

Reform of packaging regulation – Consultation paper

**Department of Climate Change, Energy, the Environment and
Water (DCCEEW)**

4 November 2024

Prepared by the Northern Sydney Regional Organisation of Councils (NSROC) on behalf of our member councils:

- Hornsby Shire Council
- Hunter’s Hill Council
- Ku-ring-gai Council
- Lane Cove Council
- Mosman Council
- North Sydney Council
- City of Ryde Council
- Willoughby City Council

Primary Contact:

Dr Meg Montgomery

Executive Director, *Northern Sydney Regional Organisation of Councils (NSROC)*

E: mmontgomery@lanecove.nsw.gov.au

M: 0401 640 823

About NSROC

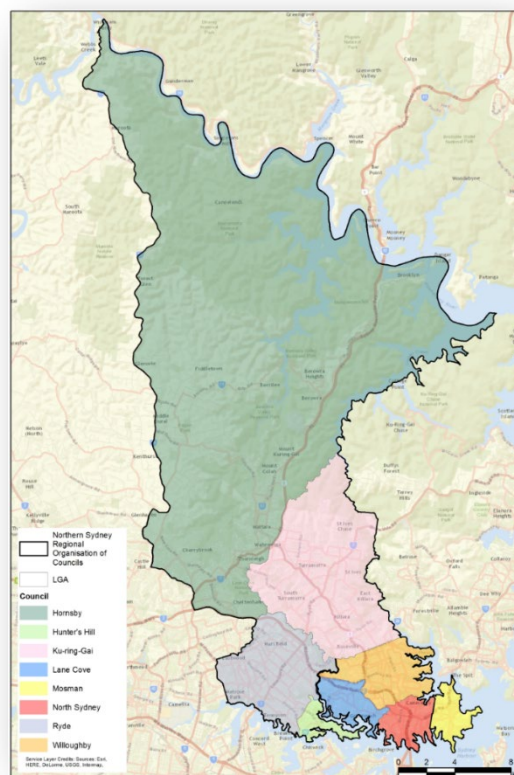
The Northern Sydney Regional Organisation of Councils (NSROC) members are the eight councils in the northern Sydney area: Hornsby, Hunter's Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Ryde, and Willoughby.

NSROC brings these councils together to work on projects and common goals to create solutions that benefit not just individual communities, but the entire region. Furthermore, NSROC actively seeks opportunities to work together with State and Federal government departments and community organisations.

NSROC member councils service an area of 639km² with a population of 651,315 as of 2023 which extends from the Hawkesbury River in the north to Sydney Harbour in the south, west to Meadowbank on the Parramatta River, as shown in below.

The eight NSROC member councils are:

- Hornsby Shire Council (HSC)
- Hunter's Hill Council (HHC)
- Ku-ring-gai Council (KMC)
- Lane Cove Council (LCC)
- North Sydney Council (NSC)
- Mosman Municipal Council (MMC)
- City of Ryde (CoR)
- Willoughby City Council (WCC)



Introduction

NSROC welcomes the opportunity to contribute towards the Department's consultation about the reform of packaging legislation. This submission has been prepared with input and support of our member councils, but should be considered draft until it is formally endorsed by the NSROC Board.

The consultation paper generally reflects the views of our member councils in regard to extended producer responsibility schemes and the value such schemes offer in delivering cost effective whole of life management of products and packaging. Without such schemes, councils are left to fund end of life options for waste materials with virtually no control over the way the materials are designed and constructed. That can lead to low percentage recovery of materials meaning that resources are wasted and landfill space is used unnecessarily. In the Sydney metropolitan region the impending loss of landfill capacity has reached a crisis and the NSW Minister for the Environment announced on 1 November 2024 that landfill capacity will be exhausted by 2030 unless significant steps are taken to rapidly increase recycling and diversion. A NSW Waste Infrastructure Plan is being developed to identify the shortfall in sorting and processing facilities for all waste streams.

Key Points

The consultation paper offers an opportunity for stakeholders to respond with detailed information in responses to the survey questions. Many of those questions clearly seek practical operational data from industry players or facility owners. Our eight member councils are price takers for kerbside waste management services which limits NSROC's ability to respond to those questions. However, NSROC supports the positive engagement of industry stakeholders demonstrated by the current consultation. However, it is also important that the Department hear from councils and the community because businesses are necessarily promoting the interests of their shareholders. We believe that reform of packaging regulation is required because the current voluntary approach led by industry has failed to deliver as effectively as expected and councils and their communities continue carrying the financial burden.

NSROC's detailed responses to the survey questions in the consultation papers are attached. **(Attachment A1)** The key points of NSROC's position on the preferred reform option; the need for the reform; the reform objectives and the reform outcomes are outlined below.

Reform Options

The consultation paper provides a detailed description of the three potential options to reform packaging regulation. The options are:

- Option 1: Strengthening administration of the co-regulatory arrangement;
- Option 2: National mandatory requirements for packaging; or
- Option 3: An extended producer responsibility scheme for packaging.

Each option would be an improvement on the current arrangements, but NSROC has no doubt that Option 3 provides the best solution. We have consistently argued that Extended Producer Responsibility (EPR) schemes play a critical part of the suite of waste management approaches required to deliver sustainable waste management and the move towards a more circular economy. For the most part the voluntary industry schemes have favoured the economic health of the interested parties over the cost and benefit to the community.

How important is it to you that packaging is designed to be recycled or reused and then recycled or reused in practice?

All councils in NSW support the waste hierarchy and, where feasible, offer recycling options with either kerbside collections or drop off locations. NSROC councils promote and reflect their communities' aspirations for greater sustainability in response to climate change. While local recycling opportunities depend on the combination of Material Recovery Facilities (MRFs) and Processors, the critical factor is the packaging design so that it can be recycled or reused. The 2018 Report on the Waste and Recycling Industries of the Australian Senate's Environment and Communications References Committee noted that some 70-80% of a product's environmental impact is determined at the design stage. Poor design for recycling means that the material effectively becomes a contaminant and negatively impacts recycling or reuse.

