

Submission B: The Preferred Option – Enhanced Covenant (With Targets)

This submission is focused on the key issues surrounding the designated preferred option canvassed in the RIS – the revised National Packaging Covenant (NPC) with targets to set overarching minimum performance standards.

Notwithstanding our earlier submission stating the Alliance's position that this is not the option that will provide the best levels of environmental performance, this submission aims to highlight a number of critical issues that will impact on the effectiveness of the enhanced Covenant approach. Specific issues regarding wording of the revised Covenant document and the costings outlined in the Regulatory Impact Statement (RIS) are addressed in the Alliance's submissions C and D.

Before outlining our comments on the enhanced Covenant approach, we feel it is important to highlight that the Boomerang Alliance is deeply sceptical that the enhanced targets have either the financial underpinnings or the required resources and delineation of responsibilities to achieve a reasonable performance standard.

Clearly a critical assessment needs to be undertaken to fully investigate whether the overall economic impacts of this approach are not in fact greater than utilising a suite of EPR-based approaches in concert with the Covenant approach, as it is certainly apparent that EPR would deliver far greater environmental performance on a far more equitable basis.

We contend that during the next three-year term of the NPC, the Environment Protection and Heritage Council (EPHC) should require the National Packaging Covenant Council (NPCC) to provide the necessary funding to determine which EPR and broader market-based instruments should be enshrined within the Covenant to ensure that the required infrastructure, education programs and regulations are implemented to guarantee the effective delivery of the Covenant's objectives within reasonable cost boundaries.

ESTABLISHING THE BASELINE

Establishing a baseline is an important task, and clearly the RIS undertaken by Nolan-ITU provides as clear a picture as any; however, there are a number of key points that warrant focus.

Consumption data, as Nolan-ITU suggests, is likely to be underestimated. However, the RIS does not highlight the possible extent of the problem.

During discussions within the NPC targets working group, the former CEO of the Beverage Industry Environment Council (BIEC) stated that imported filled products could represent as much as 20% of total beverage consumption, representing a substantial part of consumption of sports energy drinks, wine, and sparkling mineral water markets.

Discussions with representatives of the Australian Food and Grocery Council, Packaging Council of Australia and BIEC, along with other NPCC representatives, revealed that approximately 750,000 additional tonnes of glass and paper and cardboard packaging are likely to be consumed each year. This is supported within the NPC Industry Association-commissioned 'National Packaging Covenant Gap Analysis' produced by MS2 in February 2005. In the report, consumption figures (Table 9) show that glass and paper/cardboard consumption has increased by the above amount to a level much higher than the industry figure shown in Table 8 (this was done to reflect early information provided from the working group).

As a result, we can reasonably expect that current consumption levels are actually in excess of 4 million tonnes per year, which in turn means that our current recycling rates could actually be as low as 41%.

Projected consumption growth data used in the RIS may well be conservative in the extreme. Discussions with local government organisations indicate that growth in tonnes collected through kerbside recycling between 1999 and 2003 has generally not been able to keep track with increases in consumption and resulting tonnes to landfill. This shows it is at least likely that consumption over the last 4 years has grown at around 40%, meaning consumption of packaging in 2010 would be in the range of 5-6 million tonnes annually.

Of course, subsequent targets need to reflect this trend. If a current recycling rate of 47% means we dispose an estimated 1.6 million tonnes of packaging to landfill, a 2010 recycling rate of 65% may well result in an estimated 1.7 – 2.1 million tonnes. This would mean that the entire exercise has failed to curb the growing problem of excessive amounts of materials being sent to landfill.

To address this issue, **the Boomerang Alliance proposes that the EPHC ensures the enhanced Covenant requires ‘No New Packaging to Landfill’**. This would mean that for each tonne that consumption grows over and above the current baseline, industry must ensure that recycling targets are increased by the same amount. The Boomerang Alliance believes this is a critical point if the polluter pays principle is to remain a key aspect of Australian environmental policy. If industry does not accept the cost of dealing with its waste, the only remaining option for establishing a feedback loop to control the landfill problem is to cap consumption.

