



Mr Tony Chappel
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By email: batteries.reform@epa.nsw.gov.au

14 November 2025

Dear Mr Chappel

Re: Batteries Product Stewardship Reform

Thank you for the opportunity to provide feedback on the NSW Government's proposed regulation for mandatory product stewardship for certain types of batteries ("Batteries Product Stewardship Reform") and for providing the draft [Product Lifecycle Responsibility Regulation](#) ("Regulation"), [Batteries product stewardship reform -explanatory document](#) and [Regulatory Impact Statement](#) ("RIS") for review. 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 2,340 members from over 400 entities nationwide, we represent the breadth and depth of the industry, including representation from business organisations, the three (3) tiers of government, universities, and Non-Government Organisations (NGOs), including research bodies. Our members are involved in a range of important WARR activities within the Australian economy, including infrastructure investment and operations, collection, manufacturing of valuable secondary raw products from resource recovery, energy recovery as well as community engagement, behaviour change and education. Over a third of our membership is based in NSW, where our sector directly contributes more than \$4 billion per annum to the State's economy and directly employs more than 8,500 workers.

Being at the forefront of the ongoing evolution towards whole-of-system action and the development of a circular economy, WMRR strongly advocates for a systems-based approach to managing materials in Australia to prolong life and mitigate carbon impacts. This includes fierce advocacy for the waste and resource management hierarchy, which promotes avoidance of waste and using less for longer through the diversion of materials from landfill by design for reuse, recovery, recycling and composting of resources. For the management of hazardous materials such as batteries, WMRR advocates for their safe, risk-managed design, collection and recovery at end-of-life to enable reinvestment of their valuable materials into the productive economy.

Batteries are a hazardous item, designed to provide power, and as per any other dangerous item, they should not enter the traditional waste stream at all. The high incidence of battery related fires within the WARR industry has been referenced in the consultation papers. Batteries require risk mitigation throughout all lifecycle management processes including use, storage, transport, discharging and dismantling to mitigate the fire risks. The environmental risks of disposing batteries at landfill is another safety concern as improperly disposed lithium-ion batteries can release heavy metals such as cobalt, nickel, and manganese, leading to soil and

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groundwater contamination exceeding safe regulatory thresholds, as well as the challenge of effectively extinguishing such fires at these facilities.

However, WMRR recognises that lithium-ion batteries are vital to and increasingly used in modern technology given their role in decarbonisation, despite the extensive risk management required to safely manage and recycle at end of life. Around the world, governments are introducing rules to make batteries more sustainable, yet these differ greatly in how they are enforced and in what they require of producers and recyclers.

WMRR understands that more than 200,000 tonnes of batteries are sold in Australia each year, however Australia has no local battery manufacturing, meaning that the management of batteries is concentrated at end of life. This is very different to other jurisdictions such as within Asia, the US and the European Union (EU), where battery recycling plants are built on the back of production facilities enabling integrated lifecycle management through extended producer responsibility. For example, the [EU Regulation](#), establishes requirements on sustainability, safety, labelling, marking and information to allow the placing on the market or putting into service of batteries within the EU as well as establishing minimum requirements for extended producer responsibility, the collection and treatment of waste batteries and for reporting. The EU is also assessing the potential benefits of introducing a deposit return scheme for particular portable, general use batteries by the end of 2027. In contrast, Australia currently relies on the voluntary, Commonwealth-accredited Battery Stewardship Council scheme (B-cycle), which operates as a collection scheme with limited coverage under which free-riders - currently representing around 30% of the market - are undermining compliant importers and depriving the system of an estimated \$7 million each year¹.

Whilst these differences in the EU and Australian market exist, the battery supply chain and demand for recovered resources such as nickel, cobalt and lithium is global. Consequently, it is WMRR's view that batteries product stewardship reform efforts should aim to be consistent with existing international best practice and contribute to the development of a unified global framework to help Australia recycle batteries more effectively and sustainably, even when production happens overseas (which is not an unusual scenario given Australia's current lack of manufacturing). This is particularly the case when it comes to aligning the types of regulated batteries included in a mandatory product stewardship scheme, to most directly influence manufacturer/producer obligations, as well as design and labelling requirements. It is therefore integral that responsibility and accountability be engrained in the scheme design, in order that meaningful data about the product lifecycle for batteries can be used to inform improvements to manufacturing, product design and labelling. It is WMRR's view that monitored collection of materials without this data, and without key performance indicators (KPIs) and targets for Product Stewardship Organisations (PSOs) and brand owners, will not go far enough to achieve the stated policy intent of making brand owners responsible for the environmental and human health impacts of their products.

