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1 INTRODUCTION

The National Packaging Covenant is a voluntary agreement aimed at improving the avoidance, recovery, reuse and recycling of used consumer packaging and consumer paper in Australia. The Covenant incorporates the principles of product stewardship and shared responsibility and is underpinned by the National Environment Protection Measure (Used Packaging Materials) (NEPM). Both the existing Covenant and NEPM commenced in July 1999 and were intended to cover a five year period.

A number of independent reviews of the existing Covenant commenced in late 2003 and were completed in 2004¹. Throughout 2004, the National Packaging Covenant Council (NPCC) conducted consultation sessions with key stakeholders across Australia to review progress under the existing Covenant and to examine options for a proposed strengthened Covenant. Governments also commenced the development of a variation to the NEPM.

To allow for completion of this review process and the development of a strengthened Covenant (including targets), the Environment Protection and Heritage Council (EPHC) extended the original Covenant's expiry date to 14 July 2005. The original NEPM was also extended to 14 July 2005.

An initial draft strengthened Covenant was released for public consultation in late October 2004. Then, in December 2004, Environment Ministers called for the development of targets to be included in the proposed Covenant. On 15 April 2005, EPHC released a further draft copy of a strengthened Covenant and an associated formal Regulatory Impact Statement (RIS) for public comment. Thirty submissions were received from: individuals, NGOs including environmental groups, local Councils, local government associations, industry, industry associations and jurisdictions. Appendix A includes a list of submitters.

This document provides a summary of public submissions to the draft strengthened Covenant and RIS, as well as EPHC's responses to these submissions. A separate document has been prepared in relation to submissions received about the NEPM and Impact Statement which were also available for public consultation over a similar period.

A glossary is included in Appendix B.

¹ Institute of Sustainable Futures for Nature Conservation Council (2004) *Review of the National Packaging Covenant*.
Meinhardt Infrastructure and Environment (2004) *An Independent Local Government Evaluation of the National Packaging Covenant*.
National Packaging Covenant Industry Association (NPCIA) (2004) *Action Plan Review*.
Nolan ITU (2004) *Evaluation of the National Packaging Covenant – Volume I – Executive Summary and Main Report*.

2 SUMMARY OF KEY CHANGES BETWEEN THE DRAFT STRENGTHENED NATIONAL PACKAGING COVENANT AND THE FINAL VERSION

2.1 Information considered

The final Covenant has been drafted following consideration of:

- public submissions relating to the draft National Packaging Covenant and associated RIS that are described further in this document;
- advice provided by the National Packaging Covenant Council (NPCC) and other stakeholders, particularly in relation to proposed targets;
- input from the working group charged with revising the Covenant's Environmental Code of Practice for Packaging (ECoPP).

2.2 Key changes to Covenant

The final Covenant contains a number of revisions to the draft that was released for public consultation on 15 April 2005. In addition to the substantive changes listed below, the Covenant has been redrafted to improve the order and clarity of many of its clauses. Where these drafting changes do not alter the intent or effect of the Covenant, they are not listed below.

The key changes are summarised as follows:

Definitions:

"Distribution packaging" – this definition has been amended to clarify that it applies to packaging that contains multiples of products (the same or mixed) "intended for direct consumer purchase".

Schedules to the Strengthened Covenant:

Schedule 1 – Implementation Context for the Covenant

A new schedule 1 was developed by members of the NPCC and included in the Covenant following publication of the draft in April 2005. The schedule outlines a number of contextual issues that are pivotal to the Covenant's success both in terms of outcomes and operating processes and sets out the actions required by all sectors to achieve the Covenant targets.

Schedule 2 – Environmental Goals, Targets and Key Performance Indicators (KPIs)

Schedule 1 of the April 2005 draft Covenant indicated that overarching targets were being considered in the following areas, but that consultation was still underway:

- (i) a reduction in the total amounts of packaging disposed of to landfill and an increase in the amount of packaging recycled;
- (ii) increased use of recycled packaging materials in new products;
- (iii) reduction in the amount of non-recyclable packaging;

- (iv) increase in markets for recycled packaging materials into new packaging or other products; and
- (v) continuous improvement by individual signatories.

Based on extensive consultation amongst industry, jurisdictions, local governments and NGOs, and in response to the submissions described in this summary of submissions document, the following targets have been included in Schedule 2 of the final Covenant:

Recycling target:

Signatories will work together to increase the amount of post consumer packaging recycled from its current rate of 48% (2003 baseline data) to 65% by 2010.

Packaging made from specific materials would make a contribution to the overarching target as follows:

- 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%)

Waste to landfill target:

It is recognised that through increased consumption and population growth the amount of packaging disposed of to landfill could still increase substantially.

To address this, a target has been established of no new packaging to landfill (against 2003 baseline data). This means that any additional packaging entering the Australian market would need to be recovered for recycling and not disposed of to landfill.

Non-recyclable packaging target:

Industry signatories will work to increase the recycling of some specific materials that are currently either not recycled or recycled at very low rates due to their design, lack of collection/processing infrastructure or lack of markets. These materials are plastics coded (4) to (7), non-recyclable paper and cardboard packaging.

The recycling of packaging manufactured using these materials will be increased from the existing 10% recycling rate (2003 baseline data) to 25% by 2010.

Packaging made from composites is another packaging type with very low recovery rates. No baseline data is currently available for composites and the applicability of the 25% target to these materials will be considered following analysis of baseline data at the end of 2006.

Consultation around other proposed target areas reached a consensus view that targets should not be considered at this stage. Market development for recyclate would be addressed by the recycling target and the target for reduction in “non-recyclable” packaging.

There was also a consensus view that a target on continuous improvement against baseline data by Covenant signatories would be achieved through annual reporting by

signatories against the KPIs. A new goal has, however, been added to the Covenant reflecting the fact that continuous improvement is an inherent principle in the development of Action Plans and preparation of annual reports against KPIs. New performance goal (No. 5) states: “all signatories demonstrate continuous improvement in their management of packaging through their individual Action Plans and Annual Reports”.

The KPIs have also been revised based on feedback through the RIS process and further discussion with businesses and peak industry associations. The intent of the KPIs has not changed rather, KPIs have been revised and sharpened. This will provide greater clarity to signatories in reporting against these requirements as well as making data gathering simpler. One key change has, however, been made to extend the deadline for submission of baseline data in response to strong views in RIS submissions that the deadline could not be met if robust data was required.

2.3 Implementation Issues

Several of the submissions highlighted issues that did not necessitate changes to the Covenant but were important implementation issues. These will be incorporated into the Covenant implementation phase.

Some of the key implementation issues identified in submissions as well as recent NPCC discussions include the need for:

- An implementation plan to guide priority setting for areas such as product design, collection and recycling systems, markets for recyclables, and community education. This plan would consider priority issues such as way from home recycling and associated opportunities for funding, research, collaboration of stakeholders, and action by individual signatories.
- A document providing guidance to signatories developing Action Plans and preparing annual reports, particularly in reporting against KPIs.
- Consistent methodologies and ongoing data collection on overall consumption and recycling of packaging in Australia including data on imported packaging.

It is also noted that the finalisation of detailed guidance and implementation of the NEPM Application threshold, which identifies brand owners that do not significantly contribute to the waste stream and will not be subject to the NEPM, is an important task for governments.

3 SUMMARY OF PUBLIC SUBMISSIONS AND RESPONSES

A detailed summary of the public submissions on the draft strengthened Covenant and associated RIS is presented below.

3.1 Options for addressing policy objectives

The RIS identified and evaluated 7 broad policy options for addressing the lifecycle management of used consumer packaging waste. These ranged from a “do nothing” option to fully regulatory options. The RIS assessed each of these policy options against a range of evaluation criteria that considered success factors for public policy development.

Many submissions showed strong support for the Covenant as the best available option. Others stated that there was insufficient rigour in analysis of alternative options, there was insufficient analysis of economic alternatives, that the Covenant should not be exclusive and should not restrict the implementation of other supporting mechanisms. Some submissions recommended alternative or complementary policy options such as Container Deposit Legislation (CDL) and plastic bag levies or bans.

3.1.1 *Evaluation methodology*

Five submissions (3, 5, 10, 22 and 26) sought greater consideration of the alternative approaches / options assessment mentioned in the RIS and stated that the RIS was framed with a clear intention of arriving at a pre-determined outcome. Some of these submissions stated that the RIS failed to provide an objective, defensible case for its overall recommendation that the proposed strengthened Covenant is the preferred option.

