



Determination

**Application for revocation of AA1000627 and the substitution of
authorisation AA1000673**

lodged by

**Coles Group Limited on behalf of itself and participating
supermarkets**

in respect of

conduct in connection with soft plastics

Authorisation number: AA1000673

27 February 2025

Commissioners: Keogh

Williams

Summary

The ACCC has decided to grant authorisation with conditions to enable Coles, Woolworths, ALDI and its Program Partners, to engage in conduct in connection with soft plastics recycling, specifically to manage the remaining soft plastics stockpiles and continue with their in-store soft plastics collection pilot program.

The ACCC has decided to grant authorisation with conditions until 31 July 2026.

The ACCC considers that the conduct is likely to result in environmental benefits through increased potential to divert soft plastics from landfill, and that is a public benefit. The ACCC also considers it is likely there is some limited public benefit in the form of clear and consistent messaging to consumers regarding the in-store soft plastics collection pilot program and the management of the stockpile.

The ACCC considers that with the conditions, there is likely to be limited, if any, public detriments arising from increasing barriers to entry to other industry participants and reduced competition for the supply of transport, storage and recycling services for soft plastics. The ACCC does not consider that the conduct is likely to result in a public detriment in the form of potential for facilitation of anti-competitive conduct, due to continued oversight and the conditions of authorisation.

In addition to the continuation of the reporting conditions previously imposed by the ACCC, the ACCC has included a new condition to further mitigate the likelihood of any public detriment by requiring that, in general, contracts, arrangements or understandings entered into whilst engaging in the conduct do not restrict any recycling or logistics provider from supplying services to another customer.

1. The application for revocation and substitution

- 1.1. On 24 June 2024, Coles Group Limited lodged an application to revoke authorisation AA1000627 and substitute authorisation AA1000673 for the one revoked with the Australian Competition and Consumer Commission (the **ACCC**) on behalf of itself and its related bodies corporate (**Coles**), Woolworths Group Limited and its related bodies corporate (**Woolworths**) and ALDI stores (together, the **Participants**).
- 1.2. The Participants are seeking authorisation to continue to implement the soft plastics stockpile remediation plan and the in-store soft plastics collection pilot program until 31 July 2026.
- 1.3. This application for revocation and substitution was made under subsection 91C(1) of the *Competition and Consumer Act 2010* (Cth) (the **Act**). If granted, an authorisation provides the relevant parties with protection from legal action under the specified provisions in Part IV of the Act in respect of the specified conduct. The ACCC has a discretion to grant authorisation, but must not do so unless it is satisfied in all the circumstances that the conduct would result, or be likely to result, in a benefit to the

public and that benefit would outweigh the detriment to the public that would result, or be likely to result, from the conduct (ss 90(7) and 90(8) of the Act (the **authorisation test**)).

- 1.4. The Participants also requested interim authorisation to enable them to engage in the conduct while the ACCC considered the substantive application. On 18 July 2024 the ACCC granted interim authorisation in accordance with subsection 91(2) of the Act. Interim authorisation was granted for the same conduct authorised in authorisation AA1000627.¹ Interim authorisation remains in place until it is revoked or the date the ACCC's final determination comes into effect or when the application for revocation and substitution is withdrawn.

The Participants

- 1.5. Coles lodged the application on behalf of itself and the Participants.
- 1.6. The Participants are also seeking for authorisation to apply to any current or future program partners in the stockpile remediation plan and the in-store collection pilot program (**Program Partners**), being a class of persons within the meaning of section 88(2) of the Act.
- 1.7. The current list of Program Partners is contained at Schedule 1 of this determination.

The Proposed Conduct

- 1.8. On 8 October 2024, the Participants sought to extend the term for which authorisation is sought by a further 12 months.
- 1.9. On 6 December 2024, the Participants sought variation of the application to update the description of the Proposed Conduct.
- 1.10. The Participants seek authorisation for the Participants and any Program Partners in respect of:
 - a) **the stockpile remediation plan** to process, store and transport existing stockpiled materials in New South Wales, Victoria, South Australia and Western Australia and/or dispose of such materials in landfill where landfill cannot reasonably be avoided, and/or
 - b) **the in-store collection pilot program** to collect, process, store and transport collected materials,

to discuss and share information regarding, and enter into and give effect to, contracts, arrangements and understandings solely in relation to the following activities:

- c) engagement with third-party recycling and logistics providers (including domestic or overseas providers) including:

¹ See ACCC decision of 18 July 2024 available on the ACCC's [public register](#).

- i) undertaking site visits, and
- ii) establishing contract terms with such providers, including establishing service level agreements and formalised audit process,
- d) membership terms and conditions and fees for Participants and Program Partners,
- e) communications to customers or to the public, including providing recycling directions for soft plastics packaging in respect of the in-store collection pilot program,
- f) identifying processing, storage and transport options for stockpiled materials or materials collected for the in-store collection pilot program,
- g) collection logistics and end to end management, and expansion of collections of materials based on geographic/volume metrics, subject to available processing capacity, for the in-store collection pilot program,
- h) business models to support cost sharing, including with brands and other retailers, for the in-store collection pilot program,

only where this conduct occurs at, in preparation for, or arises out of a meeting of the Soft Plastics Taskforce

(the **Proposed Conduct**).

1.11. The Participants have confirmed that the term 'end to end management' as referred to in subparagraph (g) of the Proposed Conduct is intended to refer to the activities necessary for the ongoing operation of the in-store pilot, including the broader day-to-day management and oversight activities such as store communications, collection and delivery schedules, and liaising with necessary third parties.²

2. Background

REDcycle

- 2.1. RG Programs and Services Pty Ltd was a Melbourne-based consultation and recycling organisation which operated the REDcycle soft plastic collection and recycling program.
- 2.2. The Participants partnered with REDcycle to provide in-store collection points for consumers to return their soft plastics for collection by REDcycle to be recycled.
- 2.3. REDcycle announced the immediate suspension of its soft plastics collection program in November 2022, on the basis that its recycling partners had stopped accepting soft plastics for processing.³ REDcycle indicated that a significant decrease in demand for recycled soft plastics and a 350% increase in the volume of soft plastics being

² [Participants' variation to proposed conduct](#) dated 6 December 2024.

³ Coles Group ["Roadmap to Restart: an interim plan to restore community access to soft plastics recycling through Australian supermarkets"](#) 7 March 2023, accessed 6 December 2024.

returned through the program had placed strain on their operations. Close the Loop, one of REDcycle's main processing partners also paused operations in June 2022 following a significant fire event, which also contributed to the collapse of the REDcycle program.

- 2.4. Coles and Woolworths immediately ceased in-store soft plastics collection at their stores following REDcycle's announcement. Shortly after this announcement, the Participants formed the Soft Plastics Taskforce to address the immediate effects of the suspension of REDcycle's collection program.
- 2.5. Following REDcycle's collapse, unprocessed stockpiles of soft plastics of approximately 11,000 tonnes in total were discovered at 44 sites nationally.
- 2.6. In February 2023, REDcycle accepted an offer by Coles and Woolworths to take control of the stockpile while recycling solutions were explored. Shortly after this the Supreme Court of New South Wales made an order for the winding up of REDcycle's parent company.
- 2.7. On 3 March 2023, the NSW Environment Protection Authority (**NSW EPA**) issued Clean-up notices to Coles and Woolworths in relation to the stockpiles in that jurisdiction.
- 2.8. On 30 June 2023, the ACCC granted authorisation AA1000627 to the Participants for a period of 12 months to enable them to collaborate to explore interim solutions for processing the stockpile and for the resumption of in-store collection of soft plastics for recycling.
- 2.9. On 10 May 2025, the NSW EPA amended the Clean-up notices issued to Coles and Woolworths in relation to the stockpile in NSW, extending the time frame for stockpile remediation in that jurisdiction until March 2025.⁴

Progress since authorisation AA1000627

- 2.10. Since 1 December 2022, the Participants have provided the minutes of 25 meetings and 7 quarterly progress reports in relation to activities of the Soft Plastics Taskforce.⁵ The activities can be generally grouped into 3 categories - stockpile consolidation, processing the stockpile, and in-store collection pilot.

