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ISJO Submission on the Food and Organics mandates proposal paper

The Illawarra Shoalhaven Joint Organisation (the ISJO) is the umbrella organisation for local government in the Illawarra Shoalhaven Region and has as its members Wollongong City Council, Shellharbour City Council, Kiama Municipal Council and Shoalhaven City Council.

Amongst its many initiatives the ISJO has regional responsibility for Waste Management, Circular Economy and a range of related programs. It is in the context of its overall advocacy role and its targeted program priorities that this submission on the Food and Organics mandates proposal paper is provided.

The ISJO recently participated in an LGNSW-hosted feedback session for local government on the proposed FOGO mandates.

As a general principle the ISJO strongly supported the views expressed during the feedback session and the overall positions adopted by LGNSW in regard to the FOGO mandates matter.

The following notes should therefore be read in the context of the broader submission work of LGNSW and any individual comments made by a Member Council of the ISJO – which individual comments are supported by the ISJO and its staff.

General comment on the concept of FOGO Mandates:

- Do there have to be mandates? The recycling bin is not mandated. Are there incentives or other ways to promote or achieve the outcomes without using a mandate/mandate exemption system?

Consultation questions

1. *Where should the household mandates apply? The EPA consultation survey offered the following options:*

- a) State-wide (except Lord Howe Island and the Unincorporated Area) with exemptions where a FOGO collection service is non-viable*
- b) Outside of the Metropolitan and Regional Levy Areas, only for towns above a certain size or within a certain distance of processing facilities*
- c) Only in the Metropolitan and Regional Levy Areas*
- d) To multi-unit dwellings which have a privately contracted waste service*

- Councils can accept statewide application. The main concern is what will be exempt and how that is to be determined. For example, many regional / rural properties may have a domestic waste service however they may not need / want a FOGO service (as they have onsite options – composting, chickens etc). These properties should be exempt.
- Adding FOGO service to “rural” properties that are outside the urban footprint of a town may also reduce the viability of the service. There may be fewer emissions if a council provides composting bins instead of a FOGO pick up service.
- The issues paper says “councils will have to make sure **all relevant residential accommodation in their local government area** is provided with enough organics collection bins for food waste and garden waste generated by residents in that accommodation”. Councils do not necessarily provide domestic waste services to all residential accommodation in an LGA (e.g. some multi-unit developments (MUDs) arrange their own service). Therefore councils should not be responsible for providing a FOGO service to those properties.
- Will the mandate apply to residential accommodation that is privately serviced e.g. aged care, MUDs with own waste collection? Who is ARA? – i.e. are they ‘households’ or ‘businesses’?
- It has been suggested that properties that do have a domestic waste service be able to opt in for FOGO service (although this may make the service more expensive and potentially affect viability if opt-ins are too few or patchy in their distribution).
- Also see points at question 4 re exemptions.

2. *Should the 1 July 2030 date apply to all residences (including MUDs) or have staggered start dates?*

- The ISJO supports the LGNSW position in seeking an extension for the start date for MUDs to 2035.
- Concern is expressed that even with an extension many of buildings require retrofit or other structural changes which could not be achieved in the proposed or requested timeframe. There is therefore a suggestion that MUDs should have a general exemption from the mandate.
- It can / will be very difficult to understand who is / is not complying within a MUD – i.e. where contamination is coming from. Critical importance will attach to education and sanctions however even then it will be a very resource-intensive process to ensure the message gets to the correct people.

3. *Should the collection frequency be mandated?*

- The ISJO supports LGNSW’s existing position that minimum and maximum collection frequencies are not to be mandated for domestic waste collection.
- It is noted that recent grants offered by the EPA have only provided funding to those that have weekly FOGO services. Applications that proposed fortnightly services were not accepted.

4. *On what grounds should EPA authorise exemptions to all or parts of mandates?*

- Properties where councils do not charge a domestic waste management charge should be exempt from the mandate. Councils should be able to tailor the service to meet the needs of the community based on data, climate, etc.

