

6 May 2025

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To whom it may concern

**Soft Plastic Stewardship Australia Limited (SPSA)  
application for final authorisation AA1000695**

The Australian Council of Recycling (ACOR) welcomes this opportunity to comment on the application from Soft Plastic Stewardship Australia (SPSA) for ACCC authorisation.

ACOR is the peak industry body for the resource recovery, recycling, and remanufacturing sector in Australia. The Australian recycling industry contributes almost \$19 billion in economic value, while delivering environmental benefits such as resource efficiency and diversion of material from landfill. Our sector processes close to 50 million tonnes of material annually.

ACOR's membership is represented across the recycling value chain, and includes leading organisations in CDS operations, kerbside recycling, recovered metal, glass, plastic, paper, organic, tyre, textile, oil and e-product reprocessing and remanufacturing, and construction and demolition recovery. Our mission is to lead the transition to a circular economy through the recycling supply chain.

ACOR has supported SPSA's interim authorisation in order to facilitate uninterrupted processing by soft plastic recyclers who have invested in necessary infrastructure. We support the final authorisation on the same basis.

ACCC-authorized stewardship structures must prioritise delivering genuinely positive environmental outcomes, including alignment with other established mechanisms, investment in effective recycling solutions and continuous improvement, to ensure meaningful public benefit.

We acknowledge the intent of SPSA to contribute to improved recovery outcomes for soft plastic packaging. However, adjustments to the Scheme's design and operation are necessary to ensure that its authorisation reinforces the coherence, effectiveness, and ambition of Australia's national packaging stewardship framework, and supports investment confidence in recycling infrastructure.

Under the terms of authorisation, the ACCC should ensure the SPSA has a clear trajectory to meet the following conditions:

- Clear and formal alignment with APCO and the ongoing national regulatory transition.
- Transparent and accountable governance that represents the entire supply chain, including recyclers.
- A levy structure that reflects the true costs of the recycling value chain.
- A carefully defined product scope.
- A commercially viable soft plastics recycling supply chain.
- Measurable, transparent targets and performance metrics.
- Clear mechanisms for end-market development and demand stimulation.
- Real investment in community education to ensure that soft plastics are disposed of correctly and to highlight the consequences of soft plastic contamination for MRFs.

Ultimately, the broader success and sustainability of any soft plastic stewardship initiative will depend on comprehensive regulatory reform and the introduction of a mandated extended producer responsibility framework. SPSA's scheme must ultimately be integrated into a more ambitious and enforceable national system.

Yours sincerely



Suzanne Toumbourou  
**Chief Executive Officer**

# AUSTRALIAN COUNCIL OF RECYCLING SUBMISSION: Soft Plastic Stewardship Australia Limited (SPSA) application for authorisation AA1000695

## **1 Regulatory and strategic alignment**

The Australian Government is progressing national packaging reform, including the proposed introduction of design standards and ecomodulated levies. These measures aim to strengthen extended producer responsibility (EPR) and ensure that producers contribute fairly to the cost of managing packaging throughout its lifecycle.

### ***1.1 Current regulatory framework for packaging stewardship***

Australia's current packaging stewardship framework is delivered through a co-regulated arrangement with the Australian Packaging Covenant Organisation (APCO) and is underpinned by the National Environment Protection Measure (NEPM). APCO is concurrently undergoing a strategic review to align with these national reforms, with an aim to transition to a more robust EPR model that includes ecomodulated fees reflecting the cost of collection, processing, and market development for different packaging materials, including soft plastics.

As this national framework evolves, it is critical that any new stewardship scheme—such as SPSA—clearly aligns with APCO and the broader direction of government reform. This alignment will help maintain national consistency, avoid duplicative compliance pathways, and ensure a level regulatory playing field.