Stockpile consolidation

- 2.11. Initial steps taken by the Soft Plastics Taskforce were primarily focused on exploring solutions for stockpile remediation including:
 - investigating and identifying locations and volumes of stockpiles across multiple jurisdictions
 - engaging with relevant authorities to secure the necessary licences and permits to safely store and process the stockpiles

⁴ NSW EPA, [Redcycle clean-up extended to increase recycling options](#), 10 May 2024, accessed 30 October 2024.

⁵ Minutes and progress reports are published on the ACCC's public register. See , authorisation [AA1000627](#) Coles Group on behalf of itself and participating supermarkets and authorisation [AA1000673](#).

- commencement of activities to consolidate and relocate the stockpiles into secure facilities.

2.12. The Participants submit that authorisation has facilitated the consolidation and relocation of approximately 11,000 tonnes of soft plastics to secure EPA and Council approved facilities in NSW, Victoria and South Australia, as well as very small volumes in WA and Tasmania. The small stockpile from Tasmania has now been consolidated into the Victorian stockpile.

2.13. According to the Participants, less than 4% of the stockpiled soft plastics have been diverted to landfill, being material which was too heavily contaminated or deteriorated to be recycled. As processing continues, it is possible that more of the stockpile may be sent to landfill due to contamination or degradation, though the Participants note this is likely to be a small portion.⁶

Stockpile processing

2.14. Based on figures provided by the Participants approximately 7,400 tonnes of the soft plastics stockpile remains unprocessed as at January 2025 (refer table 1 below at paragraph 2.16). Processing of the stockpile has advanced since October 2024, when the reported stockpile volume was 9,603 tonnes.⁷ The Participants submit that processing of the stockpile is not expected to be completed until 2026.

2.15. The Participants submit that it was only possible to commence processing of the stockpile once processing capacity became available. The Participants also submit that the processing of the stockpiled materials is subject to a variety of factors outside their control including:

- when processors receive equipment to enable their operations, some of which is sourced internationally
- securing sufficient customers and markets for processed products made from soft plastics (end markets)
- obtaining regulatory and commercial approval
- other delays to or pauses in processing.

2.16. The Participants submit the authorisation has enabled them to cooperate to support processors, including through:

- provision of advice and information to processors
- contracting with processors to provide them with sufficient feedstock for processing
- contracting with processors to procure the outputs made from the production processes

⁶ Participants' progress report dated [22 April 2024](#).

⁷ Participants' progress report dated [22 October 2024](#).

- assisting processors with obtaining regulatory approvals where possible and appropriate
- direct investments in plant and equipment
- facilitating introduction to create partnerships to provide end-to-end markets for manufactured products
- agreeing to support infrastructure for all types of recycling outcomes beyond just those relevant to the manufacture of food grade packaging.

Table 1: stockpile volume by state as at 22 January 2025⁸

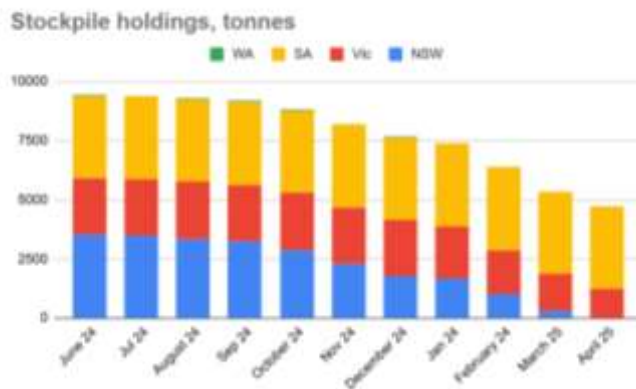
State	Stockpile volume	Processors	Processing commenced	Estimated annual capacity (tonnes)	Current status	Estimated completion
VIC (incl TAS)	2,200 tonnes	Centre for Regenerative Design and Collaboration (CRDC)	April 2024	2,500	CRDC is continuing to process materials from the stockpile and pilot program (however not all capacity is exclusively available to the Participants).	Late August 2025
		Close the Loop	Early 2024	2,500	Close the Loop paused operations in early 2024 shortly after commencing processing.	
		Replas	No	2,400	Replas has commenced testing and is expected to begin processing shortly.	
NSW	1,700 tonnes	IQ Renew	March 2024	15,000 – 30,000	IQ Renew and Saveboard are processing stockpile. Material from the pilot program is also being processed alongside the stockpile. IQ Renew is processing materials collected from the NSW stores participating in the pilot program.	April 2025
		Saveboard	Late 2023	500		
		A third processor	No	1,500		
SA	3,500 tonnes	Recycling Plastics	No	5,000	RPA is anticipated to commence processing in June or July 2025	First half of 2026

⁸ Compiled using data collated from Participants' progress report dated [22 October 2024](#) and Participants' progress report dated [22 January 2025](#).

		Australia (RPA)				
		Sustainable Infrastructure Systems	No	1,000		
WA	0 tonnes	N/A	Yes			Processing completed as of January 2025
Total remaining as at January 2025: approximately 7,400 tonnes						

2.17. On 22 January 2025, the Participants provided the following chart outlining the progress in stockpile processing projected to April 2025.⁹

Figure 1: Processing progress per state, as at January 2025



2.18. As at January 2025, the Participants report that they have engaged a third-party logistics provider to ship product which has undergone processing by iQRenew to a chemical recycler in the United States to be converted into base components for food grade soft plastics.¹⁰ The A-Grade product is exported and can be remade into food grade soft plastics whereas the B and C-Grade materials are being pelletised within Australia and then sold for non-food grade purposes, such as the plastic pellets being made into flower pots.¹¹

2.19. According to their respective submissions to a South Australia Select Committee on recycling of soft plastics and other recyclable material, as at September 2023 Coles and Woolworths have spent more than \$3 million managing the stockpile.¹²

⁹ Participants' progress report [dated 22 January 2025](#).

¹⁰ Participants' progress report dated [22 January 2025](#).

¹¹ Supermarket Soft Plastics Taskforce Meeting 25, Minutes dated [28 November 2024](#).

¹² Coles and Woolworths both made submissions to a 2023 SA inquiry into soft plastics recycling. Parliament South Australia, [select committee on recycling soft plastics and other recyclable material](#), accessed 6 December 2024.

