FINAL PUBLIC REPORT

NSW Container Deposit Scheme

EPA's fees for monitoring, compliance and approving containers

Prepared for
Independent Pricing and Regulatory Tribunal of NSW (IPART)

21 November 2018

THE CENTRE FOR INTERNATIONAL ECONOMICS
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Executive summary

The NSW EPA undertakes regulatory activities to ensure the Container Deposit Scheme (the Scheme) operates according to the legislation. Costs incurred by the EPA to conduct ongoing regulatory activities are recovered directly via the container application fee and indirectly via the scheme compliance fee.

The CIE has been asked to review the costs for undertaking these activities and advise on the part of costs that should be recovered through fees as opposed to general taxation revenue. For this review we undertook of a bottoms-up review of EPA's compliance and enforcement activities coupled with tops-down benchmarking across container deposit schemes operating in other Australian jurisdictions and overseas.

Key findings from the review

The EPA identified its ongoing compliance and enforcement activities (since the Scheme's implementation) according to the following three phases:

- ***Initiation (July 2018 until June 2020)*** — EPA activities include intense engagement with the contractors, scheme participants and other stakeholders to ensure the Scheme is established, systems are in place, funds are flowing and suppliers are actively participating.
- ***Scheme stabilisation phase (July 2020- June 2022)*** — EPA activities include monitoring and managing contractor performance, evaluating scheme performance, gathering stakeholder feedback, identifying and resolving gaps through refining processes or amending the Scheme operation and/or legislation, monitoring regulatory compliance and addressing structural issues to minimise non-compliance.
- ***Steady-state (July 2022 onwards)*** — represents the business as usual (BAU) phase, where the Scheme operation is stable and relationships with Scheme participants are transactional.[1]

It is difficult to estimate the efficient government cost to undertake the necessary regulatory activities for a container deposit scheme. The efficient ongoing government cost is partly determined by the design of the scheme itself. It is not within the scope of this review to assess the effectiveness and efficiency of the NSW Scheme's design and construction, although it is clear that the NSW Scheme involves a much greater level of involvement by Government than schemes in other Australian jurisdictions.

Furthermore, the NSW Scheme is complex and unique which limits the cost benchmarks available for direct comparison. The benchmarks used in this review apply to FTE requirements and are most applicable to EPA's Steady State Phase. There is limited

1 Information provided by NSW EPA for this review.

information currently available to benchmark EPA's costs incurred during the Initiation Phase.

The largest component of EPA's forecasted costs is the EPA staff cost, ranging between 55 per cent and 75 per cent over the next 5 years. We have identified the number of FTEs considered reasonably efficient and suitable for cost recovery by considering the regulatory activities undertaken and available benchmarks:

- ~18.5 FTEs during both years of the Initiation Phase (2018-19 and 2019-20), equivalent to an annual cost of $2.8 million and almost 80 per cent of the revenue recovered through the current scheme compliance fee of $300 000 per month
- ~13.5 FTEs during both years of the Stabilisation Phase (2020-21 and 2021-22), equivalent to an annual cost of $2.1 million
- ~9.5 FTEs in each year thereafter in the Steady State Phase, equivalent to an annual cost of $1.4 million.

The reasonably efficient 9.5 FTEs under the Steady State Phase is higher than available benchmarks, which range between 3 to 7.5 FTEs:

- between 3-4 FTEs based on container deposit schemes in other Australian jurisdictions
- between 3 and 7.5 FTEs based on the Californian Beverage Container Recycling Fund

We recognise that these benchmarks are not and cannot be exactly compared to the NSW Scheme. However, the markedly different staff requirements suggest there should be continued efforts to streamline the role of the EPA as the Scheme moves towards a steady state position.

Our estimates of the efficient costs that should be recovered through fees does not represent all the costs expected to be incurred by NSW EPA. Consistent with best practice cost recovery arrangements, some policy design and development costs should be recovered through general government taxation.

The costs of designing and implementing the scheme (costs incurred in 2015-16, 2016-17 and 2017-18) and forecasted ongoing costs, reflect that:

- the CDS roll-out has been more complicated than expected
- the design of the Scheme involves much more Government involvement than schemes implemented in other jurisdictions. It is outside the scope of this study to assess the efficiency of the Scheme's overall design. The significant variations to expectations suggest the need for ex-post review of the Scheme

The EPA has recovered only a part of its actual costs to date (and efficient costs) through fees and charges. The scheme compliance fee charged by EPA is estimated to have contributed between 1 and 2 per cent of total scheme costs in the first three months of the Scheme.

Recommendations for future cost recovery arrangements

The following recommendations are made with regard to the container approval application fee:

- the fee should recover only the variable costs to EPA to review and approve a container, estimated at $13.40 per application (in 2017-18 dollars). Under this arrangement the total fee paid by a participant is based on the number of container approval applications the participant submits. A higher number of applications equals a higher fee and vice versa.
- the remaining unrecovered fixed cost of the CDS Portal associated with container approvals should instead be recovered through the scheme compliance fee
- the requirement to renew a container registration after 5 years could be removed or the renewal timeframe could be extended to minimise administration costs to both government and industry.

The following recommendations are made with regard to the scheme compliance fee, based on reasonably efficient costs:

- the current monthly scheme compliance fee of $300 000 should increase to $348 000 in 2018-19 and $315 000 in 2019-20
- thereafter, the monthly scheme compliance fee should decrease to $234 000 during 2020-21 and 2021-22 and further decrease to $154 000 in 2022-23 (and subsequent years), to recover reasonably efficient 'business as usual' government costs (table 1).

EPA should review the need for the high levels of staffing that it has identified as being required to fulfil its role in the Scheme, once the Scheme is bedded down.

1 Reasonably efficient costs for EPA's ongoing regulatory activities

Financial year	Reasonably efficient costs	Monthly scheme compliance fee
	$2017-18	$2017-18
2018-19	348 200	~348 000
2019-20	314 800	~315 000
2020-21	234 100	~234 000
2021-22	234 100	~234 000
2022-23	154 200	~154 000
2023-24	154 200	~154 000
Ongoing	154 200	~154 000

Note: Excludes the staff cost incurred to process container applications as this is recovered through the container application fee.
Source: CIE.

1 Introduction

The NSW Container Deposit Scheme (the Scheme), *Return and Earn*, commenced on 1 December 2017. The Scheme allows for containers returned to collection points to earn a 10-cent refund and for containers recycled by materials recovery facilities (MRFs) to also receive a refund that will be shared between MRFs and local councils. The cost of the Scheme, including the refund, is paid for at the point of (and by any entity responsible for) first beverage supply into NSW.

The NSW EPA is responsible for ensuring the Scheme operates according to the legislation. The majority of ongoing costs incurred by the EPA to conduct its regulatory activities are recovered either directly or indirectly from scheme participants.

What the CIE has been asked to do?

The Independent Pricing and Regulatory Tribunal of NSW (IPART) has been asked by the Premier to monitor and report on the impact of the implementation of the Container Deposit Scheme (CDS) on container beverage prices. In particular, IPART will monitor and report on:

1 the effect of the CDS on prices of beverages supplied in a container,

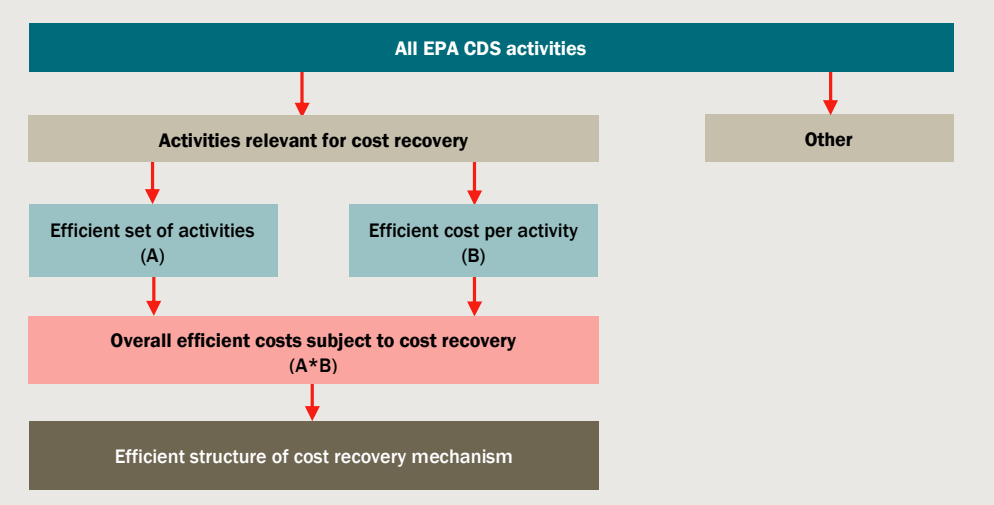
2 the effect of the CDS on competition for beverages and the performance and conduct of suppliers, and

3 any other market impacts on consumers that arise from the commencement of the CDS, for the period from 1 November 2017 to 1 December 2018 (monitoring period).

