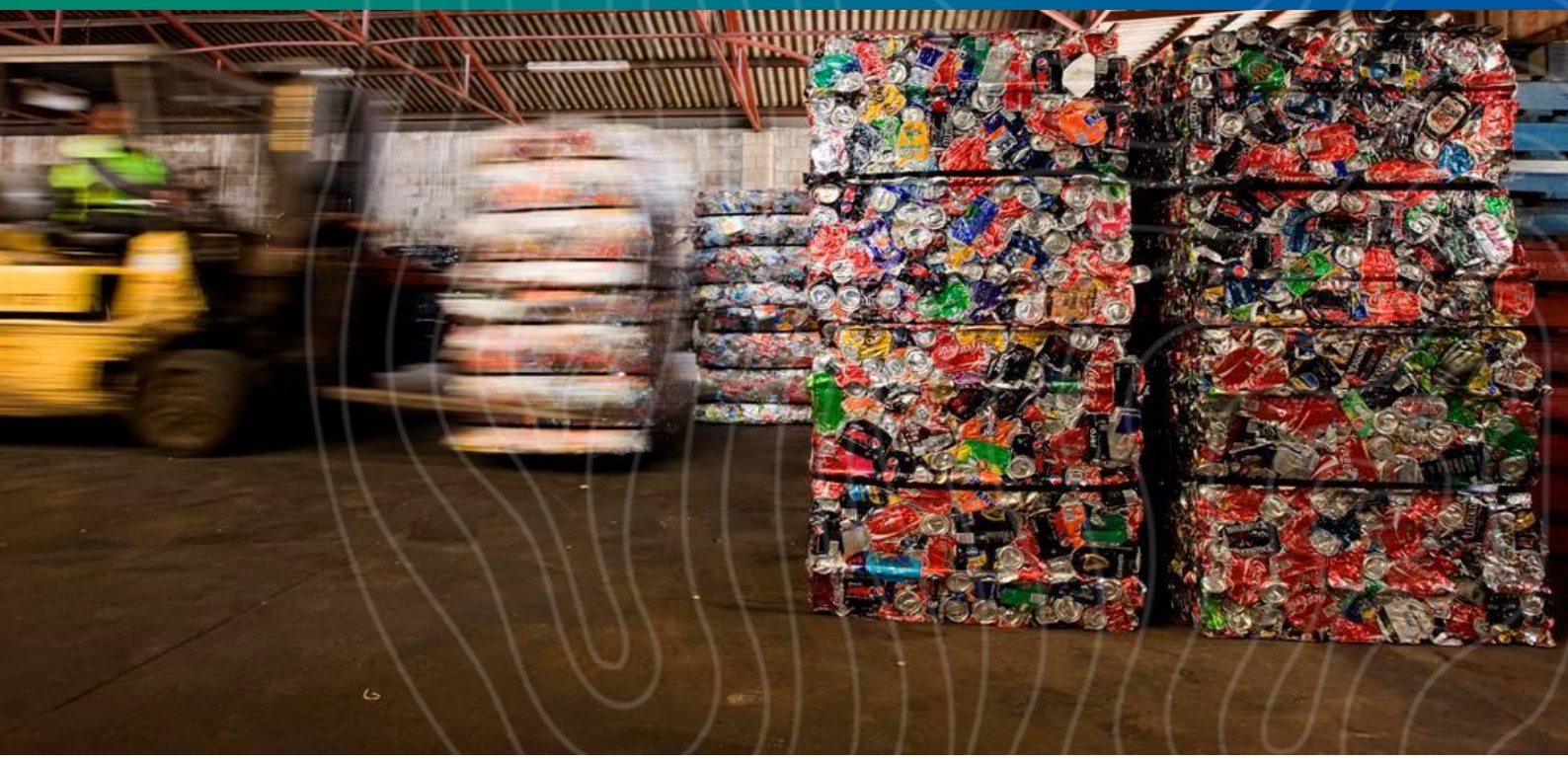
Draft Regulatory Impact Statement (for consultation)

Draft Environment Protection (Beverage Container Deposit Scheme) Amendment Bill 2024



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EPA FOR RECONCILIATION

The EPA acknowledges and respects the Aboriginal peoples of South Australia as the first peoples and nations of this State. We recognise them as the traditional custodians of land and waters in South Australia and that their spiritual, social, cultural and economic beliefs are of ongoing importance today. We recognise that they have made, and continue to make, a unique and irreplaceable contribution to the State.

Artwork: 'Caring for Country', courtesy of Arrernte man Scott Rathman, for the EPA.

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Executive Summary

This draft consultation Regulatory Impact Statement (RIS) focuses on proposed governance reforms to South Australia's Container Deposit Scheme (CDS). The RIS presents the findings of qualitative analysis that builds upon the previous economic analysis undertaken to inform the 2021 *'Improving South Australia's Recycling Makes Cents Discussion Paper'* which examined options to modernise the CDS.

The RIS analysis starts with an outline of what is known about current CDS governance, the interactions between scheme participants and the associated challenges arising from these arrangements.

The context of South Australia's (SA) CDS has evolved considerably since its commencement in 1977 and it no longer meets the expectations of a contemporary extended producer responsibility scheme. No single entity is responsible for scheme administration, coordination and reporting. Limited competition between the existing super collectors and the commercial-in-confidence arrangements between them and their respective commercial partners prevent scheme transparency and accountability and create a barrier to system modernisation.