The widespread community disappointment at the collapse of soft plastic recycling demonstrates that desire to recycle packaging and several of our member councils now pay a premium to allow residents to have soft plastics (and other problem wastes) collected by a private provider which still has access to a processor in Victoria.

Do you support the proposed packaging reform objective outlined in Section 4.1?

NSROC strongly supports the proposed reform objectives which reflect recommendations we made in previous submissions on Australia's Product Impact Management system and on the 2018 Review of the Product Stewardship Act. While this consultation is focused on packaging, the objectives could equally be applied to products as well. NSROC welcomes the proposed national approach which helps achieve consistency and supports collection, recycling and circulation at scale thus providing the best opportunity for packaging materials to be circulated in the economy at their highest and best usage.

While reuse is more challenging for packaging which is predominantly a single use material designed to safely distribute products in pristine condition, having a mandated requirement as proposed in Option 3 creates the opportunity for industry to consider innovative approaches. That allows packaging to be designed to be fit for purpose potentially including reuse or even avoidance.

In supporting the second objective regarding obligations and a national approach, NSROC notes that both Options 2 and 3 would identify the regulated entities which are required to participate. But Option 3 reduces free riders and supports an industry wide approach likely to offer the best value to the community.

While in general, NSROC supports the minimisation of the regulatory burden, it is important that the Regulations allow DCCEEW to recover its costs for better implementation and monitoring of the scheme. Those actions are only required because of the national impact of packaging and hence funding national oversight actions should be seen as a cost of doing business for the companies profiting from the products and their packaging.

The importance of administrative oversight has been highlighted by the industry's acknowledgement that the current voluntary packaging accord is not the most effective mechanism to deliver industry wide outcomes. It also shows the necessity for a regular review of any scheme and appropriate adjustment to help it better meet its objectives.

Do you support the proposed packaging reform outcomes outlined in Section 4.1?

These outcomes are strongly supported for packaging and in fact could be applied to virtually any product in a circular economy. However, NSROC believes that only Option 3 will actually achieve these outcomes which rely on a national approach where responsibility for the whole of life management of materials is sheeted home to the entities that place them in the market.

Many parties have a role in helping achieve these outcomes. NSROC does not consider that it up to councils and residents to source separate low value or unrecyclable rigid plastic packaging (e.g. PVC and PS), and more the responsibility of packaging brand-owners, working with APCO, to eliminate these polymer types from packaging use entirely. That would allow councils to focus on maximising diversion of all rigid plastic packaging into recycling bins (through community education), and brand owners and APCO focus on deselecting low value and unrecyclable polymer types"

Even if Option 3 is implemented, Outcome 2b *The amount of recycled content in packaging is increased through design and strengthened end markets* will rely heavily on end markets for recycled products. This will almost certainly require a curated approach by governments unless the eco modulated fee approach provides sufficient incentives for brand owners to actively seek recycled feedstock. NSROC recommends that DCCEEW gives particular consideration to how best to ensure those end markets are created.

Kerbside recycling in the NSROC region has plateaued in recent years. There are a number of reasons for this of which the most critical are the lack of viable markets for recycled products, the complexity of packaging and resulting challenges in separating out a clean stream and the limited competition in waste processing. In this region the Container Deposit Scheme, the National Television and Computer Recycling Scheme and the Australian Packaging Covenant all play a role in plastic recycling, but the majority of the feedstock for those schemes is not found in kerbside bins and hence their success has not improved kerbside recycling numbers.

Attachment A1 – Consultation Questions

Relating to Submission Reform of packaging regulation – Consultation paper
Date 4 November 2024 (approved extension from 28 October 2024)
Author NSROC

7.1 Questions on the Reform Options

What reform option do you prefer?

Option 3

How effective do you think the reform options would be in achieving the reform outcomes?

The effectiveness typically varies across the options. Across all the outcomes sought, Option 3 gives the highest level of achievement. Option 1 is slower and has already demonstrated that the well-meaning attempts of many in the industry have not achieved the targets they set themselves. Option 2 is an improvement but less effective than Option 3.

What are the most important packaging reform principles to achieve the outcomes?

From NSROC's perspective the eight principles would be numbered as shown in order of importance. Principles 1 and 2 are critical to ensure that the responsibility for whole of life material management rests with the organisation which profits most from the product and they reduce the risk of costs being transferred to the community.

1. A system where industry takes responsibility for the packaging it places on market
2. Clear obligations for industry to support effective action and investment across the packaging life cycle
3. Nationally consistent obligations and requirements to ensure a level playing field and increase certainty for businesses producing packaging and placing it on the market.
4. Measurable, enforceable and enforced obligations to sustain industry and community confidence.
5. A system that is based on global best practice, while accounting for Australia's geographic and market context.
6. A system aligned with global standards to maintain and increase industry access to global markets and alignment with global supply chains.
7. Flexibility to accommodate innovation in packaging design and recycling technologies.
8. A system that contributes to Australia meeting its international obligations.

What support and/or systems would businesses need to meet the reform options and packaging obligations?

Having a uniform system consistent with international standards should reduce the risk of free riders and allow Australian entities to be globally competitive. It should also reduce the risk of materials which don't meet international requirements being dumped in this country because of lower compliance standards.

Businesses may seek assistance to approximate the current arrangements, but this would fail to recognise the cost shifting that businesses have benefited from to date, where legitimate business costs have been transferred to the community, usually through the waste management activities of local councils. While the waste and recycling/resource recovery sector also nominally incur those costs, they are almost invariably recovered through gate fees or contract costs from local councils and hence the community.

