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The Director
Codes and Approval Pathways
NSW Department of Planning and Environment
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SUBMISSION ON PROPOSED AMENDMENT OF SEPP (EXEMPT AND COMPLYING CODES) 2008

This submission has been prepared by JBA on behalf of Tomra Systems (Tomra) in response to the draft amendment to *State Environmental Planning Policy (Exempt and Complying Codes) 2008*, here after referred to as 'the Codes SEPP'. Tomra (www.tomra.com) is a publicly listed Norwegian technology company specialising in the return and recycling of empty beverage containers. Tomra has been operating since 1972 and is the market leader in reverse vending technology for beverage container recycling, with an approximately 80% global market share. The draft amendment of the Codes SEPP is on public exhibition until 26 April 2017.

1.0 INTRODUCTION

In preparation for the introduction of the NSW Container Deposit Scheme (CDS), which is set to commence from 1 December 2017, the Department of Planning and Environment (DP&E) is seeking to amend the Codes SEPP in order to streamline the process for installation of necessary beverage container collection infrastructure. The CDS seeks a 40% reduction in the volume of litter by 2020, by focusing on the most commonly littered item – beverage containers. To incentivise recycling the CDS will introduce a NSW-wide refund scheme for recyclable items that can be deposited into collection depots or Reverse Vending Machines (RVMs) in exchange for 10 cents per container.

It is understood that commercial tenders for the installation of beverage return infrastructure (known collectively as "collection depots" and including RVMs) across NSW will be awarded around July 2017 with installation of at least 85% of all infrastructure throughout the State required by the commencement of the CDS Scheme on 1 December 2017. This schedule allows approximately five months to agree and negotiate all sites, secure all necessary development approvals, as well as for the installation and testing of every collection site. In order to assist in meeting this ambitious deadline, the proposed amendments to the Codes SEPP aims to allow a large proportion of the RVM sites to be installed as Exempt Development, thereby avoiding the need to lodge a Development Application with the relevant Councils.

The successful application of the proposed amendment to the Codes SEPP is important for the following reasons:

- The CDS is a government initiative that aims to reduce litter and waste. Although the potential environmental impacts of the RVM infrastructure must be appropriately considered, all levels of government should be appropriately incentivised to remove potential roadblocks to the success of the CDS.
- Between 400 and 500 collections sites are envisaged across NSW, and over 400 are mandated. Without an appropriate amendment to the Codes SEPP each site could potentially require a Development Application which will be costly to prepare and which will remove much certainty of outcome from the process.

- Councils play a vital role in managing development within their LGA. The amendment to the Codes SEPP will allow Councils to concentrate on other development applications by facilitating the diversion of a large volume of development applications from their development assessment process.

In light of the above, it is clear that the success of the proposed Codes SEPP amendment will be vital for the effective rollout of RVM infrastructure and therefore also for the immediate success of the CDS in NSW.

Tomra and JBA have undertaken a review of the proposed amendment to the Codes SEPP and believe that the amendment does not sufficiently address the spatial and operational requirements of RVM infrastructure. The proposed SEPP amendment is therefore unlikely to facilitate the smooth and efficient diffusion of RVM infrastructure throughout NSW.

2.0 RVM INFRASTRUCTURE

Tomra's latest configurations of RVMs typically feature a "front end" consumer interface and "back end" sorters and/or compactors and storage bins. These are designed as single multi-category RVM model that accept all types of containers proposed to be accepted under the NSW deposit scheme. Containers are mechanically sorted at the back end of the RVM for later collection. The RVM units are designed to present as modular self-contained housing structures, typically located within car parks and other areas likely to attract a reasonably sized public throughput (refer to

Figure 1).

These self-contained models represent the latest generation of RVM models available in the market. Tomra is one of a number of manufacturers who now offer self-contained RVM models. Benefits of a self-contained RVM model with a backroom sorting system include:

- RVM models with an integrated back-end are more efficient than single RVM models without the ability to identify and sort multiple materials. The back end also allows for greater storage and improved long-term operational efficiency across the life-cycle of the scheme. A single machine that is capable of accepting all containers will also offer a faster user experience than two or three machines, each limited to particular types of containers;
- Integrated back-end RVMs avoid the need for users to pre-sort and queue at separate machines;
- These structures are designed to function as compact, low impact structures. As the RVM is a sealed unit, the mechanical noise generated by operation is low. The enclosed self-contained, insulated nature of these models further minimise any other adverse impacts such as odour or safety concerns; and
- These structures are designed as both small and large footprint modular structures, generally occupying between 3 and 6 car parking spaces.