The objectives of government intervention include setting out clear roles and responsibilities for government and industry around scheme cost-setting practices, performance targets, customer service standards, and IT-based auditing, reporting requirements and regulatory oversight.

Four governance options have been qualitatively assessed focusing on stakeholder impacts and the likely effectiveness of achieving reform objectives:

1. An independent body to oversee the existing multiple super collector system
2. A single not-for-profit scheme coordinator
3. Minimal intervention
4. Status quo (Base Case).

Following the analysis, the recommended governance option is a single not-for-profit scheme coordinator appointed by the Minister in consultation with relevant industry stakeholders (Option 2). Option 2 would remove the super collectors from the scheme in their current form, however this option is likely to be the most effective governance model to achieve reform objectives and was formerly assessed as delivering the greatest net benefit to the community at $56 million per annum.

> Previous independent economic analysis undertaken as part of the review into the CDS estimated per annum unrealised value in the South Australian CDS associated with a range of options available to improve the scheme. Amendment to the current CDS governance arrangements to improve resolution of disputes, enable depot operators to contract with a single super collector or transition to a single scheme coordinator was estimated to result in an annual net benefit of $50 million, $54 million and $56 million respectively to the SA community.

Multiple rounds of consultation together with detailed discussions with impacted parties have collectively shaped the best-fit approach to reforms in SA, with the recommended governance model set out in the draft *Environment Protection (Beverage Container Deposit Scheme) Amendment Bill 2024* (draft Amendment Bill), which is now open for consultation.

The Explanatory Guide to the draft Amendment Bill provides further details on the proposed reforms, and outlines what the changes mean for CDS participants.

Current Container Deposit Scheme governance arrangements

The CDS in SA is coordinated by multiple for-profit super collectors in accordance with the requirements of the *Environment Protection Act 1993* (EP Act) and *Environment Protection Regulations 2023*. Super collectors are responsible for a range of financial and container handling functions including entering waste management arrangements (WMA) with both collection depots and beverage suppliers to collect their containers and find recycling markets for recovered materials.

This analysis outlines what is known about current CDS governance and the interactions between the three super collectors, and the challenges arising from these arrangements.

Container flows

Once containers are returned to a collection depot, they are sorted and aggregated by material type by depot operators with aluminium cans further split by brand. Super collectors arrange for the collected material, other than glass, to be transported to either Marine Stores (aluminium cans only) or Statewide Recycling (all materials other than glass) where containers are weighed, processed, and bailed ready to be on sold to recycling markets. Some depots undertake processing of containers before they are transported to one of the super collectors. The number of splits between super collectors and depots has been a point of tension in the current scheme.

Glass containers are owned by depots who arrange personally, or via a glass cullet merchant, for the sale and transport of these containers to a glass beneficiation plant (beneficiation is the process of sorting, cleaning and crushing glass ready for recycling).

Financial flows

The CDS is funded by suppliers of eligible beverage containers that are approved for sale in SA who enter a contract with and make regular payments to one of three super collectors. The super collectors are approved by the South Australian Environment Protection Authority (EPA), and each have waste management and financial arrangements with around 130 collection depots across SA, and between them with all suppliers of eligible beverage containers to the SA market. These contracts enable the financing of deposits (10-cents per container), handling fees, scheme management fees and the logistics of collecting and sorting all approved containers.

Currently, the CDS is coordinated by three companies, Can Recycling SA Pty Ltd, trading as Statewide Recycling (Statewide shareholder: Coca-Cola Europacific Partners Pty Ltd), Marine Stores Pty Ltd (Marine Store shareholders: Lion Pty Ltd and Coopers Brewery Limited), and Flagcan Distributors Pty Ltd (Flagcan shareholder: Central Recyclers (Aust) Pty Ltd). Statewide and Marine Stores hold all super collector related infrastructure and existing capital investment. Flagcan does not hold infrastructure capable of handling containers. Over 1,100 WMAs covering around 26,000 labels (i.e. beverage products) approved for the SA market are currently collectively managed by the three super collectors.

Although elements of competition exist between the three approved super collectors, there are a series of commercial-in-confidence arrangements between the super collectors reflecting the evolution of a scheme where no single super collector physically handles all container material types and one super collector handles none.

A schematic of existing arrangements between super collectors is outlined in **Figure 1**.

In summary:

- Statewide handles all materials (aluminium, plastics and liquid paperboard) other than glass and Marine Stores customers' aluminium cans;
- Marine Stores handles its own customers' aluminium cans and performs glass accounting services (in relation to the deposit and handling fee) for Statewide and Flagcan, noting depots are responsible for the commodity trading and transport of glass to a glass beneficiation plant; and
- Flagcan do not handle any containers, but an arrangement exists with Statewide to handle Flagcan customers' containers.

Service fees for these arrangements are negotiated between the super collectors on commercial-in-confidence terms. Beverage suppliers maintain a choice of super collector to contract with, noting there is no public-facing information regarding the scheme prices offered by the three super collectors.

Beyond the beverage supplier super collector arrangements, each collection depot has a WMA with each super collector for the payment of the deposit amount, handling fee (negotiated between the parties on commercial terms), and container logistics.

In SA, super collectors coordinate the movement of funds from the beverage suppliers through the CDS to the depots, based upon the conversion of container material weight to container number. This weight-based conversion along with the need for multiple contracts between the depots and super collectors have been the source of long-standing collection depot grievances.

Glass financial flows (deposit and handling fee) are managed by Marine Stores once the glass is delivered to a glass beneficiation plant. The glass commodity value is retained by depots.