To this end, WMRR has consistently advocated for a mandatory product stewardship scheme for batteries with strong regulatory checks and balances, transparency and accountability, to ensure that there is requisite capital

¹ As highlighted in the [ACCC's draft determination](#) of 28 August 2025 in respect of the application for authorisation (revocation and substitution) lodged by the Battery Stewardship Council Ltd (the BSC) on 18 March 2025.

investment in all aspects including safety. WMRR has called for the urgent implementation of a national battery producer responsibility scheme, and strongly supported the release of the [NSW Product Lifecycle Responsibility Act 2025](#) (“the Act”) which provided the framework for establishing state based product stewardship schemes with Division 2, 8 (2) establishing that regulations for the scheme may-

- (a) *prescribe a requirement (a product stewardship requirement) for the stewardship of the lifecycle of a regulated product, including the development, design, creation, production, assembly, supply, use or re-use, collection, recovery, recycling or disposal of the regulated product, and*
- (b) *specify a target about a product stewardship requirement, including a target expressed as a percentage.*

Division 4, Section 22 of the Act prescribes that the regulator may enter into a written agreement with a PSO that underpins a PSO’s performance. Given the broad powers available under the Act, WMRR was disappointed that the draft regulations do not take a lifecycle approach to battery management, aligned with global best practice—rather they are focusing solely on end-of-life collection and basic reporting compliance. WMRR understood the intent of the Act to be the delivery of mandatory product stewardship that holds *manufacturers* accountable for lifecycle outcomes, not simply “pay-to-collect” schemes under broad regulatory oversight given that the environmental, safety and economic risks and opportunities are across the full battery management lifecycle (hence the name of the Act). WMRR was anticipating clear performance indicators, transparent reporting against measurable targets, and a defined scope consistent with existing national and international battery standards.

The proposed reform

Under the proposed Regulation, the EPA would enter an agreement with one or more PSOs to administer and manage a mandatory product stewardship scheme for regulated batteries, making them a Responsible Entity. The PSO would complete an action plan to be approved by the EPA and would need to manage and operate a scheme to fulfil the product stewardship requirements on behalf of ‘brand owners’ who, upon supplying batteries into NSW, must “join the scheme” by entering arrangements with a PSO and paying it to manage and operate the scheme. A brand owner must keep records on the number and weight of regulated batteries supplied into NSW and have an agreement with a PSO to comply with the requirements of the proposed Regulation. If no PSO exists, a brand owner becomes a Responsible Entity (without an agreement with the EPA) and will need to submit an action plan to the EPA. If a brand owner supplies a regulated battery not according to the action plan, they would be committing an offence.

In WMRR’s view, the draft Regulation does not go far enough to leverage the lifecycle responsibility obligations provided for under the Act, nor does it capitalise on work already done in the EU to promote consistent requirements from battery producers who supply to global markets. WMRR holds real concerns that the draft Regulation does little more than drive suppliers to join the current voluntary scheme B-cycle, that has demonstrated it is unable to provide an effective, financially sustainable scheme in its years of operation, and this is not simply due to the claim that ‘free riders’ are undermining the scheme but rather a lack of governance, skills and enforceable targets.

As such, WMRR believes that it is necessary that the Regulation contains increased prescriptiveness and oversight of the safety requirements for managing batteries, and increased review and oversight of the PSO, including enforceable targets, utilising the learnings to date from voluntary Australian stewardship schemes as

well as NSW's own container deposit scheme (CDS). This is necessary not just to ensure the smooth, safe and viable operation of the scheme, but also to ensure that the consequences we have witnessed in the recently released review by the [Health, Environment & Innovation Committee's report Improving Queensland's Container Refund Scheme](#) are not repeated in NSW, when government takes such a 'hands off approach' to establishing a Producer Responsibility Organisation (PRO) led scheme.