To inform this reporting process, IPART has asked the Centre for International Economics to assess EPA's fees for monitoring compliance and approving containers to:

- determine whether current fees are cost reflective
- identify the regulatory activities that are suitable for cost recovery
- identify the efficient set of regulatory activities to be undertaken by EPA
- determine the efficient cost of these activities
- assess whether efficient costs should be recovered from users or other funding arrangements (chart 1.1).

1.1 Different types of efficiency



Data source: CIE.

This report

The rest of the report is structured as follows:

Chapter 2 — Outlines the current regulatory activities undertake by EPA for the Scheme

Chapter 3 — Outlines EPA's current costs and revenues related to the Scheme

Chapter 4 — Identifies the regulatory activities undertaken by EPA that are cost recoverable

Chapter 5 — Determines the efficient costs to be recovered from users for activities identified as suitable for cost recovery.

2 EPA's regulatory activities under the Scheme

The NSW Environment Protection Agency (EPA) is responsible for regulating the Scheme and ensuring it is operating in accordance with the legislation. The functions of the EPA are specified in the *Waste Avoidance and Resource Recovery Act (2001)* (Act) and the *Waste Avoidance and Resource Recovery (Container Deposit Scheme) Regulation (2017)* (Regulation).

Current regulatory activities undertaken by EPA

In broad terms EPA's regulatory activities under the Scheme are:

- ***Establish and implement Scheme*** —activities undertaken to design and administer the Scheme, including regulation design and implementation, and communication to stakeholders.
- ***Reviewing and processing approvals*** — primarily consists of assessment and determination of applications for container approvals and collection point arrangements.[2]
- ***Ongoing 'business as usual' compliance and enforcement*** —activities to administer the regulations, such as monitoring and enforcing compliance of the Scheme Coordinator and Network Operator with contractual obligations and undertaking performance audits of the activities of the Scheme Coordinator or Network Operator, at the Minister's request.

In 2017-18, the EPA CDS team consisted of approximately 14 EPA staff, plus 2 managers and a Director directly involved in the establishment, operation and regulation of the Scheme. In addition, the Department of Premier and Cabinet's Premier's Implementation Unit supported the EPA team in the implementation of the Scheme between December 2017 and February 2018, and continues to support as is usual practice for key interventions supporting the achievement of Premier's Priorities.[3] From March onwards, the CDS team became a branch with 1 Executive Director, 2 Directors, 4 managers and building up to 20 FTE. The CDS team is split into two sub-teams:

- ***Contract management*** — approximately 7 EPA staff spread across a contract management team and a deployment and rollout team. EPA noted the size of the deployment and rollout team will shrink overtime as the implementation phase is finalised.

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2 Approval of collection point arrangements by EPA specified in Clause 11 of the *Waste Avoidance and Resource Recovery (Container Deposit Scheme) Regulation 2017.*

3 Information provided by NSW EPA.

- ***Compliance and auditing***— includes staff working on policy related aspects and compliance issues. This team also includes staff who assess and approve container and collection point arrangement applications.

Additional EPA staff working in the legal, public affairs and finance sections also assist in the implementation and administration of the Scheme, as required.

Tasks completed by EPA to establish and implement the Scheme

In February 2015, the NSW Premier announced the intention to implement a container deposit scheme. The key tasks completed by the EPA to establish and implement the Scheme between February 2015 and the Scheme's commencement in December 2017 include:

- policy development during the 2015-16 financial year including projects to inform the scope of containers to be covered and whether the scheme would include a financial refund
- preparation and release of a discussion paper in December 2015
- preparation of the draft Bill and discussion paper for consultation in August 2016
- undertaking the selection process for the Scheme Coordinator and Network Operator between December 2016 and July 2017, including finalising commercial aspects of the Scheme, assessing the tenders, drafting and negotiating the Scheme contracts
- Scheme advertising and community education and awareness campaigns.

Assessment of container and collection point arrangement applications

Under Part 2 of the *Waste Avoidance and Resource Recovery (Container Deposit Scheme) Regulation 2017,* EPA approval is required for collection point arrangements and container registrations

Collection Point Arrangements

Applicants for a collection point arrangement must receive approval from the EPA under a network operator agreement, according to the requirements under Part 2 of the *Waste Avoidance and Resource Recovery (Container Deposit Scheme) Regulation 2017*. Applications are processed through the scheme-based CDS portal. As directed under Part 2 of the Regulation, the EPA in determining an application may consider the following:

- whether the proposed collection point arrangement complies with the requirements of the Act or the Regulation,
- whether, in the opinion of the EPA, the proposed collection point arrangement makes adequate provision for environmental protection measures,
- whether any necessary development consent under the Environmental Planning and Assessment Act 1979 or approval of a local council under the Local Government Act 1993 has been or, in the opinion of the EPA, is likely to be obtained in relation to the activities authorised or required under the proposed arrangement,

- whether the proposed collection point operator is a fit and proper person to fulfil the obligations under the arrangement.

Container approvals

The *Waste Avoidance and Resource Recovery Amendment (Container Deposit Scheme) Act 2016,* prohibits the supply of beverages in containers of a kind that are not approved by the EPA. First suppliers of eligible containers must apply to EPA for a container approval for each class of drink container they first supply in NSW. Individual container approvals are valid for five years, after which suppliers will need to renew the container approval and pay an application fee (the application fee for a renewal has not been determined).[4]

A container approval is required for each class of containers, where a 'class of container' is defined by its product name and product type, container material, and physical dimensions of the container (including height, diameter, designed volume and weight).[5]

EPA's ongoing compliance and enforcement responsibilities

The EPA has stated its role is to ensure that the Container Deposit Scheme:

- meets the Premier's Priority in litter reduction (40 per cent reduction by 2020)
- delivers its design objectives
- key contractors meet their agreed performance levels including satisfactory citizen experience and access to the Scheme
- cost efficiency is safeguarded
- has robust probity and integrity controls
- governance and operating framework is established and maintained, including:
  - operations and contract management
  - approvals of the collection point network
  - container approvals
  - continuous improvement of the Scheme and contracts (quality and service levels are maintained or improved across the life of contract)
  - Scheme financial management
  - stakeholder engagement
  - risk and fraud management
  - robust decision making
- complies with regulatory requirements.[6]

The EPA identified its ongoing compliance and enforcement activities (since the Scheme's implementation) according to the following three phases:

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4 NSW EPA, 2018, *Role of first suppliers of drink containers*, https://www.epa.nsw.gov.au/your-environment/recycling-and-reuse/return-and-earn/role-of-first-suppliers-of-drink-containers

5 NSW EPA, 2017, *NSW Container Deposit Scheme Information Session: Friday 4 August 2017.*

6 Information provided by EPA for this review.

- ***Initiation (July 2018-June 2020)*** — EPA activities include intense engagement with the contractors, Scheme participants and other stakeholders to ensure the Scheme is established, systems are in place, funds are flowing and suppliers are actively participating.
- ***Scheme stabilisation phase (July 2020 – June 2022)*** — EPA activities include:
  - monitoring and managing contractor performance
  - evaluating Scheme performance against objectives and business case
  - gathering stakeholder feedback on Scheme issues and unintended consequences
  - identifying gaps and resolving them
  - refining processes or amending the Scheme operation and/or legislation to address the identified issues or gaps (e.g. cross border issues, export protocol, payment in arrears)
  - monitoring regulatory compliance and address structural issues that minimise the opportunities or incentives for non-compliance.
- ***Steady-state (July 2022 onwards)*** — represents the business as usual (BAU) phase, where the Scheme operation is stable and relationships with Scheme participants are transactional.[7]

The Scheme's network of contracts

The administration and operation of the Scheme is underpinned by various contract arrangements held between Scheme participants, including:

- the EPA holds a Supply Coordinator Agreement with the Scheme Coordinator
- the EPA holds a Network Operator Agreement with the Network Operator
- the Scheme Coordinator holds a Network Arrangement with the Network Operator
- the Scheme Coordinator holds a Supply Arrangement with each First Supplier
- the Network Operator holds a Collection Point Agreement with each Collection Point Operator (chart 2.1).

