

Soft Plastic Stewardship Australia response to submissions from interested parties on application for authorisation AA1000695

1 Introduction

- 1 Soft Plastic Stewardship Australia Limited (**SPSA**) has been created through cooperation between the Australian Food and Grocery Council (**AFGC**) (representing a large number of brand owners) and the retailer-led Soft Plastics Taskforce. The parties have come together to create a truly cross industry scheme (the **Scheme**) to fast-track circularity for soft plastics.
- 2 The Scheme is a voluntary, industry-led, not-for-profit product stewardship scheme which aims to increase recycling rates for soft plastics, develop processing capacity and end markets, and advocate for sustainable packaging to achieve better environmental outcomes. SPSA has been encouraged by government to progress this as a priority.
- 3 SPSA's proposed Scheme is based on international best practice, focusing on providing certainty to soft plastics processors and recyclers to sustain and grow capacity in Australia, stimulating end market development, and providing an equitable basis for sharing costs across participants in the Scheme (**Scheme Participants**). The proposed Scheme is designed to drive engagement across the packaging supply chain and has been developed through comprehensive stakeholder consultation.
- 4 SPSA will be transparent about its operations and accountable through both annual and long-term targets as well as quarterly and annual public reporting. To ensure the continued success of the Scheme, SPSA has also committed to appointing an independent, external consultant to conduct a full review of the operation of the Scheme in its third and seventh year of operations.
- 5 SPSA is conscious of the history of soft plastics recycling in Australia, and its approach reflects the learnings from previous schemes like REDcycle. SPSA's plan balances ambition with sustainability to ensure long-term success. The Scheme has been developed with a view to creating a strong foundation that can be built on in future, aligning with future regulatory options.
- 6 SPSA recognises that the current landscape for packaging is changing, but firmly believes that delay is not an option. Decisive action on soft plastics is needed now and cannot be deferred to an undecided, evolving future. To do so risks the viability of a number of soft plastics recyclers and the future of soft plastics recycling in Australia. SPSA has put forward the best model available in the current landscape, providing a strong foundation and scalable model for future regulatory reform.

2 Background to response

- 7 On 18 March 2025, SPSA made an application on behalf of itself and the initial members of SPSA for interim and final authorisation (the **Application**) to establish and operate the Scheme.
- 8 The ACCC conducted a public consultation process in relation to the Application, seeking submissions from interested parties. As at the date of this response, the ACCC has published non-confidential versions of 56 submissions by 50 interested parties, together with a joint communication made by SPSA and the Australian Packaging Covenant Organisation (**APCO**) on 9 May 2025. The majority of the submissions, reflecting a range of stakeholders, are supportive of the SPSA Scheme.
- 9 The key matters raised in the interested party submissions relate to governance and transparency, funding for the Scheme, SPSA's proposed operations and future regulation of packaging. SPSA's response to these matters is set out below. Given the volume of submissions

received, it has not been possible to address every matter raised, and this response instead focuses on the key themes. To the extent SPSA has not responded to a matter raised in the interested party submissions, this should not be taken as SPSA's acceptance of the position asserted.

- 10 SPSA has had a number of productive discussions with several interested parties to address some of the matters raised in their respective submissions, and remains committed to engaging collaboratively with interested parties to ensure the Scheme is informed by views across the entire supply chain.
- 11 SPSA welcomes the opportunity to engage with the ACCC, as well as any interested party, on any matter raised in the interested party submissions or this response.

3 Governance and transparency

3.1 SPSA's governance structure allows for full supply chain participation while remaining consistent with international best practice

- 12 Several interested party submissions endorse SPSA's independent and transparent governance structure.¹ For example:
- (a) *"SPSA operates as an independent, not-for-profit entity with a strong governance structure and robust oversight. Their commitment to transparency, including the provision of data on collected materials, recycling outcomes, and levy investments, ensures confidence in the scheme's operations."*²
- (b) *"The formation of the SPSA by leading brands and retailers (e.g., Coles, Woolworths, Nestlé, Mars) provides an independent, industry-led, not-for-profit organisation. The SPSA independence will provide a stewardship program for the recovery of soft plastic placed on the market to drive industry and community outcomes."*³
- (c) *"Soft Plastic Stewardship Australia was established, and entirely led by industry, reflecting a unified commitment from brand owners, retailers, and other stakeholders to take responsibility for the lifecycle of soft plastics. The establishment of Soft Plastic Stewardship Australia as an independent, not-for-profit entity, underscores this commitment, with a governance model that includes a diverse board of industry representatives and plans for independent directors and a Stakeholder Advisory Council. This inclusive structure ensures that the scheme is informed by a broad range of*

¹ See, for example, Planet Ark Environmental Foundation, Submission dated 7 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20-%20Planet%20Ark%20Environmental%20Foundation%20-%202007.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>; Halve Waste, Submission dated 3 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Halve%20Waste%20-%202003.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>; Australasian Institute of Packaging, Submission dated 5 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australasian%20Institute%20of%20Packaging%20-%202006.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; National Retail Association and Australian Retailers Association, Submission dated 8 May 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20National%20Retail%20Association%20and%20Australian%20Retailers%20Association%20-%202008.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; Kellanova, Submission dated 22 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Kellanova%20Australia%20-%202023.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

² Halve Waste, Submission dated 3 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Halve%20Waste%20-%202003.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

³ Australasian Institute of Packaging, Submission dated 5 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australasian%20Institute%20of%20Packaging%20-%202006.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

*perspectives, including recyclers, government agencies, environmental organisations, and consumer groups, fostering collaboration and systemic change across the recycling industry."*⁴

- 13 Some interested party submissions raise concerns about a perceived lack of independence and representation across the full supply chain.⁵ For example, Zero Waste Victoria argues that "*The proposed SPSA scheme lacks an independent governance structure. It's currently led by representatives of major supermarkets and big brands, parties with strong commercial interests. That raises real concerns about transparency, equitable decision-making, and whether environmental goals will be prioritised over cost minimisation.*"⁶
- 14 SPSA has been established as a separate not-for-profit entity to ensure independence and decision-making in accordance with the Scheme's objectives. While the initial members of the Scheme, including those that currently sit on the Board, are a smaller group of brands and retailers that have taken the initiative to establish SPSA, it is intended that the full supply chain will play a role in governance, either through the Board or the Stakeholder Advisory Council (**SAC**).
- 15 SPSA embraces the principle of producer responsibility for providing funding and delivering better environmental outcomes for packaging. SPSA's Constitution requires that its board be made up of a combination of proprietary brand owners, retail brand owners, industry association proprietary brand owners, industry association retail brand owners, and up to two independent directors.⁷ Importantly, these directors are required to act in the best interests of SPSA, consistent with their duties imposed by the *Corporations Act 2001* (Cth). Further, independent directors will be skills-based to align with the lifecycle and governance needs of SPSA, and could therefore be filled by a director with recycling experience and expertise.
- 16 SPSA's Board will be supported by the SAC, which will comprise representatives from diverse stakeholder groups such as processors and recyclers, government agencies, environmental non-governmental organisations, consumer groups, brand owners, retailers, academics and independent experts. The SAC will provide guidance, stakeholder insights and industry expertise to SPSA on activities and matters relevant to the efficient and effective development and operation of the Scheme. Through the SAC, all stakeholders in the soft plastic packaging supply chain, including recyclers and local councils, will have the opportunity to participate in the governance of the Scheme. SPSA is well progressed in forming the SAC. SPSA received a high volume of strong applications across all key stakeholder groups from its public call for applications, and will shortly commence shortlisting and interviewing the candidates. SPSA is encouraged by the quality and diversity of the applicants, which reflect strong alignment with SPSA's mission.

⁴ National Retail Association and Australian Retailers Association, Submission dated 8 May 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20National%20Retail%20Association%20and%20Australian%20Retailers%20Association%20-%202008.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

⁵ See, for example, Zero Waste Victoria, Submission dated 4 May 2025, p 4. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Zero%20Waste%20Victoria%2004.05.25%20-%20PR%20-%20AA1000694%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>; Australian Dairy Products Federation, Submission dated 17 April 2025, p 5. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Dairy%20Products%20Federation%20-%202017.04.24%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; Australian Council of Recycling, Submission dated 10 April 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Council%20of%20Recycling%20-%202010.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

⁶ Zero Waste Victoria, Submission dated 4 May 2025, p 4. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Zero%20Waste%20Victoria%2004.05.25%20-%20PR%20-%20AA1000694%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

⁷ See rule 37 of SPSA's Constitution (at Schedule 4 to the Application).

17 Further, SPSA's Board structure is consistent with successful international used packaging product stewardship schemes, such as Verpact (a co-regulatory industry body responsible for administering a mandatory scheme for all packaging placed on market in the Netherlands), and Fost Plus (the body responsible for administering the mandatory scheme for business-to-consumer packaging in Belgium), as well as other local product stewardship schemes (such as Paintback) and container deposit schemes (such as TasRecycle, VicReturn and Exchange for Change).⁸ This approach ensures that boards are largely composed of the companies that fund the system and bear the financial obligations, embedding the principle of producer responsibility. This is consistent with EXPRA's '10 Golden Rules for EPR'.⁹ The Scheme's governance framework was informed through engagement with local and global product stewardship experts including Verpact, Fost Plus, Ecosurety, Valpak, EXPRA, RePak, Helen Lewis Research, RPS consulting and One Planet consulting.¹⁰

3.2 SPSA will set clear annual and long-term targets and provide public reporting on progress

18 Some interested party submissions state the need for clear performance targets and reporting on specific metrics.¹¹

19 SPSA acknowledges the importance of public reporting and setting long-term targets to ensure that the Scheme's impact on industry and community can be appropriately tracked and measured, and that the Scheme remains transparent and accountable. This is reflected in SPSA's commitment to set annual and long-term targets for the Scheme, as well as undertake quarterly and annual public reporting. SPSA's commitments are set out in the draft Scheme Agreement and in further detail at page 23 of the Application as follows:

SPSA will set both annual and long-term targets for the Scheme in relation to the volume of recovered recyclable material, expanding soft plastics processing and recycling capacity and expanding the number and geographic coverage of collection points (among other targets).

Each year, SPSA will prepare and publish on its website an annual report for the Scheme over the year ending 30 June. The annual report will be published no later than 31 December each year. The annual report will include an update on the following matters (at a minimum):

- *progress towards SPSA's annual targets;*
- *number of Scheme Participants;*
- *information on SPSA's recycling partners (eg, number of collectors and recyclers involved in the Scheme);*
- *number of collection points and geographic coverage of collection points;*

⁸ See, for example; TasRecycle. available at: <https://tasrecycle.com.au/board/>; VicReturn, available at: <https://vicreturn.com.au/board-governance/>; Exchange for Change, available at: <https://www.exchangeforchange.com.au/who-we-are/governance.html>.

⁹ EXPRA, 'Beliefs'. Available at: <https://expira.eu/beliefs/>.

¹⁰ Guidance was also provided on the effectiveness of product stewardship schemes under review in Canada and the United Kingdom by various associations including the Food and Drink Federation, WRAP UK and Food, Health & Consumer Products of Canada.

¹¹ See, for example, Australian Council of Recycling, Submission dated 6 May 2025, p 6. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Council%20of%20Recycling%20-%202006.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Australia%20Limited.pdf?ref=0&download=y>; iQRenew, Submission dated 9 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20iQRenew%20-%202009.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; Southern Sydney Regional Organisation of Councils, Submission dated 11 April 2025, p [x]. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Southern%20Sydney%20Regional%20Organisation%20of%20Councils%20%28SSRO%20-%202017.04.25%20-%20PR%20-%20AA1000695%20-%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

- *recovery and processing amounts during the preceding 12-month period (being the volume of soft plastics collected and sent to processors under the Scheme);*
- *total levy funds collected under the Scheme;*
- *a breakdown of how levy funds were spent during the relevant year; and*
- *an explanation of how the funds being spent are contributing to achieving the Scheme's objectives.*

SPSA will also provide quarterly reporting to Scheme Participants with an update on the operations of SPSA, including the volume of packaging that has been recovered in the relevant period. These quarterly reports will be published on SPSA's website to keep Scheme Participants, stakeholders and the broader public apprised of the progress of the Scheme.

