

The Director
Stewardship and Waste Section
Department of the Environment and Energy
GPO Box 787
Canberra ACT 2601

Via email to: wastepolicy@environment.gov.au

25 May 2018

Dear Sir/Madam

RE: Regional Submission to consultation paper on the Review of the *Product Stewardship Act 2011*, including the National Television and Computer Recycling Scheme

The member councils of the Hunter Joint Organisation and Central Coast Council welcome the opportunity to comment on the review of the Product Stewardship Act and the National Television and Computer Recycling Scheme.

The following submission was developed by the Hunter Joint Organisation through an open consultative process with officers and senior managers from the following NSW Local Government Authorities:

- Central Coast Council
- Cessnock City Council
- Dungog Shire Council
- Lake Macquarie City Council
- Maitland City Council
- Mid-Coast Council
- Muswellbrook Shire Council
- City of Newcastle
- Port Stephens Council
- Singleton Council
- Upper Hunter Shire Council

The Hunter and Central Coast regions of New South Wales cover an area over 35,000 square kilometres and provide three-bin waste collection services to over 950,000 residents and businesses. The councils operate 10 waste management facilities, one AWT, various composting facilities and several community recycling facilities and, as such, are acutely aware of the challenges some products cause when present in waste streams.

Most member Councils still operate Council owned waste management facilities (landfills) and have a keen interest in addressing product specific challenges faced by Local Government and communities as they are forced to find an “end-of-pipe” solution to products that could / should be regulated prior to even being allowed to enter the Country.

We are strongly supportive of the Act review and consider this to be an ideal opportunity to identify how the nation can move, through recognising waste materials are valuable resources, towards a circular economy. Legislative change will provide opportunities for innovation in recycling, creating new employment opportunities, reducing waste to landfill and creating a viable local economy through reduced importation of products.

We note the Federal Government's obligations under other key environmental policy frameworks. In particular, we refer to the aims of the *National Waste Policy* and the principles of Ecologically Sustainable Development as defined under the *Environmental Protection and Biodiversity Conservation Act 1999*. An effective product stewardship system in Australia is key to achieving the objectives of the *Product Stewardship Act* and those of the broader national policy framework.

The following submission provides detail on the issues and concerns of the Councils of the region. Key issues we request be considered and addressed include:

- Extending the focus of product stewardship to whole-of-life management of products and design improvements;
- Strengthening the role of the Federal Government in product stewardship arrangements;
- Reviewing the existing product stewardship framework and identify opportunities to enhance its application;
- Considering government intervention in the import and local production of single-use and generally disposable products that are not bio-degradable;
- Clarifying the role of the Ministers List and the Product Impact Management Workplan and how they relate to each other;
- Enhancement of the National Television and Computer Recycling Scheme;
- Consultation with local government;
- Review of Australian Standards and import controls;
- Augmenting the capacity of the Australian Packaging Covenant.

We thank the Government for providing the opportunity to comment on the Act review and we look forward to ongoing opportunities to collaborate on this important matter.

Please do not hesitate to contact Mr. Bradley Nolan (Director, Hunter Joint Organisation Environment Division) on 02 4978 4024 to discuss any aspect of this submission.

Yours sincerely

Roger Stephan
Interim Chief Executive Officer

Detailed Submission

The following submission has been compiled with advice and information from the 11 Councils of the Hunter and Central Coast Region of NSW. Individual member Councils may also submit their own detailed submissions to the legislation, this submission will support and provide regional context for those individual submissions.

General comments on the Product Stewardship Act Review

The Councils of the region recognise the Act is a cornerstone of the National Waste Strategy. We support its role in effectively managing the environmental, health and safety impacts of products and the impacts associated with the disposal of products and their associated waste. However, we note concurrent processes such as the Product Impact Management (PIM) Prioritisation Process and associated Workplan and the lack of integration of these important processes. A more holistic approach to product stewardship is recommended in this regard.

Please note this submission provides feedback on the Act review, but overall, Councils would like to see greater leadership from the Federal Government as related to Extended Producer Responsibility (EPR) given the current recycling crisis, and excessive issues with implementation of EPR for the eWaste sector.