In broad terms, the compliance and auditing responsibilities for each Scheme participant should align to the contract structure, whereby:

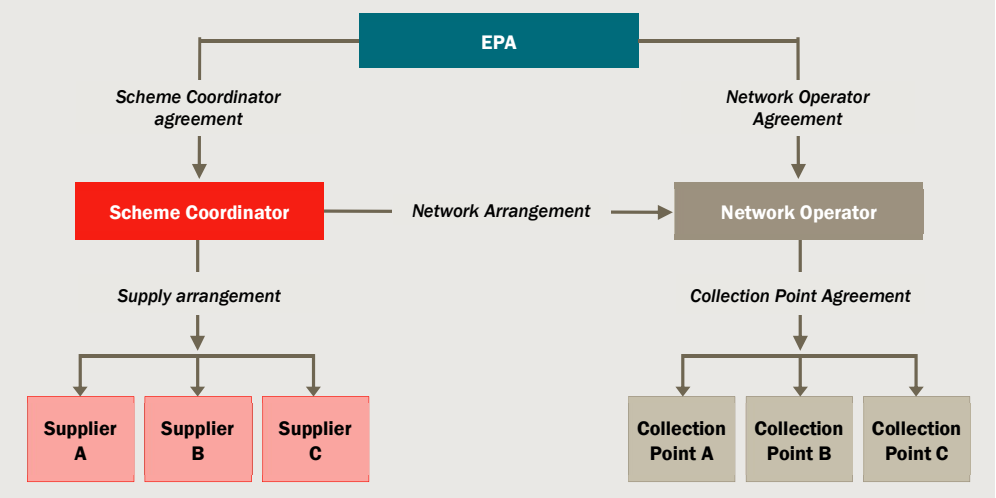
- EPA has primary responsibility for regulatory oversight and periodic evaluation of the Scheme and ensuring contract obligations are met by the Scheme Coordinator and Network Operator
- Scheme Coordinator has primary responsibility for financial management, ensuring relevant beverage suppliers have signed up to the Scheme and make payments to cover their share of the scheme costs, ensuring high community awareness of the scheme and ensuring containers for which refunds are paid are accurately and reliably counted, and the integrity of the Scheme is preserved. The Scheme Coordinator must take all reasonable steps to minimise and prevent fraud in connection with the Scheme and promptly give notice in writing to the State Representative, after

7 Information provided by EPA for this review.

becoming aware of any fraud under the Scheme by any Scheme Participant, Material Recovery Facility Operator or any other person.

- Network Operator has primary responsibility for establishment of collection points, collection and recycling of material and payment of collection point refunds and handling fees as well as ensuring each collection point has approval from EPA and operates in accordance with contracted obligations under its Collection Point Agreement. The Network Operator is also the first point of call for customer service and complaints handling in relation to collection point operations.

2.1 Contracts held between active participants of the NSW CDS



Data source: CIE.

To date EPA has undertaken two major audits of collection points for the purpose of determining any performance failures by the Network Operator:

- In December 2017 EPA staff undertook site visits or contacted regional sites via telephone to determine if the Network Operator had achieved its community access target for the commencement of the Scheme
- In February 2018 EPA conducted a second audit of all collection points to again determine if the next milestone target for community access had been achieved.

EPA has stated that audits for all other matters are undertaken by the contractors in line with their contractual obligations.

The EPA has stated that the Independent Scheme Auditor has been asked to examine auditing duplication to ensure there is no duplication in auditing tasks conducted by the Scheme Coordinator (Exchange for Change) and the Network Operator (Tomra Cleanaway).

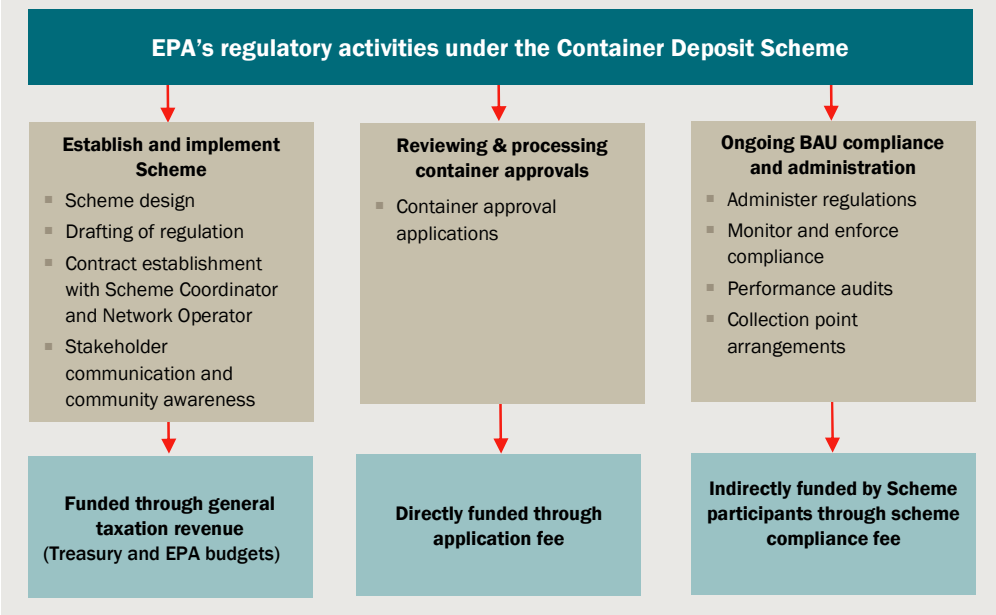
3 Current Scheme costs and revenue to EPA

Current cost recovery arrangements

EPA's regulatory activities are currently funded by general taxation revenue, application fee revenue and the scheme compliance fee paid to the EPA by the Scheme Coordinator as follows:

- Establishment and implementation of the Scheme — funded through general taxation revenue through Treasury and EPA funding
- Container approvals — directly funded through an $80 application fee, which is also used to establish and maintain the online Portal
- Compliance and administration — indirectly funded by Scheme participants through the scheme compliance fee (chart 3.1).

3.1 EPA's regulatory activities and revenue sources under the CDS



Data source: CIE.

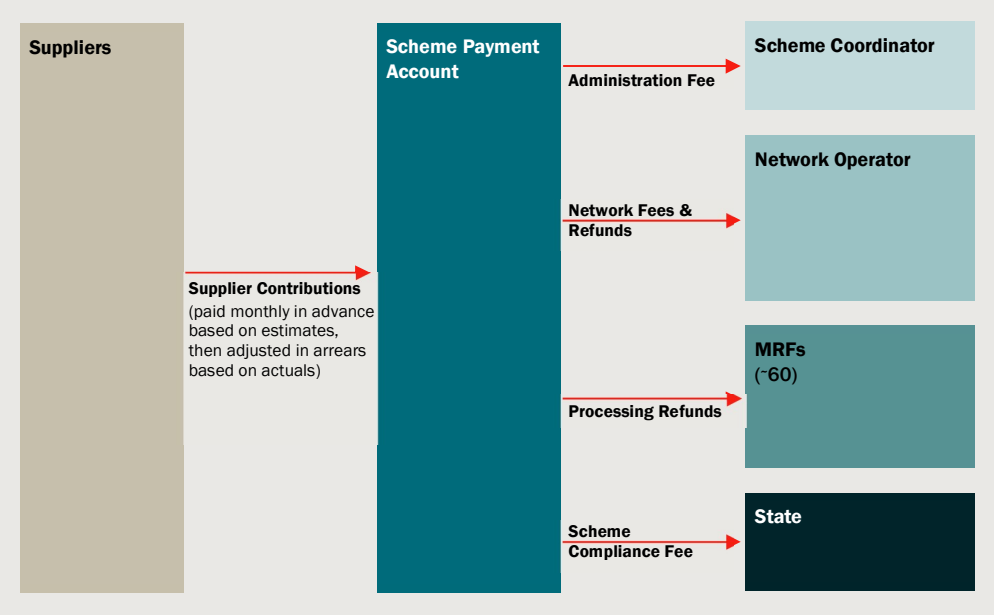
Scheme Compliance Fee

The EPA currently recovers its cost of compliance and administration through the scheme compliance fee. The Scheme Coordinator pays EPA the scheme compliance fee each month for the term of the contract. The Scheme Coordinator also charges first

suppliers to recover all other Scheme administration and compliance costs. The following fees are recovered from first suppliers in proportion to their market share:

- Administration fee paid to the Scheme Coordinator
- Network fee paid to the Network Operator
- Scheme compliance fee paid to the NSW Government (chart 3.2)

3.2 Summary of the Scheme Payments and Contributions Methodology for Suppliers



Data source: NSW EPA, 2017, *NSW Container Deposit Scheme Information Session.*

The scheme compliance fee was designed to recover the costs incurred from the following activities:

- container compliance activities — EPA conducting compliance checks in stores around NSW to ensure that containers being sold have the required approvals and registrations in place. This also includes checking each eligible container shows the refund marking after the initial 24-month grace period has concluded.
- processing collection point arrangement applications — EPA receives, reviews and approves (where appropriate) contracts between a Network Operator and a third-party collection point operator based on requirements under Part 2 of the Regulation. EPA also undertake compliance activities to ensure Collection Points are operating according to contractual obligations.
- all other tasks that relate to the monitoring and regulation of the Scheme.[8]

8 Information provided by NSW EPA.

Container application fee

The legislation provides the State with the power to levy the following fees on the Suppliers, the Scheme Coordinator and the Network Operator:

- an application fee container approval;
- ongoing fees for container approvals;
- an application fee for Collection Point Arrangements;
- ongoing approval fees for Collection Point Arrangements, and;
- an application fee for a Scheme administration agreement.

The EPA currently charges a container approval application fee to recover the proportion of fixed costs of the CDS Portal attributable to approving containers and the variable container approval costs. The EPA has not to date implemented fees for approval of collection point arrangements. The cost to review and approve collection point arrangements is currently shared across all Scheme participants in proportion to their market share through the scheme compliance fee.

Total forecast costs of the Scheme

The Consultation Regulation Impact Statement (CRIS) completed in 2017 estimated the cost to government to design and administer the Scheme (including avoided costs) was $23 million (present value), equivalent to approximately 3 per cent of the total estimated Scheme costs ($857 million in present value terms).[9] This estimated cost to government was based on information provided by NSW EPA in the development of the CRIS and included the following activities:

- design and administration of the Container Deposit Scheme, including regulation design and implementation
- government participation costs
- communications costs
- government costs to administer regulations, including compliance and enforcement.

Based on EPA's costs to date (costs incurred in 2015-16, 2016-17 and 2017-18) and forecasted ongoing costs, total actual costs are estimated to be larger than the total government costs estimated in the 2017 CRIS.

9 NSW EPA, 2017, *Consultation Regulation Impact Statement: New South Wales Container Deposit Scheme.*

4 *Identifying regulatory activities suitable for cost recovery*

Under a full cost recovery model, the cost of regulatory administration and enforcement activities is passed onto suppliers which raises the cost of beverages. Therefore, inefficient regulatory activities or inefficient costs impose inefficient costs on consumers.

This chapter identifies the efficient EPA regulatory activities suitable for cost recovery.

Funding regulatory services

One element of a regulatory framework is how it is funded. In broad terms, the regulatory services provided by Government can be funded through either general taxation revenue or through some form of cost recovery arrangement. If well designed, cost recovery is an efficient way of funding regulatory services. Cost recovery can:

- improve efficiency — a fee or charge can force economic agents to take into account the cost of operating the regulatory framework in making their economic decisions, leading to a more efficient allocation of resources
- improves equity — a fee or charge can ensure that the users or beneficiaries of the regulatory framework pay for it, rather than the general taxpayers, who may not use or benefit from it
- reduces the call on general taxation revenue — all taxes have efficiency costs. Funding regulatory services through an efficient cost recovery arrangement can reduce the burden on general taxpayers and minimise the associated efficiency losses
- instils cost consciousness in regulatory agencies — cost recovery arrangements can improve the transparency of regulators and make them more accountable to users of the regulatory system.

On the other hand, poorly designed cost recovery arrangements could potentially:

- reduce economic efficiency — where fees and charges are not closely linked to costs, they effectively act like a narrowly based tax on particular activities, which are typically less efficient than more broadly based general taxes
- impose unnecessarily high administration costs — some cost recovery arrangements are administratively cumbersome. In some circumstances, the administrative costs on government and business (or the community) may outweigh any efficiency gains, particularly if minimal revenue is collected
- compromise policy objectives — in some cases, a poorly designed cost recovery arrangement could compromise the achievement of government objectives.

The Australian Government's policy in relation to cost recovery is that:

> "…where appropriate, non-government recipients of specific government activities should be charged some or all of the costs of those activities. The cost recovery policy promotes consistent, transparent and accountable charging for government activities and supports the proper use of public resources."[10]

The framework for designing, implementing and reviewing cost recovery arrangements for activities provided on behalf of the Australian Government is set out in the Department of Finance's *Cost Recovery Guidelines*.

Key elements of a best practice cost recovery arrangement include the following.

- The user charge reflects the 'efficient cost' of providing the service (where the Australian Government Cost Recovery Guidelines define efficient costs as the minimum costs necessary to provide the activity, while achieving the government's desired policy outcomes and legislative functions).[11]
- The cost recovery mechanism should provide the right incentives to both the regulators and the regulated entities.
- The cost recovery mechanism should be simple and transparent.

What regulatory activities undertaken by EPA should be subject to cost recovery?

The Productivity Commission *Inquiry into Cost Recovery by Government Agencies*, provides some guidance on what activities should be subject to cost recovery. The Productivity Commission makes a clear distinction between:

- Activities aimed at meeting the policy and advice needs of Government and Ministers — these activities should not be subject to cost recovery, so that Government policy activity maintains both the appearance and the reality of independence. With regards to the Scheme, this would include:
  - policy development, including scoping the design of the Scheme and drafting legislation and discussion papers
  - providing policy advice and legislative development to Ministers and the Parliament
  - internal Departmental administrative tasks.
- Regulatory activities that have a direct link to a particular group of identifiable users or beneficiaries — cost recovery is generally appropriate for these activities.[12] In the context of the Scheme, this would include:
  - EPA's assessment and approval of container applications
  - EPA's assessment and approval of collection point arrangements

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[10] Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines*, Resource Management Guide No. 304, July 2014 – Third edition, p. 5.

[11] Department of Finance, *Australian Government Cost Recovery Guidelines*, Resource Management Guide No. 304, July 2014 — Third edition, p. 34.

[12] Productivity Commission, 2001, Cost Recovery by Government Agencies, Inquiry Report No. 15, p. 157.

- compliance and enforcement activities for which EPA has responsibility
- administrative matters relating directly to the Act such as EPA's audit of the Scheme Coordinator's annual report.

Activities related to ongoing improvements to internal and external processes should also be subject to cost recovery. While arguably a policy function, the Productivity Commission makes a distinction between:

- high level policy advice to Ministers and the Parliament, which as outlined above should not be subject to cost recovery; and
- more specific program development functions (e.g. guidance material for consumers or collection point operators), for which the costs can be recovered.[13]

Based on the cost recovery guidelines available, table 4.1 summarises the regulatory activities undertaken by the EPA CDS team which should and should not be subject to cost recovery. Hence EPA's ongoing operational activities suitable for cost recovery are activities undertaken to:

- assess container and collection point arrangement applications
- enforce compliance in accordance with legislative requirements and contractual obligations.

EPA's costs associated with policy development are not deemed cost-recoverable from scheme participants. Policy development activities undertaken by EPA for the Scheme included scoping the policy, drafting legislation, providing advice to the Ministers and Parliament and internal department administrative tasks.

4.1 Which ongoing operational activities are cost recoverable?

Cost recoverable activities	Non cost-recoverable activities
▪ Assessment of container and collection point arrangement applications ▪ Compliance and enforcement activities for which EPA is responsible, including administrative matters relating directly to the Act and more specific program development functions.	▪ Projects to scope and inform policy development ▪ Drafting of legislation and public discussion papers ▪ Providing policy advice and legislative development to Ministers and the Parliament ▪ Internal Departmental administrative tasks of a general nature, i.e. not specifically related to the Administration of the Act.

Source: CIE.