Through financial arrangements with the super collectors, depots are able to provide a 10-cent refund per container returned by the public and receive a handling fee from the super collectors.

Scheme fees

The WMAs between beverage producers and super collectors are commercial-in-confidence with no public disclosure on the relevant scheme price by material type.

The EPA currently receives fees for eligible beverage container applications, and application and annual fees from collection depots and super collectors.

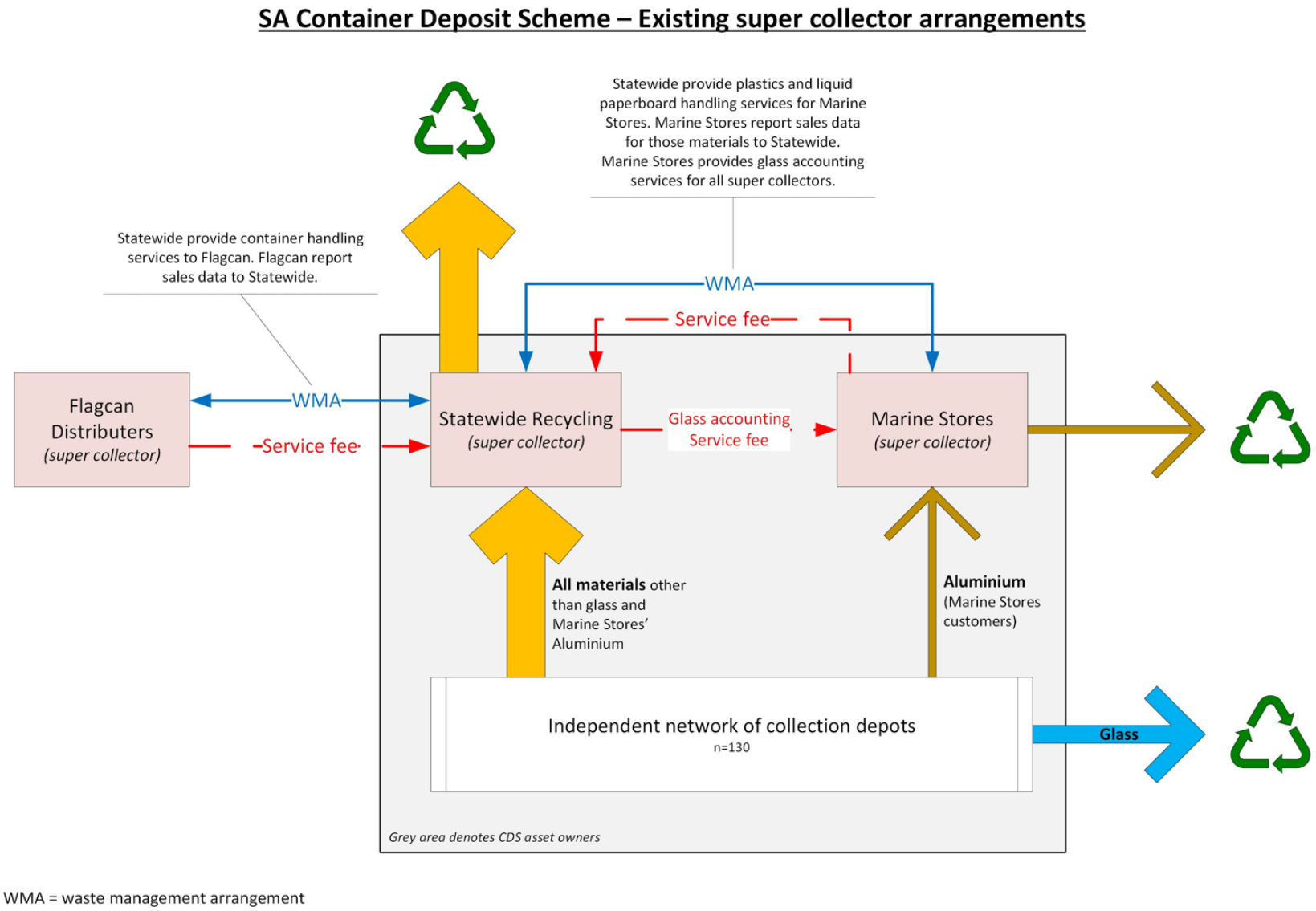


Figure 1 Existing super collector arrangements

Previous amendments to the Environment Protection Act

The 2008 amendments to the CDS via the *Environment Protection (Miscellaneous) Amendment Act 2008* sought to strengthen the current scheme by dealing with systemic issues such as providing equitable regulation of all industry participants, addressing rorting of the system for example by transport of eligible containers from interstate for receipt at SA depots, and allowing for an approval to be sought to operate a reverse vending machine.

Prior to 2008, super collectors were unregulated parties under the EP Act. Historically, super collectors were created by industry to ensure that each manufacturer's containers were returned by a collector that specifically collected containers on its behalf. Super collectors are not restricted to collecting containers sold by a parent manufacturer, and act as companies competing for beverage manufacturer business.

The 2008 amendments required super collectors to hold an EPA approval under the EP Act.

Despite these EP Act amendments being in place for over 15 years disputes between commercial parties persist and are symptomatic of a governance structure affected by imperfect competition and commercial-in-confidence arrangements between super collectors, and between super collectors and depots.

Consultation Regulatory Impact Statement

What is the policy problem?

