NSROC
Northern Sydney
Regional Organisation
of Councils

Battery Stewardship Council application for revocation of authorisation AA1000476 and substitution of AA1000694

Submission to: Australian Competition and Consumer Commission

Lodged - 4 April 2025

Prepared by the Northern Sydney Regional Organisation of Councils (NSROC) on behalf of our member councils:

- Hornsby Shire Council
- Hunter's Hill Council
- Ku-ring-gai Council
- Lane Cove Council
- Mosman Council
- North Sydney Council
- City of Ryde Council
- Willoughby City Council

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About NSROC

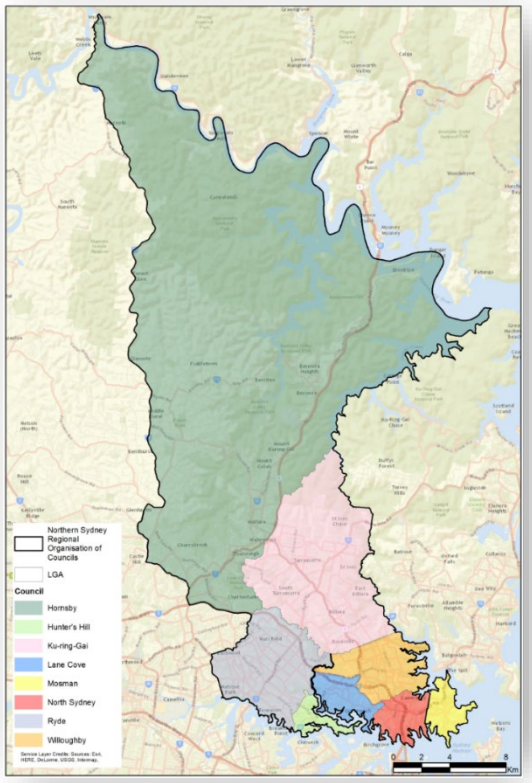
The Northern Sydney Regional Organisation of Councils (NSROC) members are the eight councils in the northern Sydney area: Hornsby, Hunter's Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Ryde, and Willoughby.

NSROC brings these councils together to work on projects and common goals to create solutions that benefit not just individual communities, but the entire region. Furthermore, NSROC actively seeks opportunities to work together with State and Federal government departments and community organisations.

NSROC member councils service an area of 639km^2 with a population of 651,315 as of 2023 which extends from the Hawkesbury River in the north to Sydney Harbour in the south, west to Meadowbank on the Parramatta River, as shown below.

The eight NSROC member councils are:

- Hornsby Shire Council (HSC)
- Hunter's Hill Council (HHC)
- Ku-ring-gai Council (KMC)
- Lane Cove Council (LCC)
- North Sydney Council (NSC)
- Mosman Municipal Council (MMC)
- City of Ryde (CoR)
- Willoughby City Council (WCC)



Introduction and Executive Summary

Thank you for the opportunity to provide comments for your review of the Battery Stewardship Council's application to replace its authorisation. This submission has been prepared with input and support of our member councils, but should be considered draft until it is formally endorsed by the NSROC Board.

NSROC strongly supports B Cycle's application because it should build on the achievements of the current scheme while also addressing most it its shortcomings. Our concern is that the current scheme is no longer viable and without a new scheme battery recycling will cease and the risks of fires in waste infrastructure will increase.

Background

Our eight member councils all provide kerbside waste collection services to their communities collecting green waste, dry recycling and residual waste for recycling and disposal. They also offer bulky waste disposal for larger items and between them the councils operate two Community Recycling Centres which accept household problem wastes such as paints, oils, gas bottles, car and household batteries and e-waste.

In recent years the volume and chemistry of batteries used, and ultimately disposed of, from homes has changed significantly. As the community seeks more energy intensive equipment batteries have developed to provide greater capacity and higher currents. The main way this has been achieved has been through the battery chemistry, but this has also come with consequences. Lithium batteries are increasingly common and the breadth of uses has broadened. Many of these products require a minimum power level from the battery and will not work below that level. That means that batteries are now being discarded with some residual charge whereas in previous years most household batteries being disposed had zero or very little charge. With simpler batteries, disposal in waste bins was predominantly just a missed recycling opportunity although it did risk environmental harm in the landfill. However, such disposal was quite unlikely to cause fires in trucks or waste facilities even if the batteries were damaged.