A trial of this scheme was carried out in the City of Sydney LGA in 2014. Stand-alone RVM machines were located at four key locations in public places. The findings of this trial confirm that the stand-alone machines are likely to be insufficient to service the demand generated from a NSW wide collection scheme. The stand-alone RVM trial models were also noted to require frequent collection and servicing due to mechanical errors. The operational learning statement of the *RVM Trial Project Evaluation Report* confirms that: *"Larger, faster, and more sophisticated RVMs will be required to service the large-scale needs of the NSW CDS market"*[1] Tomra's modern large-scale RVMs will allow the lessons learned during the 2014 trial to be taken on board for the State-wide roll out.

Tomra notes that, with an estimated 3.5 billion containers consumed across NSW and an expected return rate of more than 80% (albeit with some still returned via the existing kerbside system), average volumes per collection depot in the populated areas of greater Sydney, Wollongong and Newcastle are expected to be up to 5.5 million per annum, or 18,000 containers per day. To deliver the government's

[1] *Page 24, RVM Trial Project Evaluation Report http://www.cityofsydney.nsw.gov.au/__data/assets/pdf_file/0006/262149/Reverse-Vending-Machine-Evaluation-Report-V2-accessible.pdf*

objectives of consumer convenience and avoid significant downtime, multiple RVMs and significant storage capacity will be required at most sites. Fixed single RVMs will require unrealistically expensive servicing for bin changing (approximately 20 times per day) and difficulty providing the necessary uptime.

Figure 1 – Examples of housing structures for front and back end RVM type models

We understand that the Association of Container Deposit System Operators (CDSO) have also made a submission to the DP&E on the proposed Codes SEPP amendment. Tomra is a central member of the CDSO and holds similar concerns on the matters raised under the CDSO submission. The issues raised within the CDSO submission are supported.

3.0 SEPP AMENDMENT LIMITATIONS

3.1 Exempt Development

The proposed SEPP amendment currently on exhibition considers four (4) types of RVM models as exempt development on the basis that they are low-impact vending machine type structures. These include:

- Fixed Single RVM
- Fixed Multiple RVM
- Mobile RVM
- Mobile cages

Whilst the self-contained Tomra RVM models do not explicitly fit within one of the above descriptions, their smaller footprint varieties are considered to be of an equivalent scale and size as the exempt 'Bank of Fixed Multiple RVMs' that permit a maximum of five (5) single reverse vending machines.

The latest generation of self-contained RVM models are also considered to be compact, low impact structures that present as a simple modular housing structure. These structures are considered to offer improved storage capacity and operational efficiency relative to their traditional single vending machine type counterparts. Given that these structures are designed as low impact structures, we recommend that self-contained RVM units (occupying 3-6 car parking spaces) are added to the proposed list of exempt RVM models.

Tomra would be happy to engage further with DP&E to assist in the drafting of the SEPP amendment. We feel that it is important that the industry is appropriately engaged with the drafting of the instrument to ensure that the resulting amendment to the Codes SEPP is useful and allows for the streamlined rollout of RVM infrastructure.

3.2 Complying Development

The Explanation of Intended Effects (EIE) report considers that approval for RVM model types with a 'front end' and a backroom system can be undertaken as Complying Development through Part 5 of the existing Codes SEPP. We note that Part 5 provisions under Subdivision 1 (Building alterations) are limited to internal building alterations.

While this may also allow the installation of some of Tomra's RVM varieties within commercial buildings, shopping centres and multi-level car parks, it does not offer provisions for the installation of self-contained RVM models (requiring 6 car spaces or more) within external areas (at-grade car parks, university grounds, recreational areas). However external sites are anticipated to make up the bulk of future sites.

The provisions of Part 5A Commercial and Industrial (New Buildings and Additions) of the SEPP allows for some external additions and alterations. However, this is generally limited to minor external façade alterations/additions and is not considered capable of providing the efficient means to facilitate delivery of these self-contained RVM models.