Scheme governance has evolved since the scheme commenced in 1977 and is constrained by system wide challenges, namely:

- Imperfect competition between super collectors, which creates an environment where no single entity is responsible for scheme administration, coordination, and reporting.
- Commercial-in-confidence arrangements between super collectors, and between super collectors and other scheme participants, which prevents scheme transparency and accountability around financial and container flows and creates a barrier to system modernisation.

Super collectors are only required to perform limited functions under the EP Act. The definition of a super collector is set out in the EP Act and '*means a person who, whether personally or through an agent, collects, handles and delivers for reuse, recycling or other disposal, containers received from collection depots*'. Super collectors can perform these roles through entering various contracts with beverage suppliers and collection depots. Beyond these roles, a super collector must also lodge an annual return with the EPA and pay the annual fee.

In performing their role, super collectors:

- set a price through commercial-in-confidence contracts with beverage suppliers (all three super collectors)
- provide container collection infrastructure to collection depots, and arrange for logistics providers to collect and transport containers to the relevant super collector (only Statewide and Marine Stores)
- sell containers into recycling markets (only Statewide and Marine Stores, with aluminium the only competitively traded commodity returned to super collectors)
- report annually on the following information (only Statewide and Marine Stores, with Flagcan's sales data aggregated with Statewide's reporting);
  - total number of containers sold for each material type (e.g. glass, aluminium, PET, HDPE, LPB);
  - total number of containers returned for each material type;
  - total weight of containers returned for each material type;
  - rate of return in % for each material type.

There is no statutory requirement or impetus for any party to drive higher return rates, improve the customer experience through a broader range of return points, promote the scheme, manage overall scheme costs, introduce IT systems to modernise the scheme for scheme participants and consumers, and improve transparency and accountability around financial and container flows. Under the current scheme, if super collectors agreed to work together on these governance aspects it may give rise to risks under the *Competition and Consumer Act 2010* (Cth).

Why is government action needed?

Under the EP Act, EPA regulatory oversight of the CDS is limited and includes ensuring beverage suppliers, depots and super collectors are approved to participate in the scheme, and that beverage containers are prohibited from sale unless they are approved by the EPA and a label displays the correct refund marking.

Beyond these prescribed functions, the CDS is self-regulated by industry - with associated embedded problems as detailed above.

Government intervention is necessary to amend the EP Act to create a more efficient, transparent, and cost effective CDS.

Reform as proposed in the draft Amendment Bill would set out clear roles and responsibilities for government and industry around scheme cost-setting practices, performance targets, customer service standards, and IT-based auditing, reporting requirements and regulatory oversight.

Proposed governance changes to the SA CDS seek to achieve the following reform objectives:

1. Transparent cost setting – transparent and standardised scheme cost-setting practices, including publication of scheme costs per container material.
2. Performance targets – such as legislated target container return rates for each container material.
3. Customer service standards - depot and return point operators must operate in accordance with customer service standards to maximise community participation and container returns.
4. Improved community accessibility and service experience - no barriers to scheme participation for consumers. Ensuring the network of depots and return points in a community (including remote communities) meets the reasonable needs of that community.
5. Scheme transparency and accountability - transparent annual reporting against the strategic plan and including:
    a. scheme fees;
    b. operating costs (incl. handling fees payable to refund point operators);
    c. number of containers sold, returned and the destination of sold materials;
    d. community access standards; and
    e. dispute resolution.
6. IT-based systems to support payment and audit functions and a broader range of container return options. Introduction of an integrated CDS IT platform that supports container registration, counting, container flows, financial flows, reporting, auditing, and enables a broader range of return point options and donation partner participation.
7. EPA fee reform - cost recovery model for EPA CDS functions. The EPA compliance fee, payable by the scheme coordinator, would replace the current application fees paid to the EPA for container approvals (which has a disproportionate impact on small producers) and applications and annual fees for collection depots and super collectors.
8. Branding, promotion and education - raise and maintain public awareness of the scheme, including how the scheme operates and locations and customer service standards.
9. Resolve concerns around:
    a. payment disputes arising from weight-based audit, reporting and payment methods

b. the need for depots to contract with multiple super collectors and brand split aluminium cans

c. depot ownership of glass containers.

Government intervention aligns with the priority action to maximising the "effectiveness and performance" of SA's CDS as identified in *South Australia's Waste Strategy 2020-2025*[1].

What policy options are to be considered?

Two options to modernise scheme governance were detailed in the September 2021 'Improving South Australia's Recycling Makes Cents Discussion Paper' (Discussion Paper):

- *Option 1*: an independent governing body appointed by the Minister in consultation with relevant industry stakeholders to oversee the existing multiple super collector system, and
- *Option 2*: a single independent not-for-profit scheme coordinator appointed by the Minister in consultation with relevant industry stakeholders.

A detailed description of Option 1 and Option 2 is set out within the Discussion Paper Key Issue 5: Governance Arrangements.

A third governance option was considered to determine what reform objectives could be achieved with minimal intervention to the current governance arrangements; this is Option 3: minimum intervention model.

Option 4 is the Base Case or 'Do nothing' option with no changes to the current arrangements.

CDS governance models in other jurisdictions

Other than SA and the Northern Territory (NT), all CDSs across Australia are administered by a single coordinator.

In New South Wales (NSW), the Australian Capital Territory (ACT) and Victoria (VIC) scheme coordinators are responsible for financial operations, marketing and community education, and ensure the integrity of the scheme through audit and risk management. In addition to the scheme coordinator, the NSW, ACT and VIC schemes utilise a network operator, or multiple regional-based operators in the case of VIC, to run a network of return points. This is commonly known as the 'split responsibility model' where the container collection and recycling role is separate from the oversight role. The scheme coordinators and network operators are for-profit entities, other than the VIC scheme coordinator who operates on a not-for-profit basis.

