Ms Nancy Chang
Interim CEO
NSW Environmental Protection Authority
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Submission via email: container.policy@epa.nsw.gov.au

21 October 2026

Dear Ms Chang

Re: Proposed regulation changes to expand the NSW Container Deposit Scheme

The Waste Management and Resource Recovery Association of Australia (WMRR) welcomes the opportunity provide feedback on proposed amendments to the *NSW Waste Avoidance and Resource Recovery (Container Deposit Scheme) Regulation 2017*, which will support the expansion of the NSW Container Deposit Scheme (CDS) from 1 July 2027 to include wine, spirits, cordials and concentrates, and larger beverage containers up to 3 litres by mid-2027. In addition to expanding the scope of eligible beverages and containers, these changes include introducing transitional arrangements to support new suppliers entering the scheme, and streamlining administrative requirements to reduce regulatory burden for both new and existing suppliers participating in the scheme.

As the national peak body representing Australia's $20 billion waste and resource recovery (WARR) sector, WMRR represents over 2,300 members across more than 380 organisations, spanning industry, government, research institutions and NGOs. Over a third of our membership is based within NSW, with WMRR representing more than 750 individual members from over 130 organisations. Based on the most recent economic assessment available, the WARR sector contributed more than $5.31 billion to the NSW economy annually and employed over 14,500 people. The sector delivers the essential service of managing waste while reducing emissions through methane abatement, organics diversion, material recovery, recycled-content manufacturing, soil products and energy recovery.

In preparing this feedback, WMRR has reviewed the consultation documents, being:

- Consultation Draft of the *Waste Avoidance and Resource Recovery (Container Deposit Scheme) Amendment Regulation* 2026 (No 2) ("Draft Regulation")
- Environment Protection Authority Information paper – CDS expansion *Waste Avoidance and Resource Recovery (Container Deposit Scheme) Amendment Regulation* 2026 (No. 2) October 2026 ("Information Paper")
- Exchange for Change's ACT / NSW ACT container deposit schemes – Industry Consultation Phase One Summary of what we heard (April-June 2026) ("EfC Consultation Summary")
- Q&A raised in the EPA briefing on 13 October 2026 - clarifications issued 19 October 2026 ("Q&A")

At the time of consultation, WMRR understands that the procurement of the Network Operator remains underway – and consequently, the Network Operator agreement, proposed crusher fees and delegation instrument were not supplied for review. Given that this new arrangement is to be in operation by 1 July

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2027, we wish to express our concern that this places all involved in a very challenging position given short time frames. This should have been avoided by the NSW EPA given the current length of the existing Network Operator agreement.

WMRR supports the expanded CDS as an important recovery measure and notes the EfC Consultation Summary's findings that an effective CDS requires nationally consistent arrangements, simple administration, transparent pricing and clear communication to support supplier participation. It also identifies a shared evidence base, reliable data on recovery and environmental outcomes.

However, its current focus is primarily on beverage suppliers' readiness for expansion, rather than community access or remuneration for collection and recycling operators, which in WMRR's view, must be given priority consideration when assessing the draft regulations.

For WMRR, it is imperative that this revision of the CDS regulations:

- protects convenient public access to every eligible container type, with specialist or restricted services demonstrably *additional* to the required public network.
- pays for *defined* services and efficient costs, with a clear separation between container refunds, processing refunds and handling fees.
- provides fair opportunities for MRFs, including workable transition and council refund-sharing arrangements in order that they can *recover their reasonable costs*.
- requires *transparent* exemption decisions, auditable payment controls, independent oversight and public performance reporting.

Given this, WMRR does not support the draft regulations proposal to allow the Network Operator to apply for exemptions on behalf of certain collection point operators, to accept or exclude container types unless amendments are made to include enforceable safeguards that preserve convenient community access and ensure scheme payments are transparent, proportionate to the services delivered and available on fair terms to operators providing equivalent services. There is also little clear evidence of why such a proposal is required and the short engagement and consultation on this proposal means WMRR can only continue to oppose this proposed approach.

What is not clear from the consultation documentation provided is:

- Why and how a handling fee for a bottle crusher could be added, without undermining fairness to other network participants including MRF operators. The Q&A confirms that the current collection-point protocol could allow bottle-crushing operators to receive a handling fee if they met these requirements. EPA says this could enable operators to offer venues a better financial return, and "potentially improve financial returns to hospitality venues". As the existing EPA protocol already permits automated direct counting, it is unclear what additional recovery, service or efficiency benefit the new pathway of 'specialist commercial collection services' will deliver.
- WMRR notes the Information Paper says the proposal would support efficient collection at high-volume venues such as pubs and clubs, with refunds based on actual container counts rather than estimates. WMRR is not convinced that counting accuracy fully explains the bottle crusher proposal, given that there are currently no other safeguards for financial and material transparency across the system. From WMRR's understanding, the current draft retains the idea of payments being tied to material types and volumes alone without further verification or auditing measures. This argument could also be made for MRF operators and given there is already a process in place that would enable bottle crushers to return individual containers to collection

points and/ or utilise the existing collection point protocol, it is strongly recommended that EPA do not progress this proposal given it will open the floodgates for MRFs.