Pilot program for in-store soft plastics collection

- 2.20. The Participants submit that the authorisation has also facilitated the launch of the pilot program in early 2024 for the recommencement of in-store soft plastics collection.
- 2.21. According to the Participants' Progress Report dated 22 October 2024,¹³ the pilot program has been running in 12 Victorian stores (5 Coles, 5 Woolworths, 2 ALDI) across metropolitan Melbourne and was expanded to 30 stores in New South Wales (25 Woolworths, 5 ALDI) from Newcastle up to the mid north coast in August 2024.¹⁴ As at end of December 2024, approximately 45 tonnes of soft plastic has been collected through the pilot program.¹⁵
- 2.22. On 25 November 2024, the pilot program was expanded to a further 65 Woolworths stores in Western Sydney.¹⁶
- 2.23. Soft plastics collected from the in-store collection pilot program are being processed alongside the remaining stockpiles. According to the Participants, soft plastics collected through the pilot program are typically recycled within 4 weeks of collection.¹⁷

Addressing soft plastic waste in Australia

- 2.24. Soft plastics are cheap, prolific and have very low recycling rates. While soft plastics have been on the market in Australia for many years, Australia's soft plastics recycling industry is not at scale to deal with the volume of soft plastic waste.¹⁸
- 2.25. In 2022, it was estimated that REDcycle collected approximately 7,500 tonnes per annum¹⁹ of soft plastics, a small fraction of the total 528,000 soft plastics in the Australian market.²⁰
- 2.26. End markets for the recycled material are limited as they compete with virgin soft plastic materials which are generally cheaper, more readily available and more versatile. The collapse of REDcycle highlighted several issues across the supply chain including limited reprocessing and recycling capacity and limited end markets.
- 2.27. There are several streams of work that seek to address the complex problem of plastic waste in Australia. These include:

¹³ Participants' Progress Report dated [22 October 2024](#).

¹⁴ On 22 January 2025, the Participants clarified that the reference to 31 stores in the progress report dated 22 October 2024 was an error and should be a reference to 30 stores. Refer to Participants' progress report dated [22 January 2025](#).

¹⁵ Participants' progress report dated [22 January 2025](#).

¹⁶ Participants' progress report dated [22 January 2025](#).

¹⁷ Participants' progress report dated [22 January 2025](#).

¹⁸ DCCEEW, [Reform of packaging regulation consultation paper](#), Commonwealth of Australia, 27 September 2024, accessed 12 December 2024, p 8.

¹⁹ Coles Group, [Roadmap to Restart: an interim plan to restore community access to soft plastics recycling through Australian supermarkets](#) 7 March 2023, accessed 6 December 2024.

²⁰ 'In 2021-22, 528,000 tonnes of flexible plastic packaging, representing 41% of all plastic packaging, was placed on the Australian market. In the same year, only 62,000 tonnes (11.7%) of flexible plastic packaging was recovered, dominated by film recovery from business-to-business applications (APCO 2024a)' DCCEEW, [Reform of packaging regulation consultation paper](#), Commonwealth of Australia, 27 September 2024, accessed 12 December 2024, p 8.

- Australia’s Environment Ministers met in June 2024 and noted progress on a roadmap to staged improvement in the harmonisation of kerbside collection. The roadmap will address a pathway and criteria to soft plastics collection that considers national design standards currently under development, different collection approaches across metropolitan, regional and remote locations and national processing capacity.²¹
- An independent not-for-profit product stewardship scheme has been created, Soft Plastics Stewardship Australia (**SPSA**) which builds on the work of the Australian Food and Grocery Council (**AFGC**) led National Plastic Recycling Scheme (**NPRS**)²². The SPSA website states it has been established to overcome the challenges of soft plastic recycling and plans to use levies raised from brand owners and retailers to fund areas of market failure across the supply chain. In 2022-2023, NPRS conducted trials for soft plastics kerbside collection and their survey showed 92% of households prefer kerbside collection.²³ SPSA notes elements of the program may be subject to ACCC authorisation.
- The current national co-regulatory framework for packaging creates obligations for brand owners to design more sustainable packaging to increase recycling and reduce litter.²⁴ It targets businesses with an annual turnover of \$5 million or more that produce or sell packaging or packaged products in Australia, including plastic, glass, paper, cardboard and metal packaging. A recent review found the framework to be ineffective.²⁵
- The Australian Government is reforming packaging regulation.²⁶ 3 policy options are being considered:
 - option 1 – Strengthening administration of the co-regulatory arrangement
 - option 2 – National mandatory requirements for packaging
 - option 3 – An extended producer responsibility scheme for packaging.
- An Australian Government funded Recycling Modernisation Fund is available and includes a Plastic Technology stream with up to \$60 million in funding available. This will support plastic recycling solutions, including soft plastics, including a recent announcement of a \$15.6 million investment in advanced and innovate recycling technology to divert more than 43,000 tonnes of soft plastics from Victorian landfills every year.²⁷
- South Australia recently held an Inquiry into the Recycling of Soft Plastics and Other Recyclable Material acknowledging the complexities to addressing soft

²¹ DCCEEW [Environment Ministers Meeting Communiqué](#), 21 June 2024, accessed 12 December 2024.

²² Australian Food and Grocery Council, [soft plastic recycling](#), accessed 11 December 2024.

²³ Australian Food and Grocery Council [NPRS trials review](#) 11 April 2024, accessed 27 September 2024.

²⁴ DCCEEW, [Taking responsibility for our packaging](#), Commonwealth of Australia, accessed 31 January 2025.

²⁵ DCCEEW, [Reform of packaging regulation consultation paper](#), Commonwealth of Australia, 27 September 2024, accessed 12 December 2024.

²⁶ DCCEEW, [Reforming packaging regulation](#), Commonwealth of Australia, accessed 31 January 2025.

²⁷ The Hon Tanya Plibersek MP and Steve Dimopoulos MP, [Joint media release: soft plastic recycling gets \\$15.6 million boost in Victoria](#), [media release] 27 August 2024, accessed 12 December 2024.

plastics waste including that expanding soft plastics recycling requires more mechanical and advanced soft plastics recycling facilities and that feedstocks must be guaranteed.²⁸

3. Consultation

- 3.1. The ACCC invited submissions from a range of potentially interested parties including relevant government departments, recycling processors and environmental and consumer groups.

Submissions prior to the draft determination

- 3.2. The ACCC received 3 submissions from interested parties in relation to the application, prior to the draft determination.
- 3.3. Public submissions by the Participants and interested parties are on the [public register](#) for this matter.

Department of Climate Change, Energy, the Environment and Water

- 3.4. The Department of Climate Change, Energy, the Environment and Water (the **Department**) has chaired meetings of the Soft Plastics Taskforce since 2022 and supports the application. The Department's submission notes that there is a level of complexity involved in developing a national system for the collection and recycling of soft plastics, requiring cooperation throughout the entire supply chain.
- 3.5. The Department's submission indicates that processing capacity within Australia is improving following increased investment by Government in processing facilities to support soft plastic recycling solutions. Further additional processing capacity will take time to establish and the Department submits that this must be carefully managed to avoid similar circumstances which ultimately led to REDcycle's collapse.

Environment Protection Authority South Australia and Green Industries SA

- 3.6. The Environment Protection Authority South Australia (**EPA SA**) and Green Industries SA (**GISA**) made a joint submission in support of the application.
- 3.7. EPA SA and GISA note that soft plastic packaging is a significant problem. Their submission identifies that in 2020-21, whilst REDcycle was in operation, 538,000 tonnes of soft plastics were placed on the market with a recovery rate of 7%. Citing data published by the Australian Packaging Covenant Organisation (**APCO**), EPA SA and GISA anticipate that this will rise to 583,000 tonnes in 2024-2025 and continue to increase.
- 3.8. EPA SA and GISA submit that there must be effective collection systems and infrastructure in place to recycle soft plastics, as well as a sustainable end market for utilisation of the recycled soft plastics into new products. Where one of those requirements fails, EPA SA and GISA note that recycling outcomes are likely to be

²⁸ Parliament South Australia, [Select committee on recycling soft plastics and other recyclable material](#), accessed 6 December 2024.

compromised. Without a current national solution for soft plastics, EPA SA and GISA considers that the Proposed Conduct will result in public benefits by informing long term-efforts to redirect soft plastics from landfill.