In Queensland (QLD) and Western Australia (WA), the scheme coordinator is responsible for scheme oversight and for the container collection and recycling role via agreements with a decentralised network of refund points. This approach is known as the 'single scheme coordinator model'. The QLD and WA scheme coordinators operate on a not-for-profit basis.

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[1] Green Industries SA 2020, 'Supporting the circular economy: South Australia's Waste Strategy 2020-2025',

Plastics and packaging priority actions:

Maximise the effectiveness and performance of South Australia's container deposit scheme (CDS) in SA, including:

- *Identifying beverage containers whereby product stewardship obligations and beverage manufacturer responsibilities are not being met*
- *Where inclusion within the CDS will maximise the amount and value of the recovered resources*

Advocate and support initiatives whereby CDS containers are process and/or recycled locally or nationally.

In the NT, multiple super collectors administer the scheme. In addition, super collectors must establish a coordinator arrangement to facilitate the recovery of containers and transfer of the funds between the super collectors. This enables depots to have a single contract with a super collector of their choosing and retains the ability of beverage producers and manufacturers to fund the scheme through a super collector of their choosing. This arrangement requires another layer of commercial-in-confidence contracts and shifts an administrative cost onto super collectors and beverage suppliers. The NT scheme operates on a for-profit basis.

What is the likely net benefit of each option?

Option 1: Independent body plus multiple super collectors

Option 1 retains the for-profit multiple super collector model and incorporates an independent body appointed by the Minister on behalf of the SA Government to direct and oversee the scheme's performance. **Table 1** summaries the likely impact of this governance model on key CDS stakeholders.

Table 1 Stakeholder impact mapping for Option 1

Stakeholder	Impact
Beverage suppliers	Beverage suppliers would continue to fund the scheme through waste management arrangements (i.e. a contract) with their chosen super collector. Under this option the independent body would be required to determine scheme costs, including administration, compliance and handling fees which would include the independent body's operating costs and costs associated with the centralised IT platform. The independent body's ability to fund its costs would be subject to its ability to recover costs from each super collector. Any scheme-wide costs savings achieved by depots through having only one contract with a chosen super collector might be offset by additional costs incurred by super collectors in managing super collector arrangements. Removal of the application fee for container approvals would be subject to the EPA's ability to recover regulatory costs from each super collector. Under this model the scheme would continue to operate on a for-profit basis while being required to incorporate the independent body's scheme prices. Contracts, such as those between super collectors, would remain commercial-in-confidence.
Independent body	Under this governance model, there is uncertainty around how the independent body would be able to exercise control and oversight of the scheme without entering contracts with scheme participants. The likely scenario would be that the South Australian Government has to take on the role of the governing body. On transparent cost setting for example, the independent body would require access to existing contracts between super collectors and beverage suppliers, existing and proposed contracts between super collectors, and contracts between super collectors and collection depots including an understanding of agreed profit margins, to set a scheme price. The independent body would also require expertise in recycled commodity markets. Alternatively, the Essential Service Commission of South Australia (ESCOSA) could play a role in price setting. Such a role for ESCOSA would need a prescribed appeal process if a scheme participant does not accept the ESCOSA-recommended scheme price

Stakeholder	Impact
	or handling fee. The appeal process is likely to impact scheme costs, and cause uncertainty in the system. On performance targets, the likely scenario would be for the SA Government to set unenforceable, aspirational return rate targets that would be applied on each super collector. In a competitive market, there would be no incentive for individual super collectors to invest resources and funding into an initiative that might provide an outcome for a commercial competitor. Compounding these challenges, only two of the three approved super collectors have infrastructure capable of handling containers and no single super collector physically handles all containers, making accountability for any performance target unworkable. Regarding a centralised IT platform, the Discussion Paper signalled that super collectors would need to coordinate this function. However, given the competition constraints, the independent body would need to take on the capital and operating costs to maintain an IT platform, which would carry a significant financial and operational risk. These costs would need to be recovered from beverage suppliers through contracts with individual super collectors. These examples highlight the challenges of creating an independent body who would have limited ability to achieve broader CDS reform objectives through super collectors who would remain commercial competitors.
Super collectors	This model retains super collectors in the scheme, although super collectors would be required to come to arrangements with each other in order to allow any one super collector to accept all containers belonging to all other super collectors. These arrangements may present competition risks. In the current scheme only two super collectors physically handle containers so the operational burden would not be evenly spread across the super collector market. On the assumption that a super collector does not have to meet standards such as land and capital investment for storage/handling of all container material and to collect all materials from depots and sub-contract those operational functions to another super collector questions regarding unfair commercial advantages need to be considered for those that have not invested in infrastructure. On the assumption every super collector must meet standards such as land and capital investment for storage/handling of all container material and must be able to collect all materials from depots it has a contract with questions regarding overinvestment and scheme inefficiencies inflating scheme costs for beverage suppliers need to be considered.

