Environment Protection Authority

Statutory review

Container Deposit Scheme

November 2025

Acknowledgement of Country

The NSW Environment Protection Authority acknowledges the Traditional Custodians of the land on which we live and work, honours the ancestors and the Elders both past and present and extends that respect to all Aboriginal people.

We recognise Aboriginal peoples' spiritual and cultural connection and inherent right to protect the land, waters, skies and natural resources of NSW. This connection goes deep and has since the Dreaming.

We also acknowledge our Aboriginal and Torres Strait Islander employees who are an integral part of our diverse workforce and recognise the knowledge embedded forever in Aboriginal and Torres Strait Islander custodianship of Country and culture.

Aboriginal artwork by Worimi artist Gerard Black

Contents

Return and Earn is the NSW container deposit scheme and has operated since 1 December 2017. It is set up under Part 5 of the *Waste Avoidance and Resource Recovery Act 2001* (the Act).

Section 48 requires the Minister to review Part 5 of the Act to ensure that its policy objectives remain valid and its terms are appropriate to secure those objectives.

This report describes the review and makes recommendations to improve the Act and related regulation framework to position Return and Earn for further success.

Executive summary

Introduction

Return and Earn is the NSW container deposit scheme set up under Part 5 of the *Waste Avoidance and Resource Recovery Act 2001* (the **Act** or **WARR Act**). The Act establishes a shared responsibility scheme to tackle the waste generated by beverage packaging:

(a) the beverage industry funds and operates the scheme

(b) the community returns used and empty beverage containers to collection points for a refund

(c) the government (NSW Environment Protection Authority (EPA)) ensures the legislative framework in the Act and the Waste Avoidance and Resource Recovery (Container Deposit Scheme) Regulation 2016 (the **CDS Regulation**) is working well and that all parties are complying with its requirements.

In practice, Return and Earn is run as a partnership between industry, government and consumers. The WARR Act and CDS Regulation are carefully constructed to create different entities that each have separate but complementary incentives to drive the success of the scheme. Namely, the Scheme Coordinator is incentivised to minimise overall costs, while the Network Operator is incentivised to collect the highest number of containers through a convenient and accessible return (or collection) point network.

Review requirement

Section 48 of the WARR Act requires the Minister for Environment to review Part 5 of the Act "as soon as possible after four years from the date of assent to the Waste Avoidance and Resource Recovery Amendment (Container Deposit Scheme) Act 2016". The four-year anniversary of the date of assent was on 25 October 2020.

The review formally began in September 2021 (approved by the then Minister Kean). The review was completed in October 2024, when Minister Penny Sharpe, MLC, Minister for Climate Change, Minister for Energy, Minister for the Environment, Minister for Heritage approved this report.

The review must determine:

- whether the policy objectives of Part 5 remain valid; and
- whether the terms of Part 5 remain appropriate in securing those objectives.

This report refers to the review as the 'statutory review'.

The review process

Since it started in 2017, Return and Earn has been closely scrutinised. It is a landmark environmental reform in which over 80% of NSW adults have participated. Return and Earn has more than halved the volume of NSW litter and doubled the recycling rate of used beverage containers.

In 2019 the Independent Pricing and Regulatory Tribunal examined the scheme's impact on pricing of beverages and found it did not have any undue impacts on pricing or competition.

In 2021 the EPA consulted with a range of stakeholders (including the waste industry, beverage industry and local councils) to review the working of the legislation (in terms of the Act and the CDS Regulation generally). In 2022 a discussion paper *Driving NSW's Circular Economy* was released for public comment. It included several possible amendments to the legislative framework. Almost 1,000 responses were received.

As well as these more formal processes the EPA has continued to receive valuable feedback from the community through enquires and correspondence. The EPA has also met often with the Scheme Coordinator and Network Operator to monitor and review performance and work on projects aimed at continuously improving the operation of the scheme. In recent years, with the development of container deposit schemes in other states and territories, there has been a focus on harmonising all schemes to create an efficient national ecosystem for beverage suppliers to work within and to maximise recovery of materials.

All these processes have fed into the recommendations made in this report.

Findings and recommendations

The key findings of the review are that:

- The policy objectives of Part 5 of the WARR Act remain valid.
- The terms of Part 5 also remain appropriate for securing those objectives
- While the terms of Part 5 remain appropriate, there are minor changes that can be made to improve the legislative framework. Recommendations for change will help the Act (and the CDS Regulation) to remain fit for purpose, driving NSW's circular economy into the future.

  In summary, the recommendations coming out of feedback on the discussion paper "*Driving NSW's Circular Economy*" are:

Recommendation 1	Reference the principles of the circular economy in the objectives of the legislation.
Recommendation 2	Remove the $13.70 container approval application fee.
Recommendation 3	Retain the current offence for redeeming containers in NSW that were bought outside the state.
Recommendation 4	Enable refund payments to be made to material recovery facilities outside NSW that process NSW containers
Recommendation 5	Introduce a 'stop the clock' provision that allows container approval timeframes to be paused while further information is sought and provided
Recommendation 6	Amend the definition of 'first supplier' to exclude contract bottlers

Recommendation 7	Include specific reference in the legislation to downstream 'exporters' of containers into and out of NSW to better link them to scheme rights and obligations
Recommendation 8	Extend responsibility to all suppliers in the supply chain to comply with a small number of container design and labelling requirements
Recommendation 9	Require material recovery facility operators to enter a standard contract with the Scheme Coordinator to receive processing refunds.
Recommendation 10	The EPA will consider how to improve transparency of the scheme through annual reporting requirements
Recommendation 11	Expand the fraud offences under section 44 to better protect Return and Earn against fraudulent behaviour
Recommendation 12	Ensure there is enough power in the Act to set thresholds for categories of suppliers depending on their supply volumes
Recommendation 13	Keep the current 'refund mark' as the only approved mark. The Act currently allows different refund marks to be introduced if required, and this can be specified in the CDS Regulation. No action required.
Recommendation 14	Allow material recovery facilities that process material from commercial sources only to claim processing refunds.
Recommendation 15	Make other minor changes in the WARR Act and CDS Regulation to strengthen compliance and enforcement provisions
Recommendation 16	The EPA will consider how to strengthen the collection point (return) network, particularly looking at how to utilise retail centres.
Recommendation 17	Amend the WARR Act to allow the Scheme Coordinator's contract period to be determined when the retender of the contract is designed.

Results – outcomes of scheme

Key results of Return and Earn to 30 June 2025 are:

- 83% of NSW adults have participated in the scheme
- 93% of NSW adults support Return and Earn
- 79% of NSW adults are satisfied with the scheme
- The volume of litter in NSW has reduced by 66% since 2016-17
- 2 out of every 3 eligible beverage containers supplied in NSW are recycled through the scheme.
- 13.9 billion containers have been collected through the scheme
    - 10 billion containers returned through the return point network
    - 3.9 billion containers returned through kerbside collections
- $1.39 billion has been returned in refunds to the NSW community
- $82 million has gone to charities and community groups in donations and fees for hosting return points. Much more has been informally donated through informal collection drives
- 1,226,725 tonnes of drink container materials have been recycled
- 1.7 billion kilograms of CO_2 emission avoided, which is equivalent to removing over one million cars from the roads for a year

- 18.3 billion megajoules of energy saved, which is equivalent to 186,639 households' average annual energy consumption
- 81.7 billion litres of water saved, which is close to 32,589 Olympic swimming pools

Review of Part 5 of the Waste Avoidance and Resource Recovery Act 2001

Part 5 of the WARR Act establishes the NSW container deposit scheme – Return and Earn.

Section 48 of the WARR Act requires the Minister to start a review of Part 5 as soon as possible after the period of four years from the date of assent of Part 5. Assent was given on 25 October 2016.

The review formally began in September 2021, when approved by the then Minister Kean. The review was completed in October 2024, when Minister Penny Sharpe, MLC, Minister for Climate Change, Minister for Energy, Minister for the Environment, Minister for Heritage approved this report.

The purpose of the review is to determine:

- whether the policy objectives of Part 5 remain valid; and
- whether the terms of Part 5 remain appropriate in securing those objectives.