Type of cost recovery charges

There are two broad types of cost recovery charges:

- fees — these are direct charges for the provision of a service

[13] Productivity Commission, 2001, Cost Recovery by Government Agencies, Inquiry Report No. 15, pp. 158-159

- levies — these are a form of tax imposed on a specific industry or class of persons, in contrast to general taxation that applies more broadly.[14]

The appropriate type of charge depends on the activity. According to the Cost Recovery Guidelines, a fee is the preferred option where the activity or costs can be linked to a specific individual or organisation. However, where it is not possible to make such a link, a levy can be used.[15] According to the Cost Recovery Guidelines:

- A cost reflective fee for service is the preferred option where the activity and its costs can be linked to specific individuals or organisations.[16] This implies that the following costs could be recovered through some form of application fee:
  - Variable costs associated with container approval and collection point arrangement applications
- A cost recovery levy can be used for costs that cannot be directly linked to specific applicants. These costs include:
  - fixed costs associated with container approval and collection point arrangement applications
  - compliance and enforcement activities
  - ongoing improvements of processes directly related to the administration of the Act and regulation.

EPA elected not to charge an application fee for collection point arrangements so as not to disincentivise potential applicants, thereby reducing the number of and accessibility to collection points state-wide. Instead the cost to EPA to assess and approve collection point arrangements is recovered via the scheme compliance fee.

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[14] Productivity Commission, 2001, *Cost Recovery by Government Agencies*, Inquiry Report No. 15, p. XXXIII.

[15] Department of Finance, *Australian Government Cost Recovery Guidelines*, Resource Management Guide No. 304, July 2014 — Third edition, p. 23.

[16] Department of Finance, *Australian Government Cost Recovery Guidelines*, Resource Management Guide No. 304, July 2014 — Third edition, p. 23.

5 Efficient cost of regulatory activities to be recovered from users

The EPA's regulatory activities relevant for cost recovery are:

- assessment of container and collection point arrangement applications
- compliance enforcement in accordance with legislative requirements and contractual obligations (table 4.1).

The efficient costs for each cost-recoverable activity undertaken by EPA for the Scheme are assessed below.

Assessment of container and collection point arrangement applications

The cost to the EPA to assess and approve container and collection point arrangement applications includes a fixed cost to develop the CDS Portal, annual Portal maintenance and licensing costs and the variable cost of EPA staff's time to conduct the assessment.

EPA staff time spent on administrative tasks

Container approvals

A container approval from EPA is required for each class of containers, where a 'class of container' is defined by its product label and product type, container material, and physical dimensions of the container (including height, diameter, designed volume and weight).[17] Eligible containers under the Scheme are required to have a registered barcode under the Regulation. The barcode requirement is consistent with schemes in other jurisdictions that use reverse vending machines, for example, the container return scheme in Finland.[18]

There is a legislated requirement to register each 'class of container'. Under the current cost recovery arrangements, First Suppliers must pay an application fee of $80 to register each 'class of container'. In many instances a single container (excluding the product inside) is being registered and the $80 application fee is being paid multiple times by the First Supplier. For example, Schweppes has registered 89 'classes of containers' in the PET soft drink category, however Schweppes has registered only 10 unique containers based on the structure of the container, excluding the product inside the container

17 NSW EPA, 2017, *NSW Container Deposit Scheme Information Session: Friday 4 August 2017.*

18 Palpa, *Deposit-based system, https://www.palpa.fi/beverage-container-recycling/deposit-refund-system/*

(table 5.1). This is the case for numerous large First Suppliers producing multiple products, only three are provided as an example in the table below.

5.1 Number of 'class of container' versus different container

Product group	Number by 'Class of containers'	Number of unique containers (excl. product inside)
Schweppes	89	10
Woolworths	30	2
Berts	30	5

Source: NSW Government, *Return and Earn Container Search, https://cds.epa.nsw.gov.au/CDSContainerSearchPage*

The $80 application fee charged directly to First Suppliers for each 'class of container' comprises approximately $65 to recover the fixed cost of the CDS Portal and $15 to recover the variable cost of EPA staff assessment time.

The cost of the CDS Portal is a fixed cost which does not vary with the number of 'class of containers' or even unique containers. We consider that it would be more efficient to recover this fixed cost from the Scheme participants through the scheme compliance fee which is shared in proportion to a supplier's market share.

The cost of EPA staff's assessment time varies with the number of container registration applications. We consider that it would be more efficient and equitable to recover only the variable cost of EPA staff's assessment time directly through the current container approval application fee. Thereby the total container approval application fee paid by a participant is based on the number of container applications submitted by that participant. Hence a higher number of applications equals a higher fee and vice versa. However, any duplication in assessment should be avoided, or at a minimum not recovered from users.

The current container registration in NSW remains valid for 5 years, after which a renewal is required. In contrast a container approval remains indefinitely in the South Australian scheme with no renewal required. The benefit of the container renewal is to prevent redundant container approvals remaining in the system. Potentially the timeframe for renewal could be extended to minimise administration costs to both government and industry.

Based on the number of container approval applications received to date, we estimate the efficient staff cost to undertake container approval assessments is $132 385 during Year 1 and $10 876 during Years 2 to 5 (table 5.2). The efficient EPA staff cost (including on-costs and overheads) per approval in years 2 to 5 is $13.40 (in 2017-18 dollars).[19]

[19] Based on 811 applications received per year.

5.2 Efficient FTEs and staff cost for container approvals

	Assessment time	FTEs	Salary (incl. on-costs and overheads)[a]	Staff cost[b]
	mins/app	number	$/year	$/year
Year 1				
Assessor (E06)	7.5	0.7	122 736	80 818
Manager (E12)	3.3	0.3	177 988	51 568
Total for Year 1	**10.8**	**0.95**		**132 385**
Years 2-5				
Assessor (E06)	6.25	0.05	122 736	6 735
Manager (E12)	2.65	0.02	177 988	4 141
Total for Years 2-5	**8.9**	**0.08**		**10 876**

[a] Salaries by staff level sourced from NSW Treasury, 2017, *Treasury Circular: Crown Employees (Public Sector – Salaries 2017) Award*. On-costs included at a rate of 26.5 per cent. Salaries and costs in 2017-18 dollars.

[b] Staff cost assumes staff work 44 weeks per year and 35 hours per week. Salaries and costs in 2017-18 dollars.

Source: CIE based on information provided by NSW EPA.

Collection point arrangements

The fixed and variable costs of assessing collection point arrangements are currently recovered via the scheme compliance fee. We consider that this is an appropriate cost recovery mechanism for these costs, given the objectives of the Scheme — a direct fee on applicants may disincentivise potential applicants and thereby reduce the number of and accessibility of collection points across the state.

The time spent by EPA to assess collection point arrangements has not been provided. We consider the efficient time spent by EPA staff is approximately 4 hours per collection point application with an efficient EPA staff cost (including on-costs) of $355 per application reviewed (in 2017-18 dollars) (table 5.3).

5.3 Estimated efficient duration and cost of collection point assessments

	Salary (incl. on-costs and overheads)[a]	Assessment time	Assessment cost per application
	$/year	hrs/application	$/application
Assessor (E06)	122 736	3	239
Manager (E012)	177 988	1	116
Total for regular assessment		**4**	**355**

[a] Salaries by staff level sourced from NSW Treasury, 2017, *Treasury Circular: Crown Employees (Public Sector – Salaries 2017) Award*. On-costs included at a rate of 26.5 per cent. *Source:* CIE. Salaries and costs in 2017-18 dollars.

As of September 2018 there were 682 collection points located across NSW comprising a mixture of over-the-counter collection points, reverse vending machines, automatic depots and donation points (table 5.4).[20]

5.4 Collection points located across NSW — as at September 2018

Collection point type	Number (as of July 2018)
Over the counter	340
Reverse vending machines	303
Automated Depots	17
Donation Points	22
Total	**682**

Source: Information provided by NSW EPA for this review.

The efficient staff cost to undertake assessment of the 682 collection point arrangement applications received in Year 1 is $232 665 (in 2017-18 dollars). In Years 2 to 5, the efficient staff cost to assess collection point arrangements is $10 640 per year (in 2017-18 dollars), assuming 30 applications per year (based on approximately 5 per cent of total applications in Year 1) (table 5.5).