Given the involvement of state government in the waste industry and subsequent variations across state boundaries, we strongly urge DoEE to consult with local government on a state by state basis. In NSW that can be done through the RENEW network of regional waste groups and the metro waste facilitators group. This is particularly relevant at the startup of new product stewardship schemes to ensure rollout is coordinated and implemented with key stakeholder input.

Recommendations

- Consultation with local government should occur on a state by state basis
- Consultation with local government in NSW is recommended through the RENEW network of regional waste groups and the metro waste facilitators group
- The government ensure Local Government representatives participate in any product working groups to ensure the views of the sector are considered prior to implementation of any product stewardship scheme

Objects of the Act

The objects of the Act are still relevant and appropriate but could be updated to reflect the broader stakeholders and objectives that are driving some product stewardship initiatives. They should also be updated to reflect circular economic principles.

'Avoiding generating waste from products' is one of the key objects of the act. However, much of the focus from the Federal Government is on end of life aspects of the product lifecycle. Greater emphasis is needed on incentivising or regulating producers to implement better whole of life management and improved design to extend life of products. Where problematic products are allowed to be imported into Australia, an appropriate Extended Producer Responsibility (EPR) scheme is required to ensure appropriate financial support is available

for Local Government to effectively and appropriately manage the end of life issues created by the waste products.

The Hunter Joint Organisation (HJO) recommends the objects of the act are updated to require companies to manufacture, import or sell products that are designed to be durable and exist for their optimal lifetime, and that can easily be upgraded, repaired and recycled where technically possible. Built in obsolescence should no longer be an acceptable business model.

Further, the Objects of the Act should acknowledge the social and economic impacts of waste, including job creations, and safety (schemes remove unsafe materials from the environment (such as old child car seats and medicines).

In addition, the Councils of the region believe that cost recovery is a requirement to effective EPR to ensure that the Department of Industry can effectively undertake industry engagement and enforcement. There are a number of jurisdictions that effectively utilise this model (e.g. California and British Columbia).

Recommendations

- That the government mandate for better design standards at start of life for all products, made imported and sold in Australia. Standards should address durability, repair and/or remanufacture to extend product life.
- Cost recovery be considered as part of any future EPR schemes.
- Consideration of government intervention in the import and local production of single use and generally disposable products that are not bio-degradable

Product Stewardship framework

The current piecemeal approach to product stewardship is not working effectively: Voluntary schemes such as 'Paintback', 'Drum Muster' and the National Tyre Product Stewardship Scheme have rolled out on an ad-hoc basis with limited success; accreditation of voluntary schemes has been under subscribed with only two schemes accredited to date (Mobile muster and Flourocycle); coregulatory arrangements of the NTCRS are generally functioning well but require some review (as per our comments below); and to date, no mandatory schemes have been established.

The Federal Government has so far avoided a stronger regulatory approach to product stewardship and the impacts of this are felt greatest at the local government level. The management of failed voluntary schemes has fallen on local governments who are generally the first point of contact for waste products and the expenses associated with disposing of them. This places an additional burden on an already grossly under-resourced tier of government.

HJO considers a review of how the framework functions is required to strengthen its capacity, and offers the following suggestions on how to improve framework performance:

- Where a voluntary scheme is established, accreditation should be a mandatory component. Accreditation would provide a measure of accountability and reassure the public of the schemes capacity to deliver the outcomes sought.
- Where there is a degree of reluctance on behalf of industry to undertake or uphold accreditation, co-regulation needs to be implemented. The threat of co-regulation would certainly incentivise industries to uphold accreditation standards. The

framework would need to clearly prescribe circumstances for when accreditation will be withdrawn and regulation will apply.

- The use of mandatory product stewardship needs to be exercised by governments where there is a clear need for action. Industry lead responses on certain products have achieved limited success and the government needs to show leadership in the use of this option.

To ensure a more streamlined and highly functioning product stewardship scheme, HJO recommends the appointment of a Product Stewardship Commissioner as a centralised coordination point. The key role of this position would be to ensure collaboration between all stakeholders and develop a national strategic approach, not unlike role of the Threatened Species Commissioner. In addition, the Commissioner could be responsible for the management of the PIM Workplan, highlighting where escalation to the Ministers list is required, and recommending the required approach.