- Over 1,000 residents in one council surveyed have said they do not want a FOGO service as they have capacity to deal with it on property. These areas are as rural as those in the non-levy areas so should not be targeted.
- Would EPA be supportive of alternative solutions to FOGO bin service e.g. food dehydrators, in-sink systems? If the intention is to divert organics from landfill then, if there are more effective/innovative processes than a FOGO service, those processes should be supported.
- Contamination: Some councils have a “4 strike” policy for contamination in recycling bins (education, warnings and then removal of bin if contamination persists). This needs to be allowed under the mandate in a way that won’t require councils to seek individual exemptions each time they need to remove a bin (i.e. councils be given contamination management delegations that enable properties to be excluded from the mandate).
- Councils should not need to demonstrate contamination is a problem by implementing a roll out first. Instead, if they can demonstrate likely causal factors in any given community, then that could be grounds to not roll out the service in the first place. A suggestion is that councils be able to undertake a limited trial and then seek exemptions based on the outcome of the trial.
- Viability of service? How would this be defined? Perhaps it should be defined by the Council i.e. if they can’t afford it then it’s not viable.
- Distance to processing? What is the distance of processing facilities the EPA is considering - is this 100, 200, 500 kilometres from a facility? Will it be variable depending on context? For example, there may be a facility within (say) 50 kilometres but it may already be at capacity.

5. Any other comments?

Funding

- The ISJO supports LGNSW’s position that the full costs of FOGO implementation be offset using waste levy revenue already being collected. NSW Government funding allocated to FOGO implementation so far is inadequate.
- Councils also require significant financial assistance engaging with Department of Communities and Justice and social housing providers to ensure the successful use of the FOGO services, and to manage contamination.

Business mandate

- Some businesses may not have adequate areas/storage for additional FOGO bins, and if not managed appropriately this might lead to vermin / pest issues.
- Many areas will not have a service provider for FOGO because of distance to processor or lack of capacity of local processors.
- Some councils have trialled waste services for commercial properties but the cost to provide the service is several times dearer than what is recovered. It therefore proved unviable.
- Some councils may provide a commercial waste service at the moment, but not a FOGO / green service as it’s not viable for council (and even with a mandate will still not be viable). The FOGO mandate may see existing council commercial waste

customers switch providers so they can combine waste and FOGO services with the viability of council's existing commercial waste services impacted.

- There is a suggestion that businesses in a town that doesn't already have FOGO collection / processing options should be exempt. This includes where council is the current waste service provider – the feasibility of providing a FOGO service may not stack up and would potentially not be achievable in required timeframes.
- There is a suggestion that the waste service providers be mandated to provide FOGO services rather than the businesses (in which case the EPA would be ARA). Concerns with this approach are that not all waste service providers have, or are interested in, providing a FOGO service. This might include some councils that currently provide business services in some LGAs.

Business mandate – Councils as ARA

- Councils do not support being assigned the role of ARA for the business mandate – undertaking compliance inspections will require additional resources and time (ongoing positions and administration etc.) the majority of which cannot be recouped through POEO fee provisions. It is a cost shift.
- The EPA should be the ARA for the business mandate to ensure consistency.
- There are precedents for EPA being the ARA for specific regulations e.g. the EPA is already proposing to be ARA for food donations mandate. There is also a precedent with UPSS and vapour recovery although, unlike these, FOGO needn't be handed back to councils.
- The NSW Food Authority has advised that it does not support FOGO bin compliance checks being "tagged on" during food safety inspections.
- It is also noted that an EHO's authority under the Food Safety Act doesn't automatically extend to being authorised under POEO/Waste legislation. The officer would need to be authorised under Food and POEO/Waste legislation.

Food donations

- Supermarkets currently have some food charities recording this information. The mandate should make it clear that it is the supermarkets' job to record the information, otherwise it becomes a mandate on the charities.

For further information on this submission please contact Yvette Barrs, ISJO Manager Environment, Waste and Sustainability on ybarrs@isjo.nsw.gov.au



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