This report refers to the review as the 'statutory review'.

Objects of Part 5 of the WARR Act

The objectives of Part 5 of the WARR Act are set out in section 19(1):

(a) to recognise the responsibility that the beverage industry shares with the community for reducing and dealing with waste generated by beverage product packaging, and

(b) to establish a cost-effective state-wide container deposit scheme to help the beverage industry to discharge that responsibility and to promote the recovery, reuse and recycling of empty beverage containers.

The objectives of the WARR Act therefore focus on:

- shared responsibility for reducing waste from beverage packaging
- cost-effectiveness of a container deposit scheme
- promoting recovery, reuse and recycling of beverage containers. The modern concept encompassing all these objectives is of a 'circular economy' – where resources continue to circulate through the economy at their highest value. Reducing litter from beverage containers is also part of a circular economy.

Key features of Return and Earn

Return and Earn has been funded by beverage suppliers since the start. It operates on a cost-recovery basis, funded through supplier contributions. It collects contributions to pay for the scheme's operations based on the number and type of containers returned. It does not collect contributions for containers that are supplied into NSW and not returned (for example littered containers). In this way the cost of the scheme is determined by the number of containers actually returned.

The community's responsibility is to return beverage containers through the household kerbside system or through collection points (referred to as return points). There are several measures to monitor the community's involvement in and support for Return and Earn, which are a proxy to measure the community's acceptance of its responsibilities. During the 2024-25 financial year, an average of 68% of containers supplied into NSW were returned through the scheme and 83% of NSW adults had participated.

Under the legislation (comprising both the WARR Act and CDS Regulation) the scheme:

- establishes a Scheme Coordinator and a Network Operator with responsibility for the administration of the scheme and the management of its return points
- requires a contract between the state of NSW and both the Scheme Coordinator and the Network Operator to provide these services to the standards set out in each of those contracts
- pays a refund amount to any person who deposits empty used beverage containers (that are within the scheme) at return points
- pays a refund amount to material recovery facilities that collect containers through the household yellow lid bin/council kerbside collections and recycles them
- requires beverage suppliers to pay contributions that cover the cost of the refund amount and the operation of the scheme
- requires beverage suppliers to have an agreement with the Scheme Coordinator to make those contributions
- requires the EPA to assess and approve all beverage containers before they can be supplied into NSW
- empowers the EPA to enforce the requirements for a beverage supplier to join the scheme and contribute.

These features are consistent with other Australian and international container deposit schemes.

More detail about how Return and Earn operates, the role of different organisations, and key terms used are found at the end of this report.

How the statutory review was conducted

Return and Earn has been one of the most significant reforms introduced in NSW to drive a circular economy. Therefore, while the formal review of Part 5 began in 2021, in reality the legislative framework and how Return and Earn operates, has been constantly examined since 1 December 2017 when the scheme began.

In conducting this statutory review, the EPA has included potential changes to both the WARR Act and the CDS Regulation. Proposals for regulatory changes were included because they complemented other proposals or were raised in external reports. However, a more extensive Regulation review will follow the completion of this statutory review to account for any amendments made to the Act.

There have been several important inputs to the review process, including internal government review, external review, targeted stakeholder consultation and broad public feedback. These are explained below.

1. Public consultation

From October to December 2022, public comment was invited on a discussion paper *Driving NSW's Circular Economy* that had two parts:

- Proposed options to improve the recovery of glass packaging in NSW in general, including options to expand the containers within Return and Earn
- Proposed changes to the WARR Act or the CDS Regulation as part of the statutory review of Part 5 of the WARR Act

A separate report on feedback about options to improve glass recovery and the possible expansion of Return and Earn is available on the EPA's Have Your Say page.[1]

Across both parts of the discussion paper, the EPA received 984 responses through a survey, written submissions and information sessions. Responses were received from community, local councils, state government, the waste industry, the beverage industry, and other Return and Earn stakeholders.

This report on the statutory review covers the feedback received on the objectives and effectiveness of Part 5, including specific proposals to enhance effectiveness. Respondents could provide feedback by completing a survey and/or providing a written submission. The discussion paper may be accessed via the EPA's Have Your Say page.[2]

Statutory review proposals that were part of the public discussion paper were developed based on the wide range of feedback, experience and evaluation, including the processes discussed below.

2. Ongoing learning from beverage suppliers, consumers, scheme administrators and others

Return and Earn has been operational for nearly eight years. In that time, the EPA has received significant feedback from suppliers, consumers, and has learnt from its own experience. Ongoing close relationships with the Network Operator (TOMRA Cleanaway) and the Scheme Coordinator (Exchange for Change) has meant that stakeholder feedback is received regularly and practical changes could be implemented as needed.

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[1] https://yoursay.epa.nsw.gov.au/driving-nsws-circular-economy.

[2] https://yoursay.epa.nsw.gov.au/driving-nsws-circular-economy.

Changes to the CDS Regulation and other key operational documents have been made since 2017. Targeted stakeholder feedback was received during the amendment processes and has helped to inform the content of the public discussion paper, and the recommendations in this report.

3. Learning from, and aligning with, other jurisdictions

Since 2017, all jurisdictions have introduced their own container deposit schemes. There are commitments made by Australian Environment Ministers (through the Environment Ministers Meeting forums and Australia-wide committees and processes which support the Ministerial level) to harmonise the national container deposit scheme ecosystem across states and territories. There were many comments received in response to the discussion paper strongly supporting a nationally harmonised system.

There are specific proposals for legislative change in the statutory review that are aimed at enabling greater harmonisation across jurisdictions.

4. Review by Independent Pricing and Regulatory Tribunal (IPART)

In 2018, Return and Earn was examined in detail by IPART. As an independent authority it was asked to monitor and report on the impact of the NSW container deposit scheme on beverage prices and competition one year after starting[3]. IPART found that the scheme did not have any undue effects on beverage container prices or competition, but there were some issues that could be addressed to improve the scheme's performance and reduce the potential for unintended market impacts over the longer term. Most of those changes did not require a change to the terms of the WARR Act or CDS Regulation, and most have already been implemented.

One key suggestion was to consider removing the separate 'container approval application fee' charged to suppliers for each container within the scheme that is sold into NSW. That is one of the specific recommendations proposed in the discussion paper, discussed in this report and was actioned in 2025.

5. Targeted consultation by NSW EPA

As part of the development of the discussion paper, the EPA conducted its own review in 2021 and 2022. It consulted with waste industry peak bodies and local government to help identify areas for investigation. It also had detailed discussions with the Scheme Coordinator and Network Operator. Subject matter experts within the EPA contributed data and information.

Feedback to the EPA was that Return and Earn was meeting its objectives, but there were some opportunities for improvement. Most of the improvements suggested by stakeholders or through internal evaluation did not require a change to the terms of the Act and have already been implemented.

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[3] All of IPART's findings and reports about Container Deposit Scheme Monitoring are available at https://www.ipart.nsw.gov.au/Home/Industries/Special-Reviews/Reviews/Container-Deposit-Scheme/Container-Deposit-Scheme-Monitoring.

A recurring theme from stakeholders was that the scheme could be expanded to include other beverage containers. Environment Ministers have since agreed to explore expanding container deposit schemes across Australia, in a harmonised way. Options for expanding Return and Earn were part of the discussion paper.

Another recurring suggestion was to consider broader objectives within the WARR Act to align more directly with the NSW Waste and Sustainable Materials Strategy 2041, such as to include resource recovery and circular economy-related outcomes. This feedback was also received in the public consultation process. This report recommends aligning language to clearly signal circular economy principles in the objectives of the WARR Act.

Other suggested improvements included providing greater transparency for the sale of material not sold through the Network Operator's commodities trading desk e.g. material sold by material recovery facilities. This has also been a theme of the public comment on the discussion paper. The EPA will look at ways to respond to this.

Other changes suggested through the EPA's targeted consultation and review have been taken up in other processes, such as through the extension of the Network Operator agreement. This contract was extended in 2022 until 2026. As part of this, the Network Operator agreed to significantly increase the number and location of return points, above the levels set out in the CDS Regulation, without any extra cost to the scheme. This helped to fill long standing gaps in the return point network.