Recommendations

- A review of the product stewardship framework be undertaken that strengthens the governments capacity to enforce it. This includes:
 - Accreditation of voluntary schemes as a mandatory requirement;
 - Those industries that do not uphold accreditation standards are forced into co-regulatory arrangements;
 - The government exercise its capacity to implement mandatory controls for certain products where there is a demonstrated need for decisive action
- The government appoint a Product Stewardship Commissioner to ensure collaboration and a strategic national approach to product stewardship

Voluntary Product Stewardship Accreditation

As outlined above, the current accreditation system is proving unsuccessful with only two schemes fully accredited to date. We appreciate the government would prefer to adopt an industry-lead approach to product stewardship but experience shows that this only works when all industry stakeholders are involved.

Greater effort is therefore required to promote accreditation of voluntary product stewardship schemes which would facilitate a whole of industry approach. Accreditation will provide more accountability within existing and future schemes and will ensure consistency in terms of regulatory obligations across the industry. It also increases consumer confidence in voluntary schemes.

However, there needs to be an incentive for industries to want to undertake accreditation. At the moment, the costs far outweigh the benefits, particularly for industries that are already doing their own thing as part of normal business operations. We suggest the implementation of a payback scheme is supported where, for example, industry demonstrates compliance with agreed KPIs over a specified time frame. This would act as an incentive for industry to apply for and maintain accreditation, and therefore a high standard of product stewardship. Alternatively, companies not accredited, and selling materials that are not sustainable, contain recycled content, or have high recyclability, could be 'taxed' to incentivise appropriate product design, and company accreditation in the EPR framework.

Recommendation

- Implement a payback scheme for industries that uphold accreditation standards
- Consider incentivising accreditation and product design by applying a 'tax' to poorly designed products, or unaccredited businesses.

Ministers List and Product Impact Management Workplan

The product list is an important policy measure and should be retained. The development and use of the list could be improved by developing a more structured and transparent process for implementation.

Further clarification is required regarding how the Product Impact Management Workplan (PIM) and the Ministers List interact. We understand the purpose of the PIM Workplan is to ensure products requiring escalation are referred to the Ministers list for action. However, who determines this and how this process occurs requires further explanation.

Councils of the region are also concerned that once a voluntary scheme has been established, it is removed from the Ministers List with limited ongoing monitoring occurring. Experience has shown that when schemes fail, local government is the agency left managing the residual waste and bearing the costs for the scheme failure. This is the experience with tyres, paint, and to a lesser extent, e-waste. An overarching monitoring and evaluation framework of these schemes is recommended to ensure ongoing successful delivery.

Recommendations

- The Department must clarify how the PIM Workplan and Ministers list interact with specific reference to how products listed in the PIM workplan are escalated to the Ministers List
- A monitoring and evaluation framework is required to guarantee ongoing delivery of a scheme after it leaves the Ministers List

National Television and Computer Recycling Scheme (NTCRS)

The NTCRS and other existing schemes have generally been effective in reducing waste at end of life, but less effective at encouraging improvements in design. 'Avoiding generating waste from products' is best achieved by integrating environmental considerations at the design stage, for example by eliminating or light weighting materials or by designing for durability, repair or remanufacturing.

Collective industry stewardship schemes provide little incentive for individual companies to redesign their products to improve recyclability, or to eliminate waste at source through better design.

Product stewardship schemes should include:

- some mechanism (e.g. differential fees) that provide participants with incentive to improve design for recovery
- support for development of end markets

- minimum recycling standards or some sort of accreditation, including for small recyclers.