### ***1.2 Risks of multiple schemes***

The establishment of SPSA currently risks creating the perception of competing schemes. Multiple schemes operating within the same material stream pose significant risks, including enforcement challenges, regulatory loopholes, inconsistent investment signals, and the potential for regulatory arbitrage and weaker environmental outcomes. Such risks were highlighted in a recent review conducted to inform New Zealand's Plastic Packaging Product Stewardship Scheme, which recommended a single-system model to support effective implementation.

Structural problems observed within Australia's National Television and Computer Recycling Scheme (NTCRS) demonstrate the risk of allowing multiple product stewardship schemes to operate in the same market. Under the NTCRS, multiple co-regulators compete for liable parties, often by offering the lowest possible fees. This competition has created a 'race to the bottom', undermining best-practice recycling and environmental outcomes. The push for low-cost outcomes has led some co-regulators to reduce accessibility, limit collected volumes, or compromise on material recovery rates. Recycling fees offered by co-regulators for the 2024 financial year have dropped to around 30 cents per kilogram, compared to \$1 per kilogram just a few years ago. This erosion of value has negatively impacted the e-waste recycling sector and increased the risk of market failure.

### ***1.3 Ensuring alignment with national packaging reform***

As APCO's model evolves, it is essential to ensure clearer coordination between APCO and SPSA to maintain national consistency, avoid duplicative compliance pathways, and uphold industry-wide accountability. At a minimum, SPSA should formalise its alignment with APCO—potentially through a public memorandum of understanding—and demonstrate their consistency and compatibility with national targets and regulatory intent. This clarity is necessary to ensure that the authorisation of the Scheme does not undermine the development of a coherent and integrated stewardship framework.

Ultimately, the establishment of a scaled and viable soft plastic recycling system will require regulatory reform and mandated EPR across the packaging sector. SPSA, as a voluntary scheme, should be viewed as an initial step towards this more comprehensive and enforceable framework. SPSA could act eventually as an implementation partner on behalf of APCO, with key decisions made at APCO's Board level.

While ACOR supports the timely interim and ongoing authorisation of SPSA to maintain the ongoing commercial viability of soft plastic recycling investment, there is a concern that moving ahead of a broader extended producer responsibility arrangement for all packaging materials will drive some brands from inherently recyclable materials to formats with less recycling potential, such as liquid paper board and other plastic lined paper products. This effect will be somewhat ameliorated by the SPSA's voluntary status; however, the concern highlights the need to consider the entire regulatory environment and market.

## **2 Governance**

While the ACCC application notes that Board experience will be required for the 'attainment of recycling targets', SPSA has not committed to appointing a recycling representative with the relevant experience to the Board.

Product stewardship schemes often exclude the recycling sector—tasked with delivering the scheme's ultimate outcomes—from meaningful participation in scheme governance, development and design. It is essential that the entire supply chain should participate in establishing a scheme's goals and ongoing operation, through adequate representation on scheme boards.

Critical problems arise when a key part of the scheme supply chain is unable to meaningfully engage on costs, logistics, and the state of end markets. While product stewardship schemes are intended to operate with all stakeholders working in concert, this is often not the case. In particular, recyclers and remanufacturers are not sufficiently involved in the establishment or ongoing operations of schemes.

Recyclers can highlight challenges and opportunities in the recycling process, such as recyclability of materials, components that help or hinder the recycling stream and markets for recycled materials. They are also positioned to provide expertise into efficient collection, sorting, quality control and processing methods, improving the overall effectiveness of the stewardship scheme and reducing contamination in recycling streams.

While SPSA has signalled its intent to include independent directors, no concrete mechanisms are in place to ensure a genuinely independent or balanced board. True balance and credibility require governance structures that include the broader supply chain, including recyclers and processors, alongside independent experts and civil society. Without this, the Scheme risks functioning as a reputational shield for brands rather than a mechanism for real system transformation.

SPSA's governance model is centred on brand owners, who are also the obligated parties funding the Scheme. This creates a fundamental conflict of interest, as decision-makers are incentivised to minimise costs, potentially at the expense of system performance or environmental outcomes. The flat-rate levy (noted in section 3 'Levy structure') already reflects these pressures.

