

Review of the *Product Stewardship Act 2011*,

including the National Television and Computer Recycling Scheme

**Submission**

**June 2018**

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Table of contents

[Introduction 4](#_Toc517955134)

[1. The extent to which the objects of the Act are being met and whether they remain appropriate. 5](#_Toc517955135)

[2. The effectiveness of the accreditation of voluntary product stewardship schemes and the Minister’s annual product list in supporting product stewardship outcomes. 7](#_Toc517955136)

[Accreditation process 7](#_Toc517955137)

[Benefits of accreditation 7](#_Toc517955138)

[Annual product list and future schemes 8](#_Toc517955139)

[3. The operation and scope of the NTCRS 9](#_Toc517955140)

[4. The interaction of the Act with other Commonwealth, state and territory and local government legislation, policy and programs. 10](#_Toc517955141)

## Introduction

The Municipal Association of Victoria (MAV) welcomes the opportunity to provide a response to the `Review of the *Product Stewardship Act 2011*, including the National Television and Computer Recycling Scheme’ consultation paper. The MAV is the peak body for local government in Victoria. Formed in 1879, we have a long and proud history of supporting councils to provide good government to their communities.

As acknowledged in the consultation paper, local government plays a critical role in our waste and resource recovery system and as such should be considered a key stakeholder for this review. Victorian councils are very supportive of the principles of product stewardship and extended producer responsibility and strongly support the strengthening and expansion of existing schemes and the exploration and introduction of new schemes.

While China’s decision to restrict the importation of certain categories of waste products has placed urgent pressures on our domestic recycling system, it’s also served to highlight numerous opportunities to improve and strengthen the system.

Our current waste and resource recovery system provides little or no incentive for designers, manufacturers, importers, distributors and consumers of products to take responsibility for the environmental impacts of products throughout their lifecycle, from design to disposal. Instead, for most municipal waste and resource recovery services, ratepayers bear the cost regardless of their individual consumption choices. This is neither fair nor efficient, and certainly does not accord with the polluter-pays principle. Product stewardship schemes can and do offer a better alternative. By internalising the environmental costs involved in managing products throughout their lifecycle, producers and consumers are incentivised to use resources more efficiently.

At the 27 April meeting of Commonwealth and State and Territory Environment Ministers, the Ministers endorsed a target of 100 percent of Australian packaging being recyclable, compostable or reusable by 2025 or earlier. Governments will work with the Australian Packaging Covenant Organisation (APCO) to deliver this target. Ministers also endorsed the development of targets for the use of recycled content in packaging, and committed to including circular economy principles in an updated waste strategy by the end of the year. Consideration needs to be given to how these commitments should be reflected in the *Product Stewardship Act.*

This submission seeks to address the first four points raised in the review terms of reference. The MAV and Victorian councils would welcome the opportunity to work more closely with the Department as the review progresses.

## The extent to which the objects of the Act are being met and whether they remain appropriate.

Section 4 of the Act reads as follows:

*Object—reducing impact of products*

             (1)  It is an object of this Act to reduce the impact:

                     (a)  that products have on the environment, throughout their lives; and

                     (b)  that substances contained in products have on the environment, and on the health and safety of human beings, throughout the lives of those products.

             (2)  It is Parliament’s intention that this object be achieved by encouraging or requiring manufacturers, importers, distributors and other persons to take responsibility for those products, including by taking action that relates to the following:

                     (a)  avoiding generating waste from products;

                     (b)  reducing or eliminating the amount of waste from products to be disposed of;

                     (c)  reducing or eliminating hazardous substances in products and in waste from products;

                     (d)  managing waste from products as a resource;

                     (e)  ensuring that products and waste from products are reused, recycled, recovered, treated and disposed of in a safe, scientific and environmentally sound way.

*Other objects*

             (3)  The following are also objects of this Act:

                     (a)  to contribute to Australia meeting its international obligations concerning the impacts referred to in subsection (1);

                     (b)  to contribute to reducing the amount of greenhouse gases emitted, energy used and water consumed in connection with products and waste from products.

