

21 September 2016

Container Deposit Implementation Team
Waste and Resource Recovery Branch
Environmental Protection Authority
PO Box A290
Sydney South NSW 1232

By email: container.deposit@epa.nsw.gov.au

Dear Container Deposit Implementation Team,

Waste Avoidance and Resource Recovery Amendment (Container Deposit Scheme) Bill 2016

Thank you for the opportunity to comment on the *Waste Avoidance and Resource Recovery Amendment (Container Deposit Scheme) Bill 2016 (CDS Bill)* and the associated *Regulatory Framework Discussion Paper (Discussion Paper)*. Our comments are based on our extensive experience as an independent, not-for-profit community legal centre specialising in public interest environmental law.

EDO NSW has consistently argued that mandatory product stewardship should be enshrined in law.¹ We therefore welcome the intent to introduce legislation to establish a container deposit scheme for NSW.

Drink containers are a key land-based source of terrestrial and marine plastic pollution that pose risks to a wide range of wildlife and the broader environment. Container deposit schemes have a proven track record in regulating drink container litter, by internalising the costs of littering and creating community incentives to recycle more. Many countries around the world have adopted these schemes, increasingly aided by innovative resource recovery technologies. South Australia pioneered container deposits in this country, followed by the Northern Territory – despite beverage companies' legal challenge to the NT scheme in 2013. We welcome this proposal by the NSW Government to introduce container deposit legislation in NSW with a view to implementing a CDS by July 2017. We encourage the NSW Government to adopt a world's best practice CDS.

This letter of broad support does not address the technical detail of the proposed scheme. We note that several key details will be determined by regulation, contractual arrangements and administrative guidelines that will be developed once the Bill is passed. The regulatory architecture must ensure transparency and integrity of the new scheme. For example, there needs to be more transparency around how the number of eligible containers in large-scale deposits will be estimated. In this context, we support provisions to establish an expert advisory committee (that includes community as well as industry), performance auditing and regular reporting.

We recommend that sufficient time be allocated to comprehensively consult on the detail in the regulation and administrative guidelines. Consultation on mandatory standard and/or standard clauses that will be in the relevant contractual arrangements is also necessary to ensure public confidence in the scheme.

It is important to ensure that the scheme avoids perverse environmental outcomes such as, for example, people driving long distances to drop off containers. This issue and others need to be addressed by ensuring access to collection points in rural and regional areas as well as urban centres. The scheme must also ensure that it does not create disincentives or barriers to use – such as onerous administrative requirements. In this context, we support the proposal that personal details need not be provided for small-scale deposits. Finally, to support the implementation of the legislation, resources need to be committed to community education and information about how to benefit from the scheme.

In relation to the CDS Bill we submit that key objectives of the scheme – such as a positive obligation to increase the proportion of beverage industry waste being recycled and re-used – must be stated in the legislation. We support penalty provisions and recommend adequate resourcing to ensure strong compliance and enforcement of the scheme.

EDO NSW is part of a national network of EDO offices and we strongly support the establishment of CDS schemes in all jurisdictions across Australia. Having a nationally consistent leading practice approached enshrined in mutually recognised legislation would be a significant step in tackling waste management issues such as land and marine plastic pollution.

If you would like to discuss this submission further, please do not hesitate to contact us on 02 9262 6989 or by e-mail: rachel.walmsley@edonsw.org.au.

Yours sincerely,
EDO NSW



Rachel Walmsley
Policy and Law Reform Director

ⁱ For previous submissions see: http://www.edonsw.org.au/pollution_policy, including for example, *EDOs of Australia submission on the threat of marine plastic pollution in Australia and Australian waters*, 9 October 2015.