Submission 15 suggested that analysis of alternative approaches requires significantly more robust data than is currently available to meet Council of Australian Government (COAG) requirements for the RIS process. This submission concluded that alternative approaches should not even be considered without the compilation of several years of data under the strengthened Covenant.

Another submission (27) thought there was inadequate consideration of options to use economic measures to internalise externalities associated with the pricing of natural resources used in the manufacturing process. Submission 26 recommended that a critical assessment needed to be undertaken to fully investigate whether the overall economic impacts of the Covenant were not in fact greater than utilising a suite of EPR based approaches in concert with the Covenant. It stated that EPR would deliver a far greater environmental performance on a more equitable basis.

Several submissions (5, 10, 11, 12 and 19) stated that the RIS treats alternate options exclusively as alternatives to proposed Covenant. These submissions recommended that an analysis of a combination of policy options should have been included in the RIS.

Submission 26 stated that the methodology used in the RIS to evaluate alternative policy options was subjective, flawed, poorly framed and unsuitable for undertaking a multi-criteria analysis. This submission (26) supported the objective methods employed in the evaluation but suggested that the criteria used in the evaluation should have been weighted to avoid alleged distortions in results. It offered a revised policy options evaluation criteria.

Submission 30 stated that the RIS employed a flawed methodology and that the assessment of policy options carried out in the RIS was unreliable and therefore, recommended that an evaluation process on alternative mechanisms to the Covenant (administered by the EPHC rather than the NPCC) begin immediately.

Submissions 26 and 30 suggested that the criterion used in the policy options evaluation in the RIS should have been weighted and put forward a suggested additional policy evaluation criteria and a weighting methodology. Submission 26 divided the evaluation criteria into two sub-groups: environmental and non-environmental outcomes, with each weighted to make up 50% of the total score. Submission 30 suggested a different weighting approach to a set of four different sub-groups of evaluation criteria: cost effectiveness, mechanism for achieving outcomes, ability to achieve outcome and ability to monitor and measure the outcome. Based on their suggested policy evaluation methods, Submissions 26 and 30 both concluded that mandatory take back and utilisation was the preferred policy option.

Response

The RIS included an analysis of several alternative options: advance recycling fees, mandatory-take back and utilisation schemes (EPR), mandatory CDL schemes and increased landfill disposal levies. Appendix A of the RIS provided a qualitative analysis of the extent to which each of the alternative options considered could impact on each stage of the packaging lifecycle.

As indicated in Section 5.4 of the RIS, established evaluation criteria were used in the evaluation of policy options and the methodology adopted was based on relevant best practice guidelines and standards. A range of tools were developed to undertake triple bottom line impact assessments, with each tool relying to some degree on subjective values being assigned to a range of influencing factors. It is acknowledged that there is some level of judgement required in any evaluation process.

Whilst some of the possible alternatives to the Covenant were evaluated against the evaluation criteria in isolation, information about the relative advantages and disadvantages of each option was able to be used in considering their potentially applicability as complementary options to the Covenant.

There were some variations between the scores suggested in the suggested policy evaluations undertaken in Submissions 26 and 30, but both submissions 26 and 30 concluded that mandatory take back was their preferred policy option. Both the evaluation in the RIS and the evaluations completed by these two submissions have some level of subjectivity, particularly when the scores for different criteria were

weighted and added up. As indicated above, mandatory take back was included as a requirement of the revised NEPM, but as a feature of a co-regulatory model rather than full regulation.

3.1.2 Policy Option Evaluation Results

A broad range of divergent views were expressed both supporting and opposing the Covenant-NEPM package as the best means of improving the way packaging materials are managed in Australia. These divergent views are likely to reflect the range of stakeholder views in Australia.

Eleven submissions expressed strong to qualified support for the strengthened Covenant - NEPM package (5, 6, 7, 8, 9, 14, 15, 18, 19, 23, 29) with some explicitly opposed to alternative mechanisms such as CDL. One submission stated that “significant improvement has been made in the recovery and recycling of used packaging in recent years” and that “some of this may be an indicator to the success of the current NPC”. Another concluded that a strengthened Covenant framework would allow signatories to build on early successes and correct its deficiencies. There was support for the principle of shared responsibility. A further submission indicated that a strengthened Covenant-NEPM package offers the “best policy structure to support innovation and address the whole lifecycle of packaging...and support Australia’s existing social, economic and government structures”.

Eight submissions explicitly argued against a strengthened Covenant - NEPM package (3, 10, 11, 16, 24, 26, 31) with most expressing a preference for alternative approaches such as extended producer responsibility schemes like CDL. In particular, two submissions indicated strong support for CDL as a means of achieving away from home recycling objectives. While one industry submission indicated that it had made significant savings in materials to date, it also saw a “diminishing return for effort into the future”.

Some submissions commented on the non-prescriptive nature of the Covenant, and suggested that it lacked sufficient regulatory muscle and that it allowed the use inappropriate packaging materials. One submission noted that the Covenant-RIS package did not “examine wider waste and recycling policy and regulation in Australia” and that “such an examination could be of value...”

Three submissions (9, 11 and 16) recommended application of CDL as a preferred recovery mechanism for beverage containers in public place recycling. Some of these submissions supported Australia wide implementation of CDL to complement the measures in the Covenant and improve away from home recycling. Submission (9) recommended a plastic bag levy.

Two submissions (9 and 11) recommended mandatory labelling of goods to provide a simple, Australia-wide system for identifying recyclable packaging similar to star ratings or other similar environmental initiatives.

Submissions 26 and 30 concluded that they had a preference for Advance Recycling Fees, mandatory take back or CDL rather than the proposed strengthened Covenant.

Response

The Covenant was explicitly designed as a voluntary instrument whose goals are to minimise the environmental impacts of packaging. The Covenant does not prescribe the measures which must be taken and enables brandowners and others in the packaging supply chain to design efficient, customised and cost-effective programs to deliver against its stated goals and targets.

The possibility of implementing CDL or other financial instruments was raised in submissions from local government and community groups. Container deposit legislation (CDL) is a valid approach to the management of some types of packaging, mainly beverage containers, which has been adopted in South Australia. Many local government and community stakeholders have indicated their support for broader adoption of CDL, and in response to this support, the RIS provided additional consideration of CDL. CDL can be particularly effective in dealing with away from home packaging as it provides an increased incentive for recycling. However, it does not deal with types of packaging such as take-away food containers, disposable plates, paper / plastic wrappings and plastic bags. CDL has also been identified as expensive to implement on top of existing kerbside recovery systems. However it is noted that some places internationally have implemented CDL in parallel with existing kerbside recycling systems.

The potential costs and benefits of CDL, and other broader financial or regulatory instruments, could be investigated further during the implementation phase of the next Covenant once further data, particularly on away from home aspects, and information on the Covenant's outcomes is obtained.

The inclusion of a mid-term review in the Covenant, in part, reflects feedback from consultation over the last eighteen months or so in which stakeholders expressed a desire to see a high level of accountability for the Covenant. The Covenant includes a commitment from governments to give due consideration to commencing the development and implementation of alternative policy options, should the 2008 evaluation indicate that insufficient progress has been made towards the Covenant targets.

With regard to plastic carry bags, the Australian Recyclers Association (ARA) Code of Practice for the Management of Plastic Bags (2003) ('the Code') is currently the primary instrument in Australia for managing the reduction and recycling of lightweight HDPE plastic bags and is included as a schedule to the proposed Covenant. Inclusion of the Code in the strengthened Covenant would result in a more comprehensive, strategic approach to the management of plastic bags. It is intended that an agreement for the Phase Out of lightweight plastic carry bags by 2008, which is currently being discussed with industry, would also become a Schedule to the Covenant, once it is developed.

A commitment from governments to review the effectiveness of current labelling laws relating to the recyclable and recycled content of packaging materials has been included in the new 'Schedule 1: Implementation Context' of the proposed Covenant.

3.2 The Proposed Covenant (the Preferred Option)

Many of the submissions provided specific comments on details within the draft Covenant document itself. Some of these submissions commented on the proposed policy objectives, strategies and goals of the Covenant and on various scope and content issues. Submissions also provided comment on definitional issues and the need to ensure individual and company performance levels matched international best practice. Comments about funding issues, targets and KPIs are addressed separately in sections 3.3, 3.4, and 3.5 respectively.