Scheme performance

The WARR Act requires the Scheme Coordinator, Exchange for Change, to report to the Minister annually on the performance of the scheme. These annual reports are published[4]. As well as the annual report, the EPA requires regular reports from the Network Operator and the Scheme Coordinator under its contracts with each organisation (on behalf of the Minister and the state of NSW). Key elements of the scheme are reviewed.

Return and Earn outcomes and performance at a glance

Since starting to 2024/25

1.7 billion kilograms of **carbon dioxide emissions** avoided, equivalent to taking 1,009,624 cars off the road for a year.	The **volume of litter** in NSW has **reduced** by **66%** since December 2017.
18.3 billion megajoules of **energy saved,** equivalent to saving 186,639 households' average yearly energy consumption.	**2 out of** every **3** eligible **beverage containers** supplied in Sydney is now recycled through the scheme.
81.7 billion litres of water saved, equivalent to 32,589 Olympic swimming pools.	**13.9 billion containers** were returned for refund by 30 June 2025
$82 million raised for **charities** and **community groups** since the scheme began	**1,226,725 tonnes** of materials **recycled**

[4] Annual Reports are published on returnandearn.org.au

Snapshot in 2024/25

3.8 billion eligible containers supplied in NSW in 2024-25

83% of NSW **adults** have **participated** in the scheme

2.6 billion containers collected through the scheme during 2024-25

146,316 tonnes of **materials recycled** in 2024-25

68% redemption rate in 2024-25

$19.41 million raised for **charities and community groups** in 2024-25

667 return points across NSW including 203 small business operators as at 30 June 2025

$38.6 million in **refunds** paid to material **recovery facilities** in 2024-25 (excluding GST)

94% of NSW adults are **aware** of the scheme

$217 million in **refunds** paid to **consumers** in 2024-25 (including GST)

93% of NSW adults **support** the scheme

Key findings – legislative objectives

Shared responsibility

The objects of Part 5 of the WARR Act include section 19(1)(a):

To recognise the responsibility that the beverage industry shares with the community for reducing and dealing with waste generated by beverage product packaging.

Return and Earn is an example of a product stewardship initiative where responsibility for the waste generated from beverage containers is shared. Those who produce, sell, use, and/or dispose of products, have a shared responsibility to manage them throughout the product's lifecycle in a way that minimises environmental impacts.

The legislation sets out the obligations and responsibilities of each stakeholder. This is explained in the Key features of Return and Earn on page 9.

An overwhelming number of stakeholders and community members have commented to the EPA that the very best management of resources needs many players to get involved. Most participants in the scheme are complimentary of the scheme. A wide range of industries recognise they and others have a role to play in achieving the environmental objectives of the scheme and contributing to a circular economy.

There is a small portion of the beverage industry that is reluctant to exercise its responsibility and refuses to participate in the scheme. Enforcement powers of the EPA, and contractual provisions with the Scheme Coordinator and Network Operator ensure responsibility continues to be shared.

There is strong and continuing support for the shared responsibility model.

Cost-effectiveness

The objects of Part 5 of the WARR Act include section 19(1)(b):

to establish a cost-effective state-wide container deposit system...

Establishing a cost-effective system was at the core of the initial design of Return and Earn. The scheme is delivered through fee for service contracts with two partner organisations that fulfill statutory roles under the WARR Act:

- Exchange for Change, as the Scheme Coordinator
- TOMRA Cleanaway, as the Network Operator

Each of these roles was filled through competitive tender processes compliant with the NSW Government procurement framework in place in 2016. The Network Operator contract was for an initial 5-year term, which has been extended for a further four years and the Scheme Coordinator contract period is for a 7-year period with two 3-year extensions allowed.

There were several responses to the tenders. Exchange for Change and TOMRA Cleanaway were chosen based on the best value for money. The competitive market for these services is also seen through other jurisdictions' container deposit schemes, where other (and sometimes multiple concurrent) providers have been appointed to carry out these roles.

Ongoing cost effectiveness is driven by the structure of the scheme which separates the administration role, fulfilled by Exchange for Change, from the operational role, fulfilled by TOMRA Cleanaway. Separate roles and contracts provide positive commercial tension. TOMRA Cleanaway is paid a fixed fee per container and is therefore incentivised to collect as many containers as possible. Exchange for Change engages with beverage suppliers and provides financial management, auditing and other services. It is therefore accountable to suppliers and is incentivised to minimise scheme costs.

As mentioned above, in 2018, IPART found that there was no undue impact on beverage prices, or on competition, from the introduction of Return and Earn.

Stakeholder feedback on cost-effectiveness came particularly from beverage suppliers, the waste industry, and the retail industry. It included:

Issue raised	Response
Revenue from sale of recyclable container material should be returned to the scheme	Revenue from the sale of container materials is already incorporated into the Network Operator's fee. This fee was set through a competitive tendering process and represents the market rate. Under the current

	arrangement, the Network Operator bears the risk of fluctuating and volatile international commodity prices over the life of the Network Operator contract.
Costs of Return and Earn should be benchmarked with other schemes, including network operator costs	Supplier contributions to Return and Earn are some of the lowest in Australia, on a per container basis. The table below provides detail.
There is a cost impact of 'unredeemed refunds' on containers supplied into NSW but not returned	This is a misunderstanding of the scheme's cost structure. The scheme is run on a cost recovery basis, where suppliers only contribute funds to cover the cost of refunds paid on redeemed containers and the operation of the scheme.
Refund sharing agreements between material recovery facilities and local councils for containers collected through household yellow-lid bins are not equitable and councils are disadvantaged	The CDS Regulation requires material recovery facility operators to share refund revenue with councils through commercial arrangements. This will be considered in the CDS Regulation review, following the completion of the statutory review.
Costs to small suppliers of joining and contributing to the scheme are significant and the scheme should provide funding to help, for example the cost of changes to labelling. Extra costs to beverage suppliers are also being driven by changes to national packaging standards	This is noted. The EPA is working with the Scheme Coordinator to implement changes to reduce the administrative burden on small suppliers. This report recommends establishing a threshold for small suppliers to access these arrangements.
Introduce competition into the collection network to drive better efficiencies	The scheme operates on a competition "for the market" rather than "in the market" basis. The Network Operator was appointed following a competitive tender process. The Network Operator agreement obliges the Network Operator to establish and maintain a network of return points that meet community access requirements. By reducing their risk, the Network Operator has been able to invest in even more return points than are required, which provides greater public good. Most return points are operated by independent businesses and charities on a sub-contracting basis.

Return and Earn has delivered environmental and social benefits at a cost per container to suppliers that is among the lowest in Australia. This is based on the cost per container that suppliers are liable to pay to the Scheme Coordinator to run the scheme. Similar findings have been made in other research[5].

In 2025, beverage suppliers in each jurisdiction that operates a similar container deposit scheme to NSW were liable to pay the costs per container shown in the table below. Note that costs differ according to the material of the container. In NSW, costs are based on the actual costs for collection and recycling of the container's material. Other jurisdictions may calculate costs differently. Tasmania's pricing is not in the table below as their scheme was relatively new at the time of this report.

[5] Total Environment Centre, Review: Australian Container Refund Schemes, February 2023 https://www.tec.org.au/status_report_australia_bottle_and_can_refund_schemes

Container material	Price/cost comparison - jurisdictions (supplier contributions - cents per container (excl. GST))				
	NSW	ACT	QLD	VIC	WA
	Feb 2025 - Jan 2026	Aug 2025 - Jan 2026	Aug 2025 - Jan 2026	Feb 2025 - Jan 2026	Aug 2025 - Jan 2026
Aluminium	14.03	16.36	12.80	14.58	13.39
Glass	13.94	13.14	13.90	14.93	13.84
HDPE	6.72	11.10	13.50	14.68	13.85
PET	13.38	13.07	13.50	14.68	13.76
LBP	5.25	6.67	13.90	15.03	14.17
Steel	9.18	3.36	13.90	14.63	14.17
Other plastics	1.20	1.75	13.90	14.63	14.17
Other materials	9.44	1.86	13.90	14.63	14.17
Weighted average	13.17	13.99	13.30	14.70	13.61

The cost per container in NSW includes:

- the 10-cent refund per container
- a contribution to the auditing and scheme administration carried out by the Scheme Coordinator, to ensure the scheme is efficient and effective.
- the cost to collect and recycle the container.
- a contribution to a "compliance fee" paid by the beverage industry to the EPA. The compliance fee funds the compliance and oversight work of the EPA to ensure fraud is minimised, and that the scheme operates as effectively as possible. In accordance with IPART's recommendations the EPA sets its compliance fee on a cost recovery basis. It will continue to ensure compliance fees are regularly reviewed and is mindful of the need to keep compliance costs low.