Industry and stakeholders have been also very vocal about the need for government to manage the inherent conflict that stewardship schemes can have - that is the desire by producers to keep the scheme a low cost and 'light touch' scheme versus the need to ensure the community's broader interests are addressed by having genuine lifecycle investment. Regrettably, the draft Regulation does little to provide the necessary checks and balances to avoid this occurrence (again repeating the mistakes of Queensland) that such an inherent conflict creates, and which the NSW CDS was an exemplar in managing.

WMRR makes the following recommendations:

i. Redraft the definition of brand owner to capture all suppliers into NSW and avoid free riders

It is essential that loopholes are closed to avoid free riders undermining the mandatory scheme. WMRR recommends that the definition of "brand owner" in Part 2, Division 1, Section 6 of the draft Regulation is revised to align with Article 47 of the EU [Battery Regulation](#) ensuring it captures suppliers of regulated products into NSW via online, distance, or cross-border sales, irrespective of the brand owner's physical location. This wording must be explicitly drafted.

ii. Redraft the definition of regulated batteries to promote greater clarity and alignment with existing definitions

WMRR strongly supports efforts to align with other jurisdictions to reduce duplication, improve efficiency and enhance reporting accuracy while providing regulatory certainty for brand owners operating across multiple jurisdictions. With this in mind, WMRR recommends that:

- The Regulation avoids potential confusion by using words like 'standard' and 'household' in Section 6(1) as these terms are somewhat subjective, and the draft Regulation does not currently reference all common formats as 'regulated batteries' (i.e., missing AAAA format). WMRR recommends revising the wording to clarify that a regulated battery is a portable battery of a general use that is specifically designed to be interoperable and is in a common format. This style of wording would align with Article 3(10) or the [EU Battery Regulation](#).
- Section 6(1)(b) Button and button cell batteries should mirror the definition in the [Commonwealth mandatory safety standards](#) for button and coin batteries as "flat, round single cell batteries, with a diameter greater than the battery's height".

iii. Include portable, removable general use batteries in the mandatory scheme

It makes sense for the removable batteries from phones, computers and tablets to be included in the initial phase of regulated battery products. Give that these batteries can come loose, it would streamline messaging for consumers and encourage appropriate behaviours. WMRR understands that many of these are already being mistakenly collected in B-cycle bins – promoting B-Cycle to obtain ACCC authorisation to expand their battery

scope with the ACCC to cover additional batteries, including those in e-mobility devices, those embedded in small electronic devices, and other batteries up to 60kg in weight.

Furthermore, this would align with product design standards overseas that are increasingly requiring batteries to be removable, ensuring that manufacturers design products for battery replaceability and durability. This would also assist in addressing the growing number of embedded battery household items entering waste streams such as vapes and electric toothbrushes. WMRR would encourage Section 6(c) of the Regulation to be revised in order that the term “removable battery” aligns with Article 11 of the [EU Battery Regulation](#) which specifies that: “*devices must include batteries that can be safely taken out and replaced by the end user. And those devices need to work with both original and compatible batteries This must be possible with commercially available tools and without damaging or destroying the battery or the product*”.

iv. Revise the action plan requirements

Battery recycling in Australia remains a developing industry with limited standards and regulation. Stronger regulatory frameworks are needed, particularly to address fire risk mitigation – a key industry concern. Given the high-risk nature of batteries, robust systems must be in place to manage failures effectively. NSW also needs to strengthen extended producer responsibility and drive behaviour change in end-of-life battery management. As noted in the RIS (section 6.2), “...complementary measures—both regulatory (e.g., disposal bans, design standards) and non-regulatory (e.g., education programs, investment support, fire safety initiatives)” —could enhance product stewardship reform. These initiatives should be guided by accurate data captured through the scheme, and the action plan requirements should be revised to enable this.

In WMRR’s view, the requirements for the action plan proposed by the draft Regulation are far too high-level to enable meaningful data capture to inform improved lifecycle management of batteries, ascertain their safe management and ensure that the scheme operates safely with appropriate regulatory safeguards. It does not establish any targets or key performance indicators (KPIs) for Responsible Entities, nor does it prescribe requirements for operating sustainability at scale, including financial viability metrics demonstrating how necessary capital outlays will be covered by brand owner levies, or continued operations in the face of contingencies – which, given the high fire risk of the batteries, and the use of contractors within PSOs to collect, transport and process the materials - is surprising. Given the provision in the draft Regulation for the content of the annual report to document the scheme’s achievements against the action plan, it seems like a missed opportunity to capture meaningful data that can drive improved sustainable battery management.

