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Tasmanian Planning Commission  
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To whom it may concern,

### **TOMRA and Cleanaway – Tasmanian CRS Draft Amendment**

Ethos Urban continue to act on behalf of TOMRA Cleanaway in relation to the Tasmanian Container Refund Scheme (CRS). We have prepared this submission following a detailed a detailed review of:

- Draft Amendment 01/2022 to the Tasmanian State Planning Provisions (SPP) to facilitate the CRS. This document is titled 'Container Refund Scheme - Exemptions and Special Provisions'; and
- Explanatory Document to Draft Amendment 01/2022.

These documents were prepared by the State Planning Office in January 2023 and set out the proposed definitions, exemptions and general provisions in relation to the CRS. The Explanatory Document provides discussion of the background and legislative operation of the CRS.

The TOMRA Cleanaway proposal to operate the CRS includes:

- Reverse Vending Machine Kiosks (RVM Kiosks) to be located mainly in shopping centre car parks.
- Standalone or compact reverse vending machines (Standalone RVMs) to be located internally or externally at a variety of smaller retail locations. This includes, but not limited to, supermarkets, grocers, petrol stations, mixed businesses, general stores, newsagents, opportunity shops and tip shops, and mostly in regional areas.
- A small number of over the counter (OTC) container refund points which do not involve the use of technology and which will be at similar locations to those described for Standalone RVMs above (but not including larger supermarkets).
- Automated Depots which include high speed equipment for processing containers in bulk quantities and catering to a consumer market segment as well as others.

Based on our review of Draft Amendment 01/2022 and the corresponding Explanatory Document, we draw your attention to the following matters that are likely to create planning risks and delays in the establishment and operation of the CRS:

- Separation Distances
- Hours of Operation and Service
- Exclusion of Automated Depots
- External Storage for Standalone RVM's
- Front setbacks

We have provided detailed discussion and suggested changes to the Draft Amendment below.

## Separation Distances

Throughout the Draft Amendment, reference is made to the 50m separation distance from residential zones. When a collection point is within this distance, there are restrictions placed on its hours of operation in order to benefit from the exemptions.

We understand that this 50m requirement is drawn from standard requirements within the wider TPS.

The draft sub-clause 'l)' of 7.14.2 only makes reference to the separation from the residential zone boundary rather than separation of a dwelling within the residential zone. This means setbacks may be required to be measured from non-sensitive areas like roads within residential zones.

This restriction will affect significant numbers of the intended installation sites based on initial review completed by TOMRA. The container collection point use is a use not previously considered by the TPS and has particular operational requirements and a high public value in terms of the use and service it provides.

The operation of exemptions and design guidance for collection points within the Victorian CDS operate under the Particular Provision at Clause 52.13. Victorian planning authorities considered the separation distance carefully and decided on a practical compromise of 30 metres from residential which has allowed collection point operators to offer and begin to roll-out retail-based collection point solutions in that state as exempt development.

Pursuant to Clause 52.13-5, an automated collection point can operate 30 metres from land used for a dwelling in a residential zone.

A 30m separation distance should be introduced throughout the Draft Amendment to enable the effective operation of the installation sites and potential for high public value.

Without this change, many of the container collection points will ultimately require planning approval. This will affect the cost of establishing the CRS and place an increased burden on local councils during approval processes.

**We recommend that Sub-clause 'l)' of 7.14.2 should be amended to:**

***l) use of a bag drop refund point or a container refund machine within ~~50~~30m of land (not a road) in a General Residential Zone, Inner Residential Zone, or Low Density Residential Zone must have:***

## Hours of operation and service

Pursuant to sub-clause 'l)(i)' of 7.14.2 of the Draft Amendment, the permitted hours of operations for the use of a container refund machine within 50m of the specified residential zones are:

- o 7.00am to 9.00pm Monday to Saturday; and
- o 8:00am to 9:00pm Sunday and Public Holidays; or
- o operation of the co-located business, whichever is the lesser;

We understand that 50m separation distance from a residential zone will have an impacts on a large proportion of the sites identified by TOMRA.

The hours of operation do not make provision for time to service and empty the refund machines. This requires the servicing of the container refund machine to occur during the hours of operation and means the collection machines will need to be closed to the public when they could otherwise be collecting bottles.

This will limit the effectiveness of the scheme. If a container refund point required servicing hours beyond these times, it would need an application via a 'Discretionary' decision pathway.

The Explanatory Document prepared in support of the draft amendment sets out the proposed general provision provides a 'Discretionary' decision pathway for the unusual or unexpected CRS features. The need for servicing of the container refund points is not an 'unusual or unexpected CRS feature'. It is a standard requirement and should be addressed by the amendment.

To enable the effective operation of the CRS, operating hours need to be flexible to allow for servicing outside of times when the machines are expected to be taking refunds from the public. The imposition of the default hours of operation within the standard 50m buffer is unreasonable and will have unintended consequences of driving more approvals through the discretionary decision pathway increasing the government and operator burden of establishing the scheme.