- 3.9. EPA SA and GISA encourage the Participants to work closely with relevant governments and APCO, given work being undertaken to reform packaging regulation at a national level, such as proposed packaging reform and kerbside soft plastics collection trials.
- 3.10. EPA SA and GISA submit that whilst the authorisation is likely to result in public benefits, consideration should be given to the work being conducted at a national level to address the multi-faceted issue posed by soft plastics packaging. Their submission is that a sustainable end-market for recycled soft plastics must be in place to avoid a scenario where soft plastics continue to be stockpiled such as occurred with REDcycle.

A member of the public

- 3.11. A member of the public also made a submission calling for more action to be taken to address the ongoing soft plastics recycling issue. This member of the public submits that progress in restarting the in-store collection of soft plastics for recycling has been slow and expressed dissatisfaction with the lack of transparency from the Participants and the limited availability of the in-store collection pilot program.

Submissions following the draft determination

- 3.12. On 19 December 2024, the ACCC issued a draft determination proposing to grant authorisation until 31 July 2026. A pre-decision conference was not requested following the draft determination.
- 3.13. The ACCC received 4 submissions from interested parties following the draft determination.

Environment Protection Authority South Australia

- 3.14. EPA SA supports the ACCC's draft determination proposing to grant authorisation to the Participants and their Program Partners. EPA SA also expressed concern that the Participants need to consider other industry participants from across the supply chain, such as retailers, brand owners, designers, waste management industry and processors, if they are to establish robust circular pathways for post-consumer soft plastics. EPA SA submits that the ACCC should include in its determination that the Participants must give consideration to the inclusion of other industry participants.

Department of Climate Change, Energy, The Environment and Water

- 3.15. The Department supports the ACCC's draft determination and submits it is willing to continue to chair meetings of the Soft Plastics Taskforce.

Boomerang Alliance

- 3.16. The Boomerang Alliance made a submission on behalf of itself and 55 allied organisations. Broadly, the Boomerang Alliance submits that:

- Consumers returned their soft plastics with the expectation that they be recycled and those soft plastics are labelled as recyclable. Therefore, they oppose any proposal which results in those soft plastics being discarded in landfills, other waste facilities or incinerated.
- On a short-term basis, exporting soft plastics may allow for expanded domestic collections. However, Australia must manage its own waste and it is the responsibility of the supermarkets as suppliers to ensure collected soft plastics are recycled in Australia.
- The Participants should take responsibility for their soft plastics, including through in-store collections and involvement in the anticipated Extended Producer Responsibility (EPR) scheme. An EPR scheme requiring full producer responsibility for associated costs will drive new practices that avoid, reduce, reuse or efficiently recycle soft plastics (within the context of a circular economy). The ACCC should consider imposing a range of conditions of authorisation which are discussed under 'conditions' at paragraph 4.72-4.84 below.

Wildlife Carers Group

3.17. Wildlife Carers Group supports the recycling of soft plastics but calls for a ban on paper shopping bags due to the effect of logging on animal habitats.

Response from Participants

3.18. In response to the Boomerang Alliance's submission, the Participants submit that:

- The Participants also object to soft plastics being discarded in landfills and note that less than 4% of the stockpile materials has been sent to landfill, being heavily deteriorated or contaminated material where recycling was not feasible.
- The Participants submit that whilst stockpiled and collected materials are currently being processed in Australia, the Participants do not consider that restriction on exporting or utilising processors overseas in future would result in a public benefit particularly in circumstances where end markets are still being established and the Australian soft plastics processing industry is still at an early stage in its development.
- The Participants refer to the limited scope of the Proposed Conduct and period of authorisation and that it is anticipated that there will be a transition to a broader industry-led soft plastics stewardship scheme of which the Participants will be members.

3.19. With respect to the Wildlife Carer Group's submission and the EPA SA's submission, the Participants note that submissions and suggested conditions are outside the scope of the draft determination and authorisation.

4. ACCC assessment

4.1. The Participants have sought authorisation for Proposed Conduct in relation to Division 1 of Part IV of the Act (cartel conduct) and sections 45, 46 and 47 of the Act

(contracts, arrangements or understandings that restrict dealings or affect competition). Consistent with subsections 90(7) and 90(8) of the Act,²⁹ the ACCC must not make a determination granting authorisation unless it is satisfied, in all the circumstances, that the conduct would result, or be likely to result, in a benefit to the public and that benefit would outweigh the detriment to the public that would result, or be likely to result, from the conduct.

Relevant areas of competition

- 4.2. To assess the likely effect of the Proposed Conduct, the ACCC identifies the relevant areas of competition likely to be impacted.
- 4.3. The ACCC is of the view that it is not necessary to precisely define the relevant markets for the purpose of assessing this application for authorisation.
- 4.4. The ACCC considers that the relevant areas of competition are likely to be the supply and acquisition of services for the storage, collection, transportation or logistics, recycling, manufacturing, management and processing of soft plastics in Australia as well as general grocery retailing in Australia.

Future with and without the Proposed Conduct

- 4.5. In applying the authorisation test, the ACCC compares the likely future with the Proposed Conduct that is the subject of the authorisation to the likely future in which the Proposed Conduct does not occur.

Participants' submission

- 4.6. The Participants submit that in the absence of the Proposed Conduct, there would be material restrictions on their ability to continue to work together and with government as part of the Soft Plastics Taskforce, including joint management of stockpiles and the in-store collection program.
- 4.7. They submit that without the Proposed Conduct, they would likely need to pause the in-store collection pilot program and they would be required to manage the stockpiles independently, and this could lead to those stockpiles being managed and processed in a less efficient and timely manner.

ACCC assessment

- 4.8. The ACCC considers that in the future with the Proposed Conduct, the Participants will continue to work together as part of the Soft Plastics Taskforce to jointly manage the stockpiles in each jurisdiction and the pilot in-store collection program. This will allow for a continuation of the status quo for the Participants to continue to engage with processing partners and other logistic providers to jointly manage the stockpile and for the restart of in-store collection.
- 4.9. The ACCC considers that in the future without the Proposed Conduct, the Participants will be required to materially restrict collaboration as part of the Soft Plastics

²⁹ See subsection 91C(7).

Taskforce and individually manage the stockpiles in each state and their respective in-store collection pilot programs as they currently stand.

- 4.10. The ACCC considers that as Coles and Woolworths jointly assumed responsibility for the REDcycle legacy stockpiles, in the future without the Proposed Conduct, the stockpiles would likely need to be individually assigned and managed, which may require changes to existing arrangements. The ACCC considers that in the future without the Proposed Conduct, there would be a disruption to current stockpile management and that this is likely to result in less efficient management and further delays in processing the stockpile.
- 4.11. The ACCC considers that in the future without the Proposed Conduct, there would be disruption to the existing arrangements for collection and processing with regard to the in-store collection pilot program, as the Participants would be required to manage and process their in-store collections individually. The ACCC considers that in the future without the Proposed Conduct, given the relative small volume of collections during the pilot programs, this disruption would result in less efficient management which may cause delays in any expansion of the pilot program or that it is likely that the individual Participants decide to cease their in-store pilot program.