Stakeholder	Impact
Collection Depots	Depots would benefit from having a single waste management arrangement with their chosen super collector and from the elimination of container sorting by brand. Moving to a count-based payment, auditing and reporting method would require a system wide IT platform. This scenario would likely retain depot ownership of glass containers.
Material recovery facilities	Material recovery facilities (MRFs) would not be formally recognised in the scheme under this governance option. Containers that are placed into kerbside or commercial collection systems would continue to be sent to a MRF where some CDS containers are recovered and presented to the depots for an agreed amount (including the 10-cent refund).
Customers	The extent to which the independent body would be able to influence the customer experience of the CDS is largely unknown as this governance model has not been tested in an Australian jurisdiction. The independent body could raise and maintain public awareness of the scheme with a view to influencing consumer behaviour. These costs would need to be recovered from beverage suppliers via contracts with super collectors. As identified in the Discussion Paper, the stimuli for additional return points to boost customer convenience would be driven by a range of commercial factors but could be commercially underpinned by a potential future expansion of the CDS to incorporate additional beverage containers. In this model the independent body could identify gaps in the collection network and then run an Expression of Interest (EOI) process for the market to provide those services. However, unless the independent body is a contracting party, this would require super collectors coming to an arrangement with the return point to provide that collection service for customers.
Donation partners	Donation partners could be formally recognised in the scheme under this model. Following EPA approval, a donation partner would need to establish an arrangement with a collection depot or return point operator or could be recognised by the IT platform as a donation partner.
Government	The role of the independent body will likely fall on the SA Government. The development and operation of a scheme-wide IT platform would also carry significant financial risk given this platform would process more than $100 million in transactions per year. It is likely the SA Government would need to fund the independent body start-up and initial operating costs and seek to recover those costs from the beverage industry via contracts with super collectors.

Stakeholder	Impact
	Removal of the application fee for container approvals would be contingent on the EPA's ability to recover EPA regulatory costs from each super collector.

Option 2: Not-for-profit scheme coordinator

Option 2, as drafted in the draft Amendment Bill, replaces the super collectors with a single independent not-for-profit scheme coordinator appointed by the Minister on behalf of the SA Government to govern, administer and provide for proper operation of the scheme. **Table 2** summaries the likely impact of this governance model on key CDS stakeholders.

Table 2 Stakeholder impact mapping for Option 2

Stakeholder	Impact
Beverage suppliers	Beverage suppliers would fund the scheme through supply agreements (i.e. a contract) with the scheme coordinator. Under this option the scheme coordinator would be required to determine scheme costs, including administration, compliance and handling fees which would include the scheme coordinator's operating costs including costs associated with the centralised IT platform that is able to achieve reporting requirements. Any scheme wide cost savings achieved through depots having a single contract with the scheme coordinator could be passed on through the system. Removal of the application fee for container approvals would be guaranteed, with the EPA's regulatory costs recoverable from the scheme coordinator. Under this model the scheme coordinator would operate on a not-for-profit basis, although would have contracts with a range of for-profit entities including the collection network. Any scheme coordinator operating surpluses would go towards reducing scheme costs, which would be reinvested into the scheme and/or be passed on to beverage suppliers through supply agreements. This model would require beverage suppliers entering into a new agreement with the scheme coordinator.
Scheme coordinator	The scheme coordinator would be responsible for the governance, proper operation and reporting on the scheme performance and would enter into agreements (i.e. contracts) with scheme participants. The scheme coordinator would be responsible for all container material types, including glass, ensuring these materials enter recycling markets.

Stakeholder	Impact
	As evidenced from other schemes' across Australia that are administered by a single coordinator, the scheme coordinator would be able to set the scheme price for each material type including setting handling fees. In the not-for-profit model, any operating surplus achieved by the scheme coordinator would be reinvested into the scheme and/or would be passed on to beverage suppliers through supply agreements. The scheme coordinator could be held accountable for any performance targets. Regarding a centralised IT platform, the scheme coordinator would take on the capital and operating costs to maintain an IT platform, with costs recovered directly through the scheme price payable by beverage suppliers. The scheme coordinator would have visibility over the whole scheme and would be able to deliver on the transparency, auditing and reporting requirements expected of a modern extended producer responsibility[2] scheme. In addition, the scheme coordinator would be required to raise and maintain public awareness of the scheme, including how the scheme operates and its benefits, and the location of container refund points.
Collection depots	Collection depots would need to enter new arrangements with the scheme coordinator. Depots would benefit from having a single agreement with the scheme coordinator and the elimination of container sorting by brand. The IT platform would enable moving to a timelier count-based payment, auditing and reporting methods. Glass, along with all other container materials, would be the responsibility of the scheme coordinator.
Super collectors	This model would remove the super collectors from the scheme in their current form. The extent to which existing super collector infrastructure is retained would depend on the outcome of the process to appoint the scheme coordinator following the passage of the reform Bill through the SA Parliament, or subsequent transfer of ownership
Material recovery facilities	MRFs would be formally recognised in the scheme under this governance option. Subject to EPA approval, MRFs would be able to participate in the scheme via an agreement with the scheme coordinator. Containers that are placed into kerbside or commercial collection systems and successfully recovered at the MRF would not

[2] Extended producer responsibility – A type of product stewardship that places the responsibility on the producers, importers and sellers of a product to fund activities to reduce environment, and health and safety impacts of that product.