Under Option 1, what, if any, education for businesses and consumers would improve packaging reform outcomes?

Option 1 is not supported because the existing situation demonstrates why co-regulatory arrangements are less effective. Without compulsion businesses can avoid liability and the community loses faith in the system. The willing participate at greater cost while nonparticipant businesses and consumers ignore the opportunity, which limits the potential success that can be achieved.

Under Option 2:

- **Would an industry organisation be needed to support businesses and, if so, what would its role be?**
- **Do you support the proposed progressive bans based on packaging recyclability measured by total weight? If not, what alternative do you suggest?**

Option 2 is not supported because it limits the cooperation and coordination across businesses that even the current approach achieves. Businesses would have no incentive to act collectively which would mean the overall cost of compliance is likely to be higher. An industry organisation would be needed to achieve a more cost-effective cooperative approach. However, industry players would be best placed to give more information about how that should be defined.

NSROC supports progressive bans on packaging recyclability but has concerns with a weight based approach. Reducing weight has been a consistent goal of many producers of products and packaging. At worst it has left products in containers which are barely fit for purpose and it has also led to the widespread use of plastic packaging with limited regard to date for recyclability or health and environmental impacts.

Under Option 3:

- **What functions could potentially be performed by an EPR scheme administrator?**
- **Which EPR fee modulation approach (as outlined in Box 6) do you prefer?**
- **What other actions to improve packaging should be incentivised using eco-modulated fees?**
- **What activities could EPR scheme revenue be used for to support material circularity, noting that there may be limitations on what activities can be funded due to legislative or other constraints?**

While industry players may be better placed to provide these responses, there are lessons from existing schemes which should inform DEECCW's position. The NSW EPA researched worldwide best practice in developing the NSW Container Deposit Scheme (CDS) and may have helpful parameters it could share. However, in that case the container rebate already encourages a level of participation and the same rebate requires a financial accountability which generates most of the data on which the schemes' success can be measured. Data capture is critical in such schemes and would be a key function of a scheme administrator but needs support from the regulations to mandate the provision of appropriate data.

Government oversight may also be required to monitor whether reporting risks losing other existing benefits. (e.g. Does the reporting metrics of the National Television and Computer Recycling Scheme contribute to the loss of beneficial reuse which is not measured?).

Under Options 2 and 3:

If some regulations could be introduced early to provide industry certainty, would you support a two-stage approach to regulation? What early requirements would you support?

Market development for recycled products is a critical requirement in making material usage more circular. Developing such markets is a many faceted and complex process. However, once a potentially profitable market exists it can often create sufficient pull-through to make the recycling sustainable.

A manufacturer/processor requires certainty of feedstock and markets before investing. An early commitment to advance the regulations with cross-party political support can send a powerful signal to industry to prepare for the future rules. The certainty that strong regulation will occur gives industry the best chance to prepare and helps reduce lead times when the legislation is gazetted. The waste export bans are an example of such warnings, as were the Chinese government's early signalling of the import bans included in the China Sword policy.

Note however, the current EPA organics mandate in NSW is an example where early notice of intent has not entirely paid off because the details have been promised several times but not yet been provided. Councils have been in a vacuum about the detail for over two years and are consequently trying to make multi-million-dollar decisions without crucial information.

7.2 Questions on the Packaging Obligations

How supportive are you of the proposed packaging obligations on design, labelling and recycled content as outlined in sections 5.9 to 5.11?

NSROC is very supportive of these packaging obligations which can contribute significantly to circular management of materials and help ensure that the producer's responsibility lasts for the whole of the life of the product and its packaging. That in turn reduces the risk of local councils and their communities having to meet the costs of disposal. Compostable packaging ostensibly offered a very viable approach to reducing litter and supporting beneficial use of materials. However, the presence of chemical additives and different design standards as well as a lack of clarity and consistency about what constituted "compostable" has led to the current situation in NSW at least, where such packaging cannot be added to the feedstock intended for compost.

Post consumer recycling at kerbside is challenging for residents because so many different articles can legitimately be placed in a commingled recycling bin. Labelling provides a very valuable aid to identify what should be placed in the bin and helps inspire confidence in resource recovery. Without labelling there is a significant risk of "wish cycling" where people place unrecyclable materials in the bins which they hope will be recycled. That material then becomes a contaminant and inhibits recycling efforts.

Labelling needs to be consistent and universal but even then, is not by any means a guarantee. What is actually recyclable in a particular area is a function of the available sorting and processing facilities as well as on the volume of materials collected.

Recycled content is a viable obligation provided that the product or packaging remains fit for purpose. Some years ago councils in this region found out the hard way that a high recycled content can have a detrimental effect on performance of mobile garbage bins. The bins with higher recycled content were needing replacement much more often than previously and well less that the expected life span on which contractual requirements had been set.

How effective do you think each of the packaging obligations would be in delivering the objectives of the reform?

NSROC is not best qualified to respond.

What percentage of the packaging you placed on the market would need to change to meet the proposed obligations?

Not applicable.

What activities would you need to undertake to prepare for the proposed packaging obligations? Do you anticipate these activities will be the same or different across the packaging obligations? Why?

Not applicable.

How soon do you think your business would be able to meet the proposed packaging obligations?

Not applicable.

What would your major anticipated costs and risks associated with the proposed packaging obligations be?

Not applicable.

What would be the major anticipated benefits associated with the proposed packaging obligations and who will receive them?

Benefits would flow to the community when the cost shifting which currently occurs in regard to the management of packaging waste is sheeted back to the companies who stand to gain from placing products or packaging on the market. In the longer term a more circular economy will reduce the use of virgin materials and make daily life more sustainable. A level playing field will assist civic minded companies which currently pay more than they should because of free riders. Being part of a consistent and well-regulated process assists all participants in the packaging supply chain by reducing risk and increasing certainty about the result of actions.