SPSA will also provide the following annual reports to Scheme Participants:

- *audited financial statements for SPSA; and*
- *any other financial information that the Board may from time to time determine to provide.*

- 20 The matters proposed by SPSA for reporting, as listed above, represent minimum requirements. SPSA will continue to assess whether other reporting metrics would assist in transparency.
- 21 SPSA has not yet set annual and long-term targets for the Scheme because those targets will be informed by several factors currently under consideration or unknown to SPSA, including initial industry participation, the nature of any interim and / or final authorisation from the ACCC and the results of the Request for Information (**RFI**) / Request for Proposal (**RFP**) which SPSA is seeking interim authorisation to issue. This is essential to ensure that SPSA's targets reflect the operational context and capabilities of industry. If final authorisation is granted, SPSA will move swiftly to set targets for the Scheme.
- 22 In addition to these targets and reporting obligations, in the longer term, SPSA intends to require recycling service providers to be accredited by a third-party traceability provider in support of the National Framework for Recycled Content Traceability.¹² This accreditation will facilitate more accurate and transparent reporting and will protect against the risk of unreported stockpiling.

4 Scheme Funding

4.1 The proposed Scheme Levy is based on SPSA's model and current market capacity

- 23 A number of interested parties support the Scheme's proposed funding. For example, Planet Ark states: "*The proposed levy structure ensures equitable financial responsibility among industry participants and reflects a forward-thinking and sustainable approach to environmental stewardship*".¹³ The AFGC's submission states "*SPSA's proposed levy-based funding model is a crucial enabler for supporting system development, infrastructure expansion, and innovation*".¹⁴

¹² See DCCEEW, A national framework for recycled content traceability: Guidelines (December 2023). Available at: <https://www.dcceew.gov.au/sites/default/files/documents/national-framework-recycled-content-traceability.pdf>.

¹³ Planet Ark, Submission dated 7 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20-%20Planet%20Ark%20Environmental%20Foundation%20-%202007.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

¹⁴ AFGC, Submission dated 7 April 2025, pp 1-2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australia%20Food%20and%20Grocery%20Council%20-%202007.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

- 24 Some interested party submissions emphasise the importance of the Scheme Levy reflecting the full cost of recovery, with some questioning whether the current levy is sufficient.¹⁵ For example, iQRenew writes that "*we are concerned that the current fee structure does not accurately reflect the true costs involved. In fact, SPSA's current proposed levy is 90% cheaper than comparable global schemes.*"¹⁶
- 25 The Scheme Levy has been calculated based on several years of ongoing consultation across the supply chain, including work with councils and providers of collection, processing and recycling services.
- 26 The Scheme Levy is considerably less expensive than schemes in other jurisdictions because SPSA's model differs from global EPR models and is at an earlier development stage. Under the proposed stewardship Scheme, SPSA will direct funds to the net incremental costs of collection, sortation, processing and recycling (as well as marketing, education and other activities that support system implementation, governance and oversight). The Scheme will leverage existing infrastructure and systems where possible, meaning it can deliver outcomes at a lower cost than other global schemes where entirely new collection and sortation networks were implemented.¹⁷ Further, in other more developed jurisdictions such as Belgium and the Netherlands, the majority of homes have kerbside collection, whereas local kerbside collection will be rolled out incrementally under the SPSA Scheme and used in combination with other collection channels such as instore collections.
- 27 The initial Scheme Levy reflects the early stage of the Scheme and current recycling capacity. As the Scheme evolves and recycling capacity develops, the Scheme Levy is expected to increase over time to cover the increased costs associated with additional collection, processing, recycling and end market development. Equally, the Scheme Levy reduces on a per unit basis where brand participation increases, therefore the estimates for future years will continue to be refined by SPSA.

4.2 Increases in the Scheme Levy will be transparent

- 28 Some interested party submissions suggest that greater transparency and consultation is necessary in relation to the Scheme Levy. For example, Zero Waste Victoria writes that "...there's

¹⁵ See, for example, iQRenew, Submission dated 9 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20iQRenew%20-%202009.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; Boomerang Alliance, Submission dated 8 April 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Boomerang%20Alliance%20-%202008.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>; Cleanaway Waste Management, Submission dated 17 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Cleanaway%20Waste%20Management%20-%202017.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>. Waste Management and Resource Recovery Association of Australia's submission appears to assert that the Scheme is underfunded by comparing landfill fees for NSW to the Scheme Levy, however, this is misconceived. These are fundamentally different concepts and not directly comparable.

¹⁶ iQRenew, Submission dated 9 April 2025, pp 1-2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20iQRenew%20-%202009.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>. See also Boomerang Alliance, Submission dated 8 April 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Boomerang%20Alliance%20-%202008.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>; Waste Management and Resource Recovery Association of Australia, Submission dated 7 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Waste%20Management%20and%20Resource%20Recovery%20Association%20of%20Australia%20-%202007.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

¹⁷ For example, in Belgium and the Netherlands.

limited transparency about how levy amounts are set, how they will be reviewed, or how scheme costs and outcomes will be communicated to the public."¹⁸

- 29 SPSA is a not-for-profit entity, separate to its members and Scheme Participants, and the purpose of the Scheme Levy is to cover SPSA's cost of operating the Scheme and not to deliver a profit to SPSA. SPSA is committed to transparency in setting and imposing the Scheme Levy, and will be publicly accountable for how it sets the Scheme Levy and the costs of its operations. As above, the quantum of the Scheme Levy will depend on Scheme participation and the anticipated costs of the scheme for a given year. Building flexibility into the Scheme Levy is important to ensure that the Scheme Levy is appropriately priced year-on-year by giving SPSA the ability to scale up its activities as participation in the Scheme increases, more recycling capacity comes online and end markets grow.
- 30 As set out in the Application, the Scheme Levy will be determined prior to the end of each financial year by the SPSA Board. SPSA is required to provide Scheme Participants with a minimum of three months' notice of any changes to the Scheme Levy. In addition to the required notice period, SPSA will communicate with Scheme Participants about prior actual and future estimated costs as part of its public reporting processes.
- 31 SPSA has modelled an overview of the estimated Scheme Levy during the first five years of the Scheme's operation to assist Scheme Participants in future planning. This is set out at Figure 5 on page 18 of the Application, together with the assumptions set out at Schedule 9. SPSA will continue to refine these estimates and assumptions, including through the RFI / RFP processes, which will inform a projection of future Scheme activities and costs.

4.3 SPSA will consider eco-modulation as a tool to incentivise sustainable product design

- 32 Some interested party submissions emphasise the importance of eco-modulated levies to encourage sustainable packaging design.¹⁹ For example, ACOR states "*While the Scheme application flags possible ecomodulation of the Scheme levy in the future to incentivise recyclability and recycled content, the authorisation should require an urgent timeline for these essential characteristics of a product stewardship scheme to be phased in.*"²⁰
- 33 SPSA acknowledges the important role sustainable product design plays in a circular economy solution and considers that eco-modulation is an effective tool to incentivise improved packaging design, including meeting recyclability standards and post-consumer recycled content targets. Sustainable packaging design standards are currently being considered by the federal government under the national packaging reform, and SPSA supports the introduction of standards that reflect the global CEFLEX soft plastic design standards.

¹⁸ Zero Waste Victoria, Submission dated 4 May 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Zero%20Waste%20Victoria%2004.05.25%20-%20PR%20-%20AA1000694%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>; Kellanova, Submission dated 22 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Kellanova%20Australia%20-%202023.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

¹⁹ Clean Up Australia, Submission dated 23 April 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Clean%20Up%20Australia%20-%202023.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; Cleanaway Waste Management, Submission dated 17 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Cleanaway%20Waste%20Management%20-%202017.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; Australian Council of Recycling, Submission dated 6 May 2025, p 4. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Council%20of%20Recycling%20-%202006.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Australia%20Limited.pdf?ref=0&download=y>.

²⁰ Australian Council of Recycling, Submission dated 6 May 2025, p 4. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Council%20of%20Recycling%20-%202006.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Australia%20Limited.pdf?ref=0&download=y>.

- 34 As outlined in its Application,²¹ SPSA intends to consider eco-modulation of the Scheme Levy in the future. Assessing the potential for eco-modulation of the Scheme Levy in the future, rather than at the outset, is preferable for two reasons:
- (a) First, two to three years of packaging data on recyclability and post-consumer recycled content is required to inform the setting of eco-modulated fees. Implementing eco-modulation prematurely could lead to inaccurate assumptions and unintended impacts on the Scheme Levy; and
 - (b) Second, government is considering the introduction of national mandatory requirements for packaging. To ensure that any potential eco-modulation of the Scheme Levy aligns with regulatory requirements, certainty about the national packaging reform is required before SPSA can be in a position to adequately consider eco-modulation.
- 35 Any future consideration of eco-modulation will be subject to engagement with industry – including through the SAC – to ensure it aligns with the Scheme's object to create a circular economy solution and best reflects views from the entire supply chain.
- 4.4 Cost pass through is complementary, not contrary, to the 'producer pays' model**
- 36 Some interested party submissions argue that the Scheme does not place liability on producers of packaging and waste materials because Scheme Participants can pass through the cost of the Scheme Levy.²² For example, the Australian Marine Conservation Society *"does not support brand owners passing on the cost of levy fees to customers and instead recommends that brand owners are financially liable and responsible for soft plastics placed on market."*²³
- 37 Contrary to these submissions, cost pass through is complementary, not contrary, to the 'producer pays' model and is often a core feature of how the producer pays principle is implemented in practice. The principle of the 'producer pays' model is that producers are financially responsible for the collection, processing and recycling of their products at end-of-life. Cost pass through does not shift this responsibility away from producers, but rather recognises that products have an environmental cost and pricing should reflect that. Many EPR schemes both domestically and globally incorporate cost pass through as a core element.
- 38 Under SPSA's proposed model, whether Scheme Participants pass on the cost of the Scheme Levy through the supply chain is voluntary and is intended to be determined independently by each Scheme Participant. Scheme Participants may choose to do so in order to more closely reflect the full cost of a product (including the cost of recycling). For brand owners / manufacturers, the levy costs could be incorporated in a product's cost of goods sold and may inform wholesale pricing to wholesalers or retailers. Further, if the Scheme Levy is passed through the supply chain, the potential levy amount compared to the cost of common food and

²¹ Soft Plastic Stewardship Australia Limited, *Application to the Australian Competition and Consumer Commission for interim and final authorisation* (11 April 2025), p22. Available at: https://www.accc.gov.au/system/files/public-registers/documents/Application%20Received%20-%2018.03.25%20-%20PR%20VERSION%20-%20SPSA_0.pdf?ref=0&download=y.

²² Australian Marine Conservation Society, Submission dated 22 April 2025, p 6. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Marine%20Conservation%20Society%20-%2022.04.25%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; Boomerang Alliance, Submission dated 8 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Boomerang%20Alliance%20-%2008.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>; Australian Dairy Products Federation, Submission dated 17 April 2025, p 5. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Dairy%20Products%20Federation%20-%2017.04.24%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

²³ Australian Marine Conservation Society, Submission dated 22 April 2025, p 6. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Marine%20Conservation%20Society%20-%2022.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

grocery products would be negligible (≤ 1 cent for a number of common household items that use soft plastic packaging).

4.5 SPSA's contribution to the processing of the REDcycle stockpiles aligns to the equitable cost sharing principle essential to product stewardship and acknowledges the value of the stockpiles as foundational feedstock

39 Some interested party submissions raise concerns about SPSA's proposed financial contribution to the foundation feedstock / remediation of the REDcycle stockpile. For example, the Australian Dairy Products Federation writes "*The new scheme should not be unfairly lumbered with funding remediation of any legacy stockpiles (regardless of whether brands did have historical agreements with RedCycle, given those arrangements likely gave brands no control of the actual management of the scheme).*"²⁴

40 The REDcycle stockpiles contain soft plastic packaging from a range of retail channels and sectors and are not limited to grocery brands and retailers. As acknowledged in the submission by Central Adelaide Waste and Recycling Authority, the incorporation of these costs into the Scheme aligns to the equitable cost sharing principle essential to effective product stewardship.²⁵ The proposed contribution also acknowledges that:

- (a) the stockpiles have provided an initial level of investment security to processors and recyclers by making a certain amount of baled feedstock available to design and test infrastructure, inform decisions regarding commercialisation and incentivise new entry;
- (b) the stockpiles have acted as foundation feedstock for the Scheme and have been critical in assessing and accelerating the establishment of new processing capacity, recycling arrangements and end markets; and
- (c) the knowledge and expertise acquired by the Taskforce in managing and processing the stockpiles is expected to contribute significantly to the design and accelerated implementation of the Scheme, benefiting all Scheme Participants.

41 It is proposed that SPSA's contribution will be provided over the eight-year authorisation period sought, facilitating more equitable cost sharing as participation in the Scheme increases, therefore lowering the impact of the contribution on individual Scheme Participants. The small proportion of the foundation feedstock payment as compared to the total levy amount is reflected in Figure 4 in Schedule 9 of the Application.²⁶ Additionally, the incremental costs of the proposed foundation feedstock contribution have been added to modelled costs for scheme operations and spread out across a number of years.