3.2.1 Policy objectives, strategies and goals

Several submissions commented on the broad direction of the draft Covenant (3, 10, 26, 30). On the goal of the Covenant, one submission argued that it should 'ensure' a reduction in environmental degradation. Another disagreed with a fundamental principle of the current Covenant, namely that there be 'no discrimination' between different forms of packaging materials.

Two submissions indicated that increasing away from home recovery can not be addressed by traditional kerbside approaches as these lead to high contamination rates and low recovery.

Response

The proposed Covenant states: *The objective of this Covenant is to reduce environmental degradation arising from the disposal of used consumer packaging and conserve resources through better product design and encouragement for the reduction, re-use and recycling of used packaging materials* (Section 2). KPIs have also been developed to ensure that data on improved performance in reducing life cycle impacts of packaging (including degradation) is collected and reported.

The existing 'no discrimination' approach to different packaging materials is a core principle underpinning industry support for the Covenant. The focus of the proposed target relating to increasing recycling of "non recyclable" packaging and KPIs seeking reporting of reasons for changes to packaging (KPI 3.1) will, however, ensure that packaging producers and suppliers regularly review their material and design choices.

The new Context Schedule to be appended to the proposed Covenant recognises that new approaches will be needed to deliver away from home objectives. To assist this an Implementation Plan will be developed with input from all key players to develop the most appropriate and most effective approach to delivering the Covenant goals and outcomes.

3.2.2 Scope and content issues

Three submissions raised issues relating to the scope of the draft Covenant (24, 29, 26). One argued that the Covenant should pay more attention to energy recovery. The others stated that a greater level of attention should be given by governments to consumer education and specifically to the role of and changing the behaviours of householders, consumers and smaller businesses.

One submission argued that litter should not be included within the scope of the Covenant as it should be subject to a separate policy framework. However, two submissions felt that litter should feature more strongly in the Covenant. Another proposed that the Covenant should recognise that despite the successes of kerbside we are still only recovering about 50% of waste and it should also recognise the community's view that there should be improved environmental performance of packaging.

Response

Energy recovery is acknowledged as having a legitimate place in the waste management hierarchy. However, it should be recognised, in accordance with that hierarchy that options for avoidance, reuse and recycling should be pursued as higher priorities.

The Covenant continues to have a focus on litter as part of the lifecycle of packaging and litter must be addressed in signatory action plans. Recognition of the community's desire for improved environmental performance of packaging is reflected in the Covenants introductory sections as well as the goals and targets.

3.2.3 Definitions

Two submissions raised definitional issues (2 & 7). These related to clarification of existing definitions or suggestions for additional definitions. One submission suggested that the interpretation of distribution packaging may be too broad and does not differentiate business-to-business packaging which is not captured by the Covenant. It was suggested that the definition clarify that distribution packaging is packaging that is "intended for direct consumer purchase".

Another submission argued that the term 'good practice' should be replaced by 'international best practice'.

Response

The definition of distribution packaging has been amended to clarify that it only applies to packaging on products intended for direct consumer purchase and use and not for products, which become components of consumer products.

Regarding the proposal to replace the term "good practice", it is important to recognise that Australia has a unique set of circumstances: geographical, population and locational. International best practice is not necessarily transferable. Even within Australia, different factors would influence practices so that there would be no single "best practice". For this reason, the term "good practice" has been used.

3.2.4 Waste avoidance and product re-design

One submission (14) proposed that companies that introduce packaging design innovations and take back systems should be given recognition and be able to secure economic benefit in the market place. Government support of such companies was sought through government procurement decisions.

Response

Governments regularly review purchasing contracts. A number of Government Action plans under the previous Covenant already included commitments to continue to review procurement contracts to encourage recycled content and other positive environmental features where these are cost and performance competitive. They have also introduced opportunities within tenders for companies to present their environmental credentials. It is envisaged that these initiatives would be continued.

3.2.5 Compliance

One submission proposed that compliance with Covenant responsibilities and progress reporting be linked in with ISO 14001 environmental management and auditing processes, where companies have such mechanisms in place (C6).

Response

This suggestion will be explored as an option when guidance documentation on reporting is prepared during the Covenant implementation phase.

3.2.6 Meeting performance expectations

Two submissions (26 & 30) argued that there should be consequences to Covenant signatories where they do not meet performance expectations. Drivers like shaming or additional compliance costs from having to meet NEPM obligations were suggested. For governments, the key driver would be meeting statutory obligations. Submission 26 stated that the Covenant falls short in dealing with signatories that do not fulfill their obligations.

Compliance and review issues also featured strongly with one submission suggesting that jurisdictions be allowed to take additional action outside of the Covenant-NEPM package should it not perform. Another submission acknowledged that modifications had improved the Covenant but also argued that the Covenant still lacked mechanisms to drive individual behavioral change.

Response

The Covenant has been strengthened to provide the Covenant Council with a clear process for evaluating individual signatory performance, for deeming that a signatory is not fulfilling its obligations and for referring them to jurisdictions for application of the NEPM. The new company data set and KPI reporting requirements also provide mechanisms to ensure that all signatories are working towards the Covenant goals and targets.

The NEPM is also a key driver and there is commitment to increased enforcement under the strengthened Covenant. This will ensure that the supporting regulation is a credible threat.

3.2.7 Review of the Covenant in 2008

A mid term review has been built into the Covenant (section 3.1.2). Several submissions agreed with this provision. One submission argued that the Covenant must include a test to determine whether or not it had succeeded or failed and that this test should be linked to the achievement of the overarching targets. Another submission argued that there is no justification for considering alternative approaches until we have secured better data under a strengthened Covenant.

Four submissions commented on the proposed 2008 review of Covenant performance and on constraints to exploring alternatives prior to this time (15, 19, 26 and 30). Several of these submissions raised issues that related to the future evaluation and review of the Covenant, including the need for a more comprehensive and less time-constrained review before 2008. There was a proposal that work should start now towards this end. A proposal was made that the evaluation be undertaken independently and that it be managed by the EPHC and not the Covenant Council.

One submission (26) concurred with the provision in the draft Covenant that the “Covenant Council would report on the findings of a comprehensive, independent evaluation of the progress of the Covenant against its overarching targets”.

Response

The key barrier in the evaluation of the existing Covenant was not the lack of time but a lack of quantified performance data. This situation will be corrected for the 2008 review.

In conducting the 2008 evaluation of Covenant, the draft Covenant proposal provides for a “comprehensive, independent evaluation of the progress of the Covenant against its overarching targets”. This independent evaluation would be conducted under the auspices of the Covenant Council which has cross-sectoral membership. EPHC would make the final judgment about whether it is comfortable with the rigour of the evaluation.

3.3 Covenant Funding Issues

A number of submissions raised issues relating to the transitional funding and more generally the funding of away from home activities (4, 8, 21, 29 and 30). One proposed that the Covenant Council develop an alternative funding formula to raise additional funds should the 2008 evaluation show that the Covenant is unlikely to meet the proposed targets. Another submission argued that the implementation plan needs to cover explicit funding models and arrangements to demonstrate how the Covenant will achieve the overarching targets and particularly increase recovery through kerbside recycling, away from home recycling and recovery of consumer packaging in commercial and industrial environments.

There was support for funding a broader range of activities to help achieve the aspirational targets including:

- Promoting a better understanding of cost, pricing and funding structures of resource recovery activities;
- Public place recycling infrastructure;
- Scoping and developing a recycling credit trading scheme and other market based instruments;
- Promoting innovative collaboration between the packaging supply chain and recovery organizations;
- Establishment of new local sorting and recycling infrastructure; and
- Establishment of new collection infrastructure.

Some submissions commented on the proposed processes for eligibility and/or distributing Covenant funds set out in Schedule 6. One submission proposed amending the Covenant to allow for matched funds to be derived from any project applicant (industry or some other party) and not just jurisdictions. Another submission proposed removing the clause: “Any party contributing to funds to has the right to refuse support for any project proposal” on the basis that this had the potential to allow industry to distance itself from specific projects. It agreed with the current proposal in the draft Schedule that local government be permitted to submit proposals for funding provided they express support for the Covenant.

Submission 4 proposed that linkages and projects between local government and industry be maximised, including through trials, to increase recycling from clubs and pubs.

Response

Several of these issues would be considered as part of the Implementation Plan. The Covenant Council will review its funding priorities and processes annually, based on advice from the National Projects Group who will also consult Jurisdictional Project Groups. The Implementation Plan would also assist in identifying key areas for funding. The ability for contributing parties (jurisdictions or industry) to veto project proposals would only apply to jointly funded projects. The strengthened Covenant also provides scope for any party to solely fund a project if they wish to.