WMRR recommends that the Regulation is redrafted in order that the action plan also includes:

- Performance indicators and targets for Responsible Entities. These should include engagement/participation levels, participant satisfaction, minimum recovery targets, volumes collected, and scheme coverage. Assessing and reporting on the scheme’s performance is integral given the volume of batteries sold in Australia and the policy intent to ensure that end of life batteries are managed safely and responsibly for recycling and should demonstrate the scheme’s achievements year on year. This data can also be used to inform Commonwealth action on batteries’ product design and labelling requirements.
- The framework for reviewing and establishing levies, enabling brand owners to plan and contract with greater certainty and consistency, thereby supporting fair and competitive market outcomes. The

importance of strong governance with government oversight cannot be underestimated in terms of ensuring the ongoing success of any product stewardship scheme, and the true cost of providing an accessible and safe scheme at scale, to meet targets should be factored into the fees (including rebates and recovery). The financial reporting required in the quarterly reports does not suffice to meet this need, nor does it enable the ability to ensure appropriate capital investment in the scheme, which is a significant concern with the current B-cycle scheme (lack of funding for capital investment).

- Provisions for the independent review of its action plan at least every five (5) years. This aligns with the ACCC requirements for B-cycle under their current authorisation for independent reviews and would ensure that a PSO undergoes at least one (1) independent review throughout its seven (7) year appointment. WMRR would encourage this to be made available for public review.
- Provisions for contingencies in the event the PSO can no longer operate or if collection points or third-party processing contracts are no longer available. This will mitigate risks of stockpiling and avoid the opportunity for the scheme to be undermined and lose public confidence.
- Explicit safety requirements and standards. Implementing a mandatory scheme will not address the growing fire risks if material is collected but is not responsibly transported, stored, prepared and processed. Whilst it is acknowledged that the confidential product stewardship administration agreements under Act are determined by the regulator *who will assess the adequacy of environmental, health and safety policies and practices in relation to the activities undertaken under the agreement* (Division 22 section 4 (iii)), it would be prudent to have the safety protocols used by the Responsible Entity in delivering the scheme regularly reviewed and made publicly available. Battery recycling involves significant investment in risk mitigation (i.e. not causing fires) during transport, storage, sorting, dismantling, recycling and disposal; and having this detailed in the action plan should contribute to improved awareness about battery safety.
- Dispute resolution processes between the PSO and its stakeholders including brand owners and third-party processors/collectors. This is essential to the longevity and success of the scheme.

These elements should be reported against in the annual report to facilitate accountability and transparency of the scheme. The WMRR industry is cognisant of the significance of ensuring that product stewardship schemes maintain public confidence through accountability and transparency given the recent release of the [Health, Environment & Innovation Committee's report Improving Queensland's Container Refund Scheme](#) and the lingering effect of the collapse of the RedCycle voluntary scheme.

Opportunities to further enhance NSW's sustainable management of the life cycle of batteries

WMRR commends NSW for being the first state to regulate batteries, take action against dangerous fires, and provide product stewardship regulation in place to achieve a more circular economy, and encourages NSW to take further measures outside the Regulation to support the safe and sustainable management of batteries. This includes:

- Developing guidance on the safe storage and management of lithium-ion batteries. WMRR notes that the EPA has developed the [Never Bin a Battery](#) campaign, however, further work is needed to deliver a broadscale awareness campaign that reaches battery users to drive behaviour change in how batteries are handled. There is an opportunity for messaging to be integrated into design and labelling requirements in concert with Commonwealth legislation; and
- Informing design and labelling requirements for battery products entering Australian markets.



WMRR has suggested that the provision of data from the scheme (in particular, the annual reporting against targets identified in the Responsible Entities' action plan) should enable these requirements to be evidence led.

WMRR trusts that our comments will help achieve shape the Regulation to best promote integrity and accountability in managing the life cycle of batteries and help address the increasing number of battery-related fires in NSW. Battery stewardship reform is urgently needed, and it is integral that the scheme design takes a systems view that enables the volume of batteries kept out of landfill to be maximised and aligns with international best practice efforts to inform sustainable battery manufacturing whilst improving awareness of battery risks.

WMRR welcomes the opportunity to further engage with the NSW EPA on this matter. 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