Are there any other anticipated risks, costs and benefits to you under the different options not covered by the questions above?

The savings which should eventuate for councils and the community may not be realised because industry may well pass on greater price increases than actually required to meet the regulatory requirements or where lack of competition in the marketplace (eg within the waste and resource recovery sector) allows companies to charge higher prices than actually needed.

Some obligations reflect an assessment of the viability of the market for the recycled product. While such a parameter is understandable it fails to recognise the lack of concerted action to create such markets. In NSW the EPA is responsible for developing markets for recovered resources. However, many of the actions to date have been aimed at creating a framework where such markets might be created by others. This consultation package also refers to creating the right conditions to allow such markets to form. In NSROC's view successful market creation in an environment where the economic drivers do not exist at a high enough level, requires a more curated or concierge approach. This may involve multiple arms of different levels of government acting in concert to identify what is required and helping create those conditions.

What other obligations should be considered to support a circular economy for packaging?

Effective data collection and sharing to allow monitoring and adjustment of requirements and parameters. Obligations which could contribute to push the process higher up the waste hierarchy, such as avoidance or reuse, where possible and appropriate.

Should mandatory obligations be placed on collectors, recyclers and reprocessors? If so, what should they be, and do you have supporting evidence?

Not automatically.

There could potentially be value in identifying the proportion of material in kerbside bins that is covered by these packaging regulations. If so, the most likely requirement for collectors, recyclers or reprocessors would be contributing data in a consistent manner.

It would be desirable for as much harmony as possible in the acceptance criteria for kerbside recycling bins. (See comments under labelling). NSROC is not familiar with the range of materials sorted and processed across Australia, but there could be value in a national assessment of municipal waste flows for recycling to identify what is collected and what has a viable market. While that work would be separate to this regulation of packaging, it could fall under the related circular economy initiatives in Appendix B of the paper.

Once the waste flow data is available, it could be assessed and shared with industry and community to identify possible changes to current acceptance criteria. For example, where a material is potentially recyclable but not in a way that is economically viable, it is effectively a contaminant in the recycling bin. If that is unlikely to change, that could be identified as such and the community educated to place it in the residual waste bin. The assessment could potentially analyse the comparative costs and benefits of limiting acceptance to those materials for which a market exists.

Should obligations be imposed to incentivise the uptake of packaging reuse systems?

- **Which industries or packaging formats should be prioritised?**
- **Should uptake be mandated or incentivised through eco-modulation?**
- **Should reuse standards be introduced for suitable reuse packaging formats?**

Reuse systems extend the useful life of resources and contribute towards more sustainable practices. NSROC supports such activities because they are higher up the waste hierarchy and value resources more highly. Subject to industry consultation, formats that could be prioritised would meet criteria such as: high value; large size; business to business or business to consumer where unpacking occurs as part of delivery. White goods, electronics or furniture requiring assembly all could provide opportunities because the delivery service could potentially take away the packaging on the return trip.

Incentivisation would be preferable once EPR has been mandated to create the overarching obligation. That would allow innovation in both products and how a service is offered.

For the questions on packaging obligations, we are asking for your views on the different ways the packaging obligations can be achieved under the three options:

- **Design for recyclability**
 - Option 1: No additional obligations
 - Options 2 and 3: National ban on limited set of problematic packaging inputs (e.g. carbon black, oxo-degradables, PFAS)
 - Option 2: Progressive national bans on packaging below minimum recyclability by weight threshold
 - Option 3: National EPR fees linked to design recyclability grades
- **Recyclability labelling**
 - Option 1: No additional obligations
 - Options 2 and 3: Mandatory on-pack recyclability labelling
- **Recycled content**
 - Option 1: No additional obligations
 - Options 2 and 3: National mandatory minimum recycled content thresholds
 - Option 3: National EPR fees incentivise more recycled content use above minimum thresholds.

7.3 Questions on the Packaging Obligations

Should packaging regulations be applied uniformly to both business-to-consumer (B2C) and business-to-business (B2B) packaging?

Regulations may need to reflect the differences between B2C and B2B. Some obligations are more easily met in the more controlled flows in B2B where longer term relationships are achievable between the businesses. This allows more certainty about how packaging is used and could be reduced, reused or recycled more predictably. B2C is usually a one-off one-way transaction where the business will have limited influence over the consumers' actions with the packaging. So compliance timelines for B2B may be shorter than for B2C.

Recyclability labelling may be less necessary for B2B if there remains an ongoing relationship and multiple transactions between the parties.

However, banning problematic inputs or minimum recycled content requirements should be applied for both B2B and B2Cc at the same time.

Do you have packaging that could not comply with the proposed obligations on design, labelling and recycled content as outlined in sections 5.9 to 5.11? Why is this? For example, are there conflicting obligations?

Not applicable

What point in the supply chain is the most effective point to apply the proposed packaging obligations on design, labelling and recycled content as outlined in sections 5.9 to 5.11?

Not directly applicable

How should liability thresholds be set to ensure packaging reforms achieve their intended outcomes while minimising impacts on businesses?

Best based on industry input.

7.4 Questions on Recyclable Packing Design

What packaging materials or chemical additives impede recyclability or are not recyclable but are necessary for functionality?

- **Why are they necessary?**
- **Are there alternatives?**
- **What are the barriers to adopting the alternatives?**

Not applicable

Is the recovery, reprocessing or reuse of material disrupted by certain packaging materials or chemical additives? What are these materials or chemical additives and what are the impacts?

Best based on industry input

Is your packaging required to comply with other mandatory requirements that restrict its design? If so, please list these (e.g. tamper-proof packaging for therapeutic goods).

Not applicable

Do you support a mandatory label on packaging which clearly indicates what can and can't be recycled?