5.5 Estimated efficient FTEs and staff cost for collection point arrangements

	Assessment time	FTEs	Salary (incl. on-costs)[a]	Staff cost[b]
	hrs/app	number	$/year	$/year
Year 1				
Assessor (E06)	3	1.3	122 736	156 847
Manager (E12)	1	0.4	177 988	75 818
Total	**4.0**	**1.70**		**232 665**
Years 2-5				
Assessor (E06)	3	0.06	122 736	7 173
Manager (E12)	1	0.02	177 988	3 467
Total	**4.0**	**0.08**		**10 640**

[a] Salaries by staff level sourced from NSW Treasury, 2017, *Treasury Circular: Crown Employees (Public Sector – Salaries 2017) Award*. On-costs included at a rate of 26.5 per cent. Salaries and costs in 2017-18 dollars.

[b] Staff cost assumes staff work 44 weeks per year and 35 hours per week. Salaries and costs in 2017-18 dollars.

Source: CIE.

CDS Portal

Digital platforms are used by government to automate manual administrative tasks and reduce time spent by the applicant and government staff. In the absence of digital platforms, the application process can be completed manually which generally increases the time cost for the applicant and regulator.

20 Return and Earn, 2018, https://returnandearn.org.au/

The CDS Portal is used to process applications for both container approvals and collection point arrangements. The CDS Portal aims to reduce administration time for First Suppliers, the EPA and other relevant parties. Minimal time should be required by the EPA staff to assess and approve applications given the upfront investment in the CDS Portal which automates much of the application and payment processes.

The CDS Portal enables:

- supplier registration and update profile
- Network Operator registration
- registration of a new container for approval including bulk container uploads
- payment for a 'container registration for approval'
- a supplier to view all their container registrations, and sort by approved, awaiting payment, awaiting renewal, and pending approval
- a supplier to renew container approval[21]
- provision of information to the public on containers registered by EPA, including a container's registration status, barcode, material type, designed capacity and dimensions.[22]

The cost of digital platforms recently implemented across NSW Government are shown in (table 5.6). There is no direct comparator comparison for the CDS Portal, as the purpose of each platform is very different. Of most relevance to the CDS Portal in terms of scale is:

- Online Birth Registration System
- WARRP - Fraud Prevention and Reporting tools
- eConnect - non-Protection of Environment Operations Act licenses

The cost to develop the CDS Portal is considered reasonably efficient based on recent expenditure on other digital platforms used by government departments.

5.6 Recent digital service investments by NSW Planning and Environment cluster

Project name	Investment	Objective/description
	$	
Amplify - Open Source Oral History Transcription Tool	140 000	▪ Deliver digitised audio materials, *Amplify, more than just an online catalogue of library archives*
Container Deposit Scheme	700 000	▪ Online system to facilitate scheme activities and make information available to the community and other stakeholders.
Digital state of the environment report	184 000	▪ Every three years the EPA publishes a state of the environment report for NSW. A project has been started for the development of an online system for maintaining and updating the content of the State of the Environment Report (SoE). First time the report has been constructed and delivered in a native digital format

21 NSW EPA, 2017, *Return and Earn Approval Portal: User Guide for Suppliers.*

22 NSW Government, *Return and Earn Container Search,* https://cds.epa.nsw.gov.au/CDSContainerSearchPage

Project name	Investment	Objective/description
	$	
eConnect - dangerous goods and waste tracking	170 000	▪ Supports changes to the legislation governing how dangerous goods vehicles and trackable waste transporters are licensed.
WARRP - Fraud Prevention and Reporting tools	500 000	▪ Implementation of improved reporting for the Waste and Resource Reporting Portal (WARRP) system
Local Litter Check online	226 000	▪ An online system for public users to enter Local Litter Check data, and to access and share the information with stakeholders.
Connected Gardens	500 000	▪ Royal Botanic Gardens project as part of the OEH portfolio. Making the Royal Botanic Garden and domain a physical -digital space where visitors can now enjoy a Connected Garden through three new initiatives, free WIFI, new interactive Garden app, improved website for visitors.
eConnect - non Protection of Environment Operations Act licenses	300 000	▪ Enable online applications relating to Radiation Management licensing, and Certified Radiation Expect and Radiation Security Assessor certification
Love Food Hate Waste	140 000	▪ Build a visually appealing website to support the Love Food Hate Waste program that helps households and businesses reduce the amount of edible food they waste.
State Library Onsite ICT Infrastructure Upgrade	200 000	▪ Upgraded State Library onsite Wi-Fi network for public, staff and stack areas, replacing legacy equipment and installing new cabling, modern monitoring, reporting, and alerting system.
Online Birth Registration System	446 550	▪ Automates the births registration process. It enables parents to register and apply for a birth certificate in one single transaction. Users will also be able to automatically verify their documents and print their baby's birth certificate themselves.
Botanic Gardens and Centennial Trust events system	300 000	▪ A scalable online booking and customer relationship management solution that will enable better customer interactions and experiences.
Strategic Infrastructure Contributions System	800 000	▪ Develop and implement Special Infrastructure Contributions (SIC) Business System and VPA contract management system. Replaces a currently manual contract approval and management process with an automated system.
Environmental Water Management Operations Platform	100 000	▪ Multifunctional digital platform to improve the governance of environmental water.

Source: NSW Government, 2018, *Planning and Environment: Digital NSW,* https://www.digital.nsw.gov.au/cluster/planning-and-environment.

Efficient cost of the CDS Portal to be recovered from users

The upfront capital cost to develop the CDS Portal is deemed reasonably efficient based on time cost savings to suppliers and EPA staff through automating the administration task of approving container and collection point arrangement applications. To date the container approval application fee has recovered approximately 80 per cent of the total development cost of the CDS Portal (table 5.7).

The costs to develop the CDS Portal are not clearly linked to the suppliers charged the application fee, as such the appropriate cost recovery means according to Cost Recovery Guidelines is a levy. Therefore, going forward, the remaining 20 per cent cost of the CDS Portal should be recovered through the scheme compliance fee. Under this amended cost recovery arrangement, the cap on the application fee for small businesses can be removed which reduces administrative complexity.

5.7 Costs of CDS Portal related to container approvals recovered in 2017-18

Portal costs recovered to date	Current
Revenue from container applications ($)	624 960
Number of applications (no.)	7 812
EPA Staff Cost ($)	133 570
Portal costs recovered to date ($)	491 390
Total Portal costs to date ($)	633 940
Proportion recovered (per cent)	78

Source: CIE based on information provided by NSW EPA for this review.

Given the Portal is already established with a payment mechanism of the application fee, the variable cost of container approval applications, the time spent by EPA staff on assessing the applications should be recovered directly from suppliers.

The estimated annual costs to operate and maintain the CDS Portal are deemed reasonably efficient and consist of:

- a fixed annual maintenance cost of $50 000 per year
- annual cost of 1 500 licences for suppliers, totalling $36 000 per year.[23]

Based on the Cost Recovery Guidelines these fixed annual maintenance and licence costs should be recovered from all Scheme participants via the scheme compliance fee.

5.8 Efficient cost recovery of CDS Portal costs

Cost item	Cost to be recovered ($)	Cost recovery mechanism
CDS Portal (unrecovered efficient cost related to container approvals)	~150 000	Scheme compliance fee
Annual IT maintenance	50 000	Scheme compliance fee
Annual supplier licence cost	35 000	Scheme compliance fee

Source: CIE.

Efficient staff costs for compliance and enforcement activities

The largest component of EPA's forecasted costs is EPA staff cost, ranging between 55 per cent and 75 per cent over the next 5 years. In terms of EPA staff cost, the scheme compliance fee should only recover the efficient EPA staff cost undertaken for activities suitable for cost recovery.

[23] Estimated from information provided by NSW EPA.

We have identified the number of FTEs considered reasonably efficient and suitable for cost recovery by considering the activities undertaken and available benchmarks. Table 5.9 outlines the identified number of FTEs considered reasonably efficient and suitable for cost recovery by the three operational tasks and the three phases. The reasonably efficient FTEs in executive roles — Branch management, Directors and Executive Director — have been estimated based on the ratio of EPA's forecasted management FTEs relative to EPA's forecasted non-management FTEs.

5.9 Estimated efficient FTE suitable for cost recovery from Scheme Users

Operational task	Initiation Phase	Stabilisation Phase	Steady State Phase
	FTEs	FTEs	FTEs
Contact and operations management	5.0	3.8	3.1
Compliance and regulation	5.7	4.3	2.8
Policy	4.0	2.5	1.5
Branch management	1.8	1.2	0.0
Directors	1.2	1.2	1.2
Executive Director	0.6	0.6	0.6
Total	**18.4**	**13.7**	**9.4**

Source: Information provided by NSW EPA for this review.