Stakeholder	Impact
	need to be returned to a depot. Instead, a MRF operator could seek a recovery amount directly from the scheme coordinator providing pre-determined criteria are met such as circular outcomes for the recovered containers.
Customers	Under this model the South Australian Government could set customer service standards that need to be met by the scheme coordinator, like the approach applied in other jurisdictions. The scheme coordinator would raise and maintain public awareness of the scheme with a view to influencing consumer behaviour. These costs would form part of the scheme price set by the scheme coordinator. In this model the scheme coordinator would be responsible for identifying gaps in the collection network and running an EOI process for the market to provide those services. There are examples from other jurisdictions where the scheme coordinator is required to act as a refund point operator in circumstances where it may not be economic for the market to do so, such as regional or remote communities. As identified in the Discussion Paper, the stimuli for additional return points to boost customer convenience would be driven by a range of commercial factors but could be commercially underpinned by a potential future expansion of the CDS to incorporate additional beverage containers.
Donation partners	Donation partners would be formally recognised in the scheme under this model. Following EPA approval a donation partner could establish an arrangement with the scheme coordinator to be recognised as a local or state-wide donation partner.
Government	The SA Government would incur costs during the process to select a scheme coordinator and may have to float the scheme initially via a government loan to the scheme coordinator to enable a suitable cash flow of deposits to customers. Beyond those start-up costs however, the scheme coordinator would have the ongoing responsibility for scheme funding via a product stewardship model with the beverage industry.

Option 3: Minimal intervention to the multiple super collector model

Option 3 retains the for-profit multiple super collector model and examines what governance reforms could be achieved through minimal intervention by the SA Government. **Table 3** summarises the likely impact of this governance model on key CDS stakeholders.

Table 3 Stakeholder impact mapping for Option 3

Stakeholder	Impact
Beverage suppliers	Beverage suppliers would continue to fund the scheme through waste management arrangements with their chosen super collector. It is unlikely that transparent cost setting for beverage suppliers would be achieved without a prescribed price setting role for ESCOSA, which would be a significant intervention. Consequently, SA would remain a jurisdictional outlier without scheme price transparency. EPA application fees for beverage containers would likely remain to recover EPA regulatory costs, noting contract renegotiation between super collectors and beverage suppliers would be required to achieve EPA fee reform. Under this model the scheme would continue to operate on for-profit basis, and contracts, such as those between super collectors, would remain commercial-in-confidence.
Independent body / scheme coordinator	Under this scenario there would be no independent body or scheme coordinator. Like Option 1, many reform objectives would not be possible unless the South Australian Government takes on some of the roles of the governing body.
Super collectors	This model retains super collectors in the scheme, and the commercial–in-confidence arrangements will remain, preventing any significant shift in reporting transparency in the SA CDS. On performance targets, the likely scenario would be to set unenforceable, aspirational return rate targets that would be applied on each super collector. In a competitive market, there would be no incentive for individual super collectors to invest resources and funding into an initiative that might provide an outcome for a commercial competitor. Compounding these challenges, only two of the three approved super collectors have infrastructure capable of handling containers and collection depots remain responsible for the recycling of glass containers making accountability for any performance target unworkable.
Collection depots	Depots would continue to have multiple waste management arrangement with super collectors. Moving to a count-based payment, auditing and reporting method would remove the primary source of disputes between super collectors and collection depots, however this

Stakeholder	Impact
	relies on procurement of a system wide IT platform, which is unlikely to be realised without the SA Government taking on major capital and operating costs to maintain an IT platform that carries large financial and operational risks. In this scenario depot ownership of glass containers remains.
Material recovery facilities	MRFs would not be formally recognised in the scheme under this governance option. Containers that are placed into kerbside or commercial collection systems would continue to be sent to a MRF where some CDS containers are recovered and presented to the depots for an agreed amount (including the 10-cent refund).
Customers	Improving community accessibility would be left to the market. If the SA Government were to intervene, the likely scenario is the EPA would need to develop a network service plan and run an EOI for the market to provide collection services, or the SA Government would provide grant money or some other incentive to encourage market participation, particularly in remote towns. For either option, head powers for the EPA to perform this work would need to be set out in the EP Act, such as the requirement for the EPA to prepare a network service plan, and procedures prescribed to fill that network on a commercial basis for some areas of the state, and the ability to require super collectors/depots to service regional and remote areas on a cost recovery basis. Both options would extend the role of the EPA beyond a scheme regulator, which is inconsistent with an extended producer responsibility scheme and would shift costs onto government. Similarly, on raising and maintain public awareness of the scheme the likely scenario is the government would need to run an advertising campaign raising awareness of the scheme and the circularity benefits of returning containers via the CDS versus kerbside. Promotional costs would need to be recovered from beverage suppliers via contracts with super collectors.
Donation partners	Donation partners would not be formally recognised in the scheme.
Government	A minimal intervention approach would require the SA Government taking on many of the proposed roles of a scheme coordinator, transferring significant cost and risk from industry to the SA Government, while also making cost-recovery difficult to administer. The scheme-wide IT platform illustrates the significant financial risk of developing and maintaining a suitable platform that would process more than $100 million in transactions per year.

Stakeholder	Impact
	Removal of the application fee for container approvals would be contingent on the EPA's ability to recovery EPA regulatory costs from each super collector, which is unlikely.

Option 4: Status Quo

This option involves no intervention by government and the challenges outlined above will likely persist. However, as Australia moves towards having a CDS in each state and territory there are *consequences arising from not progressing Stage 1 governance reforms:*

- Commercial-in-confidence arrangements between scheme participants will continue to prevent scheme transparency and accountability.
- South Australia will remain the only state without scheme price transparency (i.e. the price paid by beverage manufacturers for the 10c refund and handling fees).
- System modernisation is unlikely to occur.
- National harmonisation efforts will be compromised:
    - Proposed container scope expansion would exacerbate current scheme inefficiencies such as payment by weight not container count, brand splits and depot ownership of glass - including a new range of glass bottle sizes and weights in the governance and current payment system would be problematic.
    - Any national container approval portal could integrate with the SA EPA's stand-alone container approval system but not to SA's current analogue scheme.
- Fee reform will be difficult to achieve:
    - SA container application fees are the highest in Australia (NSW is the only other jurisdiction with a fee) and have a disproportionate impact on small producers who frequently place small batch beverages on the South Australian market.