The larger RVM varieties (occupying 6 and more car parking spaces) are also designed as modular, low impact structures. Similar to the small footprint models, the larger counterparts are also effectively designed to operate with minimal adverse impacts to its surrounding. Their backroom systems are self-operated, internally lit, insulated and low maintenance structures. These will have large storage capacity and thereby require less frequent servicing requirements – something that is clearly required given the expected average return volumes per site mentioned above.

Accordingly, we recommend that the DP&E consider an additional approval pathway by introducing a separate complying development category (S*ubdivision 13 Reverse Vending Machines*) under Part 5 of the existing Codes SEPP. Such a modification to the Complying Development provision of the Codes SEPP could ensure that RVM models that do not comply with the categories of exempt RVM models, and are not installed within buildings, are able to be installed without seeking a lengthy and expensive development consent.

The majority of collection sites being considered are located within at-grade car parks in Sydney's middle and outer ring areas, and outside of Sydney's Greater Metropolitan Area. As such the inclusion of a specific subdivision within the Codes SEPP is vital to allowing the installation of RVM infrastructure without unduly slowing down, and being slowed down by, the operation of numerous Council's Development Assessment teams.

Development standards under such a division with the Codes SEPP should be carefully considered. The standards should be flexible and outcome based to allow for flexibility, future design innovation and performance improvements of RVM models. We recognise that existing car parking numbers within many of the locations considered appropriate for the installation of RVM infrastructure may be varied. A reduction in total car parking expressed as a percentage, when operating alongside a total number of removed car parking spaces, may be appropriate to include within a development standard. Suggested wording for such a provision is provided below.

Subdivision 13 Reverse Vending Machines
5.26 Specified Development
The installation of a Reverse Vending Machine is development specified for this code.

5.27 Development Standards

(1) The standards specified for that development are that the development must:

(a) not reduce the total number of car parking spaces by more than ten (10) spaces; and
(b) not reduce the total capacity an existing car park by more than 5%; and
(c) ensure that there is sufficient access capacity for a servicing vehicle to access the RVM

Part 5 of the Codes SEPP does not allow complying development to be carried out within land used for residential accommodation. Despite this, there may be benefit in co-locating RVM infrastructure within large residential complexes (200 and more dwellings). This would allow residents of such areas to directly benefit from the scheme by depositing their recyclables into the RVM structures. We recommend that the department further consider an appropriate mechanism to facilitate the installation of RVMs within suitable residential areas.

Tomra would be happy to engage further with DP&E to assist in the drafting of the SEPP amendment. We feel that it is important that the industry is appropriately engaged with the drafting of the instrument to ensure that the resulting amendment to the Codes SEPP is useful and allows for the streamlined rollout of RVM infrastructure.

3.3 Limitations of requiring a DA

The EIE report states that all *proposals that are larger or in sensitive locations will require development consent from Council.* Whilst we understand the DP&E's need to maintain a certain level of caution in offering an unrestricted exempt/complying approval pathway, in consideration of the fledging nature of the CDS program and the crucial role that the RVM infrastructure plays in ensuring its success, the requirement for a development consent may disincentivise the uptake/ delivery of this technology and potentially jeopardise the overall success of the CDS.

Cumbersome planning approval processes will impede the efficient roll out of this infrastructure. It will significantly impact feasibility for operators and likely affect the achievement of NSW's target of 40% reduction in the volume of litter by 2020.

Requiring DA approval is also likely to place undue stress on Council's resources and assessment process. The proposed amendment of the Codes SEPP as exhibited will require DA approvals for most RVM varieties. This can also significantly implicate Council's current assessment performance and in turn delay the outcomes of other larger DAs.

A complying development pathway with well-considered, outcome-based development standards is considered a better approach than an amendment of the Codes SEPP that will still require the majority of sites to lodge a DA. It is recommended that the complying development standards require compliance with the EPA's RVM Design Guidelines. The performance of these design guidelines can be regularly monitored and subsequently updated to cater for technological advancements and performance/design improvements.