²⁴ Australian Dairy Products Federation, Submission dated 17 April 2025, p 5. Available at:

<https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Dairy%20Products%20Federation%20-%2017.04.24%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>. See also; Zero Waste Victoria, Submission dated 4 May 2025, p 4.

Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Zero%20Waste%20Victoria%2004.05.25%20-%20PR%20-%20AA1000694%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>; Sancell, Submission dated 17 April 2025. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Sancell%20Pty%20Ltd%20-%2017.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; Central Adelaide Waste and Recycling Authority, Submission dated 4 April 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Central%20Adelaide%20Waste%20and%20Recycling%20Authority%20-%2003.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

²⁵ Central Adelaide Waste and Recycling Authority, Submission dated 4 April 2025, p 3. Available at:

<https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Central%20Adelaide%20Waste%20and%20Recycling%20Authority%20-%2003.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

²⁶ Schedule 9, p 129 of the Application.

5 Proposed Scheme operations

5.1 The SPSA Scheme will stimulate investment confidence and end markets

- 42 A number of interested party submissions acknowledge the Scheme's critical role in providing certainty to soft plastics processors and recyclers to sustain and grow capacity in Australia, and stimulating end market development. For example, according to Ecosurety, the Scheme "*not only addresses the current challenges in managing soft plastic waste but also stimulates investment confidence to develop recycling capabilities.*"²⁷
- 43 Some interested party submissions raise concerns about how the Scheme will stimulate investment confidence and end markets, with some suggesting a requirement for Scheme Participants to reacquire recycled plastics.²⁸ For example, the Waste Management and Resource Recovery Association of Australia is concerned about "*the ongoing lack of reprocessing infrastructure or entire supply chain proposal that supports this application – with the missing piece for developing such a solution being market demand for the end product – which is why RedCycle failed. The obvious market is 'take back' by those that make it...*"²⁹
- 44 The issues which contributed to REDcycle's collapse are complex and multifaceted. These include not only inadequate investment in infrastructure and end markets, but also an oversupply of recovered plastic material due to changes in export regulations, the closure of a major recycling provider due to a fire, a lack of scalability in its funding model and a global downturn in market demand for recycled plastic products.
- 45 SPSA acknowledges the importance of end markets in establishing a circular economy solution. SPSA's proposed model carefully balances funding, collections, processing capacity and end markets to promote sustainable outcomes across the entire value chain.
- 46 In the last three years since REDcycle's collapse, there has been an increase in recycling capacity and investment in end markets, driven by government investment through the Recycling Modernisation Fund (**RMF**) Plastics Technology stream, the work of the Taskforce and AFGC (through the National Plastics Recycling Scheme (**NPRS**)), the potential for product stewardship and federal packaging policy, and increased global demand for food grade recycled content.³⁰ For example:

²⁷ Ecosurety, Submission dated 6 May 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Ecosurety%20-%2006.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

²⁸ Waste Management and Resource Recovery Association of Australia, Submission dated 7 April 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Waste%20Management%20and%20Resource%20Recovery%20Association%20of%20Australia%20-%202007.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>; WALGA, Submission dated 22 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20WALGA%20-%2022.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; Zero Waste Victoria, Submission dated 4 May 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20WALGA%20-%2022.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; Green Industries SA and Environment Protection Authority (SA), Submission dated 28 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Green%20Industries%20SA%20and%20Environment%20Protection%20Authority%20%28SA%29%20-%2028.04.25%20-%20PR%20-%20AA100095%20Soft%20Plastic%20Stewardship%20Australia.pdf?ref=0&download=y>.

²⁹ Waste Management and Resource Recovery Association of Australia, Submission dated 7 April 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Waste%20Management%20and%20Resource%20Recovery%20Association%20of%20Australia%20-%202007.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

³⁰ A report in 2023 by Genos estimated global demand for food grade recycled content to be 99 times greater than supply. This demand has driven global investment in chemical recycling facilities, with facilities now operating at scale and supplying food grade packaging for household brands. See: Genos, White Paper: Circular Polyolefin Capacity Set To Reach 1 Million Tonnes Globally In 2025 (March 2023): [https://www.genos.com/internet/home.nsf/\(LUIImages\)/White%20Paper%20-%20Circular%20Polyolefin%20Capacity/\\$File/259%20QEN%20WP%20Circular%20Polyolefin%20Capacity_P3.pdf](https://www.genos.com/internet/home.nsf/(LUIImages)/White%20Paper%20-%20Circular%20Polyolefin%20Capacity/$File/259%20QEN%20WP%20Circular%20Polyolefin%20Capacity_P3.pdf).

- (a) In 2024, iQRenew commenced operating its Soft Plastic Engineered Commodity (SPEC) facility in Taree, NSW, with the capacity of processing over two times the peak REDcycle collection volumes. This followed three years of design and research and development at their demonstration facility on the Central Coast of NSW.
- (b) The RMF Plastics Technology stream has driven investment in recycling infrastructure, including:
- (i) \$20 million in 2024 to construct an advanced mechanical recycling for soft plastics processing facility in South Australia at Recycling Plastics Australia's Kilburn premises, with the application of proprietary technology supplied by PreOne;³¹
 - (ii) \$5 million to Sicut Enterprises in 2024 to build Australia's first commercial composite sleeper production facility, which will transform up to 8,000 tonnes of hard-to-recycle coloured rigid and soft plastics per annum into composite railway sleepers for Australian rail infrastructure; and
 - (iii) \$2.35 million to Close the Loop in 2024 to set up an advanced mechanical recycling facility in south-west NSW which will process 4,400 tonnes of mixed post-consumer soft plastics a year.³²
- (c) In 2024, Cleanaway announced a joint venture with Viva Energy Australia to deliver a 50,000 tonne chemical recycling facility in Australia.³³ In a recent media release, the Chief Strategy Officer of Viva Energy said "*[t]here is a clear need and appetite for this infrastructure in Australia, driven by growing recognition of the need for a domestic circular solution to the soft plastic challenge*".³⁴
- (d) In May 2025, APR Plastics, Aster Chemicals and Energy, Taghleef Industries Group and Pro-Pac Group announced a strategic partnership expected to convert up to 3,000 tonnes of soft plastic waste into pyrolysis oil for further refinement and processing into recycled polypropylene film, which can then be printed and laminated into snack food packaging for products such as biscuits and confectionary.³⁵
- 47 Timely action is needed now to enable these investments and continue to stimulate future investment, including through the ramp up of soft plastics collections to provide processors and recyclers with feedstock certainty.³⁶ The SPSA Scheme will drive this through the expansion of the kerbside trials and pilots run by the NPRS, and the instore soft plastics collection pilot program that is currently being run by the Taskforce, as well as collection through other drop off points such as CDS sites. As these programs expand, this will drive further recycling and processing capacity coming online and support new entrants to the market. SPSA will also consider opportunities for further investment in end markets, and this will be guided by the RFI /

³¹ The Hon Tanya Plibersek MP, 'New Soft Plastic Recycling Technology for South Australia'. Available at: <https://www.tanyaplibersek.com/media/media-releases/joint-media-release-new-soft-plastic-recycling-technology-for-south-australia/>.

³² NSW EPA, 'Soft plastics recycling in NSW gets major new investment' (4 December 2024). Available at: <https://www.epa.nsw.gov.au/News/Media-Releases/2024/EPAMedia241206-Soft-plastics-recycling-in-NSW-gets-major-new-investment>.

³³ Cleanaway, Viva Energy and Cleanaway team up to address hard-to-recycle plastic waste (15 April 2024). Available at: <https://www.cleanaway.com.au/sustainable-future/viva-energy-cleanaway-trial/>.

³⁴ Cleanaway Waste Management Limited, 'Viva Energy and Cleanaway progress plastic recycling plans' (Media Release, 25 April 2025). Available at: <https://cleanaway2stor.blob.core.windows.net/cleanaway2-blob-container/2025/04/Press-release-CWY-and-VEA-proceeding-to-feasibility-090425.pdf>.

³⁵ PKN Packaging News, New partnership to "revolutionise" hard-to-recycle plastics, 29 May 2025. Available at: <https://www.packagingnews.com.au/latest/new-partnership-to-revolutionise-hard-to-recycle-plastics>.

³⁶ iQRenew indicated in its submission that its main concern is a sufficient and consistent supply of feed stock "*to support the growing demand for recycled resin pellets*". See iQRenew, Submission dated 9 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20iQRenew%20-%202009.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

RFP process (among other things), and ongoing research. Once the REDcycle stockpiles are processed, soft plastics recyclers will not have access to sufficient feedstock, placing ongoing operations at risk. ACCC authorisation is vital to allow the proposed Scheme to provide this critical feedstock to processors who are operating, undertaking construction and making future investment decisions.

5.2 SPSA aims to provide a reliable feedstock source to recyclers

48 A key part of SPSA's role will be to provide continued feedstock supply and certainty in volumes, and this is acknowledged in some interested party submissions. For example, iQRenew writes that "*... it is essential that iQRenew, like any at scale processor has a guaranteed, consistent high-volume supply of in feed material to ensure the continued operation facilities [sic] ... Furthermore, without sufficient volume, we would be unable to support the growing demand for recycled resin pellets in products and packaging – an effort we are currently subsidising to encourage industry adoption. While we understand the need for a diversified network of processing partners to ensure resilience against disruptions, we emphasise that certainty in feedstock volumes is critical to the operation of our large-scale facility. In fact, the continued growth of Australia's soft plastic recycling infrastructure hinges on guaranteeing sufficient, long-term, high-volume supply and contracts.*"³⁷

49 The Taskforce and the AFGC (through its NPRS program) have been key suppliers of feedstock keeping a number of soft plastics recyclers afloat since the collapse of REDcycle. Building on this, SPSA will take proactive steps to ensure a reliable source of soft plastic feedstock is provided to recyclers through the Scheme. For example, SPSA is planning to develop a roadmap that matches reliable feedstock sources with processors. This will be informed by the RFI / RFP process that SPSA is proposing to undertake as well as the experience of the Taskforce, the NPRS trial results and the planned trials in Queensland (to be conducted with the support of Queensland government funding).

5.3 The proposed eight-year term would provide greater investment confidence for recyclers

50 Several interested party submissions endorse the eight-year authorisation term sought by SPSA. For example:

- (a) Macedon Ranges Shire Council "*endorses the eight-year term being requested by SPSA to ensure investment in the processing technology has sufficient time to make bankable propositions.*"³⁸
- (b) "*The SPSA proposal seeks an 8 year authorisation from the ACCC, which is supported as a significant improvement on the current framework.*"³⁹

³⁷ iQRenew, Submission dated 9 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20iQRenew%20-%2009.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>. See also Australian Council of Recycling, Submission dated 10 April 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Council%20of%20Recycling%20-%2006.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Australia%20Limited.pdf?ref=0&download=y>.

³⁸ Macedon Ranges Shire Council, Submission dated 7 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Macedon%20Ranges%20Shire%20Council%20-%2007.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

³⁹ Central Adelaide Waste and Recycling Authority, Submission dated 4 April 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Central%20Adelaide%20Waste%20and%20Recycling%20Authority%20-%2003.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

(c) *"We urge the ACCC to grant favourable authorisation for SPSA's proposed scheme for the term of 8 years, as this will help give stakeholders certainty in the continued operation of the scheme over the medium and long term."*⁴⁰

51 Cleanaway's submission suggests that an eight-year term may be insufficient to allow for long term commitments to ensure a return on investment as *"the construction of at-scale facilities combined with the time to obtain regulatory approvals means that it takes a minimum of 4 years for a project to proceed from concept to commissioning"*.⁴¹

52 SPSA agrees with the sentiment in Cleanaway's submission that a longer authorisation term would provide greater investment certainty. Standard waste management and recycling contract terms are usually based on the useful life of the asset, plus an initial period for construction and commissioning time. This ensures commercial viability for the contractor, especially where upfront capital investment is large, and reduces risk for both parties (eg, those who acquire these services avoid disruptions from early renegotiation or underinvestment). Including the useful life of the asset in the contract term also means the contractor can amortise the capital costs over the full life of the assets, allowing a lower annual or per unit charge compared to a shorter-term contract, where the contractor must recover costs faster. The request for an eight-year authorisation seeks to balance this principle with the ACCC's practice of granting authorisation for a limited period of time to allow the ACCC to be satisfied that the likely public benefits will outweigh the public detriment for the period of the authorisation. While SPSA is confident that the Scheme will deliver net public benefits within a shorter period of time than eight years, including to keep current processors and recyclers in operation through continued (and later increased) feedstock supply, a longer term (such as an eight-year term) would further encourage additional processors to construct processing infrastructure.