Comparing recycling rates with Europe is also an important issue. The Alliance does not understand why a consultancy with the obvious expertise of Nolan-ITU would present international data without any detailed explanation that nations such as the Netherlands, Norway, Sweden, Germany, Belgium and Finland all operate regulated programs to re-use many packaging items.

Obviously these programs impact on overall recycling rates, because an enormous proportion of the packaging produced in these nations remains in the system over a much longer term – while it isn’t recycled, it also isn’t thrown away. Anyone that understands the waste stream understands that the only way to effectively assess performance is to take into account the net effect of both reuse and recycling.

This poor analysis, combined with the spurious focus on overall EU recycling rates (which is a little like benchmarking Australian rates based on the overall Oceania recovery rate) questions the thoroughness of Nolan-ITU’s assessment as an independent consultant.

COSTS

While the issue of costs will be dealt with specifically in a separate submission, we feel compelled to highlight that the entire discussion around development of an enhanced NPC with targets has been undertaken with the clear understanding of the Boomerang Alliance and all participating local government associations that councils would **not** be expected to undertake increased recycling activity at a greater financial cost. It is important that this agreement is now clearly enshrined in a new draft NPC. Certainly the RIS makes the controversial claim that local government will save money through increased levels of recycling activity, which we will leave for local government to rebut.

Regardless of the position assumed within the RIS, it is vital for all stakeholders to accept that without the full support and cooperation of local government, the NPC is doomed to fail. Some financial warranty that local government and ratepayers will not continue to be burdened by the increasing costs of cleaning up industry's mess (i.e. litter and illegal dumping clean ups) is a vital step in gaining the confidence of local government.

Equally, industry representatives within the Covenant process have identified that efforts to increase public place recycling require stronger enforcement of the NEPM on free riders, a crackdown on imports free riding on the system, and much more stringent requirements of small businesses that are currently exempt from the NEPM to succeed in their efforts to secure recycling. These actions are likely to be significant unless jurisdictions intend to continue not to enforce the NEPM, which would be an insincere approach to environmental policy. This will generate significant additional costs to jurisdictions. Clearly the question needs to be posed – has the RIS failed to identify a key cost area or do jurisdictions have no intention of enforcing the NEPM?

PROPOSED TARGET AREAS

The RIS clearly identifies the proposed targets that are the subject of negotiations within the NPC targets working group:

- Packaging disposed of to landfill and packaging recovered for recycling.
- Reduction in non-recyclable packaging.
- Increased use of recycled packaging materials in new products.
- Continuous Performance Improvement.

However, it does not recognise the issue of focusing targets on key materials where recycling rates lag behind the best performing materials or packaging ending up as litter. It is our very clear understanding, through a number of discussions with state and territory Ministers, that they have called for not only the adoption of targets reaching a minimum overall packaging recycling rate of 65% by 2010, but have also specifically called for these targets to be disaggregated by specifying a minimum rate for each key material area^[1].

This is a critical issue. As the table on the following page demonstrates, materials with developed markets and healthy payments for recyclate such as paper and aluminium have strong levels of performance that are already reaching recycling rates of approx 64% and 63% respectively. Comparatively, poorly developed markets are failing, as evidenced by poor recycling rates for glass, PET, HDPE, and LDPE that can only manage effective recovery rates of between 14% and 35% - despite being collected in almost every kerbside recycling service in Australia.

Table 1: Packaging^[2] Tonnes Per Annum:

	Consumption		Recovery			
	Total	Proportion of Packaging	Kerbside	C&I / Away from Home	Total	Rate %
Packaging & Industrial Paper	1,709,000	49.20%	224,275	872,725	1,097,000	64.19%
Glass Packaging	850,000	24.47%	150,000	150,000	300,000	35.29%
Steel Cans	210,000	6.05%	46,200	46,200	92,400	44.00%
Aluminium Bev Containers	45,741	1.32%	18,000	11,000	29,000	63.40%
PET	117,930	3.39%	41,646	11	41,657	35.32%
HDPE	160,842	4.63%	44,558	7,338	51,896	32.27%
PVC	12,171	0.35%	1,428	529	1,957	16.08%
LDPE	211,294	6.08%	607	30,271	30,878	14.61%
Polypropylene	108,031	3.11%	4,292	1,753	6,045	5.60%
Polystyrene	32,026	0.92%	0	1,753	1,753	5.47%
EPS	10,338	0.30%	0	844	844	8.16%
ABS/SAN	6,481	0.19%	0	539	539	8.32%
SUB-TOTAL PLASTICS	659,113	18.97%	92,531	43,038	135,569	20.57%
TOTAL PACKAGING	3,473,854		531,006	1,122,963	1,653,969	47.61%