In our view, the objectives section of the Act could be improved by:

* Explicitly referencing the design stage to clarify that a product’s lifecycle begins before the product is manufactured. Enhanced product design in relation durability, reparability and less use of materials should be included as an objective. Furthermore, `designer’ should be added to section 4 subclause (2) (preceding `manufacturers, importers, distributors and other persons’)
* Emphasising the importance of the waste hierarchy, including by stating that points (a) to (e) in section 4 subclause (2) are listed in order of priority. That is, avoiding generation of waste is the top priority.
* Also adding `consumers’ and `end users’ to the list of parties identified under section 4 subclause (2)
* Including the following as objectives:
	+ increased resource efficiency
	+ increased resource recovery
	+ facilitate and support the establishment and ongoing operation of efficient and effective product stewardship schemes
	+ support the transition to a circular economy
	+ facilitate market acceptance of recycled materials
	+ foster personal responsibility in each stage of the supply chain

Recognising the costs and complexity of managing the environmental impacts of packaging, it is also essential that packaging be considered part of a `product’ in the context of product stewardship.

Despite the Act being in operation since 2011, Australia still does not have any mandatory product stewardship schemes and only has one approved co-regulatory scheme and two accredited voluntary schemes. With so few schemes established under the Act, it’s clear that the existing objectives of the Act are not being met. It’s not clear however whether this lack of scheme development results from the content of the Act itself or from lack of implementation of the Act.

Lack of political interest in product stewardship, and in waste and resource recovery more generally, from successive Commonwealth governments has played a major role in stymieing the expansion of product stewardship in Australia. It seems this in turn has led to inadequate resources within the Department to actively promote and realise the objectives of the Act.

In light of the range of challenges now confronting recycling in Australia, it is critical that the Department is provided with the necessary resources to implement any recommendations that come out of this review and to support product stewardship more broadly.

The primary focus of product stewardship should be to eliminate residual waste and ensure resource recovery, in line with the waste hierarchy. Mandatory schemes should therefore be put in place for all products that generate waste and sacrifice valuable resources to landfill or to other non-renewable channels. Whether a product is imported into Australia or manufactured locally should be irrelevant when considering how to manage the product’s waste impacts. The advantage of mandatory schemes is that they create a level playing field in that the costs and responsibilities are known and consistent in a competitive market. This certainty should influence and encourage designers and manufacturers to create products that generate no or minimal waste.

As more products are covered under regulated or co-regulated schemes, innovation will follow. An emphasis on improving design, to meet the objectives of reducing waste would help drive this innovation. The current focus on providing product recycling at the end of life needs to shift towards improving product design and manufacturing so that waste generation is minimised in the first place.

We would welcome the inclusion of clear and binding targets within the Act to help drive action by industry and to provide a straightforward measure about the level of success being achieved.

## The effectiveness of the accreditation of voluntary product stewardship schemes and the Minister’s annual product list in supporting product stewardship outcomes.

### Accreditation process

The consultation paper notes that the first round of applications for accreditation of voluntary product stewardship arrangements was held in 2013. The second, and only other round, opened on 26 March 2018 and closes on 31 August 2018. In the absence of an explanation as to why no rounds were offered between 2013 and 2018, it is reasonable to assume that the abovementioned lack of political will and lack of resources within the Department are to blame.

In our view, in order to facilitate greater uptake of accreditation by voluntary arrangements, it is essential that there are regular opportunities to apply for accreditation. At a minimum the Department should run annual rounds or, alternatively, allow applications to be made at any time. It is also essential that the Department has the resources required to process applications in a timely way. It seems likely that at least some, if not all, of this resourcing could be secured via fees for service for scheme participants. We would encourage the Department to look into this.

The paper notes that in 2017, in response to feedback from administrators and participants in existing accredited and voluntary schemes, the Department streamlined the application process for accreditation. Concerns had been raised that the fee and process involved in making an application possibly act as a deterrent to wider uptake of accreditation. We look forward to seeing whether the changes made to the application process result in more applications being made for accreditation under the Act, including in the round currently underway. Depending on the number of applications received, consideration should perhaps be given to incentivising accreditation of voluntary schemes by providing an introductory tier of accreditation that entails even more streamlined reporting, monitoring and evaluation obligations.