Public benefits

- 4.12. The Act does not define what constitutes a public benefit. The ACCC adopts a broad approach. This is consistent with the Australian Competition Tribunal (the **Tribunal**) which has stated that in considering public benefits:

...we would not wish to rule out of consideration any argument coming within the widest possible conception of public benefit. This we see as anything of value to the community generally, any contribution to the aims pursued by the society including as one of its principal elements ... the achievement of the economic goals of efficiency and progress.³⁰

- 4.13. The Participants submit that the Proposed Conduct will result in the following public benefits:
- facilitating the development of solutions to soft plastics recycling
 - accelerating the commencement and activities of processing companies
 - diverting a significant amount of stockpiled material from landfill
 - providing clear and consistent information to the public, alleviating community concern and supporting the rebuilding of public trust in soft plastics recycling.
- 4.14. The ACCC considers that the first 3 benefits listed above can be categorised as environmental benefits which are addressed collectively below.
- 4.15. As such the ACCC has considered the above under the following headings:

³⁰ *Re Queensland Co-operative Milling Association Ltd* (1976) ATPR 40-012 at 17,242; cited with approval in *Re 7-Eleven Stores Pty Limited* (1994) ATPR 41-357 at 42,677.

- environmental benefits through increased potential to divert soft plastics from landfill
- clear and consistent messaging to consumers.

4.16. The ACCC's assessment of public benefits is informed by submissions from the Participants and interested parties, minutes of Soft Plastics Taskforce meetings and the quarterly progress reports provided to the ACCC as part of the conditions of Authorisation AA1000627 and interim authorisation.

Environmental benefits through increased potential to divert soft plastics from landfill

Participants' submission

- 4.17. The Participants submit that the existing authorisation has facilitated the development of solutions to soft plastics recycling, accelerated the commencement and activities of processing companies and diverted a significant amount of soft plastics from landfill. The Participants also submit that these benefits will continue to be realised if authorisation is granted.
- 4.18. Noting the challenges of soft plastics recycling, the Participants submit that the previous authorisation has enabled them to collaborate to manage the REDcycle stockpiles and develop and implement their in-store collection pilot program and without authorisation, it is more likely than not that in-store collection of soft plastics recycling would not have resumed.
- 4.19. The Participants submit that authorisation has enabled them to engage with and provide support to a range of soft plastics processing companies to accelerate the commencement of processing operations for soft plastics (refer paragraph 2.16 above), including by providing funding and forward purchase orders to processors. The Participants submit that they have also worked together to secure offtake partners for stockpiled materials.
- 4.20. The Participants submit under the previous authorisation they have engaged in significant stockpile consolidation and relocation activities. As noted above at paragraph 2.12, approximately 11,000 tonnes of soft plastics have been relocated to secure EPA and Council approved facilities nationally pending processing and less than 4% was sent to landfill.
- 4.21. The Participants submit that the Proposed Conduct will allow them to continue processing stockpiles as efficiently as possible, ensuring the diversion of those materials from landfill. The Participants further submit that it will allow them to continue to operate and develop their pilot program for the recommencement of in-store soft plastics collection and to engage with and support soft plastics processors on a collective basis, supporting the development and efficient use of Australia's soft plastics recycling capacity.
- 4.22. The Participants have also previously submitted that their pilot program will enable them to do the following:
- test consumer engagement and behaviours

- assess the quality, volume and brand categorisation of packaging materials returned through in-store collection
- test the logistical and reprocessing pathway to measure capability, performance and scaling requirements.³¹

ACCC assessment

- 4.23. As discussed in section 'Addressing soft plastic waste in Australia' above, the challenges associated with soft plastics recycling are complex and multi-faceted. The ACCC recognises these challenges, which require collaboration at a national level between industry and local, state and federal governments.
- 4.24. The ACCC considers that the steps taken by the Participants in providing funding to processors and engaging with processors and offtake partners has likely brought forward additional processing capacity in the absence of a national scheme. As a result, the vast majority of soft plastics from both the REDcycle stockpiles and collected through the in-store collection pilot program has been diverted from landfill, and it is more likely that this soft plastic will be recycled in addition to what has already been recycled.
- 4.25. The Participants' in-store collection pilot program has collected approximately 45 tonnes of soft plastics since it commenced in February 2024. As at 22 January 2025, the Participants reported that approximately 1.5 tonnes of soft plastics are being collected weekly through the Victorian stores and 0.5 tonnes weekly through the New South Wales stores participating in the in-store collection pilot program.³²
- 4.26. The ACCC considers that in-store collections of soft plastics remains important whilst Australia is transitioning towards packaging reform and an anticipated broader industry soft plastics stewardship scheme. The ACCC is aware of kerbside soft plastic collection trials operating in various areas. However, kerbside recycling is not yet available on a broad scale. The Participants' in-store collection pilot program provides some consumers with the option to recycle their soft plastics in the meantime. The ACCC considers that without the operation of the Participants' in-store collection pilot program, it is likely that many of those consumers would have no other option but to place their soft plastics in their household bins, resulting in that material ultimately ending up in landfill.
- 4.27. The ACCC does not consider that the Proposed Conduct will ensure all the soft plastics collected through the pilot program or the remaining stockpiles will be diverted from landfill. Factors such as degradation or contamination, which are outside the control of the Participants, may affect how much of the collected soft plastics can be recycled and it is possible that some of the collected soft plastics will ultimately end up in landfill.
- 4.28. The ACCC acknowledges that soft plastics processing infrastructure is still in development in Australia and that the Participants working collaboratively will likely continue to assist in advancing processors to come online to increase capacity to recycle soft plastics. The ACCC acknowledges the important role of government and increased funding for soft plastics processing/recycling noting that the Participants

³¹ Participants' progress report dated [22 April 2024](#).

³² Participants' progress report dated [22 January 2025](#).

play an integral role in providing feedstock to processors in the absence of large-scale kerbside collection.

- 4.29. Whilst the ACCC considers that processing of the stockpile has occurred much slower than anticipated, the ACCC recognises that stockpile processing under the interim authorisation has advanced between October 2024 to January 2025, particularly in NSW where the current stockpile volume is approximately 1,700 tonnes (down from 3,120 tonnes in October 2024) and is now expected to be completed by April 2025.
- 4.30. The ACCC considers that the future with the Proposed Conduct facilitates a cooperative approach between the Participants to be able to continue to collaborate to bring processors online, manage the existing stockpile and to coordinate the in-store pilot program (including collection, transportation and processing) and that this will occur in a more efficient and timely manner compared to a future without the Proposed Conduct. The ACCC considers that in the future with the Proposed Conduct the efficient and timely management of the stockpile and in-store collection program is likely to create the potential to divert more soft plastics from landfill compared to a future without the Proposed Conduct, and that this is a public benefit in the form of environmental benefits.

Clear and consistent messaging to consumers

Participants' submission

- 4.31. The Participants submit that authorisation has enabled them to develop clear messaging to consumers about:
- suspension of the REDcycle collections program
 - management of stockpiles
 - how consumers should deal with their soft plastics in the interim
 - the in-store pilot collection program which has commenced in Victoria.
- 4.32. The Participants also submit that this clear messaging has assisted in alleviating public concern following REDcycle's collapse and rebuilt trust in soft plastics recycling.
- 4.33. The Participants submit that this public benefit will continue to be realised if authorisation is granted for the Proposed Conduct, facilitating ongoing communication to consumers about the suspension of REDcycle, the management of the stockpiles, what consumers should do with their soft plastics and the in-store collection pilot program currently underway.