5.4 SPSA is taking measures to insure against the risk of stockpiling

53 The Waste Management and Resource Recovery Association of Australia suggests in its submission that the Scheme may be relying on a warehousing solution that could result in soft plastics stockpiling.⁴² This is incorrect.

54 To the contrary, SPSA has several safeguards in place to insure against the risk of stockpiling, including the following:

- (a) SPSA will employ a flexible approach in implementing the Scheme, ensuring that collection volumes are increased in response to recycling capacity, end market demand and scheme funding from time to time. SPSA will maintain open channels of communication (including through the SAC) with the full supply chain – especially recyclers and processors – to ensure that feedstock volumes and end markets are being secured and appropriately managed.
- (b) End market demand, among other factors, will be further assessed through a public RFI and RFP process. Preliminary consultation with recyclers has revealed that some recyclers have established and continuing demand from end markets, while others will require more assistance. SPSA's responsive approach will allow it to provide assistance

⁴⁰ 3RG, Submission dated 7 April 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%203RG%20Recycling%20Pty%20Ltd%20-%202007.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

⁴¹ Cleanaway Waste Management, Submission dated 17 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Cleanaway%20Waste%20Management%20-%202017.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

⁴² Waste Management and Resource Recovery Association of Australia, Submission dated 7 April 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Waste%20Management%20and%20Resource%20Recovery%20Association%20of%20Australia%20-%202007.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

as required, supporting a multi-channel approach, which in turn helps to promote competition.

- (c) In the longer term, service providers will be required to be accredited by a third-party traceability provider, which will provide assurance and transparency of recycling outcomes.

5.5 SPSA expects a portfolio of recycling options, including advanced chemical and advanced mechanical recycling

55 Some interested party submissions raise concerns about the mode of recycling, with conflicting views about the appropriate approach. For example, DeCarbonate Energy writes that "[c]hemical recycling of soft plastics through pyrolysis is one of the ways forward to complement the process of mechanical recycling",⁴³ whereas Sancell argues that chemical recycling "is not yet proven at scale."⁴⁴

56 SPSA's proposed approach has been formulated to provide greater stimulation of end markets across industries and ensure circular outcomes. As set out in the Application, the Scheme facilitates this through the following proposed distribution of recycled material (based upon the quality of the material, the strengths of different modes of recycling, and end market application):⁴⁵

High grade material – Advanced chemical recycling to be recycled into food and pharmaceutical grade resin and packaging;

Medium grade material – Advanced mechanical recycling where it could be recycled into non-food grade films such as agricultural plastics, or builders film; and

Lower grade material – Recycled into long-term use industrial or commercial products such as lumber substitutes or bitumen additives, and non-food grade plastic film such as builders film.

57 The rationale for this approach is as follows:

- (a) Advanced chemical recycling is presently the only viable option to meet food and pharmaceutical safety standards, and is therefore proposed to be used for high grade material for food and pharmaceutical grade resin and packaging (after the material has been sorted / recycled via mechanical recycling).⁴⁶ Chemical recycling plants are operational globally, with major consumer brands procuring food grade recycled content from chemical recyclers. As highlighted in section 5.1 above, chemical recycling of soft plastics is gaining further traction in Australia and, as acknowledged in DeCarbonate Energy's submission, proven European technology is available for the development of

⁴³ DeCarbonate Energy, Submission dated 7 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20-%20DeCarbonate%20Energy%20Pty%20Ltd%20-%2007.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

⁴⁴ Sancell, Submission dated 17 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Sancell%20Pty%20Ltd%20-%2017.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>. See also: Vinyl Council of Australia, Submission dated 3 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Vinyl%20Council%20of%20Australia%20Pty%20Ltd%20-%2003.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; Boomerang Alliance, Submission dated 8 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Boomerang%20Alliance%20-%2008.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

⁴⁵ Soft Plastic Stewardship Australia Limited, *Application to the Australian Competition and Consumer Commission for interim and final authorisation* (11 April 2025), p 13. Available at: https://www.accc.gov.au/system/files/public-registers/documents/Application%20Received%20-%2018.03.25%20-%20PR%20VERSION%20-%20SPSA_0.pdf?ref=0&download=y.

⁴⁶ From an operational perspective, mechanical recycling is required before chemical recycling occurs. It is not possible to prioritise chemical recycling over mechanical recycling, as chemical recycling can only occur after mechanical sorting / recycling. Therefore, in the case of high grade material, mechanical recycling will occur prior to advanced chemical recycling.

local community solutions to produce high quality oil, which is sought after globally for food grade packaging and sustainable aviation fuel.⁴⁷ Although chemical recycling emissions are higher than mechanical recycling, it is the main pathway for recycling plastics for reuse in food grade materials.⁴⁸

- (b) Mechanical recycling is suitable for medium and lower grade materials, which can be reused in non-food grade products such as agricultural plastics or builders film for medium grade material, or long-life industrial or commercial products such as lumber substitutes or bitumen additives for lower grade material.

58 SPSA will continue to review its operations and processes to ensure it adapts to technological advancements and industry best practice.

5.6 Kerbside collections are an important part of a multi-channel solution and SPSA will support implementation through allocation of levy funds to councils and community education

59 Several interested party submissions attest to strong community engagement and encouraging results from the NPRS kerbside collection trials. For example:

- (a) *"Feedback from participants has been overwhelmingly positive, particularly regarding the transparency of the recycling process, which has already diverted over 12 tonnes of soft plastics from our local landfill."*⁴⁹
- (b) *"Our council is actively participating in the National Plastics Recycling Scheme (NPRS) soft plastics collection pilots, which have generated strong community engagement and high participation rates."*⁵⁰
- (c) *"The engagement through social media for the soft plastic kerbside collection pilot has also been overwhelmingly positive."*⁵¹
- (d) *"This pilot has received a high level of support and participation from our residents with almost 6,000, or 10% of households, currently taking part in this voluntary program."*⁵²

60 Whilst the majority of submissions appear to support the rollout of kerbside collections, some interested party submissions do not support or have concerns with kerbside collections as a collection channel for soft plastics recycling.⁵³ The concerns include potential contamination risk

⁴⁷ DeCarbonate Energy, Submission dated 7 April 2025. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20-%20DeCarbonate%20Energy%20Pty%20Ltd%20-%2007.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=yhttps://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20-%20DeCarbonate%20Energy%20Pty%20Ltd%20-%2007.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

⁴⁸ CSIRO, Advanced recycling technologies to address Australia's plastic waste (August 2021), p 46. Available at: <https://www.csiro.au/en/news/all/articles/2021/august/advanced-recycling-plastic-waste>.

⁴⁹ Halve Waste, Submission dated 3 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Halve%20Waste%20-%2003.04.25%20-%20PR%20-%20AA1000695%20-%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

⁵⁰ City of Port Adelaide Enfield, Submission dated 3 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20City%20of%20Port%20Adelaide%20Enfield%20-%2003.04.25%20-%20PR%20-%20AA1000695.pdf?ref=0&download=y>.

⁵¹ Alpine Shire Council, Submission dated 7 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Alpine%20Shire%20Council%20-%2007.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

⁵² City of Ballarat, Submission dated 17 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20City%20of%20Ballarat%20-%2017.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

⁵³ ALGA, Submission dated 17 April 2025, p 4 (p 5 of PDF). Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Local%20Government%20Association%20%28ALGA%29%20-%2017.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; WALGA, Submission dated 22 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20WALGA%20-%2022.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; ACOR, Submission dated 6 May 2025, p 7. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20ACOR%20-%2006.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

from improper disposal, the potential burden on councils and the bag in bin disposal method currently being trialled under the NPRS. For example, the Australian Marine Conservation Society *"shares concerns held by some local councils and members of the waste industry with the efficacy of collecting soft plastics via the comingled kerbside recycling bin, as proposed disposal behaviours for kerbside are inconsistent with decades of waste education...AMCS recommends SPSA fully explores concerns raised about kerbside collections by the waste industry and local councils, and SPSA prioritises in-store and community drop off for soft plastics, ahead of proceeding with a kerbside collection scheme."*⁵⁴

- 61 SPSA acknowledges these concerns and notes that the NPRS trials were initiated to assess the community support for kerbside collections, as well as the impacts of potential contamination on other recycling commodities. Contrary to these submissions, the NPRS trials demonstrated that kerbside collection is an important and viable collection channel. Through household surveys undertaken as part of the NPRS trials, 92.4% of households indicated a preference for kerbside collection of soft plastics, with only 3.9% preferring the return to store model, 0.6% preferring another local drop off facility and 3% stating they would continue to place their plastics in the general waste bin. 47% of respondents previously used supermarket drop-off frequently and 16% sometimes.⁵⁵
- 62 To maximise community participation in the Scheme and the volumes of soft plastics collected, SPSA considers it important to include kerbside as a collection channel together with other collection options. This is consistent with stakeholder interviews conducted under the NPRS, where eight out of nine stakeholders considered that soft plastics collection would be more efficient and accessible for households if a variety of collection methods were used.⁵⁶ SPSA will continue to undertake further testing of various collection channels, including through its Queensland trials.
- 63 Further, the trials conducted under the NPRS suggest that bag-in-bin can be an effective kerbside collection method to prevent contamination and issues at MRFs. The NPRS trial results showed that:
- (a) Contamination within the bags was minimal (<2%);
 - (b) Outbound contamination on paper/cardboard recycling commodities also had a negligible impact;
 - (c) 95% of bags were captured by MRFs at pre-sort with no additional staff. Missed bags could potentially be captured with additional staff (eg, through SPSA / product stewardship scheme support); and
 - (d) Of the 5% of bags missed in the pre-sort, 83-95% of missed bags remained intact as they passed through the MRF.

[registers/documents/Submission%20by%20Australian%20Council%20of%20Recycling%20-%202006.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Australia%20Limited.pdf?ref=0&download=y](https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Council%20of%20Recycling%20-%202006.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Australia%20Limited.pdf?ref=0&download=y); Australian Marine Conservation Society, Submission dated 22 April 2025, p 5. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Marine%20Conservation%20Society%20-%202022.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; Waste Management and Resource Recovery Association of Australia, Submission dated 7 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Waste%20Management%20and%20Resource%20Recovery%20Association%20of%20Australia%20-%202007.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

⁵⁴ Australian Marine Conservation Society, Submission dated 22 April 2025, p 5. Available at:

<https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Marine%20Conservation%20Society%20-%202022.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

⁵⁵ Australian Food and Grocery Council, NPRS Trials Review (Full Report), p 14. Available at: https://spsa.au/wp-content/uploads/2024/09/afgc-softplasticstrialsreport_final_web-5.pdf.

⁵⁶ Australian Food and Grocery Council, NPRS Trials Review (Full Report), p 38. Available at: https://spsa.au/wp-content/uploads/2024/09/afgc-softplasticstrialsreport_final_web-5.pdf.

- 64 Indeed, ACOR's submission acknowledges the importance of bag in bin collections, suggesting that kerbside collection of soft plastics should be contingent on soft plastics being bagged in robust program bags, as loose soft plastics pose a significant contamination risk for MRFs.⁵⁷ Bags under current kerbside trials are made from 100% recycled content and can be opened mechanically at processing facilities by a bag splitter, so there is minimal risk to health and safety.⁵⁸
- 65 In relation to concerns that kerbside collections will place a burden on councils, SPSA will provide financial and operational support to councils, and is engaging with councils regarding any concerns. As outlined above, the Scheme covers the incremental costs of operations – where councils elect to participate, SPSA intends to fund incremental council costs incurred in implementing and operating kerbside collections, as was the case under the NPRS trials. This would include costs such as the starter kits and any incremental education, transport or sortation costs. There is no intention for councils to fund these additional costs. Furthermore, participation by councils is voluntary and will be based on mutually agreed operational models, for example in relation to community opt in vs opt out and communication with residents.⁵⁹ Importantly, council participation is an opportunity to meet the needs of residents; as above, the councils that participated in the NPRS trials attest to encouraging results and have not reported any concerns regarding what was required of them.
- 66 SPSA is also committed to providing ongoing support to stakeholders to maximise appropriate community education and labelling of products, which in turn will assist with derisking existing waste stream contamination:
- (a) As set out in the Application, SPSA will facilitate community education. SPSA acknowledges that consumer knowledge around recycling remains a major issue. SPSA intends to undertake education and awareness activities, in accordance with its objects under its constitution. These activities will target increased community awareness regarding the benefits of soft plastics recycling and how to recycle soft plastics, which will in turn increase levels of soft plastics recycling. SPSA will leverage insights from the supply chain through the SAC to develop education programs. In particular, SPSA will facilitate the provision of tailored information to households where kerbside collection is available (whether as part of a trial or pilot or on a commercial scale).⁶⁰ Under the NPRS trials, nearly 70% of respondents were 'extremely satisfied' with information on how to use the trial bags and the quality of the bags.⁶¹
 - (b) SPSA will also consider labelling to indicate support for the Scheme, including support for the use of the Australasian Recycling Label (**ARL**) and the 'Check Locally' logo for soft plastics (**Soft Plastics ARL**). The ARL provides consumers with easy-to-understand instructions on how to dispose of packaging, and the Soft Plastics ARL informs

⁵⁷ ACOR, Submission dated 6 May 2025, p 8. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Council%20of%20Recycling%20-%2006.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Australia%20Limited.pdf?ref=0&download=y>.