### Benefits of accreditation

In order to attract industry to voluntarily seek accreditation of an arrangement it’s essential that the benefits of accreditation outweigh the costs and difficulty of applying.

According to the consultation paper, accreditation of a voluntary product stewardship scheme provides:

* An avenue for recognising and encouraging excellence in product stewardship;
* A level of accountability and oversight of administrators of voluntary arrangements; and
* A level of credibility to the scheme by communicating to the public that the arrangement has been independently assessed

At a recent forum held by the Department in Melbourne, a number of industry representatives questioned the benefits for industry of going through the accreditation process as opposed to operating a purely voluntary, unaccredited scheme. If industry players who are motivated to attend a forum about product stewardship aren’t convinced of the benefits of accreditation, it seems doubtful that the same touted benefits could be used to entice other industry players to join a scheme.

In principle, we agree that accreditation strengthens voluntary product stewardship arrangements by offering a level of accountability, oversight and credibility. The ability for accreditation to really achieve any of these benefits however depends on political backing, the provision of sufficient resourcing within the Department to administer and enforce the Act and associated requirements, and the delivery of a strong and ongoing public education campaign.

The public profile of product stewardship accreditation and the associated product stewardship logo is so low in Australia it’s doubtful that it offers any wide-scale benefit in terms of boosting the credibility of a scheme. The Department and the Commonwealth government has some work to do to improve public awareness and understanding, not least regarding the relative strengths of an accredited scheme as opposed to an unaccredited scheme. State and local governments would be obvious partners to help spread this message, as would industry participants.

### Annual product list and future schemes

As noted above, the focus of product stewardship should be to eliminate residual waste and ensure resource recovery, in line with the waste hierarchy. Mandatory schemes should therefore be put in place for all products that generate waste and sacrifice valuable resources to landfill or to other non-renewable channels.

The roll out of a mandatory scheme should prioritise material types using a number of criteria including, but not limited to:

* hazardous materials
* potential harm to human health, the environment, ecology, waterways or marine systems
* opportunity for resource recovery

The purpose of a mandatory scheme must be to influence the design and manufacturing of products to eliminate harm to the environment and maximize resource recovery.

Councils support introduction of mandatory product stewardship schemes for all of the products currently on the Minister’s priority list – namely: plastic microbeads and products containing them, batteries, photovoltaic systems, electrical and electronic products, and plastic oil containers – as well as for:

* single-use plastics (including cotton tips/buds)
* expanded polystyrene
* disposable nappies and flushable wipes (inclusive of collection from the household)
* mattresses and mattress bases
* tyres
* child car seats
* all products currently captured by the Victorian Government’s “Detox Your Home” program
* air conditioners
* refrigerators and freezers
* washing machines
* non-metal white goods
* children’s toys
* disposable coffee cups

A number of industry players have started to establish their own programs for these and others products, such as 7Eleven’s coffee cup recycling program and Woolworths’ and Coles’ ban on single-use plastic bags, but a national product stewardship approach is clearly preferable in terms of achieving scale, efficiency, consistency, accountability and a level playing field.

## The operation and scope of the NTCRS

The consultation paper includes as an appendix a summary of findings and recommendations from the Australian Continuous Improvement Group’s evaluation of the NTCRS. Based on feedback received from councils we concur with many of the points raised in the summary, including:

* The scheme has demonstrably reduced waste to landfill, especially the hazardous materials found in e-waste. However, the current scheme has largely failed rural communities due to underinvestment and a reluctance to provide regular collections.
* The co-regulatory approach has been effective. A voluntary or self-regulatory scheme is unlikely to achieve the same high rates of compliance by industry participants
* As key stakeholders in the scheme, strong engagement and regular consultation and communication with local government is essential. The MAV and Victorian councils have had little contact with the Department and would welcome the opportunity to work more closely both in relation to this scheme and other schemes.
* There must be sufficient government resources provided to ensure effective administration and enforcement of the scheme, including health checks on co-regulatory arrangements and the effective oversight of downstream recycling.
* Communication about the scheme, and each agency’s role in that regard, needs to be clarified so that the public receive strong and consistent messaging.