That paradigm shifted with lithium batteries. When charged batteries are damaged, or heated they can experience thermal runaway which creates a hot fire giving off poisonous fumes which is very difficult to extinguish without specialist equipment and trained personnel. Unfortunately, the community has not changed its behaviours and too many of these discarded batteries are still disposed of into kerbside bins. A recent press release by the NSW Minister for Environment and Heritage quoted industry provided numbers Indicating that between 10,000 and 12,000 fires were reported in waste bins, trucks or facilities[1]. One of the most extreme of these events was the destruction of the ACT's Resource Recovery Centre in 2022 which was caused by a battery fire. Another significant problem is in the greater use of button batteries which can pose a significant risk to children if swallowed.

Typically, waste management rests with local councils and their waste contractors with all the costs sheeted home to the local community. Manufacturers and retailers of hard to dispose materials very often end up with no costs for disposal and historically have designed and manufactured goods only to suit their commercial interests. Pressure from the federal government lead to the establishment of a voluntary product scheme for household batteries which is the current authorisation. While that scheme has achieved some success the changes in battery chemistry and increasing move to portable equipment has changed the whole marketplace. The Battery Stewardship Council (BSC) application quotes a figure of 30% of potential responsible parties not joining the scheme. As the challenges of managing end of life batteries has increased, the available funding has been insufficient to really achieve the best results.

1. [1] NSW Leads the way: first state to regulate batteries, 20 March 2025.

Proposed authorisation

Public Benefits

The proposed authorisation retains the existing scheme's levy and resultant rebate which helps offset the costs particularly in relation to collection and sorting of batteries for recycling. It also retains the preferential dealings among scheme participants which encourages membership. A significant improvement is the proposal to have an annual review of the levy and rebate to reflect expected volumes of different battery types imported in the following year. This should reduce a major challenge in the current scheme caused by having a fixed fee per battery irrespective of the type and hence the cost to collect and recycle it. The levy is paid by importers but can be passed on to retailers who in turn can pass it on to consumers. The rebate is aimed at reducing the costs participants face in joining the scheme. That should increase membership and hence the funding available to recycle more batteries and allow more locations where batteries can be dropped off. That convenience for consumers coupled with the intended education campaigns should increase the number of batteries available for recycling.

The scheme also proposes eco modulation of the fees so that companies dealing with easier to recycle batteries pay a smaller fee per battery. This should increase membership and thus recycling rates and offer efficiencies of scale for the creation of better processing facilities.

The proposed scheme includes significant funding for community education about correctly disposing of batteries which should reduce the incidence of fires or injuries to young children caused by mishandling or the incorrect disposal of batteries. While there is a small increase in the purchase cost for items containing batteries, these are correctly targeted at the consumer rather than as a community cost of increased waste management charges.

Public detriment

However, there is still a significant risk that companies won't participate in the new scheme if there remains a high percentage of free riders. NSROC believes that the solution is for the battery recycling scheme to be mandated. That would avoid free riders and ensure that end of life disposal of dangerous or difficult to recycle materials is recognised as a cost of doing business for manufacturers and retailers. However, it is appreciated that this inquiry is focused on competition and consumer protection and that it is difficult to quantify the costs of suppliers compared to additional costs borne by the community to achieve end of life disposal.

Batteries represent a potential danger to human health and the environment if disposed of incorrectly. If this new authorisation is not endorsed, those dangers will remain and increase because the current scheme will collapse as costs incurred by collectors, sorters and recyclers are not offset by the rebate. Such a collapse would also mean a missed opportunity for a valuable contribution towards the circular economy.

Effect on competition

NSROC appreciates that the creation of cartels creates a significant risk of increased costs to consumers because of the lack of competition. However, the BSC membership includes direct competitors at each stage of the process and the scheme is designed to retain the status quo in regard to market share.