WMRR notes that the recent Queensland parliamentary inquiry into its (already expanded) Container Refund Scheme highlighted structural weaknesses, limited community access and insufficient transparency in administration constrained its performance, with recommendations calling for published access standards and compliance reporting, a strategically planned collection network, transparent tendering and fair contracts that adequately remunerate operators and support innovation. With this in mind, WMRR raises the following concerns and suggested amendments for the EPA's consideration:

i. Exemptions could undermine convenient public access

Exemptions under clauses 20A–20D allow the Network Operator to apply for exemptions on operators' behalf. EPA can grant them with or without conditions, including for entire classes of containers, operators or collection points. However, in WMRR's view, these should require a local assessment demonstrating that residents can return all eligible container types without unreasonable additional travel or cost.

WMRR acknowledges EPA's assurance in the Q&A that exempt collection points will be additional to the required public network and subject to access safeguards. Draft Clause 20 C lists the factors that must be considered before approving an exemption. This includes the network performance targets for access (which include minimum geographic spread, community convenience and quantity of return points). However, the supplied draft regulation does not expressly state this 'additionality rule', prescribe a local no-deterioration test, or require publication of exemptions and reasons. As the Network Operator Agreement (and its counting rules) were not supplied with the consultation papers, it is important to note that aggregate compliance to meet network-wide targets does not necessarily ensure convenient access within each community.

A person returning a mixed load should not face multiple trips because their local point accepts only selected materials or business customers, and how are they to know the site they attended is "additional to required". This risks discouraging participation and warrants explicit, enforceable protection. As such, WMRR requests that the draft clauses in under 20A-D are amended to require:

- An explicit requirement that exemptions must not materially worsen local convenience or require unreasonable additional trips.
- Published reasons, expiry/review dates, a public exemption register and clear information about restrictions.
- A refund point that households cannot use should not count as 'improved household access'. All eligible containers be accepted at advertised public return points as the default. Specialist commercial services treated as additional capacity (this requires clear and transparent definition), never a substitute for public access. (Whether such points could currently count toward targets needs checking against the Network Operator agreement and its measurement rules.)

This means an exemption should only be granted where the required public network remains available and the EPA is satisfied that practical local access to refunds for all eligible containers will not be materially reduced, with any necessary mitigation secured as an enforceable condition.

WMRR also requests that the EPA should publish an exemption register containing the location, restrictions, reasons, conditions and review or expiry date. This helps preserve equitable and transparent access and will enable appropriate notification to affected users and councils of material service changes. Further given the emphasis on national consistency, WMRR requests that the EPA provide advice on what other states are taking this approach (noting that Queensland and WA are already operating

expanding schemes), how this has been embraced by the community, and any areas of concern that NSW can learn from.

ii. The justification for the bottle-crusher category is incomplete

The Information Paper says that recognising crushers as collection points will enable refunds based on actual counts rather than estimates. However, the existing EPA Bottle Crushing Service Operator Processing Refund Protocol already permits direct counting, including automated counting and recording container eligibility. If the intention of the EPA is to improve monitoring, it would be prudent to instead propose new public-reporting obligations for CDS materials proving transparency over the additional volumes, recovery levels and processing outcomes, costs and network performance.

WMRR notes that no other states allow collection point exemptions, and it is still not clear why this proposal is necessary to transition to the expanded scheme. More work needs to be done to ensure that the CDS remains fair and equitable to accommodate this change, and understand the precedent that this establishes for MRFs also.

WMRR appreciates that this proposal could improve glass recovery from hospitality venues, but as currently drafted, this proposal risks inconsistent treatment of competing collection and waste-service operators. Eligibility, payment and verification rules must be put in place to keep the scheme equitable.

iii. Financial transparency is needed – especially concerning handling fees

In WMRR's view, stronger financial transparency of the scheme is needed to avoid reduced access to the community or preferential treatment to certain operators. To be clear, the consultation documents do not establish that double payment is allowed; however, they leave important payment arrangements unexplained. In particular, it is not clear what handling fees would actually cover for the proposed Bottle crusher arrangements. No fee schedule, service specification or pass-through formula has been supplied with the consultation documents. The concern is whether a glass-only, business-only service would receive remuneration comparable to a public depot while carrying fewer service obligations (i.e.: a public depot may carry staffed opening hours, mixed-material receival, public-facing customer-service and public-access obligations that differ from a commercial glass service).

