WASTE MANAGEMENT & RESOURCE RECOVERY ASSOCIATION AUSTRALIA

Deputy Chair Mr Mick Keogh
Chair, Competition Exemptions Committee
Australian Competition & Consumer Commission
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Lodged via online portal

18 September 2025

Dear Mr Keogh

Re: Battery Stewardship Council Ltd's application to revoke authorisation AA1000476 and substitute authorisation AA1000694 – Draft determination

Thank you for the opportunity to provide feedback on the ACCC's draft determination of 28 August 2025 ("draft determination") in respect of the application for authorisation (revocation and substitution) lodged by the Battery Stewardship Council Ltd (the BSC) on 18 March 2025, which re-authorises the Battery Stewardship Scheme ("B-cycle scheme") with conditions for five (5) years. These conditions include the ability for the BSC to make certain adjustments to the levy and rebate calculations, requiring the BSC to continue to maintain and implement a Button Battery Safety Strategy to mitigate fire risk, requiring the BSC to publish an annual report on key Scheme outcomes, and for the BSC to complete an independent review of the Scheme by July 2029.

The Waste Management and Resource Recovery Association of Australia (WMRR) is the national peak body representing Australia's $21 billion waste and resource recovery (WARR) industry. With more than 2,300 members from over 410 entities nationwide, we represent the breadth and depth of the sector, including representation from business organisations, the three (3) tiers of government, universities, and Non-Government Organisations (NGOs), including research bodies, several of whom are currently involved as collectors, transporters and recyclers of the subject Authorisation.

WMRR has been active in its support for stronger regulation of batteries and battery-embedded products and reiterates its earlier comments to the ACCC that battery management is a critical and fast-moving space, and as such urges the ACCC not to provide any further authorisation until such time as the interaction of the NSW Act with the Scheme are determined to ensure that we have a mandatory scheme for battery and battery powered products. Given that the existing authorisation expires September 2025, WMRR urges the ACCC to revise the draft determination to authorise B-cycle for a reduced term of no more than two (2) years, so as to not undermine the considerable progress made by both state and federal governments, to implement a mandatory framework.

Whilst WMRR appreciates that the ACCC has attempted to mitigate the negative impacts (raised throughout the consultation by stakeholders such as WMRR) with the conditions imposed, WMRR submits that the time for voluntary measures has passed, and all levers of government, including the ACCC, must align to enable

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mandatory stewardship of increasingly problematic batteries and related products. Only a mandatory, legislated stewardship scheme will effectively address the growing risks to the community, safeguard our industry and workers, and enable Australia to play its part in building a safe and sustainable circular battery economy, as well as address the ongoing concerns with free riders to this scheme.

1. *The authorisation period should be reduced to two (2) years to facilitate Australia's transition to mandatory stewardship.*

In its draft determination, the ACCC noted that the NSW Government has committed to urgently use the powers of the *Product Lifecycle Responsibility Act* 2025 to make regulations that target batteries. NSW has also initiated progress for Australian states to align with a mandatory product stewardship framework beginning with batteries, granting government the regulatory tools to oversee stewardship organisations and enforce lifecycle accountability—from design and production to recovery and disposal. Both the NSW EPA and South Australia Environment Protection Authority (SA EPA) proposed a shorter authorisation period in their feedback on the authorisation application, submitting that a reduced authorisation period would allow both the BSC and the ACCC the opportunity to review the status of mandatory product stewardship reforms. This sentiment across Australian jurisdictions builds on the 2024 Environment Ministers Meeting (EMM) resolution, which recognised the urgent need for reform in product stewardship arrangements for batteries. It is imperative that this important momentum is maintained and that mandatory schemes are progressed.

WMRR disagrees with the ACCC's view that changes to government regulation to make battery stewardship mandatory are likely to increase participation in the Scheme but are not likely to alter the balance of public benefits and public detriments attributable to the proposed conduct. Mandatory stewardship will foster significant economic opportunity through scaled investment in processing infrastructure that WMRR believes should be given more weight when accessing the public benefits and detriments associated with the Scheme. With more than 200,000 tonnes of batteries sold in Australia each year, and surging global demand for critical minerals, investment in onshore recycling of batteries provides a strategic pathway to enable a truly circular supply chain that can recover cobalt, lithium, and nickel, while creating skilled jobs and building sovereign capability.

2. *Concerns around the BSC fee structures and financial viability are not adequately addressed*

WMRR remains concerned that the fee structures in place are not sustainable in a mandatory scheme and understands that the BSC Board approved changes in July 2025 to the Collection and Recycling Network Accreditation Protocols including extension of the payment terms from within 45 days to between 45 and 75 days from the date of receipt. Whilst the BSC indicated that the change does not reflect on the overall profitability of the Scheme, this change indicates changes to cashflow, and WMRR's concerns remain that whilst the Scheme remains voluntary in nature, any fee increases- will simply lead to lower industry participation and a greater number of free riders impacting both the financial viability of the Scheme and community access to it.

As highlighted in the draft determination, free-riders - currently representing around 30% of the market - undermine compliant importers and deprive the system of an estimated $7 million each year. WMRR believes that this loss would be exacerbated with increased fees, and we are already aware of parties exiting the Scheme as a result of this proposed fee change.

As noted in our April submission on the authorisation application, the capital and infrastructure cost (everything from sites, fire upgrades, waste tracking systems, etc) have not been well understood by B-cycle and WMRR would submit are not appropriately covered in B-cycle 2.0 with reference only to capital grants. The true cost of providing the scheme should be factored into the fees (including rebates and recovery) and evidence that this has occurred is insufficient. The conditions for increased transparency to report on key outcomes with a five (5) year review does not go far enough to alleviate these concerns about the true cost of the Scheme being covered, and we recognise that in the absence of mandatory requirements this is unlike to occur.

To this end, WMRR also considers that independent and published financial and performance reviews of the Scheme and its administration must be published more frequently, i.e. no more than every two (2) years. In this context, the BSC should publish its annual financial reports and the recent Department of Energy, the Environment, Climate Change and Water (DCCEEW) audit to support transparency and continuous learning for all participants. A Scheme review as proposed by the ACCC to commence in three (3) years time is not sufficient to respond to rapid changes in the market and provide transparency and certainty as to the viability of the Scheme.

WMMR trusts that the ACCC will consider these concerns and consider reducing the authorisation period to no more than two (2) years in order that the pathway to mandatory stewardship is not impeded by the existence of this authorisation. A voluntary scheme cannot deliver the safety and recovery outcomes Australia urgently needs, and prolonging the voluntary scheme unnecessarily should be avoided.

Please contact the undersigned if you wish to further discuss WMRR's submission.

Yours sincerely

Gayle Sloan
Chief Executive Officer
Waste Management and Resource Recovery Association of Australia