

26 March 2025

Hon Penny Sharpe MP
Minister for Climate Change
Minister for Energy
Minister for the Environment
Minister for Heritage
Leader of the Government in the Legislative Council

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Dear Penny

RE: Comments on the Product Lifecycle Responsibility Bill 2025

Overview

The Australian Sustainable Business Group (ASBG) wishes to provide comments on the Product Lifecycle Responsibility Bill 2025 (PLR Bill) to assist in its efficiency, implementation and to minimise duplications.

The Australian Sustainable Business Group (ASBG) is a leading environment and energy business representative body that specializes in providing the latest information, including changes to environmental legislation, regulations and policy that may impact industry, business and other organisations. We operate in NSW and Queensland and have about 100 members comprising of Australia's largest manufacturing and infrastructure companies and other related businesses.

ASBG supports legislation, which will provide safer methods in the handling of certain products in the waste stream. Improved management of Li-ion batteries is welcomed, but largely focuses on end of life to minimise fires in the waste management and recycling industry. This ignores the upstream safety issues of Li-ion batteries in products in use. Most concerning is, the PLR Bill is all encompassing broader, enabling its capture of any end of life product and the corresponding brand owner, regardless if they reside in NSW, Australia or overseas.

ASBG's main issues with the Bill is it appears to duplicate what the Commonwealth is currently doing and planning to do, with products under its environmental legislation. Avoidance of duplication between the Commonwealth and State required documentation and actions is a critical issue for businesses to minimise the cost of red tape on their operations. If enacted as is duplication is the main issue for our members.

Key Issues with the Bill

ASBG is curious as to the 2nd reading speech's focus on end of life Li-ion batteries. While the move to reduce such battery fire risks in the waste sector is commended, the legislation fails to consider Li-ion battery fire risks when used as a product. It seems that the main purpose of the PLR Bill is to establish a mandatory NSW Product Stewardship scheme, where any product and brand owner can be captured. This is far broader than a focus on Li-ion batteries, regardless of the support, especially by the waste industry, for stronger controls on these products. If the issue was just about Li-ion batteries or similar hazardous end of life products, the Bill could have limited its focus to these. In contrast, it enables any end of life product and its brand owner etc. to be added. If not carefully managed and regulated this legislation can duplicate the Commonwealth Product Stewardship (PS) legislation, which have been in place for over 25 years.

2nd reading speech, when considering its broad application on any product, says:

While these laws will work alongside Commonwealth laws, this is nation-leading reform. New South Wales will lead the way for new mandatory product life cycle schemes that we hope other States will adopt....

The Government has chosen this legislative response to ensure there is appropriate regulatory oversight of product stewardship organisations, which is not present in current voluntary schemes. The bill provides a comprehensive suite of considerations and oversight improvements to ensure that brand owners take responsibility for products across their life cycles and risk is managed appropriately. The obligations on brand owners are appropriate, and the bill includes meaningful but measured penalties for noncompliance.

Consequently, NSW appears to be unilaterally progressing its own mandatory only Product Stewardship scheme to its own design. This seems to pre-empt and duplicate the Commonwealth's current approach and predicts the Commonwealth's reviews outcomes. It certainly rejects the use of voluntary and hints the same for coregulatory Product Stewardship schemes. The Bill also calls its self a nation-leading reform, by only having mandatory PS schemes and urges other states, even the Commonwealth to follow.

The 2nd reading speech also appears to target voluntary PS schemes already in place and agreed to by industry players with the Commonwealth Government. The PLR Bill dispenses with any voluntary or coregulatory PS scheme as operated by the Commonwealth.

ASBG identifies a number of issues with the PLR Bill, as it admits to taking a national lead role in the area of product lifecycle and product stewardship. Key issues; the Bill:

- Was introduced with no warning or any public discussion
- Its 2nd reading speech says it will initially target Li-ion batteries in products, but is open to any product the Minister chooses
- Pre-empts the outcomes of the Commonwealth reviews on:

- Recycling and Waste Reduction Act
- Reform of Packaging Regulation
- Introduces a mandatory Product Stewardship schemes on regulated products, with no voluntary or coregulatory option unlike the Commonwealth's approach
- Contains significant penalties for non-conformance
- Duplicates the APCO's Action Plan development

ASBG Questions

The main set of questions for the NSW Government are related to eliminating or minimising the duplication of its regulatory requirements on brand owners and Stewardship Administrators.

ASBG key questions for the NSW Government on the Bill:

1. Apart from Li-ion batteries, will the NSW Government wait until the Commonwealth Government has completed its reviews on Product Stewardship and enacted legislative amendments to effect these, before regulating other products?
2. Will the Government agree to exempting (ring fencing) those products which have an existing or listed under a proposed Commonwealth Product Stewardship scheme?
3. Will the Government provide a priority list of products that are to be considered for the NSW PS scheme in the future?
4. Will the Government provide at least 2 years warning on the products being considered before being made regulated products?
5. If the Commonwealth introduces a product, currently regulated under the NSW PLR Regulation, will the NSW remove it as a regulated product?
6. Will the Government and its regulator provide a document or other reassurance on how it will avoid duplication of regulation, reporting, (action) plans and other informational requirement being undertaken or to be undertaken by the Commonwealth under Product Stewardship schemes?
7. How will the NSW Government work with the Commonwealth in enforcing Product Stewardship requirements on Brand Owners, especially 'free riders' under this legislation and or under future Commonwealth legislation?
8. Will the NSW Government and its regulator align its reporting, action plans and other required information on brand owners to the Commonwealth's requirements, generally led by the Commonwealth? i.e. any reports, (action) plans and data required by the NSW Government be in the same or similar layout, units, formats and other means on brand owners and Stewardship Administrators, so there is strong correlation between the information collected. This will enable NSW led PS schemes data to be generally seamlessly added to Commonwealth

information and data.

9. Will the NSW Government introduce a procurement preference, by NSW Government agencies, for regulated products under both the NSW PLR legislation and similar Commonwealth legislation?
10. If other jurisdictions take up similar legislation, will the NSW Government adopt item 7 in encouraging other jurisdictions to a nationally standardise system for plans, reporting, information, data and other issues on brand owners and Stewardship Administrators?
11. Why did not the NSW Government table a focused Bill on managing end of use Li-ion batteries, as has been done before, such as, the Plastic Reduction and Circular Economy Act 2021, on which the PLR Bill is based?
12. Why has the NSW Government not provided reflective legislation on the use of products with Li-ion batteries and their safety issues that were highlighted in the 2nd reading speech? The PLR Bill only covers Li-ion safety management at their end of life predominantly in the waste sector.

Should you require further details and clarification of the contents of this submission please contact me.

Yours Sincerely



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