⁵⁸ This addresses concerns raised by WALGA and the Australian Marine Conservation Society. See WALGA, Submission dated 22 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20WALGA%20-%2022.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; Australian Marine Conservation Society, Submission dated 22 April 2025, p 5. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Marine%20Conservation%20Society%20-%2022.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

⁵⁹ In the NPRS trials, the participating councils' preference was to maintain responsibility for communications with residents. To simplify this and to ensure consistency of messaging, the AFGC made available a portfolio of resources for councils to use within their existing communications systems. Any incremental costs were covered by the NPRS.

⁶⁰ Local area marketing, as opposed to mass media marketing, is important to manage potential contamination concerns in neighbouring councils.

⁶¹ Australian Food and Grocery Council, NPRS Trials Review (Full Report), p 15. Available at: https://spsa.au/wp-content/uploads/2024/09/afgc-softplasticstrialsreport_final_web-5.pdf.

consumers of locations where they can recycle soft plastic packaging within their council area.

67 For completeness, SPSA notes that since ALGA's submission was provided to the ACCC, SPSA met with ALGA to discuss its submission. SPSA is working with ALGA to incorporate mechanisms to address any concerns in the broader development of the Scheme's operations.

5.7 SPSA will focus on consumer soft plastics initially and may expand to include other plastic materials over time

68 Some interested party submissions argue that the scope of the Scheme should extend to business-to-business soft plastics.⁶² For example, Zero Waste Victoria states "*While the focus on post-consumer soft plastics reflects strong community and council interest, a significant volume of business-to-business plastic, such as pallet wrap, which is often cleaner and easier to process remains largely unaddressed. Prioritising only visible post-consumer plastics risks favouring PR wins and marketing claims over genuinely addressing the full scope of soft plastic waste.*"⁶³

69 Some other interested parties state that the SPSA authorisation should be limited to soft plastics by clarifying the definitions of 'packaging' and 'used packaging' in SPSA's constitution.⁶⁴ APCO has suggested that as a condition of authorisation, the ACCC should "*Require amendments to SPSA's constitution to restrict and/or clarify the objects and activities of SPSA (including ensuring consistency with the NEPM)*".⁶⁵

70 SPSA's draft Scheme Agreement is clear that the Scheme will cover soft plastic or flexible packaging which is used for the containment, protection, marketing, handling or distribution of products.⁶⁶ Schedule 5 of the Scheme Agreement includes a list of in-scope and out-of-scope packaging, which may be updated by SPSA from time to time.

71 SPSA intends to focus on post-consumer soft plastic packaging at the outset as this is the area where the greatest opportunities for improving recycling lie. Currently, business-to-business soft plastics are collected and recycled at scale and including business-to-business soft plastics in the Scheme could significantly impact the cost of the Scheme Levy. Accordingly, SPSA has chosen to prioritise soft plastics at this early stage of the Scheme.

5.8 Competitive tender processes are an important aspect of the Scheme in the medium to long term

72 Some interested party submissions argue that the Scheme fails to place liability on packaging producers and instead calls on processors to competitively tender a solution.⁶⁷

⁶² Zero Waste Victoria, Submission dated 4 May 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Zero%20Waste%20Victoria%2004.05.25%20-%20PR%20-%20AA1000694%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>; Cleanaway Waste Management, Submission dated 17 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Cleanaway%20Waste%20Management%20-%2017.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

⁶³ Zero Waste Victoria, Submission dated 4 May 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Zero%20Waste%20Victoria%2004.05.25%20-%20PR%20-%20AA1000694%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

⁶⁴ ACOR, Submission dated 6 May 2025, p 5. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Council%20of%20Recycling%20-%202006.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Australia%20Limited.pdf?ref=0&download=y>.

⁶⁵ APCO, Submission dated 9 May 2025, p 112. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20APCO%20-%202009.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

⁶⁶ See Schedule 5 of the Application.

⁶⁷ Waste Management and Resource Recovery Association of Australia, Submission dated 7 April 2025, p 4. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Waste%20Management%20and%20Resource%20Recovery%20Association%20of%20Australia%20-%202007.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>; Clean Up Australia,

- 73 Competitive public tender processes are important to encourage competition, stimulate innovation and ensure transparency and accountability. Competitive tender processes are commonly used in global product stewardship schemes, domestic council recycling arrangements and container deposit scheme practices.
- 74 In terms of securing processing capacity, the RFI / RFP process will have two main aims: (1) enter into contracts with processors who are currently operating or set to be operating in the near term, ensuring the existing recycling sector and near term Scheme operations are viable; and (2) longer term competitive tendering to encourage innovation from existing and new processors entering the market.

6 Future packaging regulation

6.1 Mandatory participation in the Scheme is a question for government and the voluntary SPSA Scheme is an important step in the right direction

- 75 Several interested party submissions indicate a preference for a mandatory stewardship scheme for soft plastics recycling.⁶⁸ However, most submissions acknowledge that the SPSA Scheme would be an initial step towards a more comprehensive, mandatory framework. For example:
- (a) *"A mandatory (legislated) soft plastics recycling scheme would provide the best long-term funding certainty for the Scheme and (by extension) the participating Councils... In the short to medium term, until a mandatory scheme is established, the proposal by SPSA is our best option to secure industry funding and sustainably grow the soft plastics recycling industry."*⁶⁹
- (b) *"SPSA, as a voluntary scheme, should be viewed as an initial step towards this more comprehensive and enforceable framework."*⁷⁰
- 76 SPSA agrees that a mandatory scheme is preferable in the longer term. However, the current national framework for used packaging materials, underpinned by the *National Environment Protection (Used Packaging Materials) 2021 (Cth) (NEPM)* and the *Recycling and Waste Reduction Act 2020 (Cth) (RAWR Act)*, does not provide for this.
- 77 While the current framework does not allow for mandatory participation, SPSA is positioned to support mandatory participation from brand owners in the future,⁷¹ including if this is an outcome of the government's proposed national packaging reform. As set out in its Application, the proposed SPSA-led Scheme could operate within each of the three options being considered by

Submission dated 23 April 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Clean%20Up%20Australia%20-%202023.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

⁶⁸ Australian Council of Recycling, Submission dated 10 April 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Council%20of%20Recycling%20-%202006.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Australia%20Limited.pdf?ref=0&download=y>; Cleanaway Waste Management, Submission dated 17 April 2025, pp 1–2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Clean%20Up%20Australia%20-%202023.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; Southern Sydney Regional Organisation of councils, Submission dated 17 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Southern%20Sydney%20Regional%20Organisation%20of%20councils%20%28SSRO%20-%29%20-%2017.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

⁶⁹ Central Adelaide Waste and Recycling Authority, Submission dated 4 April 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Central%20Adelaide%20Waste%20and%20Recycling%20Authority%20-%202003.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

⁷¹ Soft Plastic Stewardship Australia Limited, *Application to the Australian Competition and Consumer Commission for interim and final authorisation* (11 April 2025), p 19. Available at: https://www.accc.gov.au/system/files/public-registers/documents/Application%20Received%20-%202018.03.25%20-%20PR%20VERSION%20-%20SPSA_0.pdf?ref=0&download=y.

government, and SPSA will continue to engage with the Department of Climate Change, Energy, the Environment and Water on this to ensure the Scheme is compatible with national reform. The outcome of the government's recent consultation on the proposed reform is yet to be announced and any regulatory reform could take a number of years to implement.

- 78 In the interim, the voluntary SPSA scheme represents an effective industry-led solution and a positive step towards circularity for soft plastics. SPSA is ready to act now, pending ACCC authorisation. Without this immediate action, there is a significant risk to the viability of a number of soft plastics processors and recyclers and the growth of soft plastics recycling.
- 79 The success of existing voluntary schemes – such as Paintback, Big Bag Recovery, Recycle My Mattress and the Tyre Product Stewardship Scheme – demonstrates the public benefits that a voluntary scheme can offer, even without mandatory participation. Further, the enactment of the RAWR Act, which establishes a framework for accreditation of voluntary product stewardship schemes "to encourage and recognise product stewardship",⁷² serves as recognition by government of the potential public benefits arising from voluntary schemes.
- 80 While the Scheme is voluntary, the Scheme design includes various safeguards to protect against the risk of free-riding. For example, the levy structure aims to reduce the likelihood of free riders and achieve long-term Scheme sustainability, including through the use of the Minimum Levy, auditing processes and the amortisation of Scheme establishment costs over the initial eight years of the proposed Scheme. These mechanisms simplify administration and compliance for smaller retailers and consumer brands and are intended to increase their participation in the Scheme, mitigating the risk of free-riding. Additionally, SPSA and APCO have been discussing ways of working together that could assist with free rider engagement, including proactively encouraging relevant APCO members who are not SPSA participants to join the Scheme.
- 81 Therefore, while SPSA agrees that a mandatory scheme is preferable in the long term, and SPSA is positioned to support a mandatory scheme should this be the outcome of the national packaging reform, a mandatory stewardship scheme is not possible under the current national framework. Nonetheless, the voluntary Scheme represents a positive step towards a circular economy for soft plastics, and has appropriate safeguards to minimise free-riding.

6.2 The Scheme provides a pathway to increase sustainable packaging design

- 82 Several interested party submissions raise concerns about a perceived lack of regulation on packaging design and use, and suggest that SPSA should prioritise this.⁷³ For example, Clean Up Australia states "A primary priority of the Scheme should be to mandate good design of soft plastics packaging, placing obligations on all Scheme participants to design their products for circularity, thereby minimising waste at the outset".⁷⁴

⁷² Explanatory Memorandum, Recycling and Waste Reduction Bill 2020 (Cth) p 46. Available at: https://downloads.lawone.com.au/cth/legislation/bill/2020/id_193862/RWR_EM.pdf.

⁷³ Zero Waste Victoria, Submission dated 4 May 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Zero%20Waste%20Victoria%2004.05.25%20-%20PR%20-%20AA1000694%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>; Clean Up Australia, Submission dated 23 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Clean%20Up%20Australia%20-%2023.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; Waste Management and Resource Recovery Association of Australia, Submission dated 7 April 2025, p 3-4. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Waste%20Management%20and%20Resource%20Recovery%20Association%20of%20Australia%20-%202007.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>; Green Industries SA and Environment Protection Authority (SA), Submission dated 28 April 2025, p 3. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Green%20Industries%20SA%20and%20Environment%20Protection%20Authority%20%28SA%29%20-%2028.04.25%20-%20PR%20-%20AA100095%20Soft%20Plastic%20Stewardship%20Australia.pdf?ref=0&download=y>.

⁷⁴ Clean Up Australia, Submission dated 23 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Clean%20Up%20Australia%20-%2023.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

- 83 As set out in section 4.3 above, SPSA acknowledges the importance of packaging design in establishing a circular economy for soft plastics and supports the introduction of mandatory standards by government that reflect APCO's Sustainable Packaging Design guidelines and the global CEFLEX soft plastic design guidelines. The Scheme's design affords scope to SPSA to encourage packaging design for circularity, including any sustainable packaging design standards implemented by government. For example:
- (a) soft plastics recyclers will be able to communicate with packaging suppliers and brand owners through the SAC, which will include members from recyclers and the packaging industry and can assist with the phasing out of problematic and nonrecyclable packaging components; and
 - (b) there is a possibility for the Scheme Levy to be structured to incentivise design for recyclability, including by eco-modulation.⁷⁵ As explained in more detail in section 4.3 above, eco-modulation can operate to incentivise more sustainable packaging design with increased recyclability and recycled content.
- 84 While SPSA is willing to assist government in developing relevant standards and will continue to advocate for circularity and changes to packaging design, SPSA's intention is to support any mandatory government standards rather than to impose its own standards through membership terms.