Participants do give purchase and supply preference to other scheme participants for purchasing battery products as well as buying recycled battery products where appropriate. However, the benefits of the scheme in improving the safety of end of life battery management and increased recycling outweigh the loss of competition. As stated earlier, NSROC considers that scheme participation should be mandatory which would avoid the need for such preferential dealings.

Current authorisation

Public Benefits

The B Cycle scheme has increased the volume of batteries being recycled and increased the number of drop off points making it easier for the community to recycle end of life batteries. Prior to the scheme councils found it difficult to identify recyclers for household batteries. While problematic, at least the majority of batteries then in use used lower risk chemistries and were much less likely to present a fire risk. Button batteries were also less prevalent and while still presenting a choking risk were less likely to cause internal damage from the chemicals involved.

Another important benefit of the current scheme has been the creation of a group of suppliers and retailers willing to work together despite being competitors for a public good of increased recycling. While not involving all potential participants, approximately 90% of household batteries fall within the scheme. Those competitors do not typically work together and getting that level of cooperation has been a huge benefit. It does not appear to be a cartel because the participants offer quite different products. For example, the group includes companies selling single use batteries and others offering rechargeable batteries which represent very different business models and market sectors.

It is likely that the current level of simplicity of the scheme-funding mechanism is a by product of that need to achieve a straightforward and affordable mechanism which individual participants could offer to their Boards. While not necessarily predicted by the scheme proponents, it was always possible that a future improvement of the scheme would be needed once the industry appreciated the benefits of cooperation but also identified the new challenges facing participants.

Education campaigns have begun with some effect. But the publicity given to fires caused by batteries has also played a significant role in the community's awareness of the need for improved battery handling and disposal. Unfortunately those fires have increased markedly in recent years, so far more community education work is still required but not possible under the current funding arrangements.

Effect on competition

NSROC is not aware of any significant reduction in competition as a result of the current scheme except where the scheme participants who are trying to act responsibly are less competitive when compared with the "free riders" who avoid the levy and scheme obligations and pass on the battery end of life costs to the community in their waste management charges.

This is a common problem for voluntary product stewardship schemes, but is likely to be terminal in this case because voluntary participants are losing money by participating. This is the reason the BSC has asked for urgent interim authorisation to reduce the risk of losing participants while the longer-term authorisation is determined.

Public detriment

The current B Cycle scheme has had relatively little public detriment except by omission.

The scheme was established and developed its funding mechanism on the basis of anticipated battery usage and chemistry which left it underfunded for the large increases in lithium batteries which are more dangerous and more costly to recycle. The timing of the establishment also coincided with the huge increases in online sales of products from overseas. Those sales can include cheaper products which may not even comply with Australian standards and which definitely do not accept any responsibility for end of life disposal. The scheme was generally unable to influence that market and would have needed some form of government regulation to help limit these imports.

At the local level, the lack of resourcing for the scheme also caused omissions. For example, the NSROC region includes two council operated Community Recycling Centres which accept problem wastes including car batteries, household batteries and e waste. The increased risks posed by lithium batteries lead NSROC to seek expert advice on how best to handle such batteries, especially when damaged, to keep both the staff and the public safe. The NSW EPA funds the collection and recycling/disposal of the household batteries but was unwilling to endorse our suggested safe handling processes because the batteries fell under the B Cycle scheme. However, B Cycle were also unable to endorse specific behaviours. This appeared to be due to a lack of resources supporting research or insufficient staff resources to develop appropriate guidance or possibly a lack of consistency amongst its collectors.

In the event NSROC issued the guidance to the staff of the CRCs in our region and offered it to other CRC operators as the best available guidance, despite the lack of endorsement from the regulator or B Cycle. However, it is anticipated that the proposed scheme would allow such guidance to be developed and refined by B Cycle.

Recommendations

NSROC supports the BSC's request to revoke its current authorisation and replace it with the authorisation described in its application for the reasons described above. Although there may be some public detriment by way of less competition, the proposal seeks to control that and in any event those disadvantages are considerably outweighed by the significant public benefit from a well resourced scheme that ensures batteries are recycled safely.

NSROC also strongly supports the Government's push for a mandatory Extended Producer Scheme for batteries and considers that such a scheme could be implemented to reduce the risk of collusion amongst liable partners and to deliver a significant benefit to the circular economy.