Specific hours should be provided for servicing the container collection points. These should be 1 hour prior and post the operation hours. Not providing this flexibility will have material impacts on the success and feasibility of the scheme in the long term.

**We recommend Clause 'l) (iii)' of 7.14.2 to the Draft Amendment should be updated as follows:**

***Service vehicles for the container refund point that operate within the hours of:***

- a. ~~7.00am to 9.00pm~~ 6.00am to 10.00pm Monday to Saturday; and***
- b. ~~8.00am to 9.00pm~~ 7.00am to 10.00pm Sunday and public holidays.***

### **Exclusion of Automated Depots**

In addition to the smaller, shipping container based automated collection points, larger Automated Depots will form a critical part of the CRS network and function. Automated Depots operate similarly to any other container collection point but have larger container storage areas to the rear.

Automated Depots are located internally within buildings and are serviced by logistics vehicles that mirror the waste and loading requirements for many commercial uses.

Based on the Draft Amendment and the Container Refund Scheme Act 2022, Automated Depots will be defined as a Container Refund Machine but excluded from the permitted pathway for sites in the Commercial Zone. This is due to Automated Depots being larger than 60sqm.

Automated Depots will otherwise fall into the draft definition provided for Recycling and Waste Disposal and be prohibited in the Commercial Zone and discretionary in the Light Industrial Zone.

TOMRA has successfully operated Automated Depots throughout QLD and NSW. The planning controls provided in those states and the controls implemented in VIC, enable Automated Depots to be located in non-sensitive commercial areas like those included in the Commercial Zone. Planning controls in other states include exemptions from public notice, the equivalent of a Permitted pathway.

The prohibition of Automated Depots from the Commercial Zone and the requirement for them to follow a discretionary pathway in the Light Industrial Zone will make Automated Depots very unlikely to establish in bulky goods type areas where they operate most effectively in other states.

Forcing Automated Depots into General Industrial Zones will make them less attractive and less convenient to the general public. This is not consistent with the aim of the CRS which is to maximise the convenience of collection points and the percentage of beverage containers recycled.

We recommend that the Draft Amendment should enable Automated Depots as a permitted use in the Commercial and Light Industrial Zones. These areas generally accommodate non-sensitive uses such as Bulky Goods Sales, Service Industry and Storage which would not be affected by the internal and contained use of an Automated Depot.

**We have drafted the suggested additional provision below to provide a specific permitted pathway for Automated Depots. It limits the locations where this will apply to the Commercial and Light Industrial Zones and maintains all relevant conditions and restrictions in the existing 7.14.2 provision.**

7.14.3 Notwithstanding subclause 7.14.1, use and development for a container refund machine on a site in the Commercial Zone or light Industrial Zone, is Permitted and a permit must be granted if:

- a) there are not more than 2 signs for the container refund machine that are not attached to the bag drop point or container refund machine structure and the signs are not:
  - i. less than 2m from the boundary of a property in a General Residential Zone, Inner Residential Zone, or Low Density Residential Zone;
  - ii. illuminated;
  - iii. more than 2m<sup>2</sup> combined total area; and
  - iv. a third-party sign as defined in C1.3 of the C1.0 Signs Code;
- b) a sign that is attached to the container refund machine structure must:
  - i. not be illuminated;
  - ii. comply with C1.6.4 A1 of the C1.0 Signs Code; and
  - iii. be for the following sign types, as defined in C1.3 of the C1.0 Signs Code:
    - a. an awning fascia sign that does not project above or below the fascia of the awning to which it is attached, and has a height of not less than 2m above ground level;
    - b. a building fascia sign that does not project above or below the fascia of the building, and does not project horizontally more than 200mm from the vertical face of the fascia;
    - c. a painted wall sign;
    - d. a wall sign that does not project above the top of the wall to which it is attached; or
    - e. a wall mural sign;
- c) the setback from a frontage is:
  - i. equal to or more than the relevant Acceptable Solution frontage setback for the relevant zone ; and
  - ii. not less than that the relevant Acceptable Solution frontage setback of any applicable specific area plan;
- d) the side and rear setback is not less than the relevant Acceptable Solution side or rear setback for the relevant zone or any applicable specific area plan;
- e) the location of the container refund point satisfies the requirements in the acceptable solutions for C2.6.2, C2.6.3, C2.6.4, C2.6.5 and C2.6.6;
- f) the Local Historic Heritage Code does not require a permit for use or development; and
- l) use of a container refund machine within 50m of a General Residential Zone, Inner Residential Zone, or Low Density Residential Zone must have:
  - i. hours of operation: within the hours of:
    - a. 7.00am to 9.00pm Monday to Saturday; and
    - b. 8.00am to 9.00pm on Sundays and public holidays; or
    - c. operation of the co-located business, whichever is the lesser;
  - ii. external lighting that does not operate within the hours of 11.00pm to 6.00am, excluding any security lighting; and
  - iii. service vehicles for the container refund point that operate within the hours of:
    - a. 6.00am to 10.00pm Monday to Saturday; and
    - b. 7.00am to 10.00pm Sunday and public holidays.