Unless targets are set that are specifically aimed at increasing recycling in these poor performing areas, we will potentially see a number of scenarios that are disastrous for the recycling industry and Australian environment. These include:

1. Failure to properly address recovery of glass and plastics creates significant downstream impacts. Both materials are identified as being common sources of litter^[3], which has well known impacts on marine and estuarine wildlife, and are known to cause significant social impacts such as glass injuries and bushfires. These materials are also a major source of contamination for green waste and recycling programs (such as for paper) and have significant negative impacts on these industries. Failure to specifically address these problem materials will limit the Covenant's ability to achieve the stated policy goals of the RIS.
2. In addition, many packaging items have a disproportionate ratio between the item's weight and the item's volume. For example, a small truckload of bottles will weigh as little as 300 kgs, yet the same truck when filled with cardboard will weigh as much 4,000 kgs. Yet the 300 kgs of plastic present a much greater environmental challenge through litter, inability to break down in landfill, impact on species, and a huge disparity in the logistical costs to collect materials.
3. Any attempts to push increased voluntary recovery of aluminium and paper too far may start to see the scale of efficiencies lost, and jeopardise the viability of programs that are already highly successful.
4. If targets are not directed across the range of common materials that are technically and practically recyclable, we may see an increased take-up of the already growing market for packaging materials that cannot be recycled.

5. Around 50% of consumer packaging is now consumed in the growing away from home market, where glass and plastic are the most common packaging items. It is critical that initiatives to increase recovery and litter prevention focus on the growing problem of glass and plastic consumption and seek to establish the necessary infrastructure for this collection. It would be completely unacceptable to demand further improvement from already well performing sectors and allow underperformers to remain cushioned from the requirement to improve.

These scenarios demonstrate that specific targets must be adopted for each key material to ensure that problem areas are addressed and the NPC achieves its stated objectives.

Important Note: The Boomerang Alliance believes it is important to recognise that the RIS's failure to explore recovery scenarios which are in line with the dialogue surrounding development of targets means that estimated costs and activities required to collect additional materials have become skewed in the extreme. As a result, the costs of and projections for increased recycling levels (and subsequent landfill reductions) outlined in the RIS are tenuous at best.

TARGETS FOR RECYCLING

Considering that the NPC has already been in place for 5 years, the Alliance considers it reasonable to expect that the NPC would be achieving performance levels comparable to those from an established regulatory scheme by 2010. Based on international experience, this would suggest packaging recycling rates of at least 70-75% (as experienced in Germany, Austria, South Australia, and some Canadian and U.S. states) or a lower recycling rate of around 60-65% (as experienced in Sweden, Norway, Denmark and the Netherlands) when combined with reuse rates of up to 20% on key packages such as beverage containers, paint cans, and distribution packaging – which each nation's environment agency will attest caps the possible recycling rates to a much lower percentage.