Additional of a criterion to better link projects to achievement of the targets is a useful suggestion and will be built into the Covenant as part of project funding assessment criteria. These will be developed in the implementation phase.

3.4 Covenant Targets

At the December 2004 EPHC meeting, Ministers directed that jurisdictions should commence discussions with all key players to establish overarching targets for the Covenant. Specific consideration was to be given to targets for increasing the amount of packaging that is recycled and reducing disposal of packaging to landfill, reducing the

amount of non-recyclable packaging sold, increasing markets for recycle and ensuring continuous performance improvement by signatories.

The targets were still being negotiated at the time that the RIS was released so only broad modeling could be undertaken in relation to possible recycling targets. The assessment of the other potential target areas was largely qualitative.

Twenty submissions (3, 4, 5, 7, 8, 10, 11, 12, 14, 15, 16, 17, 18, 19, 21, 23, 26, 28, 29 and 30) made reference to the inclusion of targets in the Covenant and to the analysis of targets provided in the RIS. Some submissions commented directly on the merits and implications of establishing overarching or other targets for the Covenant; others commented on the analysis and methodology used in the RIS. These comments are discussed below.

A number of submissions also made points relating to the implementation and guidance issues and stated that these would be critical to ensure that the Covenant can deliver on any targets which are established. The submissions addressing target implementation issues are dealt with under Implementation issues (section 3.7).

The views about the desirability of overarching targets ranged from strong opposition to those who welcomed the inclusion of targets and expressed strong support. With a few exceptions, this split in opinion was generally on a sector basis. Local government, government and environment groups supporting the setting of specific targets; many industry associations and companies were opposed to the setting of targets at the commencement of the Covenant although a number supported this once good baseline data was established.

Perceived advantages and disadvantages of overarching targets:

Those supporting the setting of targets presented a range of benefits. These included an opportunity to establish comparable performance levels with those from established regulatory schemes, as a driver for continuous improvement and as a transparent measure of the Covenant's success (11, 14, 26). One submission (26) supported targets on the basis that they are a transitional strategy and that an EPR strategy would be adopted in 2008 if the evaluation demonstrates that the targets are not on track.

Submissions opposing the setting of targets also presented a range of reasons. One submission (7) compared the proposed Covenant targets to mandated European targets but questioned their merit given that voluntary agreements such as newsprint in Australia already deliver world class outcomes. Other views included concerns that setting overarching targets without clear linkages to signatory actions would make it impossible to either monitor progress or assign responsibility for achievement or failure. It was noted with concern that the absence of good data for target setting meant that environmental outcomes need to be assumed. In addition, the cost benefit analysis in the RIS was criticised because it had not been able to assess the practicality of a firm implementation strategy tied to specific proposed targets. Another submission (29) argued similarly that targets set now would be "aspirational" without due consideration as to how and at what cost they would be achieved by individual businesses.

Comments on specific target areas:

There was support from two submissions (5 and 21) specifically for a 65% or higher recycling target. In contrast, concern was expressed by two submitters (7 and 14) about setting targets near the upper end of the percentages modeled in the RIS eg 75% and 80% due to the short timeframe for achieving them and the potential costs to industry. Another submission (15) expressed concern over any top-down approaches to setting targets. It was suggested that determining the KPIs from the “ground up” through consultation with all stakeholders and consideration of cost-benefit issues at the business level would provide a better outcome.

A number of submissions addressed the desirability of establishing material specific targets to underpin an overarching recycling target. Disaggregated targets were specifically supported by 5 submissions (4, 11, 19, 21 and 26). There was also discussion about a number of the other proposed target areas. One submission (25) provided useful additional information to inform the establishment of a target for “non recyclable” packaging, including details on the types of packaging that are currently recyclable and non-recyclable within Australia. Another (15) suggested that there was duplication between the proposed continuous improvement target and the outcome which would be achieved by the requirement for individual signatories to report their performance annually.

Specific discussion around a potential landfill target (26) stated that the target must be based on “no new packaging to landfill”. This would mean that for each tonne that consumption grows, including through population growth, packaging recovered for recycling must grow by the same amount.

Several submissions (4, 17 and 26) suggested additional target areas. One suggested specifying a minimum percentage target for the amount of recycled content material(s) to be used in manufacturing processes. The others highlighted the need for the establishment of a dedicated litter target on the basis of the incidence of packaging in the litter stream, persistence in the environment, impact on wildlife and releasing toxins and costs of cleanup. There was also one submission (29) which argued that litter should not be within the scope of the Covenant or an area of emphasis because it merits its own policy framework rather than being a sub component of a packaging framework.

Data issues:

Many submissions raised issues relating to the lack of robust data to both establish targets and to track their progress. This issue was raised by both supporters and opponents of targets. Some suggested that there was considerable merit in waiting until baseline data was established to set targets, or alternatively, in building in a mechanism for target review once baseline data was collected. One industry submission (15), opposed the setting of targets without adequate data, but recognized that aspirational targets would nevertheless be established for the Covenant and stated that their achievement must be subject to a number of key actions and understandings which should be attached as an additional Schedule to the Covenant.

Responsibility for meeting targets:

A number of submissions commented on the quantum of the proposed recycling target and on which parties should be responsible for delivering the targets. Several local government submissions suggested that if targets were set for the Covenant as a whole, and not achieved, industry would claim that the failure was due to the lack of support from other parties. In contrast, other local government submissions stated the importance of establishing the targets for the Covenant as a whole and reinforcing the need for all signatories to work together to achieve them.

All local government and environment submissions expressed a strong view that if a recycling target is established that this must not be achieved by foisting additional costs onto local government and ratepayers for either expanded kerbside services or public place recycling services.

A number of submissions reinforced the importance of sufficient funding to support the programs and initiatives which would be needed to achieve any recycling target set. This was seen as particularly important due to the relative underdevelopment of away from home systems and infrastructure and the current lack of community awareness about away from home recycling. Away from home sources (eg workplaces, venues, institutions, shopping centres) would be the main sources of additional tonnage needed to reach a recycling target established for the Covenant.

Costs of meeting targets:

Considerable concern was expressed about the discussion and cost benefit modeling of targets in the RIS. Specific issues relating to the financial costs and benefits calculated in the RIS in relation to increasing recycling of packaging is discussed in section 3.6. There was, however, a widespread concern about the paucity of data which had affected the ability to model costs and benefits which sectors could verify. This led some to conclude that targets should not be considered at this time.

Response

The paucity of available data on which to base both a specific target number and a cost benefit analysis of the proposed recycling target has resulted in parties working together to establish an agreed “best available” baseline for current consumption and recovery rates. Parties involved in target negotiations have presented their best case scenarios to Ministers for their consideration and determination. The recycling target proposed by various groups is currently in the range of 60 to 65% by 2010, representing an increase of between 12 to 17% on the current recycling rate. This proposed target is at the lower end of the targets modeled in the RIS.

Industry has also proposed an increase in the recyclability of some specific materials, for which there are currently no or limited recycling opportunities, from the current 10% recovery to 25% by 2010. There has been general support from all stakeholders for the proposal that a landfill target should be based on no increase of packaging to landfill. EPHC will make a final determination on targets.

With regard to a possible target for continuous performance, it has been recognised that improved environmental performance will be demonstrated through annual reporting

by all signatories against relevant KPIs based on individual baseline data. It has been recommended to EPHC that a specific target is not required.

It has also been recommended that consideration of any additional targets be deferred pending an analysis of the baseline data established through the KPIs during the first 12 months of the strengthened Covenant.

A new Schedule 1 has been added to the Covenant. Titled “Implementation Context for the Covenant”, it outlines key contextual issues that are pivotal to the Covenant’s success both in terms of outcomes and operating processes. This includes clarification about the purpose of targets, Covenant priorities, system improvements needed to achieve covenant outcomes and government action needed to support the Covenant.

In particular, Schedule 1 clarifies a number of key issues raised in submissions to the Covenant and RIS:

- The overarching targets provide a mechanism for encouraging all sectors to work together to deliver improved environmental outcomes in a cost effective way. This would require action by all stakeholders, underpinned by effective regulatory, market-based and public education mechanisms.
- Recognising that there may be limited opportunities to enhance the effectiveness of kerbside recycling in some areas, continued support for local government to adopt best practice kerbside systems would be provided. The objective would 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 implementation of measures in a cost effective manner throughout the packaging supply and recovery chains depends on a comprehensive, verifiable database of system performance. There would be an immediate focus on the maintenance and creation of such a database.