A number of issues associated with implementation of the NTCRS have implications for Local Government:

- Significant challenges remain to delivering reasonable access to e-waste collection services principally due to the cost of servicing outer regional and remote areas. The benefit of competition in driving innovation and cost effectiveness between arrangements in outer regional and remote areas is questionable. Industry's funds are not being used efficiently and these communities are not getting the service levels they require.
- HJO supports a collaborative approach between coregulators that ensures more equitable access to services in non-metropolitan areas. This could be achieved through joint funding of services by coregulators. The focus needs to move away from the complexity of collection arrangements, to communication and promotion of the service to maximise community participation. The scheme should be aiming to enhance partnerships between councils, communities and coregulators rather than forcing a relationship that is not achieving the desired objectives of the scheme.
- Consistency across state boundaries about how e-waste is managed is required. Reference is made to the pending ban on e-waste to landfill in Victoria commencing 1st July 2019. This sort of ban would go a long way to ensuring e-waste is appropriately channeled into properly managed schemes and programs such as the NTCRS. However, the spillover effect of a state specific ban is that e-waste not captured by the Victorian program has the potential to end up in landfill in neighbouring states. A more collaborative approach between state and federal agencies will ensure consistency on matters such as this. This could quite easily be managed through existing COAG arrangements.
- There are still many potentially harmful materials in electronic products that are ending up in landfill and much community confusion about what type of e-waste is accepted or not accepted. We propose the extension of the NTCRS to include all appliances as is the case in the EU's Waste of Electrical and Electronic E (WEEE) program. This will improve the economies of scale for processing and would enhance participation through simpler messaging (e.g. anything with a cord is classified as e-waste).
- Communication of the scheme has been poor. The community is largely confused about what can be recycled, where and by whom. Clear and consistent messaging lead by the federal government is critical to the schemes success. This would ideally involve coregulators working with federal, state and local governments to ensure community awareness is escalated as a priority of the scheme.

Recommendations

The Australian Government needs to:

- Work with coregulators to ensure more equitable access to the NTRCS particularly in remote areas
- Extend the NTCRS to include all appliances with a cord
- Ensure consistency across state boundaries in relation to how e-waste is managed
- Ensure clear and consistent messaging of the scheme is required and show leadership in that regard through its own communications

Interaction between the Product Stewardship Act, State and Local Government Legislation, Policy and Programs

The interaction between legislative instruments could be enhanced through more involvement by the Australian Government in State Government working groups. The Product Impact Management System (PIMS), if implemented, will be helpful.

Consideration should be given to a national, cross-jurisdictional roadmap for product stewardship with a 3-5-year timeframe. This was one of the recommendations of the Issues Paper from the International Stewardship Forum 2018.

The roadmap could:

- outline the responsibilities of all levels of government to support product stewardship. For state and territory governments - who have statutory responsibility for waste - this could include harmonising regulations for waste management, health and safety, and product stewardship, where appropriate. The roles and responsibilities of the Australian Government to support the states should also be clarified.
- include a commitment by all levels of government to support product stewardship through procurement of buildings, infrastructure, products and packaging with recycled content
- provide a clear vision for action reflecting circular economy principles and including ambitious targets such as zero waste to landfill
- reframe product stewardship as an economic opportunity linked to innovation, business growth and job creation
- shift the focus from 'waste management' to 'resource recovery', with a clear signal that waste to energy is lower down the resource recovery hierarchy because it leads to loss of raw materials
- recognise additional non-environmental goals or benefits including health and safety, job creation, etc.
- clarify the role of product stewardship in supporting a circular economy - for example by facilitating shared responsibility for circular design, recycling and market development for recycled materials - and how it can complement other policies and tools
- provide a clear framework for identifying product priorities, building on the current consultative process for a national strategy to manage environmental impacts from products.

Recommendation

The Australian Government should convene a cross jurisdictional working group to develop an Extended Producer Responsibility Roadmap.

Packaging

The Councils of the region strongly recommend the Government leverage the work of the Australian Packaging Covenant by implementing the parts of their strategic action plan that call for stopping the importation of products packaged in difficult to recycle composite

materials, and requiring common containers and packaging to be made with high-percentage post-consumer recycled content, which will assist in jump-starting the circular economy.

Recommendation

That the federal government resource the Australian Packaging Covenant to support implementation of their strategies and action plans to stop imports of products packaged in difficult to recycle composite materials and require most common containers and packaging to be made with high-percentage post-consumer recycled content

Submission ends.