It is understood that a Stakeholder Advisory Council will be established, with representatives from a range of stakeholder groups, including recyclers. However, there is no clarity on how this Council will play a meaningful role in the organisation's governance or in shaping the Scheme's structure.

## **3 Levy structure**

A lack of conformity to design standards currently limits the recyclability of soft plastics into high-value products. This, alongside other market factors, leads to a negative value for post-consumer soft plastics, particularly as landfilling costs can exceed \$300 per tonne in some jurisdictions.

At the same time, market demand for recycled soft plastic products remains limited, while substantial investment is required to develop viable collection, processing, and end-market systems. Against this backdrop, SPSA proposes an initial flat levy of \$160 per tonne, with fees to be subsequently set by the board of brand owners.

It is critical that the scheme levy incentivises recyclable formats through an ecomodulated approach, that reflects material recyclability and environmental impact, sends appropriate market signals and supports investment in growth and innovation.

Cost modelling must clearly demonstrate how scheme fees or levies will genuinely support scaled collection, processing, infrastructure development, and end-market growth. Genuine consultation with market participants should be undertaken, to map real-world recycling costs. There should be greater

transparency on how SPSA revenue will be allocated to support collection, aggregation and processing, and support recycling investment.

Flat rate or low-levy schemes risk undercutting more strategic initiatives and can discourage improvements in packaging design. The likely outcome is cost containment at the expense of circularity—undermining the principles of effective stewardship.

The Scheme must also ensure meaningful support for processing technologies and the development of end markets.

Notably, almost every voluntary Australian product stewardship scheme to date has set levies too low to fully cover the cost of responsible end-of-life management of materials. While the SPSA levy will be paid by the ‘first supplier’ and will not be compulsorily passed onto consumers, there is a need for greater clarity on where these costs will ultimately be absorbed within the supply chain. Although the SPSA application anticipates the cost flowing from manufacturers to retailers, it is equally possible that levy costs will be shifted to recyclers, who are in tight competition on price with producers of virgin materials.

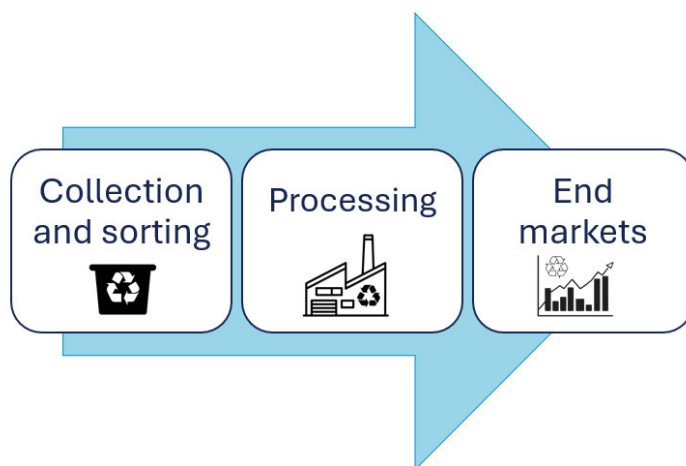
It is essential that the cost of the levy flows transparently through the value chain to consumers, with clear reporting on how the Scheme is delivering measurable recycling outcomes.

#### **4 Scope**

The SPSA authorisation must be limited to flexible packaging—or ‘soft plastics’—by clarifying the definitions of ‘packaging’ and ‘used packaging’ in the SPSA constitution to exclude all packaging other than soft plastic. As written, the SPSA’s constitution potentially allows for the possibility of expanding to include other forms of packaging, in competition with the packaging product stewardship co-regulator.

#### **5 Supply chain viability**

The recycling system is essentially comprised of three key elements: collection, processing, and end markets. Each of these elements is vital for real recycling outcomes—and each must be economically viable. A most pressing priority for recyclers is access to dynamic markets, without which the entire recycling system cannot be viable.