Yes provided the label itself doesn't impede recyclability. Uniform labelling such as the Australian Recycling Label (ARL) is preferred although broader education of the meaning of the different symbols/icons would improve legibility.

Have you undertaken share life cycle analysis or related data or modelling demonstrating the environmental impacts of packaging materials?

While NSROC has not undertaken such life cycle analysis, Blue Environment was commissioned in 2023 to prepare a study of plastics flows in the region by polymer type.¹ The aim was to identify opportunities to improve diversion rates of plastics in the region. That report noted that:

“In the NSROC region an estimated 90,400 tonnes of plastics were consumed in 2020-21, with approximately two thirds of plastics going into non-packaging applications, and one third into packaging applications. End of life generation data is important to inform required reprocessing capacity and for long-term infrastructure planning. There was approximately 63,000 tonnes of plastic generated in the NSROC region in 2020-21. End-of-life generation of plastics is predominantly packaging related, and from 'Other' applications which are primarily clothing household goods, and miscellaneous other goods. From a waste disposal stream perspective more than 50% of plastics are generated from Municipal Solid Waste (MSW). Commercial & Industrial generates about 33% of plastics, while <10% is contributed from Construction and Demolition.

The overall plastic recovery rate in the NSROC region is approximately 13%. The highest recovery rate observed in 2020-21 was for Expanded Polystyrene (EPS) at 31% (although the weight generated is relatively small), followed by PET at 26%, then ABS/SAN/ASA at 19%. The recycling of these packaging dominated polymers is underpinned by the co-regulatory Australian Packaging Covenant, the NSW container deposit scheme (PET beverage), and the National TV and Computer Recycling Scheme (NCRS).”

7.5 Questions on Recycled Content Thresholds

With reference to Table 17: Proposed minimum post-consumer recycled content thresholds, what do you think about:

- **The designated material categories used?**
- **Differentiating between non-food and food grade packaging?**
- **The proposed thresholds for year 1 and year 3?**

NSROC does not have sufficient data to provide a detailed response on specific materials categories. However, this consultation is welcomed as a means of DCCEEW capturing that data from the affected industries.

While the year 1 and 3 targets reflect currently adopted recycled content targets, they appear too optimistic for many materials in relation to the 2035 and 2040 targets. There is a challenging balance to be struck between setting unrealistic targets and setting stretch targets which may give more certainty about investment.

For many materials reasonable consistency with international target trajectories will help ensure that Australian industries can either compete in global markets or will benefit from consistency with global partners. So NSROC supports the proposed consistency with the EU proposals.

As mentioned earlier, achieving such targets is critically dependent on the development of pull through markets. The numbers in Table 18 show that for most materials those markets clearly do not yet exist. That market development needs to be pursued and supported at a whole of government level to create the right conditions for a functional economic market.

¹ Blue Environment, *Plastics industry research project report*, 14 August 2023

What requirements, further to those outlined in the National Framework for Recycled Content Traceability, would need to be specified to support traceability and verification for mandatory recycled content thresholds in packaging?

Nothing to add.

Which approach to mass balance claims (free allocation, fuel exempt, polymer only, or proportional allocation) outlined in Section 5.11 do you support? Why?

Not applicable

Do you support a mandatory recycled content label for packaging? If so, what level of detail should be included?

NSROC supports such mandatory labelling to reduce the risk of greenwashing and provide a consistent level of information which allows interested consumers to make buying choices which reflect their level of support for sustainability. A nationally consistent approach also makes clear to the broader community that recycling is a critical aspect of sustainable living and helps avoid a sense that recycling is not worth doing. Such labelling will allow councils across Australia to convey consistent messages to their communities.

7.6 Questions on Why Packaging Reform is Needed, its Objectives and Outcomes

Do you have any additional information or data on the problems outlined in Chapter 3?

Not applicable.

How important is it to you that packaging is designed to be recycled or reused and then recycled or reused in practice?

All councils in NSW support the waste hierarchy and where feasible offer recycling options with either kerbside collections or drop off locations. NSROC councils promote and reflect their communities' aspirations for greater sustainability and response to climate change. The widespread disappointment at the collapse of the soft plastic recycling demonstrates that community desire to recycle packaging and several of our member councils pay a premium to allow residents to have soft plastics (and other problem wastes) collected by a private provider which still has access to the limited recycling capacity existing for the material in Victoria.

Do you support the proposed packaging reform objective outlined in Section 4.1?

NSROC strongly supports the proposed reform objectives which are in fact consistent with recommendations from previous submissions made on Australia's Product Impact Management system and specifically the submission on the 2018 Review of the Product Stewardship Act. While this consultation is focused on packaging the objectives could equally be applied to products as well. NSROC welcomes the proposed national approach which helps achieve consistency and supports collection, recycling and circulation at scale thus providing the best opportunity for packaging materials to be circulated in the economy at their highest and best usage.

While reuse is more challenging for packaging, which is predominantly a single use material designed to safely distribute products in pristine condition, having a mandated requirement as proposed in Option 3 creates the opportunity for industry to consider innovative approaches. That allows packaging to be designed to be fit for purpose potentially including reuse or even avoidance.

As mentioned in NSROC's 2018 submission on the review of the Product Stewardship Act, the Report on the Waste and Recycling Industries of the Australian Senate's Environment and Communications References Committee noted that some 70-80% of a product's environmental impact is determined at the design stage.

In supporting the second objective regarding obligations and a national approach, NSROC notes that both Options 2 and 3 would identify regulated entities which would be required to participate. But Option 3 reduces free riders and supports an industry wide approach likely to offer the best value to the community.

While in general NSROC also supports the minimisation of the regulatory burden, it reiterates its recommendations made in previous submissions that the legislation (or in this case the Regulations) should allow DCCEEW to recover its costs for better implementation and monitoring of the scheme. Those actions are only required because of the national impact of packaging and hence funding national oversight actions is simply a cost of doing business for the companies profiting from the products and their packaging.