3.5 The Covenant - Key Performance Indicators

Specific actions and performance measures have been developed to assist with reporting of the targets and other elements which are critical to demonstrate the outcomes being delivered by the Covenant. Actions, KPIs and the goals to which they relate are outlined in schedule 1 of the Covenant. Six submissions provided comments on the KPIs and how they impacted upon their operations. These are summarised below.

3.5.1 Baseline data and action plan deadline

The deadline in the draft Covenant for signatories to establish and report their own specific baseline data is November 2005. This data will be used to design Action Plans and set company performance goals.

Submitters 6, 7 and 24 expressed concern over the short timeframe for signatories to establish their baseline data and deliver their Action Plans accommodating this data.

Submission 7 expressed concern over the delivery of the first set of baseline data for the KPIs by November 2005 and requested that the initial reporting date be extended to 1 November 2006. Submission 6 proposed a revised deadline of 30 September 2006.

These suggestions were primarily due to concerns of delivering accurate data within the 4 to 5 month timeframe between EPHC endorsement of the strengthened Covenant and the prescribed deadline. It was proposed that many companies do not have the capacity to put the necessary capital and resource infrastructure in place to meet the requirements associated with the deadline. There was also a concern that attempts to meet the deadline may cause over estimation of current performance that may only be corrected after years of data are collected and analysed.

Response

The deadline for submission of baseline data has been extended to 31 October 2006, with action plans (including baseline data estimates) required by 30 November 2005 and revised action plans (to take into account actual baseline data) required by 30 November 2006.

Existing signatories must still provide an Annual Report for 2004-5 against their existing Action Plan by 31 October 2005.

3.5.2 Overseas packaging issues

The proposed baseline data set requires reporting of the total weight of consumer packaging (including distribution packaging) used per annum (domestic & imported). The total weight of product packaging must also be provided. The inclusion of imported/overseas packaging data has precipitated a range of responses.

Companies that import their goods pre-packaged from overseas would find it difficult to collect accurate reporting data to meet KPI reporting requirements (submissions 6 & 7). Gathering of data from overseas would take time and may place additional costs on companies. Submission 6 argued that while it is possible to achieve the data collection requirements in Australia, there would be extreme difficulty collecting data for imported goods and that this activity would require cooperation from overseas suppliers. Most, if not all overseas suppliers of packaging and products do not currently have the data available nor the inclination to set up systems to collect it. The submission called for the collection of baseline data to be limited to Australia.

The current deadline for baseline data also places a time constraint on companies with imported packaging that they are unlikely to be able to meet. Attempts to meet the deadline may result in inaccurate data being reported.

Submission 7 also suggested that while Australian manufacturers of packaging strive to continuously improve, imported packaging over which NPC signatories would have little control, may drag down the overall environmental performance of packaging. As a consequence, Australian based companies should not be disadvantaged by the performance of imported products.

Response

The deadline for providing baseline data has been extended to September 2006. It should be noted that current consumption data, which has underpinned the setting of targets for the Covenant has not included packaging that enters Australia as filled/finished product. The Covenant Council will be initiating work to attempt to fill this data gap, however it is still important for signatories to be aware of the amount of packaging which they bring in on imported products and to attempt to reduce this and report progress in their Action Plans. It may be possible, for example, for some companies to exert influence through their contractual arrangements.

In recognition of the difficulties which may be faced by some companies, the Covenant Council will provide a methodology for companies to use to assist them to calculate the packaging on their imported products.

In order to differentiate the performance of packaging on imported products against products produced locally, companies will now be required to differentiate these in annual reports and baseline data.

3.5.3 *Definitions used in the KPIs*

The proposed KPIs have been developed to focus data gathering and reporting on those elements that are critical to measuring the delivery of the Covenant Goals and outcomes. Several submissions have been received seeking clarification or definition of particular terms and how they apply to signatory operations.

A number of submissions (6, 7 and 24) considered that many of the KPIs are confusing and/or too vague. They are unclear in the scope of what they cover. This will add to confusion for signatories when constructing Action Plans and make it more difficult to establish data collection mechanisms and meet reporting deadlines.

Clarification has been sought of the following specific definitions:

- Signatories would be required to produce action plans and annual reporting based on “relevant” KPIs. The Covenant needs to be clear about whether a brand owner signatory must meet all of the KPI’s that are addressed to brand owners or if a signatory has discretion to include within its Action Plan only the most relevant KPIs (submission 7).
- How would individually set performance goals relate to the KPIs set out on the draft Covenant and what level of scrutiny the Covenant Council intends to apply to the signatories’ decision (submission 7)?
- The level of distribution packaging needs to be clarified, and distribution packaging should only impact on first level – packaging that contains only the (packaged) products to be purchased by the consumer (submission 7)
- A clear definition of the financial commitment and a formula for calculating contributions similar to that outlined in the first NPC document (submission 14).
- The term “in house recycling facilities” needs to be clarified, as there is no explanation of this definition in the revised NPC (submissions 6 & 14).

- “Major purchase”, “Agreed barriers”, “Products” and “Raw material inputs” require definition (submission 6).

Response:

These issues have all been clarified in the final Covenant where appropriate, and will also be addressed in guidance material. A key change relates to extension of the deadline for reporting baseline data 12 months. Both data and a new/updated Action plan will now be due for submission by 30 September 2006.

KPI relevance and accountabilities:

The inclusion of KPIs in the Covenant was supported by a number of submissions. Submission 15 stated that the inclusion of specific KPIs to facilitate a more quantitative performance evaluation is a sensible and prudent evolutionary modification to the current NPC. Submission 26 stated that it is essential for the KPIs to reflect the targets and goals as much as possible.

Another submission (7) raised an issue about the ability of signatories to influence (and therefore be accountable for) improvement against some of the KPIs. Where a KPI relates to the design of packaging, rather than the product contained within the packaging, the submission suggested that the brand owner has limited influence. A brand owner may be able to make decisions about the volume of packaging that is applied to its products and make choices about the supplier of its packaging. The submission stated that the specific resources used to produce the packaging cannot be affected by the needs of a single manufacturer. The submission recommends that these KPIs should not be applied to brand owners.

Response

Brand owners are nominated as the most feasible point to be targeted in the packaging supply chain because they have relative freedom of choice and action. Brand owners have the capacity to ensure that they do not bear the responsibility alone by influencing others in the supply chain. Businesses who are able to influence the quality of their product packaging in response to marketing, consumer protection, occupational health and safety or other considerations, can be realistically expected to be able to influence the quality of their packaging in terms of its environmental impacts. It is recognised, however, that smaller brandowners may not be able to influence all aspects relating to material choice and packaging design where they purchase from large national or international suppliers.

3.5.4 Additional KPIs

Submission 26 proposes two new KPIs for the Covenant.

Proposed new KPI 10 relates to implementation of systems to increase away from home recycling with the measure being the % of packaging provided by away from home systems. Reporting responsibility would be state and territory governments, packaging manufacturers, fillers and brand owners.

Proposed new KPI 11 relates to the regulation of both non signatories and non complying signatories under the NEPM. The proposed measure is the number of companies regulated under the NEPM and the number of companies failing to become signatories or failing to comply with Covenant requirements. Reporting responsibility would lie with state and territory governments and the NPCC.

Response

The intent of the proposed new KPI 10 is already covered by KPI 4.2. Until there is coordinated infrastructure for recovery from away from home systems across key sectors eg hotels and clubs, venues, institutions, it would be extremely difficult to report total quantities of material diverted. It will however, be possible to conduct sampling of quantities recovered by different systems and estimate recovery based on the number of sites with recycling systems and the measured performance of particular systems.

There have been strong statements made by most stakeholders about the importance of stronger enforcement of the Covenant NEPM. State and territory governments are already required to report action under the NEPM to NEPC for its annual report. The NPCC has developed improved compliance procedures and would be in a position to report on the number of non-complying signatories referred to jurisdictions. This will be added as a KPI to the Covenant.

3.6 Regulatory Impact Statement - Assessment of Impacts of the Covenant

The RIS identified the potential impacts of the Covenant and assessed these using a 'triple bottom line' assessment method. This assessment included an economic cost/benefit assessment, an assessment of environmental costs and benefits, and a qualitative assessment of social impacts.