7 SPSA is consulting with APCO in relation to possibilities for working together

- 85 Some interested party submissions note the national packaging reform currently under consideration by federal government and recommend that stewardship interventions in packaging complement broader reform.⁷⁶ Relatedly, some interested parties state that alignment with APCO should be prioritised.⁷⁷
- 86 SPSA has been in discussions with APCO regarding possibilities for working together. This section:
- (a) explains that there is a role for both SPSA and APCO in increasing recycling of soft plastics in Australia, however, only SPSA is in a position to act immediately (see section 7.1);
 - (b) outlines SPSA's discussions with APCO to date in relation to the possibility of working together (see section 7.2);
 - (c) addresses several assertions made by APCO in its submission (see section 7.3); and
 - (d) explains why the conditions proposed by APCO are unnecessary or inappropriate (see section 7.4).

⁷⁵ Soft Plastic Stewardship Australia Limited, *Application to the Australian Competition and Consumer Commission for interim and final authorisation* (11 April 2025), p 22. Available at: https://www.accc.gov.au/system/files/public-registers/documents/Application%20Received%20-%2018.03.25%20-%20PR%20VERSION%20-%20SPSA_0.pdf?ref=0&download=y.

⁷⁶ See for example: Sustainability Victoria, Submission dated 14 April 2025. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Sustainability%20Victoria%20-%2014.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>; Zero Waste Victoria, Submission dated 4 May 2025, p 4. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Zero%20Waste%20Victoria%2004.05.25%20-%20PR%20-%20AA1000694%20Soft%20Plastic%20Stewardship%20Australia%20Limited.pdf?ref=0&download=y>.

⁷⁷ See, for example, Australian Council of Recycling, Submission dated 10 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Council%20of%20Recycling%20-%2010.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; Australian Dairy Products Federation, Submission dated 17 April 2025, p 5. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Dairy%20Products%20Federation%20-%2017.04.24%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

7.1 There is a role for both APCO and SPSA in increasing recycling of soft plastics in Australia

(a) APCO's role

87 APCO is the industry body responsible for administering the Australian Packaging Covenant (the **Covenant**).⁷⁸ The Covenant forms part of the co-regulatory framework for packaging in Australia, underpinned by the NEPM. As set out in the Covenant:

*The Covenant applies to businesses in a supply chain that are consumers of packaging or packaged products that have an annual turnover of \$5 million or more. These businesses are required to choose between becoming a Signatory to the Covenant, and contributing to collective national efforts in managing packaging waste, or meeting compliance obligations under the NEPM, which are implemented by the laws and other arrangements of participating states and territories where a business sells or distributes its products. The NEPM thus provides free-rider protection to ensure Signatories are not competitively disadvantaged by participating in the Covenant.*⁷⁹

88 APCO's roles and responsibilities are defined in the Covenant.⁸⁰ Among other things, APCO is responsible for:

- (a) working with Environment Ministers and the Government Officials Group, consisting of senior officials from each participating commonwealth, state and territory government;
- (b) managing the monitoring and evaluation of the performance of the Covenant, including the collection of data against key performance indicators;
- (c) determining funding of the Covenant (subject to endorsement from Environment Ministers) and collecting membership fees from signatories;
- (d) managing the communications on the work of the Covenant and Signatories efforts, including promotion of the Covenant and its activities;
- (e) managing projects funded under the Covenant; and
- (f) undertaking compliance measures for the Covenant.

89 Implementation of the Covenant is supported by a five-year Strategic Plan. The Strategic Plan is developed by APCO, agreed with Commonwealth, state and territory governments and requires endorsement from Environment Ministers.

90 In August 2024, APCO released its 2030 Strategic Plan (Version 1: 15 August 2024), covering the period from July 2024 to June 2030.⁸¹ At the time of its publication on 15 August 2024, the 2030 Strategic Plan was still under discussion with the Packaging Government Officials Group and it had not been provided to Environment Ministers.⁸² SPSA understands that the 2030 Strategic Plan has not yet been endorsed by Environment Ministers. Whether and when the Plan will be endorsed and in what form is unclear given the government is currently considering several options for reform.

91 APCO acknowledged in its 2030 Strategic Plan that "*The strategies and activities in this Plan go significantly beyond the strategies and activities that APCO undertook under its previous Strategic Plan*"⁸³ and that APCO would need to develop its current capability to achieve this. APCO's timeframe for implementing the 2030 Strategic Plan includes an initial period in FY25-FY26 to develop a methodology to use Covenant funds to procure system outcomes, which

⁷⁸ Available at: <https://www.dcceew.gov.au/sites/default/files/documents/australian-packaging-covenant-2017.pdf>.

⁷⁹ Australian Packaging Covenant, p 2.

⁸⁰ See Schedule 3 of the Australian Packaging Covenant.

⁸¹ Available at: <https://documents.packagingcovenant.org.au/public-documents/2030%20Strategic%20Plan>.

⁸² APCO, 2030 Strategic Plan, p 4.

⁸³ APCO, '2030 Strategic Plan', p 6.

APCO acknowledges is "a major undertaking requiring expansion of APCO's capability".⁸⁴ APCO also recently announced that it would defer implementation of the model proposed in the Plan beyond FY27 to allow for more time to work with government and industry to refine the model.⁸⁵

- 92 APCO has also acknowledged that an important part of its future role will be to engage with multiple producer responsibility organisations (**PROs**) to deliver the proposed schemes.⁸⁶

(b) SPSA's role

- 93 While APCO has an important role to play as administrator of the Covenant, the Covenant is not the exclusive arrangement for reducing the environmental impact of packaging in Australia. As above, businesses are required to choose between becoming a signatory to the Covenant or meeting other compliance obligations under the NEPM (as implemented by the laws and other arrangements of participating states and territories). Outside of the co-regulatory framework, government recognises that there are other avenues for product stewardship arrangements for packaging to operate and to be recognised under the RAWR Act. The RAWR Act provides the framework for voluntary product stewardship and accreditation of voluntary schemes, as well as co-regulatory and mandatory schemes.

- 94 This is acknowledged in APCO's proposed 2030 Strategic Plan, which notes as follows:

The Strategies and activities to be undertaken by APCO under this Plan all fall within the scope of APCO's role and responsibilities under the Covenant. In addition to activities generated under the Plan, there are a range of other activities, led by governments and industry, that keep packaging out of landfill and from being littered, and that contribute to the Targets and Goals of the Covenant. These include kerbside recycling, container deposit/return schemes (CDS/CRS), and industry led stewardship and extended producer responsibility (EPR) schemes.⁸⁷

- 95 Government mandated container deposit schemes exist throughout Australia. In addition, a number of voluntary, industry-led product stewardship schemes operate to reduce the environmental impact of packaging in Australia, such as Big Bag Recovery, bagMUSTER and Paintback. In 2020, the government released grant funding to industry under the Product Stewardship Investment Fund (**PSIF**)⁸⁸ to encourage industry to develop voluntary product stewardship schemes under the RAWR Act. In total, 24 grants were issued to organisations including the AFGC's NPRS, APCO's pot-plant packaging and plastic oil containers projects, Planet Ark's PODcycle for used coffee capsules, Dairy Australia's Silage Wrap project, and RM Consulting Group's Agricultural Plastics Stewardship Scheme.

- 96 SPSA was established to develop and operate a voluntary, industry-led product stewardship scheme for soft plastics, building on the work of the Soft Plastics Taskforce and the AFGC's NPRS.

- 97 Subject to ACCC authorisation, SPSA has an important role to play to ensure continued soft plastics recycling and to increase soft plastic recycling rates, including by contracting with service providers for collection, sortation, processing and recycling of used soft plastics and any other associated third-party logistics services.

⁸⁴ APCO, '2030 Strategic Plan', p 40.

⁸⁵ APCO, 'Consultation feedback helps shape next steps for EPR activation' (6 June 2025). Available at: <https://apco.org.au/news/20Y0I00000NkVgKMAV>.

⁸⁶ APCO, '2030 Strategic Plan', pp 17, 21-23.

⁸⁷ APCO, '2030 Strategic Plan', p 5.

⁸⁸ DCCEEW, National Product Stewardship Investment Fund. Available at: <https://www.dcceew.gov.au/environment/protection/waste/product-stewardship/national-product-stewardship-investment-fund#:~:text=To%20support%20this%20goal%2C%20we%20set%20up%20the,Applications%20are%20now%20closed%20for%20the%20competitive%20round>.

- 98 As set out in the Application, SPSA's intended role will deliver significant public benefits, including fostering industry development, stimulating end markets, creating environmental benefits and creating jobs (among other things). Notably, SPSA is in a position to act immediately, pending ACCC authorisation. Rapid action is critical to ensure that soft plastics recyclers have sufficient feedstock and financial support to, at a minimum, remain operational. Without increased levels of feedstock and financial support, the development of additional soft plastics recycling capacity is likely to be delayed. Further, taking action now will assist in rebuilding consumer recycling habits that were in place prior to the collapse of the REDcycle program, which is a gradual process. APCO's submission fails to consider these significant risks associated with failing to act now.
- 99 APCO is not currently in a position to execute the operational aspects of producer responsibility schemes. APCO has acknowledged that it needs to develop the capability to enter into and manage contracts for the collection, sortation and recycling of target materials, including soft plastics, and that this will take a number of years.⁸⁹ While the timeline is currently uncertain, APCO's recent announcement regarding its 2030 Strategic Plan reflects that APCO requires more time to work with industry and government to refine its model.⁹⁰
- 100 Without SPSA operating in the immediate future, there is a significant risk to the viability of a number of soft plastics recyclers, to the growth of Australia's soft plastics recycling infrastructure and therefore to collection services for community and the circular economy for soft plastics in Australia.

7.2 SPSA has been in discussions with APCO regarding possibilities for working together

- 101 As set out in SPSA's Application, SPSA has been consulting with APCO in relation to future possibilities for working together. To provide additional context, discussions with APCO pre-date the formation of SPSA, with the AFGC having engaged with APCO in 2020 in relation to its proposal to form a separate PRO to run the operations and administration functions of a soft plastics recycling scheme. Further meetings were held with APCO in 2021 and 2022, in line with NPRS milestones. At the time, APCO indicated that it did not have the capability to provide the required PRO services. From late 2022, APCO staff participated in the NPRS Scheme Design Working Group, led by Helen Lewis, which assessed global best practice to inform and develop the scheme design framework. The AFGC and Taskforce ultimately announced their intention to work together to create a separate PRO at the Soft Plastic Summit in 2023, which APCO attended.
- 102 SPSA sees benefit in working with APCO; APCO's systems can be effectively utilised to deliver administrative efficiencies for members, for example in relation to invoicing and confidential data collection. SPSA's operations will also support progress towards the National Packaging Targets and the Covenant's aim to reduce the environmental impacts of consumer packaging, and SPSA's public reporting can assist APCO in monitoring this progress as one aspect of performance of the Covenant. SPSA intends to continue discussions with APCO regarding integration between the SPSA Scheme and APCO's role as administrator of the Covenant.
- 103 In terms of future arrangements, the federal government is currently considering numerous options for packaging reform, which has the potential to impact APCO and its proposed 2030 Strategic Plan. SPSA considers that it can operate with APCO under the NEPM framework, under the RAWR Act or under any of the reform options, and is ready to commence operations while the regulatory reform process is occurring. In fact, government has indicated that it expects SPSA to restore soft plastics recycling services as soon as possible and has therefore considered a

⁸⁹ APCO, '2030 Strategic Plan', pp 6, 19, 40.

⁹⁰ APCO, 'Consultation feedback helps shape next steps for EPR activation' (6 June 2025). Available at: <https://apco.org.au/news/20Y0I0000NkVqKMAV>.

variety of regulatory models and factors when designing the Scheme. Should government introduce regulations that necessitate a substantive change to the Scheme design, in these circumstances, SPSA may seek to revoke or vary its authorisation as appropriate.

- 104 Furthermore, the design and commencement of APCO's 2030 Strategic Plan and the timing of any roll out is not yet certain. The Plan has not yet been endorsed by Environment Ministers and APCO recently announced that implementation had been deferred to allow for refinement of its model. If APCO's Strategic Plan is finalised and endorsed by Ministers, SPSA will consider possible alignment with the final proposal, however, SPSA is ready to commence operations now, subject to ACCC authorisation.
- 105 SPSA intends to continue discussions with government and APCO around what a potential future state could look like, and to work closely with APCO in relation to future ways of working together. In particular, SPSA is hopeful to finalise an agreement with APCO regarding its support for SPSA's operations in the immediate term (ie, under the current Application). In the longer term, SPSA could operate within each of the federal government's proposed packaging reform options, including a model under which APCO's revised 2030 Strategic Plan is ultimately endorsed. In the immediate term, SPSA's proposal provides a critical pathway for processors and recyclers facing imminent feedstock shortages that threaten not only their survival but also the future of soft plastics recycling in our communities.