As well as the monthly per container scheme fees invoiced by the Scheme Coordinator, the EPA charged a one-off $13.70 per container to assess and approve containers before they can be supplied in NSW. The fee was removed in 2025. Assessment is a key part of ensuring that the containers can be collected and recycled through the Return and Earn infrastructure. As part of the statutory review, the EPA is proposing to abolish this fee and include the cost of assessment within the overall compliance fee. This is discussed in section 1.1 Container Approval Application Fee.

State-wide access

Stakeholders provided feedback about return points, particularly in regional areas, where some considered access was inadequate. Community members also commented that some reverse vending machine return points can attract litter or not be accessible because they are full.

By June 2025, there were 667 return points in NSW. This exceeds the minimum number of return points required under the community access principles in the CDS Regulation. The Network Operator, TOMRA Cleanaway, is obliged under contract to ensure that they meet the community access principles in the CDS Regulation. The principles are incorporated and further refined in the contract.

The number of return points can vary month to month as new points are opened and others close. The Network Operator can find it challenging sometimes to replace return points quickly that close suddenly due to reasons beyond their control.

Different types of return points can also provide people with different experiences. Return point types include reverse vending machines, over the counter return points in shops, and automatic depots that are capable of managing bulk quantities of returns. Newer types of return points are also opening, including shop-front reverse vending machines, and mobile return vans. Individual return points are provided by many organisations including small businesses and charities, under collection point operator contracts with TOMRA Cleanaway.

The EPA acknowledges that despite the extensive coverage and different types of return points, there can be concerns in individual locations. The EPA works closely with the Network Operator to ensure return points are well-serviced, and in the right locations. The development of new types of return points is part of the drive to continually improve access.

The Network Operator is paid on a per container collected basis. This provides a direct financial incentive to make return points accessible, so more containers can be collected. However, the EPA is aware that not all locations are financially attractive to service. The EPA has therefore adjusted the access requirements in the Network Operator agreement through the contract extension process to ensure longer term gaps in the network are filled, particularly in regional areas.

Reducing litter and increasing recovery, reuse and recycling of beverage containers

The objects of Part 5 of the WARR Act include section 19(1)(b):

....to establish a...container deposit scheme... to promote the recovery, reuse and recycling of empty beverage containers.

There was overwhelming support across all stakeholders for the environmental objectives of Part 5 of the WARR Act. Feedback went further to suggest the objects should be expanded to include extra emphasis on the circular economy.

In response, the EPA recommends that the objectives of Part 5 be amended to refer specifically to the principles for a circular economy. The Return and Earn scheme already sits within a policy framework that is focused on delivering a circular economy, particularly as part of delivering on the NSW Waste and Sustainable Materials Strategy 2041. The report recommends making this more explicit in the legislation.

The structure of Return and Earn embeds circular economy principles by incentivising the Network Operator to collect beverage containers to preserve their highest resource value. Containers are collected and sorted to create streams of separate material types, which preserve the value of the material as clean and uncontaminated. For example, glass and PET are returned to food-grade container manufacturing in NSW and Australia. Aluminium is sent overseas for reprocessing back into high quality aluminium.

The Return and Earn scheme is also designed to harness the existing kerbside bin collection system run by local councils. Material recovery facilities which process household yellow-lid bins can claim a refund amount for every container collected through this system, but only if it is sent for recycling.

The increase in recycling of beverage containers and the reduction in litter in NSW since Return and Earn started, has been outlined above. Beverage container recycling has doubled since 2017, and litter from beverage containers has more than halved.

Other stakeholder feedback included:

Issue	Response
There should be minimum return rate targets	Increasing return rates for containers is a priority across all Australian container deposit schemes, with recent research[6] providing guidance on the drivers for increasing return rates. Further action is being considered at NSW and national level.
There should be mandatory recycled content requirements for containers	The Commonwealth is considering a range of reforms to increase the content of recycled material in packaging, including design standards and recycled content requirements.
There should be greater visibility of recycling outcomes of the scheme	This is noted. Extra information on where container material is sent for recycling and what it is used for has been added to the annual report.
There should be requirements to ensure beverage containers are practically recyclable through existing recycling infrastructure.	This is already in place. All containers must be approved by the EPA before they can be supplied in NSW. Recyclability through the scheme is a key criteria in the assessment.
There should be greater reuse of beverage containers	The Commonwealth is considering a range of reforms to increase packaging recovery, including reuse options.
There should be an expanded scope of containers accepted within Return and Earn	Options to improve recovery of glass beverage and other containers were put forward in the discussion paper. Feedback on options is reported in the Summary of Consultation Feedback published on the EPA's Have Your Say page.[7]
Support long-term investment and certainty for the Scheme Coordinator by having one maximum period of renewal of up to six years (rather than two maximum periods of three years)	This is supported and is a recommendation in this report.

[6] https://www.epa.sa.gov.au/environmental_info/waste_recycling/container_deposit/hepa-cds-behaviour-change-report

[7] https://yoursay.epa.nsw.gov.au/driving-nsws-circular-economy.

Reflecting circular economy principles in the objectives

As part of the feedback on the objectives of Part 5, there was strong support from the community to reflect the principles of a circular economy within the legislation.

A circular economy is an economic system aimed at minimising waste and promoting the continual reuse of resources. The circular economy aims to keep products, equipment and infrastructure in use for longer, thus improving the productivity of these resources. Waste materials and energy should become input for other processes: either a component or recovered resource for another industrial process or as regenerative resources for nature (e.g. compost). This regenerative approach contrasts with the traditional linear economy, which has a 'take, make, dispose' model of production. The circular economy is based on three key principles:

- design out waste and pollution
- keep products and materials in use
- regenerate natural systems.

The existing objectives of the WARR Act and Part 5 are completely consistent with these circular economy principles but are couched in outdated terms.

Recommendation 1

It is recommended that the objectives of either the WARR Act and/or Part 5 are amended to better reflect the concepts of a circular economy.

Key findings – proposals for change

1.1. Container approval application fee

Between when the 2022 discussion paper feedback was analysed and when this statutory review report was published, the container approval application fee was removed through an order published in the NSW Gazette, thereby actioning Recommendation 2.

Previously, the EPA (for the NSW Government) charged a $13.70 application fee for processing container approval applications. While the fee is relatively small compared to comparable fees in other jurisdictions (e.g. SA), the fee has a disproportionate impact on small suppliers that have less containers to spread the fee across compared to larger suppliers. It also creates an incentive for small suppliers to try to avoid participating in the scheme. This impact became apparent when the fee was temporarily removed for small suppliers during COVID and there was a large increase in container approvals from small suppliers.

While the benefits of removing the fee for small suppliers are well understood, the discussion paper also asked for comment on whether the fee should be removed for all suppliers and the costs absorbed into the scheme's overall costs. These are invoiced to all suppliers on a per container basis:

- Forty-seven (47%) of survey respondents said the fee should be absorbed into the overall scheme costs for the benefit of all suppliers.
- Thirty-three (33%) supported this proposal but only for small suppliers and 20% were unsure.

It should be noted that 77% of respondents to this survey question were community members that do not interact with this element of the scheme.

Comments made through written submissions were generally supportive of absorbing container approval application fees into the overall scheme costs.