Contract and operations management

The contract and operations management team manages the two primary contracts held with the Scheme Coordinator and Network Operator, and a number of complementary deeds and agreements to which the State is a party. Operations include performance monitoring and information provision.

EPA has stated that half of the contract management team is focused on community outreach and engagement activities to ensure the Scheme expands and the community is engaged. The EPA intends to continue these activities until sufficient Scheme engagement is achieved. Based on this information EPA anticipates approximately 4 FTEs in the Initiation Phase and 2.5 - 3 FTEs in subsequent phases will be engaged in community outreach and engagement activities.

There is potential overlap in community outreach and engagement activities undertaken by EPA and the Scheme Coordinator. The community outreach and engagement activities undertaken by the Scheme Coordinator are funded through the scheme administration fee. Given Scheme users are already paying for the cost of the Scheme Coordinator's community outreach and engagement activities, it is not considered appropriate to further recover costs through the scheme compliance fee to fund all of government's community outreach and engagement activities. Rather we consider only 1 of the 4 FTEs undertaking community outreach and engagement activities in the Initiation Phase are suitable for cost recovery in order to support the Scheme Coordinator and provide necessary approvals.

We consider the remaining FTEs in the contract and operations management team, those not involved in community outreach and engagement activities are suitable for cost recovery. The reasonably efficient FTEs in the contract and operations management team suitable for cost recovery are 5 in the Initiation Phase, 3.8 FTEs in the Stabilisation Phase and 3.1 FTEs is the Steady State Phase (table 5.10).

5.10 Forecasted and reasonably efficient FTE for cost recovery — contract and operations management

EPA's operational phase	CIE's estimated FTE for cost recovery[a]
	No.
Initiation Phase	5.0
Stabilisation Phase	3.8
Steady State Phase	3.1

[a] Includes non-management FTEs only. Executive/management FTEs are in addition to these estimates.

Source: CIE.

Compliance and regulation

The compliance and regulation team undertake the following broad functions:

- develop, maintain, manage and review of various Scheme protocols to improve access into the Scheme
- collection point approvals and associated processes
- container approvals
- container registration enquires
- compliance in line with Act, Regulation, and Protocols.[24]

The FTE requirement for assessing and approval of container and collection point applications in the initial 12 months is 2.5 FTEs.[25] After the initial 12 months, the FTE requirement for collection point and container approvals decreases to approximately 0.25 FTEs due to the substantial decline in applications expected in subsequent years.[26] Secondly the cost of EPA staff time to assess and approve container applications (equivalent to approximately $11 000 per year in subsequent years) is currently recovered through the container application fee.

Excluding the FTE requirement for container approvals, we consider the staff cost associated with 5.7 FTEs to undertake compliance and regulation is reasonably efficient and suitable for cost recovery in the Initiation Phase, declining to 4.3 FTEs in the Stabilisation Phase and 2.8 FTEs in the Steady State Phase based on EPA's forecasted proportional reduction in staff numbers between phases (table 5.11).

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24 Information provided by NSW EPA for this review.

25 Based on information provided by NSW EPA for this review.

26 The number of container applications and collection point applications received in subsequent years expected to decrease to 10 per cent and 5 per cent, respectively, of the number of applications received in the initial 12 months.

5.11 Forecasted and reasonably efficient FTE for cost recovery — Compliance and regulation

EPA's operational phase	CIE's estimated FTE for cost recovery[a]
	No.
Initiation Phase	5.7
Stabilisation Phase	4.3
Steady State Phase	2.8

[b] Includes non-management FTEs only. Executive/management FTEs are in addition to these estimates.

Source: CIE.

Policy

The key functions, tasks and current projects undertaken by the CDS policy team are outlined in table 5.12. As noted above, policy tasks are generally not subject to cost recovery, however the Productivity Commission does note that ongoing improvements for internal and external policy processes with specific program development functions may be subject to cost recovery. Based on available cost recovery guidelines we consider that 50 per cent of the policy tasks outlined by EPA in table 5.12 are not suitable for cost recovery, and would be more appropriately funded through general taxation. The key policy functions that should not be funded through the scheme compliance fee are:

- Answering parliamentary questions, correspondence and advising the Minister
- Stewardship and custodianship of the policy framework in terms of policy positions, interpretations and requirements
- Managing the internal governance framework of the Scheme (internal Steering Committee)
- Developing and managing any external governance arrangements addressing scheme impacts (including Cross Border Steering Committee and the Ministerial Advisory Committee).

Additionally, we estimate based on cost recovery guidelines that only a portion of the following policy functions is suitable for cost recovery through the scheme compliance fee:

- Developing and shepherding regulatory amendments to ensure scheme reduces unintended consequences and streamlines its delivery while meeting its intended objectives
- Addressing, responding to and resolving policy issues arising from the movement of containers out of NSW or of containers re-entering NSW
- Developing effective policy solutions for regulatory gaps to address unintended consequences arising from CDS Review and respond to recommendations from audits, external reviews of the scheme (e.g. IPART) and make changes to scheme operations as required.

5.12 Breakdown of CDS Policy functions, tasks, projects and FTE requirement

Policy function	Total FTE
Ensure scheme functions in an open, transparent and accountable manner	0.5
Developing and shepherding regulatory amendments to ensure scheme reduces unintended consequences and streamlines its delivery while meetings its intended objectives	1 (0.5 FTE not cost recoverable)
Answering parliamentary questions, correspondence and advising the Minister	0.75 (Not cost recoverable)
Engaging with scheme stakeholders that are beyond the requirement and remit of the scheme contractors	1
Monitor and evaluate the performance of the scheme against key performance indicators as part of an effective evaluation framework that measures processes and outcomes of scheme performance both quantitatively and qualitatively	1
Stewardship and custodianship of the policy framework in terms of policy positions, interpretations and requirements	0.5 (Not cost recoverable)
Addressing, responding to and resolving policy issues arising from the movement of containers out of NSW or of containers re-entering NSW	1 (0.5 FTE not cost recoverable)
Managing the internal governance framework of the scheme (internal Steering Committee)	0.25 (Not cost recoverable)
Developing and managing any external governance arrangements addressing scheme impacts (including Cross Border Steering Committee and Ministerial Advisory Committee)	0.5 (Not cost recoverable)
Develop effective policy solutions for regulatory gaps to address unintended consequences arising from CDS Review and respond to recommendations from audits, external reviews of the scheme (e.g. IPART) and make changes to scheme operations as required	1.25 (1 FTE not cost recoverable)
Return and Earn Trademark process stewardship	0.25

Source: Information provided by NSW EPA for this review.

The policy related FTEs to be cost recovered during the Stabilisation Phase and Steady State Phase are estimated based on EPA's forecasted proportional reduction in FTEs between phases (table 5.13).

5.13 Forecasted and reasonably efficient FTE for cost recovery — Policy area

EPA's operational phase	CIE's estimated FTE for cost recovery[a]
	No.
Initiation Phase	4.0
Stabilisation Phase	2.5
Steady State Phase	1.5

[c] Includes non-management FTEs only. Executive/management FTEs are in addition to these estimates.

Source: CIE.

Benchmarks for 'business as usual' staff costs to undertake regulatory activities

There are limited benchmarks available which provide a direct comparison for the staff cost of EPA's ongoing 'business as usual' regulatory activities given the uniqueness and complexity of the NSW Scheme. Based on available benchmarks we estimate the reasonably efficient number of FTEs for EPA to undertake its regulatory activities ranges

between 3 and 7.5 FTEs under a 'business as usual' situation. This is based on the following FTE benchmarks (for which it is noted are not a direct comparison for the NSW Scheme however provide an 'order of magnitude' for comparison):

- between 3-4 FTEs based on container deposit schemes in other Australian jurisdictions
- between 3 and 7.5 FTEs based on the Californian Beverage Container Recycling Fund

The EPA's forecasted 15 FTEs each year in the Steady State Phase is substantially higher than available benchmarks. The EPA's CDS team currently employs approximately 20 FTEs.[27] The Australian Beverages Council (ABCL) noted the FTEs in the current EPA CDS team is higher than the approximate 18 FTEs employed by the NSW Scheme Coordinator (Exchange for Change) and also by the Queensland Scheme Coordinator (Container Exchange).[28]

As a conservative estimate we consider 9.4 FTEs (includes approximately 2 FTEs in executive/management roles) reasonably efficient in the Steady State Phase for which the costs can be recovered through the scheme compliance fee. Note this does not include the FTE requirement to undertake policy tasks which are not deemed suitable for cost recovery.