The importance of administrative oversight has been highlighted by the industry's acknowledgement that the current voluntary packaging accord is not the most effective mechanism to deliver industry wide outcomes while also demonstrating the necessity for regular review of any scheme and appropriate adjustment to help it better meet its objectives.

Do you support the proposed packaging reform outcomes outlined in Section 4.1?

These outcomes are strongly supported in regard to packaging and in fact could be applied to virtually any product in a circular economy. However, NSROC believes that only Option 3 will achieve these outcomes because they rely on a national approach and, as the consultation paper states (Section 10 page 39), "As part of industry's responsibility for the packaging it places on the market, businesses must be accountable for how they represent a product or packaging was made, how it should be disposed of, and the outcome of its waste)." Responsibility for materials is best sheeted home to the entities that place them in the market.

In regard to achieving these outcomes NSROC supports the Blue Environment study⁽¹⁾ argument (p9, Opportunity 4): "However, with respect to the source segregation of rigid plastic packaging by polymer type, it is arguably less householders' and councils' responsibility to source segregate low value or unrecyclable rigid plastic packaging (e.g. PVC and PS), and more the responsibility of packaging brand-owners, working with APCO, to eliminate these polymers types from packaging use entirely. On balance, it is recommended that councils focus on maximising diversion of all rigid plastic packaging into recycling bins (an easier message to communicate), and brand owners and APCO focus on deselecting low value and unrecyclable polymer types."

Even if Option 3 is implemented, Outcome 2b *The amount of recycled content in packaging is increased through design and strengthened end markets* will rely heavily on end markets for recycled products. This will almost certainly require a curated approach by governments unless the eco modulated fee approach provides sufficient incentives for brand owners to actively seek recycled feedstock. NSROC recommends that DCCEEW gives particular consideration to how best to ensure those end markets are created.

Kerbside recycling in the NSROC region has plateaued in recent years. While there are a number of reasons for this, the lack of viable markets for recycled products, the complexity of packaging and resulting challenges in separating out a clean stream and the limited competition in waste processing are key factors. As stated earlier, the CDS, NTCRS and the Australian Packaging Covenant underpin plastic recycling in the NSROC region, but the majority of that feedstock is not found in kerbside bins and hence their success has not improved kerbside recycling numbers.

Reform of Packaging Regulation

Take the survey

Climate

Response received at:

November 4, 2024 at 02:55 PM GMT+11

Response ID:

sbm318b693ab7f15b215b3c3

1 Confirm that you have read and understand this privacy notice.

Yes

2 Confirm that you have read and understand this declaration.

Yes

3 First name

John

4 Last name

Carse

5 Email

JCarse@lanecove.nsw.gov.au

6 Phone

0411438906

7 What state or territory do you live in?

New South Wales

8 Postcode

2066

- 9 Who are you answering on behalf of?
Organisation
- 10 Organisation name
Northern Sydney Regional Organisation of Councils
- 11 What sector best describes you or your organisation?
Government
- 12 Is your business:
Not answered
- 13 Is your business a member of the Australian Packaging Covenant Organisation (APCO)?
Not answered
- 14 Approximately how much packaging does your business place on the Australian market, either as unfilled packaging or filled (packaged products)?
Not answered
- 15 Paper and paperboard
Not answered
- 16 Plastic
Not answered
- 17 Glass
Not answered
- 18 Metal
Not answered

- 19 Wood
Not answered
- 20 Alternative fibres and plastic (e.g. bagasse, bioplastics)
Not answered
- 21 Other (please specify)
Not answered
- 22 Please specify.
Not answered
- 23 What part of the packaging supply chain do you or your organisation operate in?
Collection (e.g. kerbside collection systems and product stewardship take back systems)
Sortation and Recycling
Container Deposit Scheme operations
- 24 Please specify.
Not answered
- 25 Please rank the packaging reform options in order of preference. Select 1 as most preferred and 3 as least preferred.
2: Option 3 – An extended producer responsibility scheme for packaging
3: Option 2 – National mandatory requirements for packaging
4: Option 1 – Strengthening administration of the co-regulatory arrangement
- 26 Please explain your preference.
See comments in written submission
- 27 Please rank the packaging reform options by how effective you think they would be in achieving the reform outcomes. Select 1 as most effective and 3 as least effective.
2: Option 3 – An extended producer responsibility scheme for packaging

3: Option 2 – National mandatory requirements for packaging

4: Option 1 – Strengthening administration of the co-regulatory arrangement

28 Please explain your reasons, drawing out what factors under the options are most or least effective.

See comments in written submission

29 Please rank the importance of the following packaging reform principles to achieve the reform outcomes.

f. A system that contributes to Australia meeting its international obligations. : Important

b. Clear obligations for industry to support effective action and investment across the life cycle.: Very important

e. Measurable, enforceable and enforced obligations to sustain industry and community confidence. : Very important

a. Nationally consistent obligations and requirements to ensure a level playing field and increase certainty for businesses producing packaging and placing it on the market.: Very important

g. A system that is based on global best practice, while accounting for Australia's geographic and market context. : Important

c. A system where industry takes responsibility for the packaging it places on the market.: Very important

d. Flexibility to accommodate innovation in packaging design and recycling technologies. : Important

h. A system aligned with global standards to maintain and increase industry access to global markets and alignment with global supply chains. : Important

30 What support and/or systems would businesses need to meet the reform options and packaging obligations? For example, recycled content verification, technical support, assurance systems.