Recommendation 2

A change is justified and would not require an amendment to Part 5 of the WARR Act. It can be actioned through an order published by the EPA in the NSW Gazette.

1.2. Removing the interstate penalty for redeeming containers purchased outside NSW

Section 44(1) of the WARR Act makes it an offence for a person to present a container for a refund if that container was purchased in another state or territory. The purpose of this provision is to protect suppliers in NSW from paying refunds for containers sold in other states or territories that are not eligible for a refund in NSW. This provision helps to keep costs as low as possible for NSW suppliers.

During public consultation there was 80% support from survey respondents to remove the offence because all states and territories are largely aligning with container deposit schemes across Australia once Tasmania implements its scheme, which it did in 2025.

This offence does not apply if the container comes from a jurisdiction with "corresponding laws" to NSW. These are prescribed in the CDS Regulation. Schemes across Australia are largely aligned in terms of the containers that are eligible for a refund. National alignment of the scope of containers within schemes continues to be driven through Australian Environment Ministers. Changes in Qld in 2023 mean that wine and spirits glass containers are now accepted there. This means there are some differences between schemes that will need to be monitored.

The EPA now prefers to keep the existing offence so it can act if there are anomalies in cross-border practices. The redemption of containers from interstate will continue to be monitored to ensure that containers bought interstate will not become problematic for Return and Earn.

Recommendation 3

No change is recommended – that is, the penalty will remain for redeeming in NSW containers bought interstate. This allows the EPA to act in circumstances where it is necessary to control what can be redeemed in NSW. The EPA will consider if the WARR Act provisions adequately allow the 'corresponding law' requirements to be managed through the CDS Regulation.

1.3. Payments to material recovery facility operators outside NSW

In states that border NSW, material recovery facility operators could be receiving container deposit scheme material collected from NSW councils, but the Scheme Coordinator does not have the power to pay refunds to facilities located outside of the state. Therefore, councils and ratepayers are not able to benefit from containers collected through their kerbside recycling systems that are processed interstate. The discussion paper asked for feedback on whether a specific power should be given to the Scheme Coordinator to make payments to facility operators that process NSW material. It also asked how such an arrangement could be implemented fairly, given that NSW-based facility operators must meet strict auditing, reporting, and sampling requirements to claim refunds for eligible containers.

There was general support for this proposal with 71% of survey responses favouring it. Written submissions were also largely in support, but commentary from Local Government NSW was that the complexity of administering such arrangements may outweigh the benefits.

Recommendation 4

An amendment to the WARR Act is justified. The concern that there may be difficulties in administering interstate payments is noted. However, cross border processing of container deposit scheme material must be managed given all jurisdictions bordering NSW now have a scheme in operation. Change may be needed to the WARR Act as well as other regulatory and administrative arrangements. The EPA will also explore transitional arrangements.

1.4. Container approval application timeframes

The WARR Act sets out the process for suppliers to make container approval applications. There is a 28-day assessment and processing period. If the EPA is unable to make a decision during that timeframe – due to not enough or incorrect information received, for instance – the application is refused. The discussion paper asked for comment on including "stop the clock" provisions so that the EPA doesn't need to refuse an application if the timeframe runs out while further information is sought, or a corrected application is made.

Eighty-five percent of respondents supported this approach and no concerns raised in written submissions.

A suggestion was also made that the container approval application provisions be amended to future proof any national alignment efforts on those applications. This is noted. Any amendments drafted will consider the national harmonisation of container approvals now being examined.

Recommendation 5

An amendment to the WARR Act is justified.

1.5. Concept of 'first supplier'

Under the NSW scheme, the 'first supplier' to supply a beverage in a container into NSW is responsible for paying the scheme costs. The 'first supplier' approach provides greater transparency of parallel imports into NSW, particularly via the major retailer chains, who buy in bulk from manufacturers and then distribute beverages through national distribution networks.

An unintended consequence of the 'first supplier' model is that it also captures small businesses known as 'contract bottlers' that bottle "own brand" beverages on behalf of major retailers and other brand owners. These contract bottlers are captured even though they have no control over the number or type of beverages they are producing on behalf of brand owners. In Qld and WA contract bottlers have been specifically exempted from their definition of 'first supplier' schemes leaving the brand owner as the responsible party.

Excluding contract bottlers from the definition of 'first supplier' would simplify administration for suppliers into multiple jurisdictions (by aligning NSW legislation with other jurisdictions) and reduce the administrative burden on the small businesses who carry out contract bottling.

Community responses through the discussion paper survey were evenly split noting that community members have no direct involvement with this element of the scheme. Responses by industry through written submissions were unanimously in support of this proposal and where comments were made about a preference of a definition, the WA approach was preferred.

Recommendation 6

An amendment to the WARR Act is justified.

1.6. Exporters

Beverage containers that are first supplied in NSW are caught by the scheme and suppliers are liable to contribute to the scheme's costs. If the beverage container is subsequently exported by a downstream distributor or retailer to be consumed outside NSW, then that cost, including the refund amount, may be passed on as part of the cost of the beverage even though the container will not be returned in NSW. If the beverage is then supplied into another jurisdiction that also has a container deposit scheme, then it is likely to be subject to scheme costs again.

Under the current terms of the WARR Act, downstream exporters can claim a rebate from the Scheme Coordinator under the Export Protocol[8]. This, however, is an administrative arrangement that is not covered by the Act. Downstream exporters are not recognised in the Act and there is no provision in the Act for repaying exporters for scheme costs.

The discussion paper asked for feedback about whether these downstream exporters should be referenced in the WARR Act, and if the WA approach is preferred (where it is an offence to make claims that one is not entitled to). Key stakeholders from the waste and local council sectors agreed exporters should be referenced and the WA approach was preferred. Public response through the survey was also in favour of this proposal. A submission from the retail sector said that these issues would be resolved on alignment of all Australian schemes and in the interim, any simplification of downstream export matters would help keep scheme costs low.

Recommendation 7

An amendment to the WARR Act is justified.

1.7. Extending compliance responsibilities to all suppliers

There are a small number of requirements that are critical for scheme compliance:

- All participants in the supply chain for the scheme must ensure there is a refund mark on containers.
- The holder of a container approval must ensure the container has a barcode.
- The holder of a container approval must not supply a container with a metal ring-pull lid. The beverage sector reports that ring-pull lids are no longer manufactured, but the EPA has found that overseas and local distributors continue to supply these. Imported products can also be sealed in other removable type metal lids.

Currently different responsibilities for different parts of the supply chain make compliance more difficult and somewhat unfair.

The discussion paper asked if responsibilities for compliance with barcode and 'ring-pull' lids should extend to first suppliers that supply the same beverage into NSW, but which do not hold the

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[8] https://www.exchangeforchange.com.au/exporters/exporter-obligations.html

container approval, and to all suppliers in the supply chain. Ring-pull lids and barcodes are characteristics that are easy to detect.

A separate question asked was whether all those in the supply chain should ensure there is a current container approval in place. This information can be found on the EPA website. A similar requirement also exists in SA.

Stakeholders expressed different views on these issues:

- The community was supportive – 76% of all survey responses (of which the community made up 78%) were in favour of the proposal to extend metal ring pull lids and barcode requirements to every participant in the supply chain.
- Seventy-six percent (76%) of survey respondents were also in favour of all in the supply chain being held accountable for ensuring there was a current container approval.
- Written submissions from distributors were not supportive, stating that retailers don't have visibility of approved containers and the first supplier should be liable.

Recommendation 8

The proposal to make the supply chain equally responsible for ring-pull and bar code requirements is justified. There is low risk to distributors and retailers, particularly because metal detachable ring-pulls and lids are immediately visible, and barcodes are integral to retail management. Retailers and first suppliers can make initial decisions when buying, importing or distributing containers that will effectively ensure non-compliant containers aren't sold in the first place, rather than relying on later compliance. The EPA will consult with the retail industry on the implementation of this requirement to ensure minimum impact on downstream suppliers and that they are supported to comply.