Table 2: Additional recovery under new targets

	Consumption (tonnes p.a.)	Recovery (tonnes p.a.)				2010 Recycling Targets	
	Total	Kerbside	C&I / AFH	Total	Rate %	%	Additional Recovery (tonnes)
Packaging & Industrial Paper	1,709,000	224,275	872,725	1,097,000	64.19%	75%	184,750
Glass Packaging	850,000	150,000	150,000	300,000	35.29%	75%	337,500
Steel Cans	210,000	46,200	46,200	92,400	44.00%	75%	65,100
Aluminium Containers	45,741	18,000	11,000	29,000	63.40%	75%	5,306
PET	117,930	41,646	11	41,657	35.32%	75%	46,791
HDPE	160,842	44,558	7,338	51,896	32.27%	75%	68,736
PVC	12,171	1,428	529	1,957	16.08%	70%	6,563
LDPE	211,294	607	30,271	30,878	14.61%	70%	117,028
Polypropylene	108,031	4,292	1,753	6,045	5.60%	70%	69,577
Polystyrene	32,026	0	1,753	1,753	5.47%	70%	20,665
EPS	10,338	0	844	844	8.16%	70%	6,393
ABS/SAN	6,481	0	539	539	8.32%	70%	3,998
TOTAL PACKAGING	3,473,854	531,006	1,122,963	1,653,969	47.61%		
New Target Total				2,586,376	74.45%		932,407

The Boomerang Alliances stresses that the scope and specific range of targets is in keeping with the community's demands for more action on packaging waste and litter. As supporting evidence of the general public's expectations, we attach a summary of market research conducted by Newspoll in late 2004, which highlights the fact that the community:

1. feels that more action on packaging waste and litter is required; and
2. that governments should take action to hold industry and consumers more responsible for the costs of dealing with the same.

We understand that industry would balk at such a rapid increase, and within negotiations have outlined a proposal that accepts a lower target for 2010, but should make it clear that if a target is set that is clearly below the level expected of regulatory schemes, it needs:

- a statement that targets will need to increase further over the next Covenant period;
- a detailed plan with strong financial underpinnings; and
- a specific action that the EPHC will take if and when it becomes clear that targets are not going to be met.

If targets are going to be set at a moderate rate of around 65%, material-specific targets should be set as follows (**Table 3**):

	Consumption (tonnes p.a.)	Recovery (tonnes p.a.)				2010 Recycling Targets	
	Total	Kerbside	C&I / AFH	Total	Rate %	%	Additional Recovery
Packaging & Industrial Paper	1,709,000	224,275	872,725	1,097,000	64.19%	73%	150,570
Glass Packaging	850,000	150,000	150,000	300,000	35.29%	70%	295,000
Steel Cans	210,000	46,200	46,200	92,400	44.00%	70%	54,600
Aluminium Containers	45,741	18,000	11,000	29,000	63.40%	70%	3,019
PET	117,930	41,646	11	41,657	35.32%	70%	40,894
HDPE	160,842	44,558	7,338	51,896	32.27%	73%	65,519
PVC	12,171	1,428	529	1,957	16.08%		
LDPE	211,294	607	30,271	30,878	14.61%		
Polypropylene	108,031	4,292	1,753	6,045	5.60%		
Polystyrene	32,026	0	1,753	1,753	5.47%		
EPS	10,338	0	844	844	8.16%		
ABS/SAN	6,481	0	539	539	8.32%		
SUB-TOTAL PLASTICS	659,113	92,531	43,038	135,569	20.57%	36.71%	106,413
TOTAL PACKAGING	3,473,854	531,006	1,122,963	1,653,969	47.61%		
New Target Total				2,263,571	65.16%		609,602

The EPHC may also want to consider establishing targets across jurisdictions, as obviously individual states or territories would be disappointed to discover that, due to commercial advantages, the majority of increased recycling efforts have been concentrated on the dominant marketplaces of Sydney and Melbourne.

IMPACTS OF TARGETS FOR INCREASED RECYCLING

In the initial review of the NPC, Nolan-ITU commented that “the low hanging fruit had been plucked”. Yet within the RIS, Nolan-ITU outlines recovery scenarios that outline significant growth within both the municipal kerbside system and the commercial & industrial (C&I) sector. This fails to recognise the basic commercial premise that if increased recycling was a profitable activity, local government and industry would already be doing it. Quite clearly Local Government, by embracing kerbside recycling over the last decade, has demonstrated a commitment to providing any service which results in better environmental outcomes for its residents and the environment. Equally, however, Local Government is very tentative about increasing the scope or scale of these services because of the severe financial impost on its ratepayers and legitimate uncertainties about the real degree of environmental benefit resulting from that service.