Can CDS reform objectives be achieved?

Table 4 summaries the likely effectiveness of the different governance models in achieving reform objectives.

Table 4 Effectiveness of governance options in achieving CDS reform objectives

CDS reform objective	Option 1 Independent body plus multiple super collectors	Option 2 Not-for-profit scheme coordinator	Option 3 Minimal intervention to multiple super collectors	Option 4 Base Case – status quo
Transparent cost setting	Problematic	✓	✘	✘
Performance targets	Unenforceable	✓	Unenforceable	✘
Customer service standards	✘	✓	✘	✘
Improved community accessibility and service experience	Problematic	✓	✘	✘
Scheme transparency and accountability	✘	✓	✘	✘
IT-based systems to support payment and audit functions and a broader range of return options	Cost and risk to SA Government	✓	Cost and risk to SA Government	✘
EPA fee reform	Problematic	✓	✘	✘
Branding, promotion and education	✘	✓	✘	✘

Who was consulted and how was their feedback incorporated

A review of the CDS commenced in January 2019, with the release of the *Improving South Australia's Recycling Makes Cents* scoping paper for public consultation.

During the 6-week consultation, the EPA received over 1,170 responses from members of the public, CDS stakeholders, environment and community groups, the beverage manufacturing and supply sector, the resource recovery and recycling sector and the government sector. A summary report of responses was released in August 2019.

This feedback, together with investigations on beverage container material flows (including fate of containers) and economic analysis, helped inform the *'Improving South Australia's Recycling Makes Cents Discussion Paper'* which was structured around the following key issues:

- Objectives of the CDS including recovery and recycling of container materials within domestic circular economies.
- Scope of containers included in the CDS.
- Scheme approvals including container application fees and container markings.
- CDS container return rates including deposit value, container return and payment of the refund.
- Governance of the CDS and its relationship to schemes in other jurisdictions.

From September to November 2021 the EPA received 250 submissions from the community, CDS stakeholders, environment and community groups, the beverage manufacturing and supply sector, the resource recovery and recycling sector, and across government.

A Discussion paper consultation summary report was released in August 2022.

Beyond the formal consultation periods, the EPA has continued to meet with CDS participants and stakeholders, including through the CDS Reference Group that was established to contribute to the review.

These formal consultation periods together with detailed discussions with impacted parties have collectively helped shape the best-fit approach to reforms in South Australia as well as contributing to national discussions to ensure the three areas of national harmonisation are progressed.

Importantly, consideration of specific feedback on the Discussion Paper options has resulted in a shift in the initial policy design on several aspects including:

- the proposed composition of the governing board
- the single scheme coordinator having market power in setting scheme prices
- the functions of the scheme coordinator, and
- transitional provisions for the existing collection depot network.

What is the best option from those considered?

Option 2 – the not-for-profit scheme coordinator governance model - is the best option to achieve reform objectives. The proposed changes to governance build upon on the WA model, which evolved from the Queensland model, with a single independent not-for-profit coordinator appointed by the Minister with an independent Board appointed by the Minister. Board membership would differ from the WA model to recognise South Australian based beverage producers, the existing collection network, and expertise in recycled commodity markets. To ensure fair market conduct by the scheme coordinator, the South Australian model proposes a prescribed price review mechanism for ESCOSA, providing a pricing safeguard for beverage producers who fund the scheme, and the collection network who receive handling fees for returned containers.

Option 2 presents the most effective model to increase resource recovery and improve the transparency, accountability and effectiveness of the scheme, and remove barriers to broaden the customer experience and participation. Option 2 would also position SA to implement the three areas of national harmonisation.

Option 1 is not recommended as it would require the South Australian Government to take on the role of the independent body, establish more commercial-in-confidence arrangements between super collectors, and be unable to deliver the desired transparency around container and financial flows. No Australian jurisdiction has implemented this governance model.

Option 3 would achieve minimal reform to the SA CDS and is not recommended.

Option 4 would continue to provide no reform to the SA CDS and is not recommended.

How will the chosen option be implemented and evaluated

Option 2 requires legislative changes to the EP Act as contained in the draft Amendment Bill. Subject to the passage of the draft Amendment Bill through the South Australian Parliament work would commence on drafting the variation regulations to support the reformed scheme.

Transitional provisions within the draft Amendment Bill would seek to ensure the continuation of the existing scheme to cover the period when the South Australian Government is selecting and appointing the scheme coordinator and all relevant agreements and approvals are settled.

The draft Amendment Bill provides the Minister with powers to invite eligible entities to apply, or otherwise receive applications for eligible entities, for appointment as the scheme coordinator.

Applications from eligible entities would be assessed against criteria to be determined by the Minister, noting an eligible entity would need to demonstrate that it has the capability to perform the functions of a scheme coordinator.

The new arrangements would start on a prescribed day to be fixed by the Minister by notice in the Gazette.

The reforms in the draft Amendment Bill would enable transparent performance targeting setting for the scheme coordinator and formal reporting requirements that would enable the reforms effectiveness to be measured.

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