ACCC assessment

- 4.34. The ACCC considered the clear messaging to consumers as an important public benefit when assessing application for authorisation AA1000627 in 2023 following the immediate aftermath of REDcycle's collapse. At that time, there was a need for clear messaging to alleviate consumer confusion and concern about soft plastics recycling, to provide direction to consumers about how soft plastics should be managed until in-store collection could resume.

- 4.35. Whilst the ACCC acknowledges the steps taken by the Participants to provide direction to consumers through in-store signage and management of the stockpile, many of these initial steps were taken during the period of interim authorisation granted in respect of authorisation application AA1000627. This included the release of the Roadmap to Restart in February 2023.
- 4.36. The Participants have promoted their in-store collection pilot program through signage at participating stores, identifying to consumers which types of soft plastics are suitable for collection. An example of the signage being used is included below:



- 4.37. Whilst the ACCC recognises that communication by the Participants regarding the recommencement of in-store soft plastics collection through their pilot program plays an important role in addressing consumer concerns about soft plastics recycling, the ACCC considers that there has not been any significant joint communications to the public since the release of the Roadmap to Restart in particular in relation to the status of the stockpiles.
- 4.38. However, the ACCC considers that in the future with the Proposed Conduct clear and consistent messaging is more likely than in the future without the Proposed Conduct and this is a public benefit. However, the ACCC notes that the urgency and volatility of the current circumstances compared to at the time of the granting of the previous authorisation is less significant and has therefore weighted its consideration of this benefit accordingly.

ACCC conclusion on public benefit

- 4.39. The ACCC considers that the Proposed Conduct is likely to result in public benefits from:
- environmental benefits through increased potential to divert soft plastics from landfill
 - clear and consistent messaging to consumers regarding return to in-store soft plastics collection through the Participants' pilot program and management of the stockpile, although this public benefit is limited.

Public detriments

- 4.40. The Act does not define what constitutes a public detriment. The ACCC adopts a broad approach. This is consistent with the Tribunal which has defined it as:

*...any impairment to the community generally, any harm or damage to the aims pursued by the society including as one of its principal elements the achievement of the goal of economic efficiency.*³³

4.41. The Participants submit that the conduct for which authorisation is sought is unlikely to result in any public detriments for the following reasons:

- The Proposed Conduct is limited to the stockpile remediation plan and in-store collection pilot program.
- The Proposed Conduct will not detract from or adversely impact in any way, the development of any longer-term solutions, including the broader stewardship scheme. In addition, no Participant is prevented from exploring or developing their own soft plastics recycling capacity.
- It is proposed that authorisation be granted on condition that any contract, arrangements or understanding entered into in reliance on any interim or final authorisation granted will terminate upon the expiry or revocation of such authorisation (unless a further authorisation is granted).
- There is a high level of supervision and oversight including that the Proposed Conduct is restricted to conduct occurring at, in preparation for or arising out of, a meeting of the Soft Plastics Taskforce, the Department attending and chairing meetings and minutes are provided to the ACCC.
- The Proposed Conduct is not compulsory and any Participant can opt out of any proposed collaboration.
- The Proposed Conduct does not change the Participants' incentives to compete during or after the period of authorisation and the proposed Conduct does not relate in any way to the price or supply of products by any of the Participants in competition with one another.

4.42. The ACCC has considered the following public detriments:

- increased barriers to other industry participants
- reduced competition for the supply of transport, storage and recycling services for soft plastics
- potential to facilitate anticompetitive conduct.

Increased barriers to other industry participants

4.43. The ACCC has considered whether the Proposed Conduct, both in relation to the management of the stockpiled material and the continuation and expansion of in-store collections and processing, may affect the ability of others to compete for the acquisition of recycling, manufacturing, processing or logistics services for soft plastics.

³³ *Re 7-Eleven Stores Pty Limited (1994) ATPR 41-357 at 42,683.*

- 4.44. The ACCC considers there are a number of ways barriers to entry for other industry participants could arise. One example where this could occur is where the Participants enter into an agreement with a business that restricts that business' ability to deal with others. Another example is that the Participants, by taking up all available capacity for soft plastic recycling, manufacturing, processing or logistic providers, even if temporarily, may increase barriers so that other businesses looking to acquire those services are unable to do so.
- 4.45. The ACCC notes that no submissions were made or concerns raised regarding potential increased barriers to other industry participants under the previously authorised conduct or with regard to the Proposed Conduct.
- 4.46. The volumes of soft plastic that the Participants are managing and collecting via the in-store collection pilot program are a very small portion of the post-consumer soft plastic put on the market in Australia. The ACCC recognises that a number of separate initiatives are occurring as discussed at paragraph 2.27, in particular recognising that a broader industry scheme is being developed and the longer-term plans for kerbside collection.
- 4.47. The Participants have submitted they are currently working with 9 soft plastic processors, noting, however, the current limited capacity for processing. The estimated processing capacity once all 9 processors are online would equate to approximately 28,000 tonnes per annum, noting the current stockpile is approximately 7,400 tonnes and the current collection rate of the in-store collection program is approximately 2 tonnes per week, although this is expected to increase. . The ACCC considers that longer term, processing capacity will continue to increase, noting the government incentives with grant funding.
- 4.48. The ACCC considers that, in the period of authorisation sought, the likelihood and extent of any competitive harm that could arise as a result of increased barriers to other industry participant will be limited. This is due to the scope of the Proposed Conduct as described at paragraph 1.10 and the continuation of Condition 3 that all contracts, arrangements or understanding will terminate upon expiry of the authorisation.
- 4.49. However, the ACCC considers that exclusive arrangements may raise barriers to entry for other industry participants in particular at this infant stage of development. The ACCC has decided to introduce Condition 4 to further mitigate any public detriment to ensure that no contracts, arrangements or understandings entered into will restrict recycling and logistics businesses from dealing with others.

Reduced competition for the supply of transport, storage and recycling services for soft plastics

- 4.50. The ACCC has considered whether the Participants acting in collaboration may reduce competition between service providers for the supply of transport, storage and recycling of soft plastics. The Proposed Conduct essentially allows for the joint tendering of transport, storage and recycling services.
- 4.51. With regard to the stockpile, the ACCC considers that given consolidation of the stockpile has occurred, the remaining transport activities are the transport of stored stockpile from interim storage to processing sites (i.e. a recycler) and so any competitive harm is limited in that respect.

- 4.52. In respect of transport and storage services, the ACCC considers that this is likely to be a low risk, given these services form part of a wider general market for transport and storage services.
- 4.53. Further, the approach of the Participants seeks to avoid a single point of dependency with regard to recycling processors. Multiple processors have been engaged to ensure no one firm is solely responsible for processing the stockpile, noting that the Participants are currently engaging with 9 processors.
- 4.54. The ACCC considers in the future with the Proposed Conduct, that any risk of any ongoing lessening of competition for the supply of transport, storage and processing of soft plastics is likely to be mitigated due to:
- the relatively short authorisation period to 31 July 2026
 - the limited scope of the Proposed Conduct to the stockpile and in-store collection pilot program
 - the imposition of Condition 3, requiring that all contracts arrangements and understandings end upon the expiry of the authorisation
 - the imposition of new Condition 4 which requires that any contracts, arrangements or understandings entered into pursuant to this authorisation shall not restrict any recycling or logistics provider from supplying services to another customer.