The area of focus for increasing recycling tonnages needs to be on the growing away from home sector. Nolan-ITU assumes that 30-35,000 tonnes of the increased recycling will be sourced from Public Place Recycling, where in reality it is likely that any efforts to meet proposed targets will require a scope of activity that can recover around 150,000 tonnes per annum in 2010.

This requires the development of a new form of infrastructure and education program that will be underpinned by some form of financial instrument such as adopting the Covenant with either a levy or an EPR-style program. Any other approach will result in existing externalities being extended to local government in clean up costs and an inequitable system which penalises those companies that assist in capturing their waste and rewards those companies that do nothing.

TARGETS FOR THE REDUCTION OF NON-RECYCLABLE PACKAGING

The overall focus on reducing non-recyclable packaging is based on a fairly solid environmental policy approach, yet the RIS does not outline either a framework or a target for this area other than to frame a plan where industry produces a material that cannot be recycled, yet local government expands its services to cater for it. This is commercial insanity; no other entity would be expected to introduce a new service without charging a fee for it.

In order to address the problem, the Boomerang Alliance suggests that a simpler and far more effective system would simply specify that any materials sector which does not meet a minimum acceptable recovery rate (such as 15% by 2008 and 30% by 2010) must either be subject to a phase-out of that material, develop an effective industry-based return mechanism, or pay local government or some other service provider a commercial (or at very least, cost recovery) fee to facilitate the development of a recycling program. This gives industry the flexibility to develop a recovery system or shift materials without any undue duress, while ensuring that the problem of growing non-recyclable materials is addressed. An alternative policy approach would be to institute a landfill ban on all materials sectors that haven't demonstrated a capacity to develop an effective recovery program by the 2008 mid-term review of the NPC.

Equally, the Alliance suspects that the major area in which non-recyclable packaging is used is in the manufacture of composite materials e.g. plasticised waste paper board and composite drink containers such as 'poppers'. These packages need to be addressed through a plan of action rather than a target, but in a similar fashion common composite packages should be required to demonstrate that by 2008 they have developed a comprehensive recovery program or be subjected to regulatory action via a levy or a landfill ban.

Finally, the Alliance notes the potential environmental benefits gained via usage of some packaging materials such as reduced product spoilage and wastage. Clearly, if the environmental benefit of reducing wastage of goods can be indisputably shown to outweigh the benefit of using any other form of packaging that can be currently recycled, there should be room for the NPC to provide an exemption. The use of a life-cycle assessment would be a practical tool for a packaging producer or brand owner that may wish to make a submission requesting an exemption from this approach.

TARGETS FOR INCREASED USE OF RECYCLED PACKAGING MATERIALS IN NEW PRODUCTS

While the Boomerang Alliance accepts most of the issues outlined within the RIS regarding non-packaging markets, we would contend that the packaging materials market is the only market that the members of the National Packaging Covenant can control. Certainly, there are other markets and recycle should not be expected to be limited to a market exclusively for packaging. However, there is no reason why the EPHC cannot set targets aimed a stimulating end market development by requiring industry to:

1. adopt a position requiring minimum recycled content; OR
2. if unable to use recycled materials in packaging manufacture, brand owners should be required to make a top up payment into a fund to incent other companies that will use the recovered material.

Specific minimum recycled content targets should be set as follows (**Table 4**):

	2008	2010
Aluminium	30%	35%
Steel	30%	35%
Glass	30%	35%
PET	20%	25%
HDPE	20%	25%

Finally, we stress the importance of this target area. While there are many long and convoluted explanations offered as to why some materials have high recycling rates and others have low rates, the simple fact remains that the materials that experience high levels of recovery are those materials that have a strong commercial value to encourage recycling such as paper and aluminium. Without some form of underpinning to encourage end market development, we will never experience high levels of recycling, and the only way in which high value markets can emerge is if the packaging industry undertakes to make a reasonable contribution to developing those markets.

LITTER – an additional target

While litter is identified as a policy objective, and there has been much rhetoric regarding a new covenant focus on litter, there are no proposed targets to reduce the incidence of packaging as litter, its persistence as litter in the environment, its impact on harming wildlife or releasing toxins, or its cost to clean up – nor does the Covenant outline any plan or strategy to deal with litter.