1.8. Relationship between material recovery facilities and the Scheme Coordinator

The discussion paper asked for views on whether material recovery facility operators should be required to have a direct contractual relationship with the Scheme Coordinator to claim processing refunds for containers disposed in the kerbside scheme. Facilities are a critical part of the container deposit scheme collection and recycling system but they do not currently have a direct contractual relationship with the Scheme Coordinator, unlike other scheme participants such as suppliers.

Operational experience has shown that from time to time, facility operators leave the scheme voluntarily and/or because of unforeseen events. A direct relationship with the Scheme Coordinator could help manage the impact on the scheme. A provision requiring a contractual relationship also aligns with the WA and QLD approaches for facility operators.

Facility operators in NSW have a statutory right to payment for recovered material, and the procedures for them to claim from the scheme are set out in the WARR Act, CDS Regulation and material recovery facility protocol.

Key stakeholders from the environment, beverage, local government, and waste sectors were almost unanimous in their support for this proposal through their written submissions. Survey responses were also supportive, with 81% support.

Recommendation 9

An amendment to the WARR Act is justified. Such a change could improve and strengthen the scheme's position in the event a material recovery facility involuntarily left the scheme. It would also provide greater consistency with other key participants to the scheme. The EPA will consult further about putting agreements in place with facility operators. Changes may also be required to other parts of the scheme governance including facility protocols.

1.9. Transparency

The scheme strives for transparency through several processes including:

- an annual report to the Minister that is tabled in both houses of Parliament.
- independent audits of the scheme each financial year
- publication of data on many core elements of the scheme's operation by the Scheme Coordinator and Network Operator at regular intervals.

The discussion paper asked for comment on whether there were alternatives to tabling a report in Parliament to achieve the same transparency of the scheme's performance. Tabling can take time, meaning information to the community can be delayed compared to other options.

Responses from survey participants included:

- With the scheme being mandatory, it should be reported on to Parliament
- Understanding full financial flows for Government is important given the large sums of money involved
- Transparency and accountability for the scheme remain a priority, including a strong focus on recycling issues
- Monitoring progress and demonstrating the success of the scheme.

On the other hand, another comment noted that if the scheme is audited and the annual report published, there would be no need to table it in Parliament.

The discussion paper also asked whether there were any extra matters that should be included in the annual report. Responses included:

- How many containers are not captured by the scheme e.g. in the hospitality sector?
- All scheme data should be reported. This should include costs paid by the first supplier and value reclaimed under the scheme. Also, any windfalls should be allocated to grant funding to allow for waste improvement practices within the state. (*Note that there is no 'windfall' income – contributions pay only for the containers actually collected*)
- The collection rates before the scheme started versus after
- How much has been recycled, where material is recycled and how recyclate is used, its value and where the funds went?
- Comparative data on the recycling of containers in a variety of rural/regional areas versus cities/suburban locations. (because there was a need to understand if sparser opportunities to recycle in rural/regional locations are overly limiting access to the scheme)
- Publishing the difference(s) between containers collected through collection points versus kerbside bins/material recovery facilities (that is, why do facilities receive refunds rather than individuals?).
- What requests or suggestions for improvements have been made by the public?
- There should be a quarterly report to all states and territories

- Extra metrics increase the regulatory burden

Recommendation 10

Transparency is critical for government and community to keep oversight of the scheme. The WARR Act should ensure transparency is maintained, that reports have relevant information, are accurate and timely. The EPA will consider further how best to balance these requirements in the legislation, paying particular attention to the timeframes for tabling annual reports.

1.10. Fraud protection

Schemes of this nature involve the movement of significant sums of money meaning there is the potential for fraud. The scheme has been designed to minimise the risk of fraud and the NSW Government and its scheme partners take the detection and management of fraud seriously. If fraudulent claims are paid, this adds to the overall cost of the scheme which is ultimately paid by suppliers and passed onto consumers.

The WARR Act contains a general prohibition on the redemption of containers that are not part of the scheme (section 44), but this section could be broadened to cover extra scenarios to reduce the risk of fraud. The discussion paper asked for comment on including extra activity that could result in refunds being claimed on containers that have not contributed to the scheme or where containers that are not subject to the scheme are falsely included.

Survey responses were supportive, with 82% in favour of broadening the criteria for fraudulent offences. Written submissions also showed high levels of support for this proposal, and a suggestion was that one type of fraudulent activity to include would be the return of out-of-date containers from retailers that have had the refund paid by the retailer.

Recommendation 11

An amendment to the WARR Act is justified.

1.11. Small suppliers' threshold and other support

Under the WARR Act, suppliers are required to enter into supply arrangements with the Scheme Coordinator. Suppliers are then required to pay monthly contributions to the scheme based on their supply of eligible beverage containers into NSW. In 2020 the Scheme Coordinator made changes to invoicing and reporting requirements so that suppliers with an annual supply of 300,000 or less into NSW could pay quarterly, to help cash flow and reduce compliance costs.

The discussion paper asked how small suppliers could be helped further, including whether the 300,000 container threshold was appropriate. That threshold is current in some other states such as WA. Qld has a 100,000 annual threshold for 'micro beverage manufacturers'.

Most survey respondents supported the current threshold, noting that many survey respondents are not directly affected by this issue.

The Scheme Coordinator, Exchange for Change, supported the current threshold stating that it has been working well. Its submission also made comment that if the scope of containers in the scheme were changed, it may warrant further consideration of this threshold, as potential new beverage industries (like wine) could have different supplier profiles.

A different view from a waste sector organisation was that the threshold could in fact be increased to 500,000 containers. It stated "approximately 95% of all containers sold into NSW are supplied by the top 10 beverage companies/suppliers. We would foresee little to no risk on liquidity for the scheme if these 10 continued to pay monthly".

Other comments included that the definition of a small supplier should be nationally aligned.

Recommendation 12

An amendment is justified. Regulation making powers to set thresholds for all scheme participants, including suppliers could enable different policy settings for different participants. For example, different categories for suppliers depending on their supply volume.

1.12. Permitting an alternative refund mark

All eligible containers in NSW must show the 'refund marking' prescribed by the CDS Regulation: '*10c refund at collection depots/points in participating State/ Territory of purchase*'. This is so that consumers know the container can be redeemed for a 10-cent refund.

Industry groups have advised that there may be benefits in permitting alternatives to the current labelling requirements. The discussion paper asked whether stakeholders supported an alternative to the mandatory refund mark that suppliers could elect to use.

Consultation responses included:

- Sixty-eight (68%) of survey responses were supportive
- Submissions from the waste sector said that the current refund mark is well understood (as confirmed by independent research) and thought more consultation was needed.
- Exchange for Change consider that the mark should be nationally aligned and not be undertaken without a full regulatory impact assessment.
- A beverage industry stakeholder supported alternatives, but any permitted alternative would need to be as clear as the current requirement.
- A major retailer was of the view that only a single refund mark should be permitted or there is a risk of confusing consumers.
- Another major retailer was supportive of permitting the Australian Recycling Logo as an alternative.
- An environment sector submission said that any permitted alternative label must be backed by consumer research.
- Another environment sector stakeholder was opposed to the proposal.

The divergent views and points raised mean that this issue warrants consideration in detail before any change could be made. Any change to refund marking requirements would need to be considered in consultation with other states and territories to maintain national alignment.

Recommendation 13

Keep the current 'refund mark' as the only approved mark - no recommendation for change is made now. As with other elements of the scheme, changing labelling requirements will depend on consultation with other states and territories to align where possible. Harmonisation of key elements of Australian schemes was a consistent theme from all stakeholders. Consumer research may also be needed about the impact of a different refund mark. The Act currently allows different refund marks to be introduced if required, and this can be specified in the CDS Regulation. No action required.

1.13. Permitting commercial-only material recovery facilities to claim

Part 5 of the WARR Act covers material recovery facilities that process waste collected from householders. Operators of facilities that process materials from commercial-only sources are interested in participating.

The discussion paper asked for feedback on whether to expand the legislation and supporting administration to bring in facilities that process material from commercial sources. These include offices, venues, hospitality businesses, hospitals, stadiums etc. This would be so that 'commercial only' material recovery facilities are able to claim for eligible containers they process.