Potential to facilitate anticompetitive conduct

- 4.55. The ACCC has considered whether there is the potential for collaboration and coordination to extend beyond the scope of the conduct that is authorised, and that the conduct to be authorised could therefore facilitate anti-competitive conduct.
- 4.56. The ACCC has considered whether discussions occurring at, in preparation for, or arising out of the Soft Plastics Taskforce may give rise to the risk of the Participants and/or Program Partners discussing other matters, which could constitute anticompetitive conduct.
- 4.57. The ACCC notes that no concerns or submissions about such collusion have been raised during the period of the previous authorisation or during the consultation process for this application. The ACCC also notes that such conduct may breach the Act and would not be protected under the authorisation.
- 4.58. The ACCC considers that the further narrowing of the Proposed Conduct definition at paragraph 1.10, will ensure the conduct authorised is sufficiently clear and transparent to Participants and Program Partners and that this will assist in reducing the risk of anticompetitive conduct being facilitated.
- 4.59. The ACCC also considers that these risks will continue to be further mitigated by the reporting conditions as outlined at paragraph 5.8 which will continue to aid transparency and accountability, in addition to the ongoing oversight and presence of the Department at the Soft plastics Taskforce meetings.

4.60. Accordingly, having regard to the limited scope of the Proposed Conduct and the inclusion of conditions to promote transparency, the ACCC does not consider that the Proposed Conduct is likely to result in a public detriment in the form of potential for facilitation of anti-competitive conduct.

ACCC conclusion on public detriment

4.61. The ACCC considers that with conditions, the Proposed Conduct is likely to have limited, if any, public detriments in the form of:

- increasing barriers to entry to other industry participants
- reduced competition for the supply of transport, storage and recycling services for soft plastics.

4.62. The ACCC does not consider that the Proposed Conduct is likely to result in a public detriment in the form of potential for facilitation of anti-competitive conduct.

Balance of public benefit and detriment

4.63. The ACCC considers that the Proposed Conduct is likely to result in public benefits in the form of:

- environmental benefits through the potential to divert soft plastics from landfill
- clear and consistent messaging to consumers, although this benefit is limited.

4.64. The ACCC considers that with conditions, the Proposed Conduct is likely to have limited, if any, public detriment due to:

- increasing barriers to entry to other industry participants
- reduced competition for the supply of transport, storage and recycling services for soft plastics.

4.65. With the conditions in paragraph 5.8, the ACCC is satisfied that the Proposed Conduct is likely to result in a public benefit and that this public benefit would outweigh any likely detriment to the public from that Proposed Conduct.

Length of authorisation

4.66. The Act allows the ACCC to grant authorisation for a limited period of time.³⁴ This enables the ACCC to be in a position to be satisfied that the likely public benefits will outweigh the detriment for the period of authorisation. It also enables the ACCC to review the authorisation, and the public benefits and detriments that have resulted, after an appropriate period.

³⁴ Subsection 91(1)

- 4.67. The Participants originally sought authorisation until 31 July 2025. On 8 October 2024, the Participants made a submission seeking to vary the term of authorisation sought to 31 July 2026.
- 4.68. The Participants submit that authorisation until 31 July 2026 will allow them to continue to operate their in-store collection pilot program, ensuring a seamless transition to a new broader industry-led soft plastics stewardship scheme. The Participants submit that this new stewardship scheme is not likely to be operational before the second half of 2025.
- 4.69. The ACCC has considered the progress made by the Participants under previous authorisation AA1000627 and acknowledges that whilst the progress has been slower than expected, this has been largely due to factors outside the Participants' control, including limited processing capacity for the recycling of soft plastics in Australia. However, the ACCC considers that processing capacity has improved throughout 2024 and is likely to continue to develop throughout 2025.
- 4.70. The ACCC notes that a significant portion of the stockpile remains in South Australia. The Participants submit that processing in South Australia has not yet commenced due to no processing facilities being available in that state. As referred to in paragraph 2.15, how quickly processors can come online is reliant upon a range of factors including securing equipment and relevant permits and approvals. The ACCC therefore considers that granting authorisation until 31 July 2026 is appropriate to enable sufficient time to manage the entirety of the remaining stockpile, including that located in South Australia.
- 4.71. The Participants have confirmed that the Proposed Conduct does not extend to any proposed soft plastics stewardship scheme. The ACCC considers that the Proposed Conduct, with this limitation, is likely to result in public benefits and limited, if any, public detriments, and considers the requested extended length to 31 July 2026 is appropriate given this limitation and the conditions at paragraph 5.8.

Conditions

- 4.72. The ACCC may specify conditions in an authorisation. The legal protection provided by the authorisation does not apply if any of the conditions are not complied with.³⁵
- 4.73. The ACCC may specify conditions in circumstances including where, although the relevant public benefits test is met, without the conditions the ACCC would not be prepared to exercise its discretion in favour of the authorisation.³⁶
- 4.74. The ACCC considers that the reporting provided by the Participants since 2022 has provided a level of oversight and accountability which has in turn minimised the potential for unauthorised anti-competitive conduct to occur during meetings of the Soft Plastics Taskforce.
- 4.75. EPA SA and GISA's submission is that regular reporting to the ACCC is necessary to ensure that soft plastics collected through the in-store collection pilot program are not stockpiled by the Participants as occurred with REDcycle. EPA SA and GISA have also called for such reporting to demonstrate that the Participants are willing to work with

³⁵ Subsection 88(3) of the Act.

³⁶ Application by Medicines Australia Inc (2007) ATPR 42-164 at [1333].

the Australian Government, relevant jurisdictions and APCO to align with proposed regulatory reform for packaging.

4.76. The Boomerang Alliance submits that authorisation should be subject to the following conditions requiring the Participants to:

- include only accurate information on the Australasian Recycling Label
- provide in-store soft plastics collections as part of their producer responsibilities.

4.77. The Boomerang Alliance also submits that authorisation could include a condition requiring the Participants to develop secondary markets for recycled soft plastics. Similarly, the Boomerang Alliance also submits that authorisation should be subject to the introduction of the National Plastics Recycling Scheme or a similar scheme, with clear conditions to limit any continued stockpiling of soft plastics to a timeframe set by a regulated implementation strategy.

4.78. The ACCC acknowledges the concerns of the Boomerang Alliance and recognises the importance of developing long-term solutions to the use of soft plastics on a whole of industry scale. However, the ACCC notes that the scope and length of the Proposed Conduct sought by the Applicants is limited to stockpile remediation and the continuation of the pilot program. The Proposed Conduct does not extend to any industry-wide scheme, but the ACCC understands that a number of separate initiatives are currently being developed (as outlined at paragraph 2.27), including a product stewardship scheme which is expected to be the subject of a separate, future application for authorisation. Further, the authorisation does not extend beyond legal protection for Division 1 of Part IV and ss 45-47 of the Act for the Proposed Conduct only. In particular, authorisation does not apply in respect of any contraventions of the Australian Consumer Law, including in relation to any misleading or deceptive conduct relating to product packaging or consumer communications. In those circumstances, the ACCC considers that such additional conditions are not appropriate.

4.79. The ACCC has decided to impose similar conditions to those specified in the interim authorisation, namely that the ACCC must be provided with minutes of meetings of the Soft Plastics Taskforce and quarterly progress reports identifying progress made in relation to processing of the remaining stockpile (Condition 2). The ACCC considers that this condition will provide transparency to assist in allaying concerns that soft plastics collected through the in-store pilot program continue to be recycled where possible and not stockpiled.

