

ARA AND NRA JOINT SUBMISSION

PUBLIC CONSULTATION ON THE PRODUCT LIFECYCLE RESPONSIBILITY REGULATION 2025

NOVEMBER 2025

The Australian Retailers Association (ARA) and National Retail Association (NRA) welcome the opportunity to contribute to the NSW Government's Public Consultation on the *Product Lifecycle Responsibility Regulation 2025*.

The ARA and the NRA (the Associations), which propose to amalgamate to form the Australian Retail Council (ARC), represent a \$444 billion sector that employs 1.4 million Australians—one in ten workers—making retail the nation's largest private sector employer and a cornerstone of the Australian economy.

Our combined membership spans the full breadth of Australian retail; family-owned small and independent businesses, which comprise 95% of our membership, to the largest national and international retailers that support thousands of jobs and sustain communities across both metropolitan and regional Australia. Our industry operates more than 155,000 retail outlets nationwide, with the majority of those also represented by an online or e-commerce presence.

A strong retail sector delivers widespread benefits to all Australians, with a significant portion of every dollar spent in retail flowing back into employees, suppliers, superannuation funds, and local communities. We are united in advocating for the policy settings, reforms and collaboration that will drive growth, resilience, and long-term prosperity for Australian retail and the millions who rely on it.

EXECUTIVE SUMMARY

Consumers need support at several stages to ensure they not only recognise the type of battery they are using but also understand the associated risks and how to safely dispose of it. Most people are unaware that battery terminals should be taped, or that not all collection points accept every battery type or condition. As a result, some customers are placing high-risk batteries—such as large-format, lithium-ion, embedded or damaged units—into general collection bins, creating significant fire risks and putting store teams, waste operators and recyclers in danger.

While the Associations recognise the intent of the Product Lifecycle Responsibility Regulation to reduce risks associated with improper battery disposal, including fires and environmental harm, we hold significant concerns about its design, implementation, and potential unintended consequences – not least, its further fragmentation of regulations across jurisdictions.

The Associations oppose regulation that further exacerbates the cost of business operations. Rather we require Federal leadership to introduce appropriate national environmental laws to replace the current fragmented state-by-state framework. This includes legislation that addresses valid concerns relating to the product lifecycle regulation of batteries, which the NSW approach is intending to solve.

The Associations urge the NSW Government to reconsider its approach to introducing state-based legislation and consider options to work collaboratively with the Federal Government to progress this through a national mechanism. In addition, we request that aspects of the scheme are reviewed to ensure it is equitable, enforceable, and does not disproportionately burden local businesses.

This submission seeks to address some of the issues and recommends changes to regulations to ensure it remains fit for purpose.

RESPONSE TO COMPONENTS OF THE ACT

1) Establishment of a Product Stewardship Scheme in New South Wales

Harmonisation across states and territories is critical. Retailers operate in a single national market with centralised supply chains, warehousing, IT systems, pricing and compliance processes. The Associations are concerned that New South Wales and Victoria are introducing separate regulations on battery stewardship.

Fragmented state-based regulations create unnecessary complexity, duplicate administrative burdens, and cause significant additional costs that are ultimately borne by businesses. Unnecessary administrative burdens arising from fragmented schemes represent additional inputs into retail costs. Where the Federal Government has clearly set an agenda for economic reform to unlock much required productivity growth, this approach does the opposite.

The Associations recognise that the most successful Stewardship Schemes are designed in collaboration with government and industry, and as such support Option 1: Scheme supported by an agreement between the NSW EPA and product stewardship organisations. We note however that multiple schemes risk duplication, unnecessary fees and administrative requirements, and therefore, we recommend establishing a scheme similar to the Container Deposit Scheme (CDS).

The Associations agree with elements of Option 2, and recommend industry is consulted to co-design a scheme with demonstrable achievements, efforts to address infrastructure and education gaps and ensure practical, tangible outcomes are achieved.