There was majority support for this proposal (87% of survey responses as well as local councils and the Scheme Coordinator), but there were also divergent views:

- The waste sector peaks are strongly supportive of the proposal
- However, other waste sector stakeholders were concerned that this would disrupt the existing arrangements between charity and not-for-profit groups that collect eligible containers from some commercial venues.

Recommendation 14

Changes to allow commercial-only material recovery facilities to claim refunds is justified. The definition of a 'materials recovery facility' which can be paid refund amounts can be made through the CDS Regulation. Change to incorporate facilities that process commercial-only waste will be explored with affected stakeholders.

1.14. Strengthen compliance and enforcement provisions

Experience over several years in enforcing the scheme's legislation has identified the need to amend several provisions in small ways. Overall, these changes will make compliance action more effective. The proposed amendments will make it easier to protect the integrity of the scheme.

Recommendation 15

Changes are proposed to:

- extend the statute of limitations for fraud-related offences from one year to three years
- include the ability to issue penalty notices for less serious offences, for example where small fraudulent refunds are claimed at a collection point
- introduce a new offence where a person claims a refund by presenting an object that is not a container at a collection point (for example, by fraudulently attaching a barcode to it).
- separate the offence under s38 of the WARR Act into two separate offences:
    - Supplying a container without having a supply agreement with the Scheme Coordinator in place,
    - Supplying a container that has not been approved
- allow the EPA to set conditions to an existing container approval, rather than just at the point when a container is submitted for approval
- allow the EPA to refuse to approve a container if the container is not able to be legally supplied under other legislation
- amend section 43 in relation to providing proof of identity to ensure that collection point operators comply with privacy laws in retaining or destroying records showing identity.

1.15. Supporting the growth of the collection point network

The Network Operator, TOMRA Cleanaway is responsible for setting up and running the network of over 600 different types of collection points. These range from 'over the counter' points where retailers accept containers returned to the shop and provide refunds, to mechanised solutions where containers are fed into machines either singly (reverse vending machines) or in bulk (automatic depots). Refunds are provided through retail vouchers (from reverse vending machines) or through electronic funds transfer (automatic depots). TOMRA Cleanaway has reported increasing difficulty in accessing space at retail centres for reverse vending machines. Retail centres are highly convenient for the community and are some of the most high-volume collection/return points in NSW.

Increasing the return rate of containers in NSW (currently around 68% of containers supplied in NSW are returned) is fundamental to maximising the impact of Return and Earn in the circular economy. National research identifies the convenience of collection/return points as a key driver of return rates[9].

Recommendation 16

The EPA will explore this issue in more detail to understand the barriers to growing the collection network through retail centres. It will consult with the Network Operator, the Scheme Coordinator, the retail sector and other stakeholders to develop possible approaches.

1.16. Allow the term for the Scheme Coordinator's contract to be determined at the time of retender

The WARR Act currently specifies that the maximum term of the contract for the Scheme Coordinator is 13 years, being an initial contract of seven years and two possible extensions of three years each (section 32). The length of the contract is a balance between maintaining value for money for NSW through a competitive market and ensuring that the Scheme Coordinator can gradually write off the initial cost over a reasonable period.

Experience with the current contract has shown that contract extension periods are an important tool to incentivise good performance by the Scheme Coordinator. Strong performance can be rewarded and leveraged through extension of contract. Extension periods also need to be designed to meet the market conditions at the time, to drive best value for NSW. Having a mandatory contract period reduces the ability of NSW take advantage of these opportunities.

Any contract tender or extension goes through significant probity checks before and during the process, as required by NSW Government procurement systems. These apply no matter what the contract period is.

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[9] [9] https://www.epa.sa.gov.au/environmental_info/waste_recycling/container_deposit/hepa-cds-behaviour-change-report

Recommendation 17

Amend the WARR Act to allow the Scheme Coordinator's contract period to be determined when the retender of the contract is designed to maximise incentives in the contract.

Recommendations of the review

Recommendation 1	Reference the principles of the circular economy in the objectives of the legislation
Recommendation 2	Remove the $13.70 container approval application fee
Recommendation 3	Retain the current offence for redeeming containers in NSW that were bought outside the state
Recommendation 4	Enable refund payments to be made to material recovery facilities outside NSW that process NSW containers
Recommendation 5	Introduce a 'stop the clock' provision that allows container approval timeframes to be paused while further information is sought and provided
Recommendation 6	Amend the definition of 'first supplier' to exclude contract bottlers
Recommendation 7	Include specific reference in the legislation to downstream 'exporters' of containers into and out of NSW to better link them to scheme rights and obligations
Recommendation 8	Extend responsibility to retailers and first suppliers for compliance with a small number of container design and labelling requirements
Recommendation 9	Require material recovery facility operators to enter a standard contract with the Scheme Coordinator in order to receive refunds and participate in the scheme.
Recommendation 10	The EPA will consider how to improve transparency of the scheme through annual reporting requirements
Recommendation 11	Expand the fraud offences under section 44 to better protect Return and Earn against fraudulent behaviour
Recommendation 12	The EPA will further consider a threshold for 'small suppliers' which allows those suppliers to access different arrangements to reduce the compliance burden
Recommendation 13	Keep the current 'refund mark' as the only approved mark. No action will be taken to allow alternative 'refund marks' on labels.
Recommendation 14	Allow material recovery facilities that process material from commercial sources only to be recognised in the scheme, which allows a "Protocol" to be developed for the payment of refunds for containers processed by those facilities
Recommendation 15	Make other minor changes in the WARR Act and CDS Regulation to strengthen compliance and enforcement provisions
Recommendation 16	The EPA will consider how to strengthen the collection point network, particularly looking at how to utilise retail centres

Recommendation 17	Amend the WARR Act to allow the Scheme Coordinator's contract period to be determined when the retender of the contract is designed

Appendices

Appendix A - Respondents

Written submissions

Below is a list of the respondents that provided written comment on the statutory review elements of the discussion paper. The names of individuals and organisations that provided confidential submissions have not been listed.

- Cleanaway
- Veolia
- Visy
- Waste Management and Resource Recovery Association of Australia (WMRR)
- Waste Contractors and Recyclers Association of NSW (WCRA)
- Wastefree (NSW) Pty Ltd
- Australian Council of Recycling (ACOR)
- Exchange for Change (EfC)
- Riverina and Murray Joint Organisation (RAMJO)
- Cassegrain – John Cassegrain
- Lion
- NSW Wine Industry Association
- Australian Beverages Council (ABC)
- ALDI
- Australian Retailers Association
- Australian Food and Grocery Council
- Woolworths Group
- Reloop
- Conservation Council ACT
- Boomerang Alliance
- Clean Up Australia
- Mr Mark Fleming
- Australian Packaging Covenant Organisation (APCO)
- Tetra Pak
- Southern Sydney Regional Organisation of Councils (SSROC)
- Local Government NSW
- Northern Beaches Council

- Sydney Coastal Councils Group
- Bathurst Regional Council
- Western Sydney Regional Organisation of Councils (WSROC)

Appendix B - How the Return and Earn scheme operates and glossary

The Return and Earn scheme is established under Part 5 of the *Waste Avoidance and Resource Recovery Act 2001*. Under the scheme, beverage containers are returned to collection points, commonly referred to as return points, throughout NSW and a 10-cent refund (per container) is provided to the person or entity that returns the container.

Recyclers like material recovery facility operators and bottle crushing service operators (bottle crushers) can also claim for eligible containers they process and recycle if a refund has not already been claimed.

Part 5 of the WARR Act is supported by:

- the Waste and Resource Recovery (Container Deposit Scheme) Regulation 2017 (the **CDS Regulation**);
- protocols for material recovery facilities and bottle crushers that determine how many eligible containers they can claim; and
- the Scheme Coordinator and Network Operator agreements.