Overall

18 submissions (3,5,6,7,8,10,11,12,13,14,15,19,22,24,25,26,28, 30 and 31) raised issues about the economic assessment in the RIS. The main issues raised were in relation to:

- *the costs to industry of data collection and reporting against the proposed Key Performance Indicators (KPIs)* – most submitters felt that the RIS had underestimated the costs of these requirements to industry
- *the costs and benefits to local government from increased kerbside recycling* – all of the submissions relating to this issue strongly questioned the conclusion that the net costs to local government would decrease with increased recovery rates
- *the capacity of existing kerbside recycling systems to collect more material* – submissions were strongly of the opinion that the existing kerbside system does not generally have additional capacity for more packaging within current operating parameters
- *the costs of increased public place recycling* – some submissions felt that the RIS had underestimated the cost of local government public place recycling
- *operational costs to industry* – some general cautions were raised around potentially excessive costs to industry.

3.6.1 Data collection and reporting costs

Submissions (6,7,8, 14, 15, 24 and 31) felt that the costs to industry signatories for data collection and reporting were under estimated in the RIS, and felt that costs would be higher than for the current Covenant. Submission 6 stated that the estimated cost of compliance for industry was inaccurate and felt that many of the proposed KPI's would require major data collection and database development and in some cases require major costs and allocation of human resources. Submission 7 felt that the proposed KPIs would cost existing signatories \$15,000 to \$25,000 more per year to report on, and that a medium large company which imports and manufactures indicated that the estimated cost just for data collection would be in the order of \$100,000.

Submission 8 (a large company) estimated that it had expended an average of \$90,000 per year on the administrative costs associated with the NPC and expected that these costs would rise. Submission 14 stated that the annual reporting requirements set out in the draft NPC, especially those associated with packaging design changes, were potentially more onerous than the requirements currently in place in Europe. Submission 15 stated that 11 of the 29 overall KPI requirements would require creating initial datasets in addition to ongoing reporting. Submission 24 stated that as a medium size company with limited resources, the extra reporting requirements would mean a significant addition to the several weeks per year already spent under the current Covenant.

Submission 25 stated that there would be a potential cost on the recycling industry as part of the revised Covenant, as the packaging supply chain is likely to look to the recycling industry for data. It also stated that this would be expensive, as most systems do not track amounts of packaging, but track materials by type such as glass or paper.

Submission 31 offered specific suggestions about various KPIs and indicated that they whilst many seemed "reasonable" that they should be subject to much more thorough consideration by industry. The submission also stressed a concern that individual companies must not be pressured to implement changes that are not economic or practically achievable.

Submissions 6, 7 and 14 provided a number of suggestions about each KPI and about processes for reporting (see the KPI section of this response to comments document). Submission 7 stated that with better definitions and improved clarity of what is expected from signatories, especially in reporting terms, costs to signatories could be mitigated.

Response

Industry submissions raised concerns about the potential costs of data collection and reporting, but also provided practical suggestions as to how these requirements could be sharpened. As described in the KPI section of this document, comments provided about the proposed KPIs have been used to review and sharpen the KPIs and reporting processes. Guidance documents and templates will also be prepared to further minimise potential costs to all signatories.

The KPIs have been reviewed to ensure that as much as possible, they allow companies to draw on data which could reasonably be expected to be available to inform company financial and operational performance.

3.6.2 Increased kerbside recycling costs

Submissions (3, 5, 10, 11, 12, 13, 19, 22, 26, and 30) strongly questioned the conclusion in the RIS that increased diversion of packaging through the kerbside system would see a net economic benefit to local government. Submission 3 stated that costs for recycling are passed on to Council through the cost of the contract (with the recycler), and that any additional tonnages would incur a significant additional cost. Submission 5 stated that the results were highly averaged and did not reflect the experience of councils.

Submission 10 also stated that it did not agree with the RIS's estimate that there would be a decrease in the unit cost of recycling and stated that the costs of collecting increased tonnages would be substantial, at least proportional to the increase in tonnages. It asserted that a reported \$20 per tonne decrease for some Victorian Councils was given too much weight in the RIS. This submission also stated that there would be an inevitable fall in per-tonne value of collected recyclables as the laws of supply and demand come into play, would in fact make kerbside collection significantly more expensive for local government, both on a per tonne basis and an overall basis. It also questioned whether packaging producers have either the will or the ability to establish and maintain major markets for recycled commodities and raised the risk of collapsing markets for recycle.

Submission 19 was strongly opposed to the RIS's conclusion in this area and suggested that the cost savings derived from the efficiencies gained through the adoption of best practice would merely offset the increased costs associated with the collection of higher volumes of recycle within the current collection framework.

Submission 26 disagreed with the key assumptions in the RIS that concluded that the increased materials collected from extended services, combined with landfill abatement costs, would offset any additional costs of service provision. It stated that the RIS gave no consideration to what they saw as a 'long established alternative view held by the majority of waste and recycling service providers in Australia'. It also cited the practices of manufacturers lightweighting materials, combined with materials recovery facilities setting maximum compaction rates, as driving up the cost of kerbside collection. Submissions 26 and 30 also argued that if there genuinely was money to be saved, then councils would be recycling more already.

In addition to questioning the actual conclusion in the RIS, some of these submissions (3, 5, 10, 11, 12, 13, 19, 22, 28, and 30) were also concerned about the transparency and robustness of the calculations. Submission 12 stated that local government is extremely concerned that the costs and benefits of the strengthened NPC to local government in the RIS are poorly researched, subjective and largely unsubstantiated (eg the RIS assumes no additional truck movements would be necessary in order to collect the additional kerbside recycling required to meet the target). Submission 19 stated that the

calculations cannot be substantiated and were derived from a small and poorly researched data set. Submission 26 was concerned that the existing costs to operate kerbside recycling (cited as \$294 million per year) had not been accounted for in the RIS.

Submission 30 provided comment but stated that the estimates were difficult to analyse because they were based largely on hidden modelling. It stated that the data sets used appeared to be based on councils (within urban Victoria) that already report the best recycling performance. Due to different demographics and geography the feasibility of recycling in other areas of Australia is more precarious. It also stated that differences in contractual arrangements and physical infrastructure influences the cost effectiveness of recycling systems and was also concerned that the RIS had not taken into account councils' commercial contracts with collection and recycling companies (that include termination and variation clauses) that potentially limits their ability to take immediate advantage of reductions in operating costs.

Response

The RIS concluded that increased diversion of packaging through the kerbside system would see an overall net economic benefit to local government. This was based on modelling in the RIS which predicted that, at high yields and efficiencies, some councils would save money by paying for additional packaging to be collected and recycled as opposed to paying for that same material to be collected and disposed of at landfill. This conclusion forecast an estimated net benefit (mainly from saved landfill costs over the life of the Covenant) rather than an actual payment. It is noted that the conclusion was based only on the cost of possible additional recycling and did not seek to report on existing costs.

The concerns of local government about this issue are acknowledged. As noted in the RIS, the estimated benefits are an overall average, and some councils, particularly rural councils or those with relatively low current recovery levels, may incur further net costs in ongoing provision of kerbside recycling programs. Even taking these issues into account, it is acknowledged that the estimates are highly dependant on a range of factors including future commodity prices and landfill disposal charges.

The RIS modelled the impacts of significant increases in recycling from both the kerbside and away from home areas. This was done to provide an evaluation of a broad range of scenarios, and no specific target has been proposed for the contribution that could come from kerbside. Subsequent work in developing targets and an initial implementation plan have indicated that the most substantial increases in recycling are more likely to come from the away from home sector. It would be important for the Covenant's implementation plan to identify and focus on the most strategic opportunities for additional recycling.

Comments around the transparency and level of detail in the calculations are also acknowledged. Appendix C provides some further explanation of the methodology used and provides an example of some of the cost inputs used. Further analysis of kerbside costs and optimum recovery rates (including region specific data) could provide valuable information with which to assist the National Packaging Covenant

Council and individual local governments in supporting the ongoing management of kerbside programs.

3.6.3 Capacity of kerbside system

In addition to the feedback described above, a number of submissions (5, 10, 12, 16 and 22) provided specific feedback that they felt that kerbside recycling systems were at, or near to, full capacity. These submissions felt that this called the net economic benefit conclusion in the RIS into question.

These submissions generally stated that this conclusion did not reflect the current experience of councils that identify municipal and contracted recycling service infrastructure to be operating at capacity. Submission 16 stated that its member councils had “achieved 43.3% diversion out of a maximum of 51.5%” and saw little further significant improvement in using this system. Submission 10 stated that they had canvassed the views of member councils who clearly indicated that their recycling contractors’ infrastructure is operating at capacity, and that any additional tonnages would incur a significant additional cost. It also stated that irrespective of bin capacity, truck movements (which represent the major recurring expense of the collection service) may be operating at full capacity.