7.3 SPSA rejects a number of assertions in APCO's submission

- 106 On 9 May 2025, after several months of detailed discussions, SPSA and APCO signed a joint communication detailing how the entities may work together to drive efficiencies for industry (**Joint Communication**). The purpose of the Joint Communication was to explain in more detail how SPSA and APCO might work together under the current Application and how SPSA could fit into a future scenario where APCO's revised 2030 Strategic Plan was endorsed by government. In addition to the Joint Communication, APCO made a submission to the ACCC on the same day, which SPSA was not involved with and which goes beyond the matters that were outlined in the Joint Communication. SPSA understands that the Joint Communication reflects the current state of discussions between the parties and resolves some of the points in APCO's submission of the same date. In light of this, SPSA respectfully considers that it needs to respond to some of the points raised in the APCO submission, including those that are inconsistent with the Joint Communication (in particular APCO's proposed conditions) and has addressed each of these below.

(a) SPSA maintains the urgency of its request for interim authorisation to establish and collect the levy

- 107 APCO's submission states that APCO:
- (a) supports SPSA taking over management of the NPRS kerbside collection pilots; and
 - (b) supports with conditions the granting of urgent interim authorisation to allow SPSA to commence the collection of levies.
- 108 In relation to the latter, APCO states that it is premature for SPSA to be collecting levies from members where it does not have ACCC authorisation and that SPSA will take over control of funds collected by the AFGC and those funds are sufficient for SPSA to continue the NPRS pilots.⁹¹

⁹¹ APCO, Submission dated 9 May 2025, pp 5-6. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20APCO%20-%2009.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

109 As set out in the Application, interim authorisation to establish and collect the levy would allow SPSA to commence operations more quickly if ACCC authorisation is ultimately granted. This is critical to provide feedstock and investment certainty to soft plastics processors and recyclers and to realise the public benefits of the scheme as soon as possible. As set out above and reflected in the submissions of iQRenew and APR, guaranteed, consistent feedstock volumes are essential to ensure the continued operation of facilities.⁹² This is the key reason underpinning the urgency of SPSA's request for interim authorisation.

110 As a secondary consideration, APCO does not know the amount of funds collected by the AFGC to run the pilot program or the cost to run the pilot program. Accordingly, APCO is not in a position to assert that SPSA will have sufficient funds to run the NPRS pilot program without further support from members.

(b) SPSA's governance structure does not pose competition and public detriment risks

111 The SPSA governance framework was largely guided by the work of the NPRS Scheme Design Working Group, which APCO staff participated in. As set out at paragraph 17 above, the Scheme design is based on global best practice, initially guided by the work of RPS Consulting, Helen Lewis Consulting and Peter Allen Consulting in 2021, and further informed by direct meetings with global schemes and experts in 2022, including, Fost Plus, Nedvang (now Verpact), EXPRA, Ecosurety, and Valpak.

112 APCO argues that "*The Scheme as currently proposed does not provide sufficient assurances that its governance will prevent control by a single market segment. Given the commercial significance of sectors such as retail, manufacturing, and brand ownership, there is a real risk that one cohort may, even inadvertently, influence decisions in a way that narrows focus or distorts shared objectives*".⁹³ APCO states that this poses "*several competition and public detriment risks*", including disproportionate influence over key decisions, undermining of the national packaging stewardship framework and government oversight, reduced participation and sector confidence, duplication and fragmentation, and undermining long-term system integrity.⁹⁴

113 As above, while APCO's submission raises concerns about the risks of the proposed Scheme, it fails to acknowledge the significant risks associated with failing to act now. Continuing discussions without starting delivery of change now creates significant risks for the viability of some recyclers and will delay the development of additional soft plastics recycling capacity in Australia. SPSA is positioning itself to take action as soon as possible, including through its request for interim authorisation to issue a RFI and RFP.

114 In terms of APCO's specific concerns about SPSA's governance structure, as set out in section 3.1 above, SPSA's governance structure has been established to ensure independence, transparency and decision-making which is informed by a diverse range of perspectives across the full spectrum of the supply chain. While a smaller group of brands and retailers have taken the initiative to establish SPSA and the Scheme, as set out in SPSA's Constitution, the Board will ultimately be made up of a combination of proprietary brand owners, retail brand owners, industry

⁹² iQRenew, Submission dated 9 April 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20iQRenew%20-%202009.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>; Australian Paper Recovery, Submission dated 10 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Australian%20Paper%20Recovery%20Pty%20Ltd%20-%202010.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

⁹³ APCO, Submission dated 9 May 2025, pp 6-7. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20APCO%20-%202009.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

⁹⁴ APCO, Submission dated 9 May 2025, p 7. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20APCO%20-%202009.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

association or SME directors and independent directors. Independent directors will be skills-based to align with the lifecycle and governance needs of SPSA, and could therefore be filled by a non-conflicted director with recycling experience and expertise. The Board is required to act in the best interests of SPSA, consistent with its duties under the *Corporations Act 2001* (Cth).

- 115 The Board will also be supported by SPSA's Stakeholder Advisory Council, which will comprise representatives from diverse stakeholder groups, such as processors and recyclers, government agencies, environmental non-governmental organisations, consumer groups, brand owners, retailers, academics and independent experts. The SAC will provide guidance, stakeholder insights and industry expertise to SPSA on activities and matters relevant to the efficient and effective development and operations of the Scheme.
- 116 SPSA is confident that as it progresses establishment activities, such as appointing independent directors and commencing the SAC, this will give confidence to industry.
- 117 SPSA can operate within the current national packaging stewardship framework and plans to provide regular public reporting as well as updates to government on its activities. SPSA intends to work with industry to ensure that reporting and other systems are set up to minimise administration for participants. SPSA sees benefit to working with APCO to further enhance efficiencies for members, however, even if an agreement is not reached with APCO, SPSA considers that with sufficient industry engagement and tailored system design, authorisation of the SPSA Scheme would not result in duplication and fragmentation as described by APCO.⁹⁵ Other authorised packaging schemes currently operate using third-party providers to black-box data and invoice scheme participants. SPSA may similarly use other service providers for these functions.

(c) SPSA's proposed model can operate within the current co-regulatory arrangements for managing soft plastics

- 118 APCO argues that SPSA's application does not fully reflect the operational and regulatory arrangements already in place for managing soft plastics and that limited consideration of APCO's functions could create challenges for integration.⁹⁶
- 119 SPSA rejects this. REDcycle operated for 10 years without a formal agreement with APCO and the only at scale operations currently being delivered are by the Taskforce, as authorised by the ACCC. Further, existing voluntary schemes such as the NPRS, Big Bag Recovery and Simply Cups may interact with APCO in various ways, but can function with or without APCO. Despite this, SPSA has given due consideration to APCO's current function throughout Scheme design, and that is why SPSA has been engaging with APCO on ways of working together. As set out above, SPSA considers there to be a role for both APCO and SPSA under the current arrangements; SPSA sees APCO's and SPSA's roles as complementary.
- 120 SPSA disagrees that its proposed model creates challenges for integration with the current co-regulatory framework. Indeed, Annexure A to the joint communication by APCO and SPSA (**Joint Communication**) sets out a possible way for APCO and SPSA to work together while maintaining SPSA's proposed model (see Horizon 1).⁹⁷ APCO would have a role in invoicing, data collection and data assurance, while SPSA would deliver the proposed Scheme operations

⁹⁵ APCO, Submission dated 9 May 2025, p 7. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20APCO%20-%202009.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

⁹⁶ APCO, Submission dated 9 May 2025, p 8. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20APCO%20-%202009.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

⁹⁷ APCO and SPSA, Joint Communication dated 9 May 2025, p 2. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Applicant%20and%20APCO%20-%202009.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

and provide reporting to APCO to assist with its role in overseeing compliance and performance against the National Packaging Targets (in addition to public reporting).

- 121 The core of APCO's concern appears to be that SPSA has not yet agreed to align with APCO's proposed 2030 Strategic Plan (rather than SPSA's application not reflecting the *current* arrangements). As above, this is because of the current uncertainty around the proposed 2030 Strategic Plan and future regulatory reform. Nonetheless, as indicated by the Joint Communication, SPSA is willing to continue discussions with APCO around what a potential future state could look like.

(d) SPSA rejects the argument that the SPSA Scheme may have limited public benefits and poses the risk of reducing competition and resulting in public detriments

- 122 APCO's submission states that "*APCO is supportive in principle, for the establishment of the Scheme, however, in its current proposed form, APCO is concerned that its establishment may have limited public benefits and poses risks in reducing competition and resulting in a number of public detriments*".⁹⁸ In particular, APCO makes the following points:

- (a) "*APCO considers is [sic] critically important that the Scheme is able to operate alongside and consistently with the Covenant and APCO's role in administering the Covenant.*"⁹⁹
- (b) "*If the nature of the Scheme, including how SPSA is to operate and work alongside and consistently with the Covenant and APCO's role in administering the Covenant is not properly determined, this poses the risk of undermining the integrity of Australia's national packaging framework, duplicating existing regulatory responsibilities, and compromising the delivery of the National Packaging Targets.*"¹⁰⁰

- 123 For the reasons set out above, like other voluntary packaging schemes, SPSA considers that its proposed model can operate within the current co-regulatory arrangements for managing soft plastics, and the Scheme is able to operate alongside and consistently with the Covenant and APCO's role in administering the Covenant. Indeed, SPSA is hopeful to finalise an agreement under which SPSA would work alongside APCO and support its role in administering the Covenant. Nonetheless, even without a formal agreement between APCO and SPSA, the Scheme does not pose the risk of undermining the integrity of Australia's national packaging framework, duplicating regulatory responsibilities or compromising the delivery of the National Packaging Targets. In particular:

- (a) The notion that the Scheme could undermine the integrity of Australia's national packaging framework ignores the fact that a number of voluntary, industry-led packaging schemes already exist and operate in parallel to the NEPM, and that REDcycle operated for 10 years without a formal agreement with APCO. If it wished, APCO could design its fees to acknowledge existing schemes and avoid duplication.
- (b) As acknowledged by the Joint Communication, SPSA is not proposing to, nor can it, take on APCO's role in the current co-regulatory framework. SPSA's proposed function as a scheme delivery organisation is distinct from APCO's role as administrator of the Covenant. However, as above and as set out in APCO's 2030 Strategic Plan, PROs like SPSA have a role to play in reducing the environmental impacts of packaging, particularly

⁹⁸ APCO, Submission dated 9 May 2025, p 6. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20APCO%20-%202009.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

⁹⁹ APCO, Submission dated 9 May 2025, p 6. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20APCO%20-%202009.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

¹⁰⁰ APCO, Submission dated 9 May 2025, p 6. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20APCO%20-%202009.05.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.

in executing the operational aspects of producer responsibility schemes. If SPSA does not commence operations imminently, it will either delay the establishment of additional recycling capacity in Australia or, at worst, lead to the failure of recyclers that are currently operating.

- 124 SPSA's efforts cannot be characterised as compromising the delivery of the National Packaging Targets. The Scheme directly supports the National Packaging Targets by managing collection systems and building industry capacity and infrastructure to recycle soft plastics. Based on APCO's data, SPSA estimates that business-to-consumer soft plastics represented approximately 30% of total plastic packaging placed on market in 2022-23, while other plastic packaging formats represented approximately 70%.¹⁰¹ Therefore, to reach National Packaging Target 2 (70% of plastic packaging being recycled or composted) without improvements in business-to-consumer soft plastics recycling, close to 100% of rigid plastic and business-to-business soft plastic packaging would need to be recycled, which SPSA understands has not yet been achieved globally. From a practical standpoint, National Packaging Target 2 cannot be delivered without further collective action on soft plastics recycling, including to recommence and expand collection and recycling of business-to-consumer soft plastic packaging. The Scheme can also fast-track the phase out of problematic and nonrecyclable packaging components through supply chain collaboration (particularly through the SAC) and through possible incentives such as eco-modulation. Further support from government would enhance its ability to do so. Finally, it is worth noting that without the work of the Soft Plastics Taskforce and the NPRS, there would be essentially no broad-based recycling of household soft plastics in Australia.

7.4 Conditions proposed by APCO are unnecessary or inappropriate

- 125 While SPSA is willing to work with APCO and has emphasised and demonstrated this through discussions with APCO, the conditions proposed by APCO at Annexure D of its submission are unnecessary and/or inappropriate and generally do not add public benefit to SPSA's proposal. SPSA's responses to the proposed conditions are set out at Schedule 1. As a general comment, the conditions tying SPSA to APCO and the NEPM are unnecessary and wholly inappropriate given the reform options being considered by government and the uncertainty around how the packaging reform may impact both APCO's Strategic Plan and the NEPM. APCO's recent announcement regarding deferment of its proposed model further underlines this. In addition, a number of the proposed conditions go beyond the position reached between APCO and SPSA to date, as reflected in the Joint Communication.