## External Storage for Standalone RVM's

The Draft Amendment provides exemptions for storage of returned approved containers on the site of collection. The exemptions for storage of returned approved containers are written into the container refund point exemptions at 4.2.10 and will be integral to the efficient and financially sustainable operation of the CRS.

Based on the current drafting of 4.2.10, we expect the Standalone RVM type collection points will not benefit from exemptions for storage returned approved containers collected through a Standalone RVM.

This is because the text provided at sub-clause 'b)' of 4.2.10 which relates to a container refund machine or bag drop refund point, specifically states the exemption only applies when:

iii. the returned approved containers **are stored inside the structure** or the bags are stored in a relocatable bin that is not visible from any road or public space adjoining the site

In the case of a Standalone RVM, we take this to mean that the returned approved containers are stored inside the structure (being the Standalone RVM). Whereas those collected via bag drop can be stored in a relocatable bin that is not visible from any road or public space adjoining the site.

Given the limited footprint of the Standalone RVM, onsite storage external to the RVM structure will be critical to the operation of the small footprint RVM type. For practical and economic collection of containers by a logistics provider to be possible, the small footprint RVM types will need to be supported by on site storage so a meaningful volume of containers can be amassed then collected. Standalone RVMs will capture beverage containers in both bins and bags which will require separate storage accessible by a logistics provider.

We note Over the Counter collection point types are supported by exemptions for external storage by the current Draft Amendment despite Over the Counter collection points generally being lower volume collection points and having a reduced need for external storage compared to standalone RVMs.

**We have drafted the suggested changes to sub-clause 'b)' of 4.2.10 to provide a targeted and limited exemption for external storage that will apply to both Standalone RVM's and Over the Counter collection points.**

***b) a container refund machine or bag drop refund point if:***

***i. co-located on a site with an existing business;***

***ii. the structure has a base area of not more than 4m<sup>2</sup> and a height of not more than 2.2m; and***

***iii. the returned approved containers ~~are stored inside the structure or the bags~~ are stored in a relocatable bin that is ~~not more than 15m<sup>2</sup> in area and a height of not more than 3m~~ or is provided in a shipping container; and not visible from any road or public space adjoining the site, unless the Local Historic Heritage Code applies and requires a permit for the use or development.***

## Front Setbacks

Clause 7.14.2 of the Draft Amendment sets out that to benefit from the permitted pathway, a container refund machine must be setback equal to or more than the relevant Acceptable Solution frontage setback for the relevant zone.

For the Local, General and Central Business Zones this provides for buildings to the front boundary. However, for the Village, Urban Mixed-Use, Commercial zones this requires setbacks of 4.5m, 5.5m and 3m respectively.

Container refund machines will be generally located in car parking areas in the front setback of existing business premises to ensure they are visible to the public and easily accessed by the public and servicing vehicles. TOMRA – Cleanaway are required to enter into agreements with the landowners and business operators to secure sites for the placement of container refund machines. The available locations are restricted by the existing design and layout of car parking area including the alignment of car parking spaces, location of landscaping and signage and access by service vehicles. TOMRA – Cleanaway have found the agreement on location of container refund machines to be a central issue in developing agreements with landowners.

Victoria's CDS planning provisions exempt automated collection points provided they are setback a standard 4m from the frontage of the site across all zones.

The varied front setbacks and a lack of consistency in the Draft Amendment will complicate the landowner approval process and make establishing the CRS slower, more costly and less efficient. It also risks a significant proportion of container refund machines needing assessment under the discretionary pathway, potentially creating delays to the government's intended timeline for roll-out of the Scheme. This will ultimately impact the success and feasibility of the scheme in the long term.

**Sub-clause 'e)' of 7.14.2 should be amended to:**

***e) in the Village Zone, Urban Mixed-Use Zone, Commercial Zone, Community Purpose Zone or Recreation Zone the setback from a frontage is:***

***i. ~~not less than the relevant Acceptable Solution frontage setback for the relevant zone 4m~~; and***

***ii. not less than the Acceptable Solution frontage setback of any applicable specific area plan;***

### Planning Directive

The draft Amendment gives service providers of the CRS, Councils and local communities with greater certainty regarding the planning framework, despite the risks identified above.

However, a Planning Directive or similar guidance document issued by the Tasmanian Planning Commission would be useful in providing guidance to Local Councils when interpreting the Amendment. We think this will be especially valuable in the Tasmanian context where there is a large number of smaller LGA's.

This is an approach adopted by other States and we could provide examples of these documents if required. This guidance could clarify any areas of interpretation, the relevant considerations for discretionary applications, and the information requirements for applications.

We trust this assists the Tasmanian Planning Commission in its consideration of the Draft Amendment. Feel free to contact me at the details provided below to discuss any details of our advice.

Yours sincerely,



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