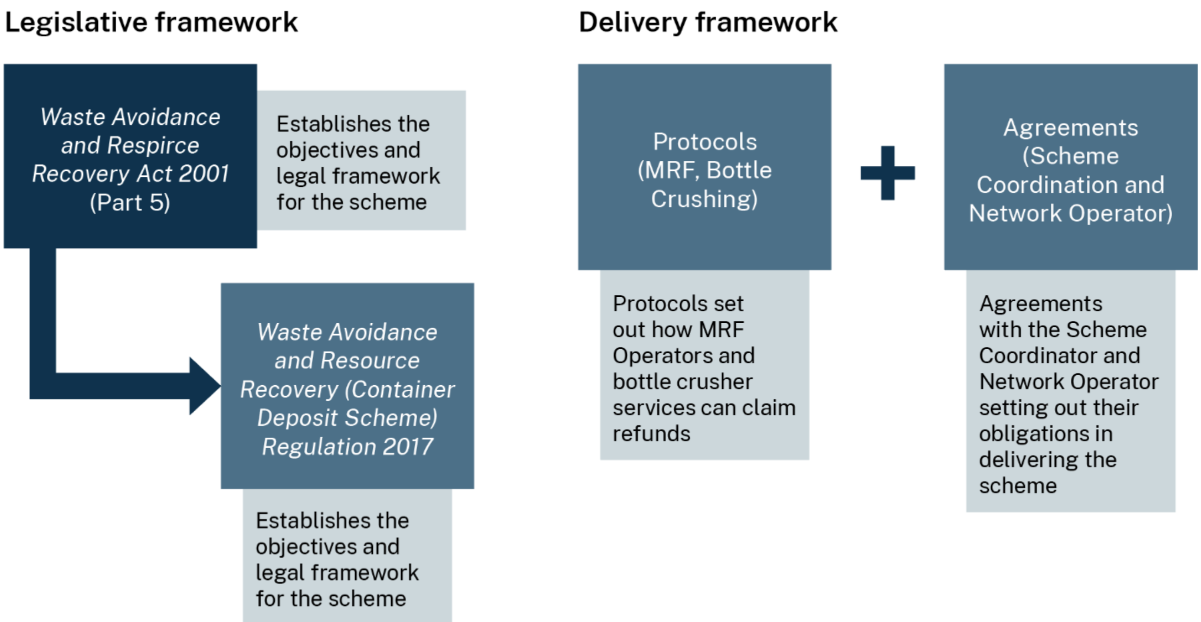

Figure 1 Legislative and delivery framework of Return and Earn

How the scheme operates

Return and Earn is funded by the beverage industry, with suppliers contributing funding proportionate to their supply volumes and material type of containers supplied in NSW. This is to cover the cost of providing refunds, collecting, transporting and recycling containers, as well as the costs of running the scheme.

Return and Earn has been designed as a cost recovery model, which means beverage suppliers only pay to cover the actual costs of the scheme. Funds are managed by the Scheme Coordinator as part of a closed financial loop, with all funds accounted for and reconciled. There is also independent audit oversight.

Beverage suppliers who 'first supply' containers into NSW (this could be a manufacturer, importer, wholesaler or retailer) are obliged to participate in the scheme by entering into a contract with the Scheme Coordinator known as a supply arrangement. Under this contract they are required to report the numbers and types of beverages supplied and fund the costs of the scheme. Beverage suppliers can choose whether to pass these costs onto consumers either in part or full.

Importantly, the sale of a beverage in an eligible container is prohibited in NSW unless that container has also been approved by the EPA, with or without conditions. This is referred to in Part 5 as the container approval application process. The EPA can reject container applications if the container in question is not recyclable.

Scheme Coordinator

The Scheme Coordinator, Exchange for Change, administers the scheme finances by allocating costs to suppliers and reconciling refunds to collection/return points and the Network Operator.

The Scheme Coordinator is also responsible for:

- ensuring suppliers are paying into the scheme correctly under their supply arrangement contract
- marketing, communications, and community education for the scheme.

The Scheme Coordinator is also responsible for auditing scheme participants to identify any compliance issues with the agreements and claims by material recovery facilities and bottle crushers.

Network Operator

The Network Operator, TOMRA Cleanaway, is responsible for:

- running the network of collection/return points across NSW;
- putting in place contracts with third parties who run individual collection/return points (known as collection point agreements); and
- ensuring all material collected through the scheme is recycled or consigned for delivery to a recycling facility.

EPA

The EPA is responsible for the oversight of the scheme, including:

- refining the policy settings that govern the scheme
- approving the types of containers that can be supplied in NSW to ensure that containers can be recycled.
- Carrying out compliance activities to ensure scheme participants and users seeking refunds are compliant with the WARR Act

- managing the contractual performance of the Scheme Coordinator and Network Operator

Other key terms used in this report

Bottle crushing service operator or bottle crushers – a person who supplies bottle crushing machines and collects and processes containers that are crushed for recycling. Bottle crushing machines are installed at venues that serve beverages to reduce noise and glass volumes.

Collection points or return points – a place where containers can be returned by consumers for a 10c per container refund. Examples are reverse vending machines, some local shops where you can return 'over the counter', existing recycling centres, and 'automatic depot' sites for larger volumes of containers.

Collection point agreement – the contract between the Network Operator and collection point operators that establishes how the collection point will operate- to ensure that the set up and management of the collection point meets required standards.

Contract bottler – for the purposes of this review, a contract bottler is a person who is engaged under a contract to make beverage products or fill containers with a beverage for another person and the beverage product is manufactured solely for that other contracting party.

Comingled materials – different materials like glass, paper/cardboard, aluminium and plastic that are placed in the same yellow lid household bin.

Commercial-only material recovery facility – a material recovery facility operator that only processes material from sources other than household waste.

Commercial venues – any property other than a household. Households are charged for and provided with kerbside waste services through council rates. Commercial properties pay rates, but that contribution does not include waste services. Businesses must arrange their own waste collections so waste management services and facilities for commercial venues are different from households.

Eligible drink containers – containers that are within scope of the container deposit scheme and therefore eligible for a refund to the consumer. All beverage containers and beverages are within scope, unless excluded by the CDS Regulation. Containers that are not within scope are not eligible for a refund.

Eligible material – beverage container material, for example, glass, aluminium, plastic etc. that is eligible for a refund.

Inter-Australian exporters – participants in the scheme that export eligible beverage containers from NSW to another Australian jurisdiction after there has already been a 'first supply' of the containers in NSW. There are provisions in the Act to ensure inter-Australian exporters only need to pay into one container deposit scheme scheme in Australia, if they are supplying beverages into multiple states and territories.

Material – what beverage containers are made of - for example, glass, paper/cardboard, aluminium, plastic.

Material recovery facilities – a facility where recyclable material is processed in preparation for sale as raw material to a recycler. Typically materials are received 'comingled' from yellow and/or red lid bins (where different materials are all mixed in the same bin). Materials need to be sorted and baled before sale. The operator of a material recovery facility can claim the refund for eligible beverage container material if there is approved “Protocol” for calculating containers received under s 28 of the Act.

Metal ring-pull lids – a mechanism that is made of metal and that can be removed from any part of the container. These types of lids are prohibited under the scheme because they create a high potential for litter.

Protocols or material recovery facility protocol or bottle crushing service operator protocol – an EPA document that is approved under s 28 of the WARR Act. The document establishes the rules and standards required of material recovery facilities to make a claim to the Scheme Coordinator for eligible material collected from the kerbside, or from bottle crushing machines.

Redemption rate – the rate of beverage containers that are returned through the scheme collection points and material recovery facilities compared to the total supply of beverage containers in NSW.

Refund mark – the notice on a label that specifies if the beverage container is eligible for a refund. This helps consumers know whether they can return that container and get a refund.

Scheme material – means beverage container material within scope of the scheme.

Scheme participant – is defined in the WARR Act to mean a Scheme Coordinator, Network Operator, a supplier that has entered into a Supply Arrangement, or a collection point operator.

Supply arrangement – is the contract between the first supplier of a beverage product in NSW and the Scheme Coordinator. The contract creates obligations and rights between those parties, for example, the supplier must report the numbers and types of beverages supplied each month into NSW and pay the Scheme Coordinator’s invoices that reflect the costs of paying the 10-cent refund to consumers, and the collection and recycling of that volume of containers. These contributions fund the Scheme.

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