Response

Many of the submissions felt that existing kerbside recycling systems are at, or near to, operating at capacity – short of significant capital investment in new infrastructure. Anecdotal discussions with a range of different councils indicated a divergence of views around this issue with some councils who were contacted by governments reporting that they felt that their systems still had significant capacity.

Recent discussions of the Covenant Council were strongly supportive of commissioning a detailed capacity study of kerbside systems across a range of locations. The results of this work would provide valuable information with which to better understand and prioritise Covenant implementation programs. It is also important to note that the process of developing targets and initial implementation plans has, to date, identified that the opportunities for greatest gain over the next five years will be in the away from home sector.

3.6.4 Public place recycling costs

With regard to public place recycling, some submissions (5, 10, 26 and 28) felt that the estimated cost for public place recycling was too low. Submission 5 stated that the estimated cost in the RIS appeared highly conservative. Submission 10 reported feedback from councils stating that the cost of installation of 100 recycling stations around the LGA would be around \$500,000 and that would have a cost of servicing of about \$100,000 per year on a two collections per week basis, and from another council reporting an annual collection cost of \$425,000 for 688 bins. It also stated that the estimate in the RIS of an additional 4,100 bins was far too low with one council claiming there would need to be 6,000 to 15,000 public place recycling bins to collect 20-50% more, based on having 30,000 recycling bins in kerbside.

Submission 22 estimated an additional cost of \$600,000 per year to collect public place recycling on top of their 1,000 existing litter bins. Submission 26 also felt that the RIS had underestimated the cost of public place recycling and felt that even at the “limited magnitude” of 15-20,000 tonnes per annum in the RIS it would require 20-30,000 recycling stations to be serviced twice a week at a cost of \$30-40 million per annum. It also felt that advertising and public education to encourage the use of public place recycling (and greater use of kerbside) could cost as much as \$10 million. Submission 28 stated that public place recycling is very expensive due to the difficulty in servicing the high levels of contamination and the poor yield.

Submission 4 did not provide comment on the accuracy of the RIS estimates, but provided feedback that the cost of installation of 700 beach front bins in their area was \$217,400, with an operating cost of \$246,000 per annum.

Response

It is acknowledged that broad application of public place recycling could have significant cost implications for local government, and information provided in submissions helps to assess these potential costs.

It is expected that Covenant Council strategies to increase public place/away from home recycling will, in the first instance, focus on areas with the potential to provide bulk amounts of low contamination packaging. Such areas are likely to include large shopping centres, major events and sporting locations, and are less likely to include broad public place areas such as small strip shopping centres. These priority areas will not generally be funded by local government, and have been separately costed in the RIS.

3.6.5 Operational costs to industry

Submission 14 provided an estimated cost for setting up an office based recycling program for 5,000 employees of \$39,500. Submission 15 stated that the issue of higher marginal costs to industry as recovery rates climb needed to be calculated.

Response

This additional information is acknowledged, however, it is noted that the costs are derived from US experience. The costs of bins, which make up the major component of the costs provided, is generally much lower and many are even free in Australia, depending on negotiations with the service provider.

3.6.6 Other issues

Some submitters raised overall issues about the cost-benefit assessment. Submission 23 raised concerns about the robustness of the cost-benefit analysis used in the RIS given the lack of baseline data, and use of a triple bottom line approach, which it stated necessarily involves some degree of subjective ranking.

Submission 15 was concerned that the RIS projected increased consumption of packaging by blanket application of GDP growth, whereas their view was that consumption has been stagnant or increased only slightly for a range of affected material types. Submission 26 provided a different view and stated that the projected consumption growth in the RIS was too low. This submission also stated that, while the RIS acknowledges that the baseline data for current consumption is likely to be a low estimate, it does not highlight the extent of the problem.

Submission 27 was sceptical about the evaluation of the net environmental benefit in the RIS, and in particular that it provides a “point in time approach”. The submission asserted that markets are continually fluid and that the benefit of a given level of recycling would change over time.

Submission 31 believed that more cost benefit analysis was required prior to a decision being made due to data limitations and the fact that the final document was not available when the RIS was undertaken.

Response

Issues about future projections and possible consumption trends are acknowledged. The paucity of baseline data about consumption and recycling levels is also acknowledged, and is discussed further in the targets section of this document. Ongoing data collection would be an important priority for the implementation of a revised Covenant.

3.7 Implementation

Many submissions raised issues relating to implementation of the Covenant. These related to the need for guidance to assist in meeting signatory obligations, clearly allocated responsibilities and expectations, and a framework for funding and action to ensure that the efforts of all stakeholders are focused on common actions and priorities which deliver the Covenant’s targets and goals.

12 submissions (3, 6, 8, 9, 10, 11, 15, 17, 18, 23, 26 and 29) raised the issue of developing an overall implementation strategy for the National Packaging Covenant Council (NPCC). Some of these also commented on the implementation of the Environmental Code of Practice for Packaging (the Code).

For the Covenant to deliver environmentally desirable outcomes submissions stated that all parties to the Covenant - State & Commonwealth Governments, local governments, the packaging supply sector and community groups - must be actively involved in the development of the Covenant’s Implementation Strategy.

It was suggested that parties outside of the Covenant framework, such as consumers and recyclers would also need to be engaged in the process to ensure that the strategies developed to achieve NPC targets are effectively implemented.

A number of submissions (eg 29, 15, 18, 23, 26,) stressed the importance of an overall Implementation Strategy to ensure that targets are met. This would provide the practical mechanism for business, government and consumers to take action and assume responsibility.

Submission 8 stressed the importance of maintenance of existing and investment in new recycling infrastructure within Australia to ensure that the additional used packaging materials that will be collected for recycling under the proposal can actually be reprocessed and not sent to landfill.

Submissions 17 and 26 identified litter as a policy objective and in particular the specific strategies required for litter prevention including public education and infrastructure that need to be included, along with specific funding allocations. Another submission specifically identified the need for the development and promotion of a simple and nationwide system to identify recyclable packaging, for example, similar to star ratings or other similar environmental guidance.

Submissions 3 and 8 mentioned the importance of “green procurement” purchasing policies in driving purchase and support for products containing recycled content. The importance of all levels of government building in triple-bottom line assessment of waste related tenders was also raised in order to promote best available systems and infrastructure.

Three submissions (5, 21, 29) addressed representation on the National Packaging Covenant Council. One raised the issue of local government having ongoing representation on the Council in recognition of the essential role of local government in the governance of waste packaging policy development and regardless of whether they are signatory to the Covenant.

Another submission supported the need for an ongoing community representative on the NPCC and the third proposed a representative from the Waste Management Association of Australia.

It was also proposed that the NPCC develop a formal consultation protocol with local government to appropriately inform the development of the Covenant and alternative approaches.

Response

The National Packaging Covenant Council is developing an Implementation Strategy. This would be developed in consultation with all key groups who need to play a role in delivering the Covenant outcomes. The draft implementation plan would address many of the issues raised in submissions about implementation and targets.

The implementation strategy will identify priority sources of additional recyclables, funding priorities, key data needs, communication and consultation processes to ensure that all key players can contribute their expertise and a work plan and timelines for providing the wide range of guidance materials and templates needed to assist signatories. Where practical, this would support the maintenance and development of

Australian infrastructure for the processing of recyclables. Schedule 1 to the Covenant outlines a number of contextual issues for implementation of the Covenant that support investment in infrastructure and market development. It also states that waste and recycling tenders by governments should contain economic, social and environmental criteria.

The Environmental Code of Practice for Packaging provides a statement of general principles for the design of environmentally responsible packaging. In addition, detailed Guidelines have been developed to assist companies to implement the Code and assist them to demonstrate that they have implemented it as part of their Action Plan under the Covenant.

Objectives of the Code have been broadened to guide the packaging supply and recovery chain in reducing overall lifecycle environmental impacts of packaging and to address the overarching targets as set out in the Covenant as well as providing a tool for the design and manufacture of innovative packaging.

The Code and Guidelines provide a much more comprehensive and transparent guide for making packaging choices. This will provide much better guidance than the previous simple checklist.

Proposed areas of focus for the Code and Guidelines are: source reduction, potential for packaging re-use, recovery and recycling, ability to incorporate recycled content, minimising toxic impacts of packaging, propensity to become litter and consumer information. The Code and Guidelines are also directly linked to specific KPIs outlined in the Covenant.