Victoria is developing a mandatory battery stewardship framework under the *Circular Economy (Waste Reduction and Recycling) Act*, with implementation expected in the coming years. We emphasise that standalone regulations, and schemes, risks immediate divergence in definitions (e.g., regulated battery types, 'brand owner' liability, and potentially reporting metrics), levy structures, PSO governance, and compliance timeframes.

This will force retailers and brand owners to maintain parallel systems for the same product ranges, one for New South Wales, and similarly, one for Victoria. In future, this may potentially differ for future schemes in other states and territories. Differing regulations, and definitions will impact businesses in the following ways:

- **Duplicate levies and fees:** The same battery moving from a national warehouse into both New South Wales and Victoria could attract two separate stewardship payments, inflating costs.
- **Complex and costly reporting:** Businesses will need to track and report supply volumes, recovery rates and consumer education activities on a state-by-state basis rather than nationally, requiring new data systems and staff resources, and incurring additional business expenses.
- **Supply-chain inefficiencies:** Retailers may need to segregate stock, re-label products or restrict interstate transfers to manage differing obligations, increasing logistics costs and operational delays.
- **Competitive disadvantage for compliant businesses:** Without aligned enforcement mechanisms, overseas online retailers will continue free riding in both jurisdictions, undercutting local retailers who wear the cost of the full compliance burden.

The Associations strongly recommend explicitly adding **affordability for consumers and businesses, national regulatory consistency and harmonisation**, and **support for technology adoption and innovation** as core priorities.

New South Wales should commit to ongoing collaboration with Victoria and other jurisdictions to align the final regulation as closely as possible with emerging schemes, including automatic recognition of national PSOs and streamlined reporting where obligations overlap. This is the only way to deliver genuine environmental outcomes without imposing unnecessary and preventable costs on Australian retailers and households.

2) Definition of ‘brand owner’

The current definition of a brand owner as ‘a person who brings the regulated battery into the State for sale’ is ambiguous and will create significant uncertainty, duplicate liability and unfair outcomes throughout supply chains.

Retailers, wholesalers and third-party logistics providers that move stock from interstate warehouses into NSW, or that receive stock from an upstream importer who has already met national stewardship obligations, risk being captured as the ‘brand owner’ even though they have no control over product design, chemistry, branding or end-of-life management. This misallocates responsibility away from the parties best placed to drive sustainable outcomes (manufacturers and first importers) and imposes disproportionate compliance burdens on downstream entities, particularly small and independent retailers.

Retailers, wholesalers and third-party logistics operators should be exempt from brand owner obligations under the legislation when they are neither the importer nor the owner of the product name. While retailers can play a valuable role in consumer education and product collection, these contributions should be enabled through voluntary commercial agreements with brand owners, PSOs or recyclers, rather than through regulatory mandates.

Furthermore, the definition fails to explicitly capture overseas-based online-only retailers and e-commerce platforms that supply directly to NSW consumers. Without clear extraterritorial reach and practical enforcement mechanisms, these entities will continue to free-ride, undermining the financial viability of the scheme and placing compliant local businesses at a competitive disadvantage.

We strongly recommend the definition be amended to align with the national B-cycle scheme: ‘the person who first supplies the regulated battery in Australia’. Where a national PSO exists and has an agreement with the NSW EPA, this national-first-supply definition should apply automatically to avoid double-counting, duplicate levies and unnecessary administrative complexity.

3) Scope of regulated batteries

The current scope creates several ambiguities, including:

- There remains a third category of batteries: Primary cells supplied inside a product (e.g. in toys, remote controls, wireless mice) that are removable by the consumer (‘included batteries’). This category is not clearly addressed and risks being captured unintentionally.
- The term ‘removable’ is ambiguous: Any battery is technically removable with tools. The more precise term ‘user-replaceable’ should be adopted.
- It is unclear whether identical battery chemistries and formats supplied for commercial or industrial use are excluded simply because they are not marketed for household use.

We recommend that ‘included batteries’ and batteries in commercial and industrial applications be explicitly excluded or deferred until supply-chain visibility and IT systems can accurately track them.

Future inclusion of embedded batteries in consumer electronics should be considered at the same time as ‘included batteries’ to avoid piecemeal regulation.