There must be adequate investment and a clear plan to ensure that all parts of the soft plastics recycling supply chain are commercially viable.

The previous soft plastic stewardship scheme, REDcycle, principally failed not due to lack of collection, but due to insufficient demand for recycled outputs. SPSA’s proposal should provide greater clarity on how it will stimulate or secure markets for recovered soft plastics, including through necessary measures such as procurement mandates or recycled content targets. This will help to avoid the risk of repeating past scheme failures, such as stockpiling, reputational damage, and investor withdrawal.

Additionally, the long-term viability of scaled soft plastic recycling infrastructure depends on guaranteed, consistent volumes of feedstock. Processing facilities are designed for specific throughput levels and cannot operate sustainably without a reliable supply. A diversified but coordinated network of processors is

essential for resilience, but this must be supported by contract-based certainty in supply. This is an important factor in the success and scalability of Australia's soft plastic recycling infrastructure.

There must be greater clarity on how SPSA will provide mechanisms to ensure a secure, high-volume input to recycling facilities and also robust and viable markets for the recycled materials produced. Without such guarantees, operators may be unwilling to invest—or continue operating.

Further consideration should be given to the risk that arises when a single entity controls all costs. This can reduce competition, increase prices, limit innovation or undermine the Scheme's fairness and effectiveness. There must be clarity on how this risk will be carefully managed.

## **6 Market development, recyclability and ecomodulation**

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. It must be a condition of membership that soft plastic placed on market by SPSA members be recyclable—including conforming to CEFLEX guidelines—and contain domestically processed recycled content. While the SPSA application flags possible future consideration of market development of recycled content through ecomodulation, this must be a pressing priority from the outset to ensure a thriving Scheme and genuine recycling outcomes.

Another method to foster market development would be providing data to market participants of likely volumes, such as estimated achievable collection rates through trials. The Scheme should also provide clear pricing structures to market participants.

Clarity is required around whether the SPSA will invest in processing infrastructure directly, or encourage others to invest based on projected commercial support. The success of these investments will be dependent on the volume and quality of feedstock, and end markets for recycled material, given export constraints. End market development will likely achieve critical scale when mandatory reforms proposed by the Australian Government and APCO are designed and implemented.

Past experience has also demonstrated that the creation of end markets by a scheme drives better recycling outcomes, as industry responds with investment, innovation and the delivery of commercially sustainable recycled products.

## **7 Targets and metrics**

The application states that SPSA will endeavour to publish an annual report no later than 6 months after the close of the financial year, including updates on:

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

Timely annual reporting on specific metrics must be a condition of authorisation. SPSA's design should incorporate clear performance targets and outcome-based metrics to assess whether the Scheme is delivering genuine environmental benefits and how it will adapt to address any operational gaps. These metrics, which must be made publicly available, should also include:

- material *arising* vs. material *collected* by tonnes per annum as a proportion of placed-on-market volumes;
- *recycling rates*, net of residuals;

- downstream *end market* outcomes, including reporting of tonnes of recycled content re-entering the market, procurement of scheme recycled materials by scheme participants, and metrics on newly generated end markets;
- clear *governance* indicators (e.g. stakeholder diversity, data verification, independent audits).

Other metrics to report on could include the number of members, the percentage of the population serviced by the Scheme, and the number of processing partners engaged.

## **8 REDcycle legacy material**

It is understood that SPSA intends to contribute \$16 million towards managing the legacy REDcycle stockpile, with these funds to be allocated to Coles and Woolworths.

Given that Coles, Woolworths and Aldi were granted ACCC authorisation in 2022 to ‘work together with government to explore solutions for managing the immediate effects of the suspension of the REDcycle program’, a priority should be to ensure that Coles and Woolworths fulfil their publicly stated commitments to manage this legacy REDcycle material.