It is therefore integral that the three (3) payments are clearly distinguished in the final regulations:

- Consumer/depositor refund – the 10 cents paid for returning an eligible container
- Processing refund – a payment for eligible containers recovered through the processing route
- Handling fee – remuneration for operating a collection service

WMRR notes that commercial collection can legitimately merit payment, but this needs to be proven and transparent under the regulations. Currently, contributions remain based on supply volumes and material types alone. WMRR requests that NSW EPA publish the financial assumptions underpinning expansion, including projected costs, handling requirements and impacts on MRF, collection and processing payments so that there is transparency over:

- The services and efficient costs being funded by the scheme.
- Who receives the 10-cent refund.
- Whether venue charges or other payments overlap with scheme remuneration.

- How equivalent operators are treated fairly.
- How duplicate claims across processing and collection-point routes are prevented.

WMRR again reiterates the need for the CDS recovery from commercial and industrial (C+I) contracts to be incentivised using existing collection networks, and ideally increasing recovery (similar to kerbside collections). The development of this system at scale, which also includes the amendment of the MRF protocols and C+I collection contracts to claim these refunds, will drive far greater returns in WMRR's view, than separate C+I returns like these being proposed. The amendment of the MRF protocol in 2027 must be accelerated and will also enable investment in potentially C+I MRFs in and around metropolitan Sydney, which to date have not been financially viable.

Further, we note that the MRF protocol may permit payments to interstate MRFs processing NSW containers. WMRR emphasises that MRF sampling, audit and payment arrangements must accurately recognise new container types so that MRFs are not faced with unfunded sorting or storage costs.

It is important that the EPA publish the revised MRF and crusher protocols, payment rules and implementation timetable before expansion, with sufficient time for operator and council review. This will have significant impacts on councils and efforts should be directed to clarify council refund-sharing arrangements and how these changes will impact volumes, material composition and payments flow through existing processing contracts. In the interest also of national consistency, clarity is sought on whether this will be a national approach and how it is operating at present in other jurisdictions.

iv. Other significant concerns not adequately addressed by the draft regulations

WMRR notes that a number of issues were discussed in the Information Paper which were not addressed in the draft regulations:

- The Information Paper says collectors should have Network Operator approval and a current annual declaration. However, neither requirement appears expressly in draft clause 27A, which requires commercial-collector status and electronic payment. EFT traces payment, not the origin or previous redemption of containers. In WMRR's view, the commercial contractor declarations should be enforceable requirements.
- Whilst the Information Paper describes administrative assistance with approvals, the actual scope of EPA delegation in draft clause 34 depends on the Act and delegation instrument. The delegation should be limited to administrative assistance so that independent EPA decisions are retained on substantive eligibility/recyclability and enforcement (with conflict controls and review rights). This again ensures clear governance over the scheme and protects equitable outcomes for scheme participants.
- Labelling relief periods should require tested acceptance arrangements, staff training, public information and rejection monitoring. The purpose of this period should enable machines/staff to make sure they are equipped to recognise the containers, rather than simply relieving producer funding obligations for this period.
- Scheme reporting should monitor the movement of collected material downstream. Collection eligibility does not demonstrate viable recycling destinations. As part of scheme reporting, demonstrated processing pathways and markets should be required. This is particularly important for new carton types under the scheme (i.e. casks, sachets).

We note also that there are some drafting inconsistencies in the current draft which staff may have already picked up: clause 25A(9) appears to refer to itself rather than subclause (8); the Information Paper's

references to clause 23B and transitional clause numbers do not match the supplied draft regulations. The refund-marking exemption also says “after 1 July 2027”, which should be clarified to “from 1 July 2027” ensure launch day is covered.

Expansion of the CDS should provide a reliable return pathway for the public and fair, transparent remuneration for the services needed to recover and recycle the expanded container stream. Legal eligibility for scheme participation should equate to usable access for the community. WMRR’s comments and suggested amendments seek to confirm how community access will be protected and how operator payments will be justified, verified and reviewed so as to protect the integrity of the scheme.

WMRR trusts that the EPA will find these comments helpful in finalising the regulations and we look forward to feedback on the queries we have raised particularly on national consistency. Please contact the undersigned if you wish to further discuss WMRR’s comments.

Yours sincerely



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