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¹⁰¹ APCO, Australian Packaging Consumption & Recovery Data 2022-23 (December 2024), p 119 (p 123 of PDF). Available at: <https://documents.packagingcovenant.org.au/public-documents/APCO%20Australian%20Packaging%20Consumption%20and%20Recovery%20Data%202022-23>. SPSA has estimated business-to-consumer soft plastics using the total tonnes for Bag or pouch, Closure, Label or seal and Shopping bag in Table F-25.

Schedule 1 SPSA response to APCO proposed conditions

No.	APCO proposed condition	SPSA response
-	Require amendments to SPSA's constitution to restrict and/or clarify the objects and activities of SPSA (including ensuring consistency with the NEPM).	<p>This is both unnecessary and inappropriate as a condition of authorisation. It does not aid the delivery of a public benefit for community.</p> <p>SPSA's objects are clearly defined in its Constitution.</p> <p>The ACCC application provides a description of the proposed Scheme activities and the Proposed Conduct that SPSA is seeking authorisation for.</p> <p>APCO's submission does not provide a rationale for requiring such amendments nor has it requested this of other voluntary schemes currently in operation, including the Taskforce.</p> <p>As set out at paragraph 125 above, the NEPM may be subject to regulatory change, and therefore it is inappropriate to tie SPSA's authorisation to this.</p>
-	Specify the scope and/or activities which are permitted under the Scheme.	<p>This is unnecessary as a condition of authorisation as the ACCC application provides a description of the proposed Scheme activities, the Proposed Conduct that SPSA is seeking authorisation for and the resultant public benefits.</p> <p>In relation to the Scheme's scope in terms of packaging, the draft Scheme Agreement sets out that the Scheme will cover soft plastic or flexible packaging which is used for the containment, protection, marketing, handling or distribution of products. Schedule 5 of the Scheme Agreement includes a list of in-scope and out-of-scope packaging, which may be updated by SPSA from time to time.</p>
-	Specify and require changes to SPSA's board composition to include a broader range of directors and/or a minimum number of independent directors.	<p>This is unnecessary as a condition of authorisation.</p> <p>SPSA's Board composition has been carefully considered taking into account global best practice. SPSA's approach is consistent with a number of international schemes where boards are composed of a majority of the companies that fund the system and bear the financial obligations and are responsible for delivering recycling outcomes. SPSA's Constitution provides for the appointment of up to two independent directors as well as up to two industry association or SME directors.</p> <p>As set out at paragraph 115 above, the SAC will provide a forum for the broader supply chain to have input into the Scheme.</p>

No.	APCO proposed condition	SPSA response
-	Require SPSA to comply with specific reporting requirements and provide APCO with specific reports relating to the operation and conduct of the Scheme.	It is unnecessary to require SPSA to comply with specific reporting requirements, given SPSA's commitment to setting targets for the Scheme and public reporting. As set out in the Joint Communication by APCO and SPSA, SPSA intends to provide both regular public reporting as well as reporting to APCO. Other packaging schemes do not have a similar arrangement in place with APCO.
-	Require SPSA to consult with APCO in the conduct and operation of the Scheme to ensure consistency with the NEPM and APCO's statutory role as the national co-regulator.	<p>This is unnecessary and inappropriate as a condition of authorisation as SPSA has engaged with APCO historically and indicated its intention to continue working with APCO to create efficiencies for industry.</p> <p>SPSA's proposed activities are not inconsistent with the NEPM or APCO's role as administrator of the Covenant. Other packaging schemes do not have a similar arrangement in place with APCO.</p> <p>As set out at paragraph 125 above, the operation of the NEPM and APCO's role under the NEPM may change in future packaging reform, and therefore it is inappropriate to tie SPSA's authorisation to this.</p>
1. Alignment with the National Co-Regulatory Framework		
1.1	SPSA must operate in a manner that is consistent with the National Environment Protection (Used Packaging Materials) Measure 2011 (NEPM) and the Australian Packaging Covenant.	<p>This is unnecessary as a condition of authorisation as SPSA's proposed operations are consistent with the NEPM and the Covenant.</p> <p>As set out at paragraph 125 above, the NEPM may be subject to regulatory change, and therefore it is inappropriate to tie SPSA's authorisation to this.</p>
1.2	<p>The Scheme must recognise and operate consistently with APCO's statutory role as the national co-regulator, including APCO's role in:</p> <p>(a) Setting and administering fees related to packaging stewardship,</p> <p>(b) Collecting, managing, and verifying placed-on-market data, and</p> <p>(c) Overseeing assurance, compliance, and reporting functions across the packaging supply chain.</p>	<p>This is inappropriate as a condition of authorisation and is not required of other packaging schemes. As set out above, while APCO has an important role in setting and collecting membership fees to fund the Covenant, collecting data and overseeing compliance with the Covenant, the Covenant is not the exclusive arrangement for reducing the environmental impact of packaging in Australia. As acknowledged in the Joint Communication by SPSA and APCO, SPSA is responsible for setting the levy under the SPSA Scheme. Nonetheless, there is a role that APCO could play in the proposed Scheme to deliver efficiencies, including in relation to the collection of fees and placed-on-market data and the provision of assurance services.</p>

No.	APCO proposed condition	SPSA response
2. Integration with the National Packaging Targets and 2030 Strategic Plan		
2.1	SPSA's design, operations, and reporting must align with APCO's 2030 Strategic Plan and support the achievement of the National Packaging Targets.	<p>This condition is inappropriate as:</p> <ul style="list-style-type: none"> APCO's 2030 Strategic Plan does not set out design, operational or reporting frameworks for PROs such as SPSA or other packaging schemes currently in operation; APCO's 2030 Strategic Plan is yet to be finalised and receive endorsement from Environment Ministers, hence its contents are not yet confirmed and therefore it is uncertain whether or when it will be implemented at this stage. <p>Operation of the SPSA Scheme is intended to increase the recycling of soft plastics and could, in future, incentivise uptake of reusable packaging and recycled content standards, therefore supporting progress towards the National Packaging Targets. The Scheme would not stop mandatory packaging regulation being introduced and could be used to support action by government.</p>
2.2	All communications and performance reporting must reflect a unified national system to avoid confusion or conflicting messaging to industry, government, and the public	<p>This is unnecessary as a condition of authorisation and is not required of other packaging schemes currently in operation. SPSA's communications and performance reporting will focus on soft plastic packaging and can form part of broader messaging and reporting by APCO in relation to the national packaging system. As set out in row 4.2 below, SPSA has committed to quarterly and annual public reporting, including on progress towards SPSA's targets.</p>
3. EPR Fees and Financial Flows		
3.1	SPSA must work with APCO in the establishment of its costs and required funding, so that brand owners have clarity that Extended Producer Responsibility (EPR) or eco-modulated fees on materials are levied once by APCO are collected under the co-regulatory framework	<p>This is unnecessary and inappropriate as a condition of authorisation as SPSA has shown its intention to work with APCO to create efficiencies for members, including in the Joint Communication dated the 9 May 2025.</p> <p>Under its model, SPSA is responsible for its costs, which will be based in part on contracts that result from the RFI/RFP process to ensure they reflect actual system capabilities.</p> <p>Further, APCO has not yet received endorsement to levy EPR or eco-modulated fees on materials. Given the packaging reform, it is not clear if or when this will occur, or what form it may take.</p>

No.	APCO proposed condition	SPSA response
3.2	<p>From FY2027 assuming commencement of APCO's 2030 Strategic Plan, all EPR fees must:</p> <p>(a) Be determined by APCO,</p> <p>(b) Be collected through APCO's mechanisms, and</p> <p>(c) Be passed through to SPSA to cover all Scheme costs for services.</p>	<p>This is inappropriate as a condition of authorisation as APCO's 2030 Strategic Plan is not yet finalised, has not received endorsement from Environment Ministers and is pending further refinement following consultation. Therefore, it is uncertain whether and in what form the Plan will be implemented at this stage.</p> <p>As indicated in the Joint Communication by APCO and SPSA, SPSA intends to work with APCO to consider future arrangements if APCO's 2030 Strategic Plan receives Ministerial endorsement.</p>
3.3	<p>For the interim period (FY2026), SPSA should receive funding through voluntary contributions collected by APCO. These contributions:</p> <p>(a) Must be clearly communicated as voluntary and non-binding,</p> <p>(b) Must be invoiced and managed solely by APCO, and</p> <p>(c) Should follow the principles outlined in the joint communication included in Annexure A, whether or not formally agreed at the time of authorisation is granted.</p>	<p>As set out in the Joint Communication by APCO and SPSA, it is currently contemplated that APCO could have a role in invoicing and collecting the SPSA levy from Scheme participants. This would create administrative efficiencies, particularly for APCO members that are already required to pay member fees and report packaging usage to APCO. However, it is inappropriate to impose this as a condition of authorisation and ultimately if an agreement is not reached between APCO and SPSA invoicing could be done by another entity.</p> <p>In relation to 3.3(c), the Joint Communication by APCO and SPSA was intended to provide an update on discussions regarding the role that APCO may play in the SPSA Scheme and does not reflect a final position agreed between the parties as this is currently in development.</p>

No.	APCO proposed condition	SPSA response
4. Data Stewardship and Reporting Integrity		
4.1	SPSA must be required to collect placed-on-market packaging data through APCO to maintain accuracy, consistency, and national comparability.	<p>As set out in the Joint Communication by APCO and SPSA, it is currently contemplated that APCO would collect placed-on-market packaging data from scheme participants and provide aggregated data to SPSA. This would leverage APCO's current function which involves collecting packaging data to monitor performance of the Covenant, creating administrative efficiencies for APCO members who would only be required to provide data to the one entity. However, this is not appropriate as a condition of authorisation. Even if SPSA collected packaging data separate to APCO (ie, through a separate collection agent), this would not impact the accuracy, consistency and national comparability of the data provided to APCO.</p> <p>Further, Scheme Participants with less than \$5 million in turnover are not be required to be APCO members under the NEPM. SPSA will consider whether packaging reports for these Scheme Participants are collected through APCO or otherwise.</p>
4.2	SPSA must report its scheme outcomes to APCO in a manner aligned with APCO's public assurance and reporting framework under the 2030 Strategic Plan	<p>SPSA has committed to quarterly and annual public reporting, including on progress towards SPSA's targets.</p> <p>This is not appropriate as a condition of authorisation as, while APCO's proposed 2030 Strategic Plan states that it will implement assurance and compliance processes for services provided to APCO by PROs under contract, the Plan does not include any further detail on a public assurance and reporting framework.</p> <p>The SPSA Scheme already has audit and assurance mechanisms built into the design.</p>
5. Market Access		
5.1	Participation in SPSA must not be used as a condition of doing business with retailers or other supply chain actors, and APCO members must retain the right to participate in alternative or supplementary stewardship models without penalty	As set out in SPSA's application, the Proposed Conduct does not prevent an individual Scheme Participant from exploring or developing soft plastics recycling capabilities in their own right and will not detract from or adversely impact the development of other soft plastics recycling solutions as participation in the Scheme is voluntary.

No.	APCO proposed condition	SPSA response
6. Sunset and ACCC Review		
6.1	Authorisation must be subject to a mandatory review by the ACCC to occur at the three years from the date of authorisation	SPSA has committed to independent review of the Scheme in the third and seventh year of the Scheme's operations. This will cover, among other things, the success of the Scheme in meeting its annual targets, those targets being a mechanism to measure some of the public benefits being delivered by the Scheme.
6.2	The review should assess: (a) Whether SPSA continues to operate in alignment with Australia's national regulatory framework, and (b) Whether its activities are delivering verifiable, measurable public benefits consistent with the objectives of the NEPM and National Packaging Targets	As acknowledged in a number of interested party submissions, a longer authorisation term would provide greater investment certainty as new infrastructure requires a number of years (ie, beyond three years) for investment, design, build, commercialisation and operation. For example, Cleanaway's submission to the ACCC dated 17 April 2025, in which Cleanaway acknowledges that " <i>the construction of at-scale facilities combined with the time to obtain regulatory approvals means that it takes a minimum of 4 years for a project to proceed from concept to commissioning</i> ". ¹⁰² This underpins SPSA's request for an eight-year authorisation term (see further detail in section 5.3 above).

¹⁰² Cleanaway Waste Management, Submission dated 17 April 2025, p 1. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Cleanaway%20Waste%20Management%20-%202017.04.25%20-%20PR%20-%20AA1000695%20Soft%20Plastics.pdf?ref=0&download=y>.