Manufacturers play a substantial role in addressing litter. Key issues which need to be addressed within the Covenant include:

- Adequate instructions to ensure consumers dispose of the package properly;
- Identification of products likely to be consumed away from home and ensuring that packaging produced for these products is easily recyclable or biodegradable, is not hazardous to wildlife or does not release toxins when found in the environment, and is not costly or dangerous to clean up; and
- A specific strategy for litter prevention including public education and infrastructure needs to be included as part of the enhanced Covenant, along with specific funding allocations and a public education program.

We suggest a target of 50% reduction in the incidence of packaging litter by 2010 must be included in the enhanced NPC. This would be measured as the proportion of packaging found on Clean Up Australia Day, where packaging would be reduced from its current proportion of 85% to 35% by 2010.

GENERAL

Role of Government.

It is of deep concern that the RIS fails to identify any significant costs to government, given that a key failing of the last Covenant was a failure of jurisdictions to enforce the NEPM or match industry dollars to implement new initiatives. Industry has made it clear that for recycling rates to be lifted they will need to see the NEPM enforced, and a tightening up on the small business sector.

However, the RIS identifies a total cost to government of some \$600,000. Firstly, jurisdictions commit to match industry's minimum annual contribution of \$3 million per annum, which is clearly a cost to government. Secondly a national budget of \$250,000^[5] for monitoring and enforcement will not fund even a single prosecution, let alone the comprehensive approach.

Secondly, it is clear that all stakeholders believe that Government needs to provide visible and active support if targets are to be achieved. To this end, we would suggest that all jurisdictions (particularly NSW and Victoria) need dedicated staff to promote Covenant participation, enforce the NEPM, and actively participate in the development of implementation plans, funding, and development of new away-from-home infrastructure.

We would suggest that governments need at least 10 full time staff across the country to deliver the NEPM, a budget of at least \$5 million for NEPM enforcement, and \$3 million contribution to match industry funding – representing a total cost of around \$10 million per annum.

Simply put, governments cannot continue the current practice of half supporting the NPC; it should be enforced and supported or scrapped.

Extending the range of kerbside recycling services to collect additional material such as LDPE.

The Boomerang Alliance is astounded by the lack of understanding of the commercial realities of kerbside recycling demonstrated throughout the RIS. The fundamental assumptions about the potential to increase kerbside yields without incurring costs are ridiculous; if it is commercially viable to collect materials recyclers will collect them, but increasing pressures on collections of lightweight, low value plastics makes it impossible to do so. It is acknowledged that the community's pressure for kerbside recycling, based on less than comprehensive information and understanding, drives the need for most councils to initiate, continue and in some cases expand their kerbside recycling services. Just like the commercial sector, local government should choose which services are commercially viable to undertake. Neither the NPC nor the RIS have explored how to do this, preferring to focus on a poorly framed effort to 'con' local government through a ridiculous argument that somehow all this increased effort will cost nothing.

LDPE and other materials can only be collected through kerbside if the end market is developed. Aluminium enjoys a high recovery rate of over 60%, while PET with a similar weight and pattern of consumption languishes at under 40%. The only reason for this is that aluminium is valuable to collect, with prices for recovered aluminum of between \$800 and \$1,200 per tonne. In contrast, PET attracts prices of between \$300 and \$400 per tonne.

There are only two ways to fix this – either the producer subsidises the cost of collection or it underpins the end market price – until the NPC and jurisdictions recognise this any significant increases in the level of packaging recycling will not be possible.

ATTACHMENTS

1. Media Releases Ministers Debus and Thwaites - April EPHC Meeting
2. Summary Report on Newspoll Research
3. Boomerang Alliance, Progress Report to The EPHC on developing targets March 30, 2005

Footnotes:

^[1] See attached media releases by Ministers Debus and Thwaites.

^[2] Data sets outlined here are the base data agreed by all parties working within the NPC targets working group as the best data available.

^[3] RIS page 35 citing NSW DEC 2004 Litter Report.

^[4] RIS page 35 citing NSW DEC 2004 Litter Report.

^[5] RIS page 102.