3.4 Streamlined approval process for public land

We note that the intent of introducing the exempt RVM development code is to accelerate delivery of RVM infrastructure in alignment with the anticipated CDS. We recommend all components of the approval process are streamlined and simplified as far as practical. This includes approvals under Section 68 of the *Local Government Act 1993.*

It is anticipated that public places such as parks, community centres and council car parks in retail zones can benefit from the co-location of RVM infrastructure. Notwithstanding the above outlined requirement for development approval under the *Environmental Planning &Assessment Act 1979* the installation of RVM infrastructure on public land will also require Section 68 approval under the *Local Government Act 1993*.

We recommend that the DP&E liaise with the Office of Local Government to create a simple streamlined Section 68 approval process. Exempt and Complying RVM models that comply with the EPA RVM Design Guidelines should also be considered exempt from Section 68 approval under respective Council's Local Approval Policy or by way of the *Local Government Regulations 2005*.

It is noted that several Councils have already adopted policies that generally exempt placing of waste in public places - subject to compliance with certain requirements. NSW EPA and DP&E should work together to ensure that RVM models under the exempt category can also be considered exempt works.

3.5 Advertising restrictions

A development standards specified for the exempt development category is that the structures

'not display any advertising other than details of the person or organisation that operates it'.

Utilising a part of the structures surface area for advertising purposes is seen to offer a better outcome as it activates the structure, and avoids the presentation of blank walls which may alternatively attract acts of vandalism. The advertising features can be limited to the self-contained RVM models that generally offer a wider quantum of surface area.

We recommend the Department carefully consider how appropriate advertising and signage can be integrated into the RVM infrastructure

3.6 Other issues

- Contravention of any existing condition: The proposed development standards for the exempt RVM category require compliance with existing conditions of consent, which generally includes conditions on number of car parking spaces, landscaping. The requirement to comply with this standard will force land owners/ retailers to lodge a modification application to amend their existing conditions of consent. This will complicate the approval process, and in turn deter potential retailers from permitting the installation of these structures on their premise.
- Canopy coverage: The exempt development standards further limits the location of RVMs *within the canopy of a tree growing on the land or adjacent land*. We note that several suburban car parks are lined with trees along its periphery. These edge and corner locations whilst in proximity to a tree are often the most suitable in all other criteria for the installation of RVM. The structures are compact self-contained structures and are integrated with weather protection features. These structures are also unlikely to hamper tree growth or affect its health.

4.0 RECOMMENDATIONS

Crucial to the success of this program is a facilitative approval process that simplifies the delivery of this new technology. This will encourage the diffusion of the RVM infrastructure and uptake and participation in the CDS. It is vital that planning legislation assist in streamlining this process to avoid any operational or cost implications.

We recommend that the DP&E make the following revisions to the proposed SEPP amendment to facilitate approvals:

- Self-contained RVM housing structures should be added to the category of exempt RVM models. The small footprint varieties occupy approximately 3-6 car parking spaces and are designed as compact, low impact models that offer greater storage capacity and improved efficiency.
- A new complying development category should be considered (*Subdivision 13 Reverse Vending Machines*) under Part 5 of the Codes SEPP. This will create an alternate approval pathway for larger RVM models (6 or more car parking spaces) that may not be classified as Exempt Development, or satisfy the requirements of Part 5 under Subdivision 1 (for internal building alterations). This will also ensure that large format RVM models that comply with the EPA Design Guidelines are offered an efficient approval process that avoids the need for Development consent from Council.

- DP&E should further consider how RVMs could be classified as Complying Development within high density residential areas.
- Create a streamlined approval process by working with the Office of Local Governments to consider RVM's as exempt works from Section 68 Approval.

5.0 CONCLUSION

Tomra welcomes this opportunity to provide feedback on the DP&E amendment to the Codes SEPP. We are generally in support of its aims and objectives, which seek to accelerate the delivery of a crucial component of NSW's CDS programme. However, it is clear to us that the planning approval pathways for RVM infrastructure must be streamlined and simplified to ensure speedy delivery of this infrastructure. As with any new technology, the success of this programme is fragile, particularly in its early stages. Effective uptake is dependent upon the efficiency of the planning approval process.

Accordingly, this submission requests that the DP&E consider the appropriateness of the Exempt Development provision with the draft SEPP, and to also consider expanding these provisions to include a Complying Development pathway.

Should you have any queries about this matter, please do not hesitate to contact me on 9956 6962 or HQuartermain@jbaurban.com.au.

Yours faithfully

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