See comments in written submission

31 Under Option 1, what, if any, education for business and consumers would improve packaging reform outcomes?

Not answered

- 32 Under Option 2, would an industry organisation be needed to support businesses and, if so, what would its role be?
See comments in written submission
- 33 Under Option 2, do you support the proposed progressive bans based on a packaging recyclability measured by total weight? If not, what alternative do you suggest?
See comments in written submission
- 34 Please rank the importance of the following functions that could potentially be performed by an EPR scheme administrator:
- a. Providing support and guidance to industry on the mandatory obligations and EPR fee obligations.: Important
 - b. Delivering specific outcomes set by government, such as industry level targets (please specify potential outcomes below) : Very important
 - d. Data collection and whole of system reporting: Very important
 - g. Reviewing and recommending updates to EPR fee settings, design requirements and recycled content thresholds: Very important
 - f. Consumer awareness and education : Important
 - e. Quality assurance, accreditation and/or audit activities : Very important
 - c. Managing tools to assess circularity/recyclability of packaging: Neutral
 - h. Making recommendations on the use of scheme funding across the system: Very important
- 35 From b. in the matrix above, please specify potential outcomes.
Targets, data,
- 36 From i. in the matrix above, please specify
Not answered
- 37 Of the eco-modulation approaches outlined in Box 6 for Option 3, which fee modulation approach do you prefer?
Not answered
- 38 Briefly explain your answer.

Not answered

- 39 What other actions to improve packaging should be incentivised using eco-modulated fees?
removal of unnecessary additives, vertical integration or market creation
- 40 Please rank the importance of the following activities that could receive EPR scheme revenue funding to support material circularity. Note that there may be limitations on what activities can be funded due to legislative or other constraints.
- c. Research and development, including innovation to replace problematic packaging formats: Essential
 - a. Gaps in collection, sorting, recycling and reprocessing capacity (please specify below) : Essential
 - d. Consumer education to support the transition to, and maintenance of a circular economy for packaging: Essential
 - b. Litter reduction strategies: Nice to have
 - e. Technical support to assist with compliance OR Support for industry to comply with an EPR scheme and mandatory obligations: Nice to have
 - f. Other (please specify below): Essential
- 41 From a. in the matrix above, please specify what type/s of collection should be funded.
Drop off points and/or destinations for kerbside collected materials
- 42 From f. in the matrix above, please specify
Funding to ensure DCCEEW is well resourced to monitor and review scheme.
- 43 Under Options 2 and 3, if some regulations could be introduced early to provide industry certainty would you support two stages of regulation as per Box 4?
Some early regulation to allow earlier action while longer term reform is progressed
- 44 Would you support early mandatory requirements on the following:
Other: "See comments in written submission"

- 45 How supportive are you of the proposed packaging obligations? (Please indicate your level of support for each obligation.) Design for recyclability
- a. Option 1: No additional obligations: Strongly oppose
 - b. Option 2 & 3: National ban on limited set of problematic packaging inputs (e.g. carbon black, oxo-degradables, PFAS) : Strongly support
 - c. Option 2: Progressive national bans on packaging below minimum recyclability by weight: Support
 - d. Option 3: National eco-modulated fees linked to design recyclability grades: Strongly support
- 46 Recycling labelling
- f. Options 2 & 3: Mandatory on-pack recyclability labelling: Strongly support
- 47 Recycled content
- i. Option 3: National EPR fees incentivise more recycled content use above minimum thresholds: Strongly support
 - h. Options 2 & 3 National mandatory minimum recycled content thresholds: Support
 - g. Option 1: No additional obligations: Neutral
- 48 How effective do you think each of the proposed packaging obligations would be in delivering the objectives of the reform? (Please rate each obligation.) Design for recyclability
- a. Option 1: No additional obligation : Ineffective
 - c. Option 2: Progressive national bans on packaging below minimum recyclability by weight threshold: Ineffective
 - b. Option 2 & 3: National ban on limited set of problematic packaging inputs (e.g. carbon black, oxo-degradables, PFAS) : Very effective
 - d. Option 3: National EPR fees linked to design recyclability grades: Very effective
- 49 Recycling labelling
- e. Option 1: No additional obligation: Very ineffective
 - f. Options 2 & 3: Mandatory on-pack recyclability labelling: Very effective
- 50 Recycled content
- g. Option 1: No additional obligation: Ineffective

- i. Option 3: National EPR fees incentivise more recycled content use above minimum thresholds: Very effective
- h. Options 2 & 3 National mandatory minimum recycled content thresholds: Effective

51 a. Option 2 & 3: National ban on limited set of problematic packaging inputs - carbon black

Not answered

52 b. Option 2 & 3: National ban on limited set of problematic packaging inputs - oxo-degradables

Not answered

53 c. Option 2 & 3: National ban on limited set of problematic packaging inputs - PFAS

Not answered

54 d. Option 2: Progressive national bans on packaging below minimum recyclability by weight

Not answered

55 e. Option 3: National EPR fees linked to design recyclability grades

Not answered

56 f. Options 2 & 3: Mandatory on-pack recyclability labelling

Not answered

57 g. Options 2 & 3: National mandatory minimum recycled content thresholds

Not answered

58 h. Option 3: National EPR fees incentivise more recycled content use above minimum thresholds.

Not answered

- 59 Please explain why the percentage of packaging you place on market you outline above will be impacted.
Not answered
- 60 What activities would you need to undertake to prepare for the proposed packaging obligations on design, labelling and recycled content as outlined in sections 5.9 to 5.11? Do you anticipate these activities will be the same or different across the packaging obligations? Why?
Not answered
- 61 24.1 Will these activities be the same or different across the packaging obligations? Why?
Not answered
- 62 How soon do you think your business would be able to meet each of the following proposed obligations? Design for recyclability
Not answered
- 63 Recycling labelling
Not answered
- 64 Recycled content
Not answered
- 65 What would your major anticipated costs and risks for the proposed packaging obligations on design, labelling and recycled content as outlined in sections 5.9 to 5.11? Where possible, please include any evidence or data you would like to be considered.
Not answered
- 66 What would be the major anticipated benefits associated with the proposed packaging obligations on design, labelling and recycled

content as outlined in sections 5.9 to 5.11 and who will receive them? Where possible, please include any evidence or data you would like to be considered.