4.80. The ACCC has also decided to retain a condition (Condition 3) specifying that all contracts, arrangements or understandings entered into in reliance on the authorisation to terminate on expiry or revocation of the authorisation (unless authorised to continue under another authorisation granted by the ACCC). The ACCC considers that this condition will serve to address concerns about potential for unauthorised conduct in respect of longer-term solutions which may have impacts on barriers to entry (as discussed in paragraphs 4.43-4.49 above).

4.81. Further to this, the ACCC proposed in the Draft Determination to introduce an additional new condition (Condition 4) to further mitigate any limited public detriment in relation to potential barriers to entry with a condition that any contracts, arrangements or understandings must not restrict businesses to supply to others.

- 4.82. The Participants made a submission that they do not object in principle to Condition 4 but requested a small modification to the drafting of Condition 4 due to an existing arrangement in place which was entered into in reliance on the interim authorisation to ensure complete processing of certain stockpiles within certain timeframes.
- 4.83. Having regard to the need to urgently process the existing stockpiles, the ACCC considers that the modification submitted is appropriate in the circumstances, noting that the condition will come into effect for this existing arrangement from 30 May 2025. The ACCC considers that this will mitigate any longer-term effect related to barriers to entry or lessening of competition as discussed in paragraphs 4.43-4.54.
- 4.84. For these reasons, the ACCC has decided to grant authorisation with conditions (as outlined at paragraph 5.8).

5. Determination

The application

- 5.1. On 24 June 2024 the Participants lodged an application to revoke authorisation AA1000627 and substitute authorisation AA1000673 for the one revoked. This application authorisation AA1000673 was made under subsection 91C(1) of the Act.
- 5.2. The Participants seek authorisation for the Participants and any Program Partners to engage in conduct associated with their soft plastics stockpile remediation plan and in-store collection pilot program as set out in paragraph 5.7 below.

The authorisation test

- 5.3. Under subsections 90(7) and 90(8) of the Act, the ACCC must not make a determination granting an authorisation unless it is satisfied in all the circumstances that the Proposed Conduct would result, or be likely to result in a benefit to the public and the benefit would outweigh the detriment to the public that would result, or be likely to result, from the Proposed Conduct.
- 5.4. For the reasons outlined in this determination and with the conditions below the ACCC is satisfied, in all the circumstances, that the Proposed Conduct would be likely to result in a benefit to the public and the benefit to the public would outweigh the detriment to the public that would result or be likely to result from the Proposed Conduct, including any lessening of competition.
- 5.5. Accordingly, the ACCC has decided to grant authorisation with conditions.

Conduct which the ACCC authorises

- 5.6. The ACCC has decided to revoke authorisation AA1000627 and grant authorisation AA1000673 with conditions in substitution.

5.7. The ACCC has decided to grant authorisation AA1000673 to the Participants and any Program Partners in respect of:

- a) **the stockpile remediation plan** to process, store and transport existing stockpiled materials in New South Wales, Victoria, South Australia and Western Australia and/or dispose of such materials in landfill where landfill cannot reasonably be avoided, and/or
- b) **the in-store collection pilot program** to collect, process, store and transport collected materials,

to discuss and share information regarding, and enter into and give effect to, contracts, arrangements and understandings solely in relation to the following activities:

- c) engagement with third-party recycling and logistics providers (including domestic or overseas providers) including:
 - i) undertaking site visits, and
 - ii) establishing contract terms with such providers, including establishing service level agreements and formalised audit process,
- d) membership terms and conditions and fees for Participants and Program Partners,
- e) communications to customers or to the public, including providing recycling directions for soft plastics packaging in respect of the in-store collection pilot program,
- f) identifying processing, storage and transport options for stockpiled materials or materials collected for the in-store collection pilot program,
- g) collection logistics and end to end management, and expansion of collections of materials based on geographic/volume metrics, subject to available processing capacity, for the in-store collection pilot program,
- h) business models to support cost sharing, including with brands and other retailers, for the in-store collection pilot program,

only where this conduct occurs at, in preparation for, or arises out of a meeting of the Soft Plastics Taskforce
(the **Conduct**).

5.8. The authorisation AA1000673 is granted with the following conditions:

Condition 1- Provision of information: The Participants and any Program Partners who become involved in the Conduct must promptly provide any further information about the Conduct or compliance with the conditions imposed by this authorisation that the ACCC requests from time to time.

Condition 2 – Progress reporting requirements: The Participants, either jointly or individually, must submit a report to the ACCC (including a non-confidential version for publication on the ACCC's public register where appropriate) on the occurrence of each Reporting Event identified in the table below, with that report to contain the relevant Report Content identified in the following table.

Reporting Event	Report Content
<p>On the following dates:</p> <ul style="list-style-type: none"> • 22 April 2025 • 22 July 2025 • 22 October 2025 • 22 January 2026 • 22 April 2026 • 22 July 2026 	<p>Detailed description of the progress made by Participants and any Program Partners towards implementing the stockpile remediation plan and in-store collection pilot program.</p> <p>AND</p> <p>Meeting minutes of each meeting of the Soft Plastics Taskforce (including a non-confidential version of the minutes for publication on the ACCC's public register where appropriate) which occurred within the last 3 months which summarises the topics discussed at each meeting, with those minutes to include:</p> <ul style="list-style-type: none"> a) a comprehensive explanation of, including the parties to and relevant dates, for all decisions, contracts, arrangements, or understandings formed pursuant to this (or a previous ACCC) authorisation, and b) the topics discussed at the meetings where those decisions, contracts, arrangements, or understandings were formed, and/or the material content of those contracts, arrangements, understandings or decisions, and any other key details.

Condition 3 – Termination of arrangements upon expiry of authorisation: All contracts, arrangements or understandings entered into in reliance upon this authorisation must provide for immediate termination upon the expiry or revocation of this authorisation, unless the Participants are granted a further authorisation pursuant to section 88(1) of the Act which authorises giving effect to those contracts, arrangements or understandings.

Condition 4 – No restriction on businesses to supply: All contracts, arrangements or understandings entered into in reliance upon this authorisation must not restrict any recycling or logistics provider from supplying services to another customer, with the exception of the confidential contract identified in the Confidential Schedule which must not restrict any recycling or logistics provider from supplying services to another customer after 30 May 2025.

5.9. The ACCC may authorise a Committee or Division of the ACCC, a member of the ACCC or a member of the ACCC staff to exercise a decision making function under the conditions of this authorisation on its behalf.

5.10. The ACCC has decided to grant authorisation to the Participants and their current and future Program Partners in the stockpile remediation plan and the in-store collection pilot program, being a class of persons within the meaning of section 88(2) of the Act. The current Program Partners are listed at Schedule 1.

5.11. The ACCC has decided to grant authorisation in relation to Division 1 of Part IV of the Act, and sections 45, 46 and 47 of the Act.

5.12. The ACCC has decided to grant authorisation AA1000673 until 31 July 2026.

6. Date authorisation comes into effect

6.1. This determination is made on 27 February 2025. If no application for review of the determination is made to the Australian Competition Tribunal it will come into force on 21 March 2025.

Schedule 1

Program Partners

Australian Food and Grocery Council and its participating members

Bingo Waste Services Pty Ltd

CARRABBA's

Centre for Regenerative Design and Collaboration

Close the Loop

IQ Renew

Mercorella

Paper Trade Processing (AUST) Pty Ltd

Planet Ark

Plasmar

saveBOARD

Streamlined

Tasman Logistics Services

Veolia