4) Product stewardship requirements and obligations of brand owners and PSOs

Retailers and suppliers are concerned about the potential creation of a single monopolistic PSO. A monopoly risks excessive market power, unfavourable terms, price gouging, lack of innovation and capacity issues. Industry strongly prefers the ability to satisfy obligations through multiple accredited PSOs (including brand-owner-specific or national PSOs) provided they meet the governance and performance standards in Schedule 1.

Collection points in practice are mixed-stream environments. Segregating battery types at the point of consumer drop-off is impractical and unsafe. Allowing brand owners flexibility to use their preferred accredited PSO across all regulated battery types is essential for operational efficiency and higher recovery rates.

Reporting and record-keeping obligations must explicitly recognise that when a brand owner is a member of an approved PSO, the PSO assumes responsibility for consumer education, action plans and certain reporting. Duplicative requirements on individual brand owners in these circumstances would be unnecessarily burdensome.

5) Action plans and annual reports

Action plans and reports should include clear, objective criteria for 'reasonable access' to collection points and minimum standards for accredited recyclers. Safety and fire-risk reporting must reflect shared responsibility across brand owners, retailers, councils and collection agents rather than placing full liability on the party with least control over consumer behaviour at drop-off and collection points. Where there is a national PSO with reporting obligations in place for members, that reporting must be streamlined through the PSO only, as opposed to reporting to the PSO and separately, government. Streamlined reporting will ensure efficiency and avoid obligation overlap.

6) Implementation timeframe and transition arrangements

A minimum of 24 months (rather than the statutory 12 months) from the gazette of the legislation is required for businesses to establish systems, negotiate PSO agreements, adjust pricing, train staff and build consumer awareness. Infrastructure for processing certain batteries (particularly lithium-ion batteries) remains limited in Australia and often occurs overseas. Reporting obligations should explicitly allow evidence of overseas material recovery where domestic processing capacity is insufficient.

7) Harmonisation and recognition of national schemes

The regulation must include mechanisms to automatically recognise Commonwealth-accredited schemes (e.g. B-cycle) and future schemes in other states and territories. We note that Victoria will introduce battery regulations, and therefore, we recommend that NSW-specific reporting should be streamlined or waived where equivalent national obligations have already been met. Without this, businesses operating nationally will face duplicative levies, reporting and administration, ultimately increasing costs that are passed on to consumers in New South Wales.

8) Consumer awareness, education and safe collection pathways

The single biggest barrier to higher recovery rates remains low community awareness and confusing or onerous collection processes. A substantial, sustained, government-funded education campaign is essential.

Collection processes must be simplified (e.g. consistent acceptance criteria across all sites, clear guidance on taping terminals, safe handling of damaged batteries) and supported by increased collection point density, particularly in regional areas.

RECOMMENDATIONS

The proposed guiding principles, including a whole of system, collaborative, outcomes-based approach, will achieve true, circular economy outcomes. Therefore, the Associations recommend the following:

1. Amend the definition of *'brand owner'* to *'the person who first supplies the regulated battery in Australia'*.
2. Explicitly include overseas online retailers and e-commerce platforms within the scope of liable entities.
3. Clarify and defer regulation of *'included batteries'* and adopt the term *'user-replaceable'*.
4. Allow compliance through multiple accredited PSOs (including national and brand-owner-specific schemes).
5. Extend the minimum transition period to 24 months and phase battery categories where infrastructure is underdeveloped.
6. Automatically recognise Commonwealth-accredited and interstate schemes to avoid duplication.
7. Clarify that PSO membership satisfies individual brand owner obligations for consumer education and certain reporting.
8. Fund a major, ongoing consumer education campaign and simplify collection processes.
9. Include objective criteria for collection point density and accredited recycler standards.
10. Accept evidence of overseas material recovery where domestic processing is not feasible.

We welcome ongoing engagement with the NSW EPA to ensure the final regulation delivers genuine environmental outcomes without placing unfair burdens on retailers and their customers.

Any queries in relation to this submission can be directed to our policy team at policy@retail.org.au and policy@nationalretail.org.au