Not answered

67 Are there any other anticipated risks, costs and benefits to you under the different options not covered by the questions above?

Not answered

68 What mechanisms should be used to support a circular economy for packaging and what other obligations should be considered?

Consistent national collection lists (e.g. for kerbside recycling and / or CDS): Financial Mechanism (e.g. EPR fees)

Data and reporting on the collection and recycling of packaging: Obligation for businesses

National education programs: Financial Mechanism (e.g. EPR fees)

Standards or accreditation for facilities that collect, sort and process packaging: Obligation for Scheme Administrator

Reuse systems: Financial Mechanism (e.g. EPR fees)

Collection and recycling targets: Obligation for businesses

Reuse targets for business to business (B2B) packaging: Obligation for businesses

Reuse standards: Obligation for businesses

69 Please specify 'other'

Not answered

70 Should mandatory obligations be placed on collectors, recyclers, and reprocessor operators?

Yes

71 If so, what should they be, and do you have supporting evidence?

Data contribution

72 Should obligations be imposed to incentivise the uptake of packaging reuse systems?

Yes

- 73 Which industries or packaging formats should be prioritised?
See comments in written submission
- 74 Should uptake be mandated or incentivised using eco-modulation?
mandated although eco modulation could assist
- 75 Should reuse standards be introduced for suitable reuse packaging formats?
Yes
- 76 Should packaging regulations be applied uniformly to both business-to-consumer (B2C) and business-to-business (B2B) packaging?
No
- 77 If no, explain how obligations may need to be applied differently.
See comments in written submission
- 78 Do you have packaging that could not comply with the proposed obligations on design, labelling and recycled content as outlined in sections 5.9 to 5.11? Why is this? For example, are there conflicting obligations, such as Therapeutic Goods Administration requirements for packaging of therapeutic goods.
Not answered
- 79 What point in the supply chain is the most effective point to apply the proposed packaging obligations on design, labelling and recycled content as outline in sections 5.9 and 5.11:
Product design (manufacturers, importers, brand owners)
- 80 Please explain the reason for your selection.
Designing out waste or designing for recyclability/reuse are critical components of

effective circularity.

- 81** How should liability thresholds be set to ensure packaging reforms achieve their intended outcomes while minimising impacts on business?
Separate thresholds for different obligations (e.g. lower thresholds for data and reporting)
- 82** Please explain the reason for your selection, including quantifying proposed threshold/s.
Not answered
- 83** What packaging materials or chemical additives impede recyclability or are not recyclable but are necessary for functionality?
Not answered
- 84** Is the recovery, reprocessing or reuse of material disrupted by certain packaging materials or chemical additives? What are these materials or chemical additives and what are their impacts? If available, please include evidence to support your claims.
Not answered
- 85** Is your packaging required to comply with other mandatory requirements that restrict its design?
Not answered
- 86** Please list these (e.g. tamper-proof packaging for therapeutic goods)
Not answered
- 87** Do you support a mandatory label on packaging which clearly indicates what can and can't be recycled?
Not answered
- 88** Have you undertaken life cycle analysis or related data or modelling

demonstrating the environmental impacts of packaging material?

See comments in written submission

89 Upload file

Not answered

90 With reference to Table 17 in the consultation paper: Proposed minimum post-consumer recycled content thresholds, do you support:

Not answered

91 Please outline why you support or do not support the approach and/or thresholds outlined in Table 17.

See comments in written submission

92 What requirements, further to those outlined in the National Framework for Recycled Content Traceability, would need to be specified to support traceability and verification for mandatory recycled content thresholds in packaging?

See comments in written submission

93 Which approach to mass balance claims (free allocation, fuel exempt, polymer only, or proportional allocation) outlined in section 5.11.1.3 do you support for each material stream? Why?

See comments in written submission

94 Do you support a mandatory recycled content label for packaging?

Yes

95 What level of detail should be included? (e.g. contains recycled content, contains a minimum % of recycled content, or actual % of recycled content)? Should this be on-pack or QR code based?

See comments in written submission

96 Do you have any additional information or data on the problems outlined in Chapter 3?

Not answered

97 On a scale of 1 to 5, with 1 being not important at all to 5 being very important, please rank how important it is to you that packaging is designed to be recycled or reused and then recycled or reused in practice?

5 out of 5

98 And why?

See comments in written submission

99 Please indicate your level of support for the following proposed reform objective:

'The objective of the reform is to reduce the environmental impacts of packaging by establishing an approach that:

5 out of 5

100 Why?

See comments in written submission

101 Please indicate your level of support for the following proposed reform outcomes?

2.4. Chemicals of concern in packaging are eliminated, phased-down or minimised: Strongly support

1.3. The amount of packaging sent to landfill per capita is reduced: Strongly support

2.1. Packaging is designed for recyclability: Support

2.3. Recyclable packaging is collected, recycled and reprocessed: Strongly support

1.1. The use of virgin materials in packaging is reduced: Strongly support

1. Waste from packaging is reduced: Strongly support

2. Packaging materials are kept in use and circulated at their highest value: Strongly support

- 1.2. The amount of packaging placed on market per capita is reduced: Support
- 1.4. Problematic and unnecessary packaging is eliminated: Strongly support
- 2.2. The amount of recycled content in packaging is increased through design and strengthened end markets: Strongly support

102 Upload supporting file

241104_NSROC_Submission_RPR.fafe594d.pdf

103 Upload supporting file

241104_A1_NSROC_Submission_RPR_Attachment.3e5289fd.pdf

104 Upload supporting file

Not answered

105 Upload supporting file

Not answered