Coles and Woolworths should not defer or shift these costs onto SPSA, or delay processing and payment for the material’s management. Any authorisation granted by the ACCC should ensure that all parties in the supply chain are treated fairly and that there is no undue influence on smaller participants—including recyclers—through market power. In line with their publicly stated commitments, it is important for Coles and Woolworths to ensure timely financial arrangements with all parties involved in processing the material.

The recycling industry already assumes significant market, regulatory, investment and operating risk to achieve recycling outcomes, often within product stewardship schemes that inadequately address these challenges. It is vital that SPSA ensures risks and costs are equitably shared across the supply chain. The Scheme must avoid becoming yet another system where responsibility, liability, cost, and reputational damage disproportionately burden the recycling sector. ACCC authorisation should be contingent upon genuine stewardship and tangible investment—this includes ensuring that supermarkets honour their commitments to manage the REDcycle material without shifting costs onto other supply chain participants.

## **9 Contamination and community engagement**

It is understood that an avenue for soft plastic collection will be via kerbside recycling.

The kerbside recycling system is a successful model with potential for further resource recovery and efficiency. However, it is also a valuable resource that must be safeguarded. Contamination is a critical issue that threatens the integrity of the recycling system.

When improperly sorted materials and those not recyclable in kerbside systems are placed in recycling bins, they compromise the quality of the recyclable materials being processed. This contamination can lead to higher operational costs for materials recovery facilities (MRFs), reduce the value of the recyclable materials, and increase the risk of loads being diverted to landfill, resulting in lost public trust which could further jeopardise current capabilities and future opportunities.

There are significant concerns regarding the collection of soft plastics through kerbside recycling, including the ability of MRFs to effectively sort this material, the current lack of scaled markets for recovered soft plastics, high contamination rates within the system and the potential for increased contamination in sorted MRF/mixed paper.

It is critical that SPSA invests adequately in broad community education to ensure that soft plastics are disposed of correctly and kept out of kerbside systems where they are not accepted. This education should also highlight the consequences of soft plastic contamination for MRFs. SPSA’s investment must help the public understand how to make informed disposal choices, which will vary depending on the locally available collection systems.

The scale of investment in community education must reflect the potential impact on the recycling sector if soft plastics are mismanaged.

Education should be designed and delivered in collaboration with the recycling sector, which has broadscale and extensive experience in community engagement with recycling, and the challenges and complexities of contamination.

Kerbside collection of soft plastics should be contingent on the following conditions:

- **Opt-in for local governments:** Local governments should have the option to participate in soft plastic recycling programs based on their capacity, resources, available infrastructure and markets for the collected material. Community education must be a priority to ensure that this form of collection does not result in increased contamination levels in kerbside recycling.
- **Material specifications:** Only soft plastics displaying the ARL label, indicating that the material meets CEFLEX standards (specifically, polyolefins), should be accepted in soft plastic collection. Flexible PVC and PET are unsuitable for higher-value soft plastic recycling processes.
- **Opt-in for communities:** Soft plastics must be collected under 'opt-in' conditions, meaning households must sign up for soft plastic recycling schemes to participate, rather than mandated collection. An opt-in system ensures that only households committed to proper recycling practices participate, reducing the risk of contamination.
- **Presentation requirements:** Soft plastics should be bagged in robust 'program' bags, funded through product stewardship initiatives, before being placed in kerbside recycling bins, as loose soft plastics pose a significant contamination risk for MRFs.

Ideally, financial incentives for consumers should be implemented to scale clean and uncontaminated collection. When operating, REDcycle was collecting approximately 7,000 tonnes of soft plastic per annum—a tiny fraction of the volume placed on market. Schemes that offer little incentive for consumers to return items to away-from-home collection points typically deliver poor recovery rates. A proven model to emulate is container deposit schemes (CDS), which provide a financial reward for the return of beverage containers. These schemes succeed because they align economic incentives with environmental outcomes. Applying the refund-based principles of CDS to soft plastic collection could be transformative, encouraging responsible disposal and significantly improving collection rates.