Changes have already been agreed to the composition of the NPCC. In response to a request from Environment Ministers, the NPC Council agreed to approach the National Environment Consultative Forum (NECF), the peak body for environmental organizations, requesting that they nominate a representative for Council membership commencing with the new Covenant. In addition, Council at its May 2005 meeting agreed to appoint 2 additional members of local government to sit on the Council.

APPENDIX A

LIST OF SUBMITTERS:

Draft National Packaging Covenant and Regulatory Impact Statement

Public Consultation

Submitter list as at June 2005

1.	Hugh Paterson
2.	Debra Clement, Gourmet Garden
3.	John Owen, Willoughby City Council
4.	Adrian Smith, Gold Coast City Council
5.	Rob Spence, Municipal Association of Victoria
6.	Michael Campbell, 3M Australia
7.	Andrew Doig, Australian Environment Business Network (AEBN) ^N
8.	Nicholas Harford, Visy ^N
9.	Patricia Phair
10.	Local Govt & Shires Association of New South Wales
11.	Max Amber, SA Local Government Association
12.	Ian Chalmers, Australian Local Government Association (ALGA)
13.	Tony Tapsell, NT Local Government Association
14.	Annukka Sairanen, Hewlett Packard Pty Ltd ^N
15.	Gavin Williams, The National Packaging Covenant Industry Association
16.	David Somerville, Southern Sydney Regional Organisation of Councils
17.	Ian Kiernan, Clean Up Australia
18.	Henry Pepper, Beverage Industry Environment Council
19.	Greg Hoffman, Local Government Association of Queensland
20.	Rosemaree Lechner, Natureware
21.	Darryl Cook, Department of Primary Industries, Water & Environment, (Tas)
22.	Leo Kelly, Blacktown City Council
23.	Amcor
24.	Stan Odesse, Cerebros Foods
25.	Anne Prince, Australian Council of Recyclers
26.	Dave West, Boomerang Alliance ^N
27.	Harley Wright, Kimberley Clark Australia
28.	Brisbane City Council
29.	Waste Management Association of Australia - New South Wales
30.	WA Local Government Association (WALGA)
31.	Australian Chamber of Commerce & Industry (ACCI)

APPENDIX B

GLOSSARY:

ADF	Advance Disposal Fees
CDL	Container Deposit Legislation
Covenant	National Packaging Covenant
ECoPP	Environmental Code of Practice for Packaging
EPR	Extended Producer Responsibility
EPHC	Environment Protection and Heritage Council
JPG	Jurisdictional Projects Group (replacing current Jurisdictional Recycling Groups – JRGs)
KPIs	Key Performance Indicators
NEPC	National Environment Protection Council
NEPM	National Environment Protection Measure (Used Packaging Materials)
NGO	Non-Government Organisation
NPCC	National Packaging Covenant Council
NPCIA	National Packaging Council Industry Association
NPG	National Projects Group (NPG) (replacing current Kerbside Recycling Group – KRG)
RIS	Regulatory Impact Statement

APPENDIX C

EXPECTED COSTS TO LOCAL GOVERNMENT – FURTHER EXPLANATION: (prepared by Nolan-ITU Pty Ltd, May 2005 and makes reference to Nolan-ITU Pty Ltd's 'Consultation Regulatory Impact Statement (RIS) on Revised National Packaging Covenant' dated 13 April 2005)

1 Net Cost of Recycling

The net cost of recycling represents the actual cost to Councils of providing the recycling service (i.e. collection, processing and sale of recyclables) *less* the associated cost savings in garbage collection and disposal. The net cost of recycling is derived by WRCM modelling by comparing the cost of an integrated garbage and recycling service with that of a garbage only service.

1.1 Revenue from Sale of Collected Recyclate

In deriving costs, allowance was made for changes in the mix of materials presented for recycling for each of the scenarios modelled. As the market value of each material varies, changes in the mix (or “basket” of collected materials) impacts on the value per tonne of collected mixed recyclables. For modelling purposes, a base (2003) set of recyclate market values was developed as well as a projected set of values based on recent industry survey work that identified trends in recyclate value. The adopted recyclate values by material are shown in Table 1.1.

Table 1.1: Assumed Recyclate Value at Reprocessors Gate (\$/tonne)

Material	2003 (base)	2010 (predicted)
Newspaper	\$90	\$100
Mixed paper/cdbd	\$40	\$25
Glass	\$72	\$72
Aluminium	\$800	\$1,200
PET	\$250	\$390
HDPE	\$330	\$450
PVC		\$350
LPB	\$200	\$175
Steel cans	\$65	\$75

The value per tonne of mixed recyclables was then calculated taking account both of the market value by material as well as the composition of the recycling stream. An example calculation is shown in Table 1.2.

Table 1.2: Example Derivation of Value of Recycling Basket (\$/tonne)
Scenario: 2010 - Base 40%, Recovery 80%

Material	Quantity Recovered	2010 Recyclate Value	Total Revenue
Newspaper	733,336	\$100	\$73.3M
Mixed paper/cdbd	446,180	\$25	\$11.1M
Glass	531,409	\$72	\$38.3M
Aluminium	59,696	\$1,200	\$71.6
PET	75,031	\$390	\$29.3M
HDPE	65,388	\$450	\$29.4M
PVC	201,852	\$350	\$70.6M
LPB	22,902	\$175	\$4.0M
Steel cans	236,453	\$75	\$17.7M
Totals	2,372,247		\$345.5M
Value of Basket = $\$345.5\text{M} \div 2,372,247$ = \$145.6/tonne			

A summary of the derived mixed recyclate value for each of the scenarios modelled is presented in Table 8.13 of Nolan-ITU (2005).

As indicated in Section 8.4.3 of Nolan-ITU (2005), in the cost modelling, the assumed recyclables processing costs for the base case (existing system) were adjusted for each scenario to reflect the change in value of the material presented (in mixed form) at the processors gate. For example, the base (2003) recyclables processing cost for Sydney is \$55/tonne (MRF gate fee). The 2003 value of mixed recyclate was \$109/tonne, some \$36/tonne lower than the value of mixed recyclate for Scenario: 2010 - Base 40%, Recovery 80% (see Table 1.2). For this scenario therefore, the MRF gate fee was reduced by \$36/tonne to reflect the increase in the value of the mix.

1.2 Net Cost of Recycling

The WRCM cost modelling predicts that the net cost of recycling will reduce for the scenarios modelled. To show where these savings are occurring, the costs for each component of the integrated garbage and recycling system for Sydney are presented in Table 1.3, together with the costs if only a weekly garbage service were offered.

**Table 1.3: Garbage and Recycling Costs – Sydney
(\$ per Household per Year)**

Item	Existing System	Base 50% 2010 60% Diversion	Base 50% 2010 80% Diversion	Base 40% 2010 60% Diversion	Base 40% 2010 80% Diversion
Garbage Collection/Transport	\$52	\$53	\$52	\$52	\$52
Garbage Disposal/Processing	\$60	\$67	\$62	\$63	\$58
Recyclables Collection/Transport	\$30	\$32	\$35	\$34	\$37
Recyclables Processing	\$12	\$10	\$7	\$11	\$6
Total System Cost	\$154	\$162	\$157	\$161	\$154
Cost if only Weekly Garbage Service Offered	\$135	\$144	\$144	\$144	\$144
Net Cost of Recycling	\$20	\$18	\$13	\$17	\$10
Garbage collected (kg/hhld/yr)	706	779	729	741	682
Recyclables collected (kg/hhld/yr)	216	243	293	281	340
Total collected (kg/hhld/yr)	922	1022	1022	1022	1022

Table 1.3 shows that, for the Sydney example, the current cost of the recycling service is estimated at \$42/hhld/yr, including collection and sorting. When compared with a garbage only service, the modelling estimates that the *net* cost of providing a recycling service is \$20/hhld/yr. This figure includes the savings in garbage collection and disposal costs from diversion of recyclables from the garbage stream.

For the future scenarios modelled, the net cost of recycling is predicted to reduce. Note that for these scenarios, the combined cost of collection and sorting recyclables does not change significantly however the *net* cost of the recycling service reduces due to increases in avoided garbage collection and sorting costs.

1.3 References

Nolan-ITU (2005), Consultation Regulatory Impact Statement (RIS) on Revised National Packaging Covenant, for Environment Protection & Heritage Council, 13 April 2005.