In order to ensure equitable access to the service without placing an unfair burden on ratepayers, the scheme needs to cover the full costs of necessary infrastructure upgrades at drop-off sites and regular collection services from these sites across all areas. Drop-off sites should also be required to be provided at the point of sale.

In relation to expanding the scheme to include other types of e-waste, the MAV would support expansion to cover the same e-waste to which Victoria’s incoming e-waste landfill ban will apply. In addition to helping ensure the costs of responsible environmental management for these products are borne by those consuming the goods, alignment with the Victorian ban would also help avoid further confusion about what e-waste can and can’t be recycled. By virtue of its role in international trade and diplomacy, the Commonwealth is also uniquely placed to help ensure any exported e-waste is being managed responsibly or at least being sent to destinations that have a legitimate e-waste reprocessing industry. This is critical to maintain consumer confidence in the scheme.

## The interaction of the Act with other Commonwealth, state and territory and local government legislation, policy and programs.

In our view, the lack of Commonwealth government leadership on environmental issues, including waste and resource recovery, has left environmentally-minded state and local governments will little option but to pursue and implement their own policies and programs. Whilst, as a general rule, we prefer national approaches because of the clear efficiency and consistency benefits, the MAV and Victorian councils have welcomed Victorian Government leadership on a range of environmental initiatives, particularly over the last few years.

Container deposit schemes and plastic bag bans are two obvious environmental management approaches that could most appropriately be implemented at the national level. For various reasons, not least lack of Commonwealth government leadership, it has been left to individual states and territories to develop and implement their own policies, which a number have now done.

The Victorian Government has committed to introducing a ban of single-use plastic bags and is under growing pressure, including from local government, to introduce a container deposit scheme. Community awareness about the environmental impacts of single use plastics more broadly, including plastic drinking straws, is growing and seem a likely target for near future action.

As already noted above, we strongly support expansion of the NTCRS to cover the same e-waste that will be covered by the incoming Victorian e-waste landfill ban. The Victorian ban covers all e-waste, which we understand will be defined as `waste equipment which is dependent on electric currents or electromagnetic fields in order to work properly and waste equipment for the generation, transfer and measurement of such currents and fields, or materials or parts from such equipment’. We would encourage the Department to work with the Victorian Government Department of Environment, Land, Water and Planning to investigate how the Victorian ban can be supported by product stewardship. It is critical that the Victorian ban does not undermine or detract from current and future opportunities to improve national product stewardship schemes.

The Act should encourage and facilitate schemes to identify efficiencies for facilities (i.e. transfer stations) participating in multiple schemes. Considerations include shared collection, transport and logistics costs. This could provide streamlined booking and collection services, improved transfer station storage capacity for stewardship products, and reduced transport costs.

In order to bolster the success of any scheme, it is essential that there be strong engagement with local government during the planning, establishment and implementation of a scheme. As significant players in our waste and resource recovery system, councils can, and often already are, key partners in supporting the roll out of a scheme, including in relation to communications and provision of infrastructure. As is this case with state and federal governments however, councils need time to plan and budget for new initiatives and these timing constraints need to be respected.

The usability of a scheme for consumers, including access to an effective collection network, must always be a primary consideration during the planning stage for a scheme. Consumers should be able to drop off end-of-life products and associated packaging to retailers that sell product types covered by a scheme. The scheme itself, funded by industry, must cover the costs of establishment and operation of collection sites, transportation of material, and community education.

Demand for products that contain recycled materials is essential for the long-term viability of the recycling industry. Product standards and specifications for items made from recycled materials would provide assurance about the quality of goods made from recycled material and bolster the market for recycled goods.

In summary, we believe opportunities to drive national action through the *Product Stewardship Act* should be proactively explored by the Department in partnership with state and territory governments and local government. The MAV and Victorian councils would welcome the opportunity to be part of these discussions.