Container deposit schemes in Australia

Container deposit schemes are currently in place in South Australia, Northern Territory, Australian Capital Territory and New South Wales. A scheme in Queensland commenced on 1 November 2018. The regulator in each jurisdiction, excluding NSW, employ an average 2 FTEs for 'business as usual' compliance and operations. Currently, ACT and NSW are the only Australian jurisdictions to recover the cost of the regulator's compliance and enforcement activities from scheme users, excluding application fees charged for container or collection point applications (table 5.14).

It is important to note that each container deposit scheme is different and a direct comparison across jurisdictions cannot be made with regard to government costs. Furthermore, the population served by the NSW Scheme is substantially larger than in South Australia, Northern Territory and the Australian Capital Territory.

However, it is noted that Queensland's scheme will service a population in the order of 5 million and is only expecting to require 1 to 2 FTEs for ongoing regulatory activities. Yet it is difficult to compare the NSW Scheme with the Queensland Scheme given the latter appears to be structured very differently to the NSW Scheme and has only recently

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27 Information provided by NSW EPA.

28 Australian Beverages Council, 2018, *Submission to the NSW Independent and Pricing Regulatory Tribunal (IPART) on the NSW Container Deposit Scheme: Monitoring the impacts on container beverage prices and competition.*

commenced. Commencement was delayed by the Queensland government in order to avoid encountering similar roll-out problems experienced with the NSW Scheme.[29]

5.14 Staff and cost recovery arrangements in other Australian jurisdictions

	SA	NT	ACT	QLD
FTEs during implementation phase	NA[a]	NA[a]	~2.5	~3-4
FTEs during BAU phase	~2	~2	~2.5	~1-2
Cost recovery arrangements				
Container application fee charged	Yes	No	No	No
Collection point application fee charged	Yes	No	No	No
Government costs recovered through levy	No	No	Yes	No

[a] Implementation phase FTEs are not included for South Australia and Northern Territory as these schemes are past the implementation phase.

Source: CIE based on discussions with other jurisdictions.

Californian Beverage Container Recycling Fund

The Californian Beverage Container Recycling Fund (CBRF) has been in operation for 30 years. The NSW EPA noted the CBRF provides a useful comparison for government costs as it is more closely aligned to the NSW CDS than container deposit schemes in other Australian jurisdictions in terms of the operational framework and scheme structure.[30] Key features of the CBRF are:

- the role of the Scheme Coordinator is completed in-house
- there are several network operators
- the CBRF has the same return point system in places the NSW CDS including RVMs, over-the-counter and automated depots
- CBRF supports a population of 40 million Californians
- the operating cost of the BCRF was $51.1 million in 2017-18, all of which was cost recovered.
- 147 staff work directly on the CBRF, additional support staff provide corporate functions (legislative affairs, IT, Finance, Executive level senior management functions, stakeholder relationship management and community engagement) for the Scheme.[31]

We estimate a FTE benchmark of between 3 and 7.5 FTEs is applicable to the NSW Scheme based on the government's role under the CBRF:

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29 The Courier Mail, 2018, *Queensland Government delays refund recycling scheme,* February 2018, https://www.couriermail.com.au/news/queensland/queensland-government/queensland-government-delays-refund-recyling-scheme/news-story/afd44987228e05b80e5067d8ccda6a7f

30 Information provided by NSW EPA for this review.

31 Information provided by NSW EPA for this review.

- there are approximately 7.8 million people in NSW, equivalent to 20 per cent of the Californian population.
- the role of the Scheme Coordinator is undertaken in house. It is not known what proportion of CalRecycle's operational tasks are technically regulatory tasks versus tasks that would be completed by an independent party equivalent to the NSW Scheme Coordinator. We consider a low and high scenario for the proportion of tasks undertaken by CalRecycle which would be identified as 'typical' tasks conducted by the Scheme Coordinator in NSW to estimate an 'orders of magnitude' FTE benchmark:
  - Low scenario for Scheme Coordinator tasks — 75 per cent of tasks undertaken by CalRecycle are assumed to be specific to the role of a Scheme Coordinator with the remainder relating to government compliance and enforcement activities. The FTE benchmark for regulatory compliance and enforcement activities is 7.2 FTEs.
  - High scenario for Scheme Coordinator tasks — 90 per cent of tasks undertaken by CalRecycle are assumed to be specific to the role of a Scheme Coordinator with the remainder relating to government compliance and enforcement activities. The FTE benchmark for regulatory compliance and enforcement activities is 2.9 FTEs (table 5.15).

The FTE requirement for the NSW Scheme under the Steady State Phase based on the Californian benchmark ranges between 3 and 7.5 FTEs.

5.15 Estimating FTE benchmark based on CBRF

Scenario	Share CalREcycle's tasks specific to role of scheme coordinator	FTEs
Low	0.75	7.2
High	0.9	2.9

Source: CIE.

Reasonably efficient costs suitable for cost recovery

The reasonably efficient EPA staff cost suitable for cost recovery is:

- $2.8 million in the Initiation Phase
- $2.1 million in the Stabilisation Phase
- $1.4 million in the Steady State Phase

These staff costs are based on the reasonably efficient number of FTEs suitable for cost recovery identified above and the average staff cost per FTE of $151 562 which includes on-costs and overheads (table 5.16).

5.16 Staff cost per FTE including on-costs and overheads

Staff cost item	Value
	$2017-18
Average cost per FTE (including on-costs)	139 138
Total overheads	12 424
Employee related IT cost	5 656
Employee related HR cost	2 980
Employed related finance transaction processing and support costs	3 788
Total cost per FTE (including on-costs and overheads)	**151 562**

Source: CIE based on average cost per FTE sourced from EPA's Annual Report 2016-17 and indexed by 2.5 per cent to reflect staff costs in 2017-18 dollars, Employee related IT, HR and finance costs sourced from Information provided by EPA.

In terms of other cost items, the following adjustments have been made:

- staff related costs, namely other costs and rent have been pro-rated to the number of FTE's estimated in each phase conducting cost recoverable activities
- contractor costs associated with installation of disabled access at collection points has been excluded as this is more appropriately funded through general taxation
- contractor costs associated with short term staff are incorporated into the EPA staff costs
- inclusion of an annual cost of $14 255 for the efficient capital costs of the CDS Portal that have not been recovered to date from users through the container application fee, assuming costs are recovered over a ten year period
- all other items are deemed reasonably efficient and remain the same as EPA's forecast, namely consultants, legal costs, IT Portal costs, and the IPART fee.

5.17 CIE's estimate of EPA's efficient and cost recoverable ongoing costs

Phase	Financial Year	Total efficient and recoverable costs
		$2017-18
Initiation Phase	2018-19	4 188 700
	2019-20	3 788 700
Stabilisation Phase	2020-21	2 820 500
	2021-22	2 820 500
Steady State BAU	2022-23	1 861 800
	Ongoing	1 861 800

Source: Based on financial data provided by NSW EPA and CIE analysis.

The reasonably efficient costs to be recovered through the scheme compliance fee (excluding the staff cost of $10 500 per year to assess container applications) are outlined in table 5.18. Based on reasonably efficient costs, the monthly scheme compliance fee should increase to $348 000 in 2018-19 and $315 000 in 2019-20. Thereafter, the monthly scheme compliance fee should decrease to $234 000 during 2020-21 and 2021-22, and further decrease to $154 000 in 2022-23 (and subsequent years), to recover reasonably efficient 'business as usual' government costs.

5.18 Scheme compliance fee based on efficient costs

Financial year	Reasonably efficient costs	Monthly scheme compliance fee
	$2017-18	$2017-18
2018-19	348 200	~348 000
2019-20	314 800	~315 000
2020-21	234 100	~234 000
2021-22	234 100	~234 000
2022-23	154 200	~154 000
2023-24	154 200	~154 000
Ongoing	154 200	~154 000

Note: Excludes the staff cost incurred to process container applications as this is recovered through the container application fee.
Source: CIE.

A Container deposit schemes in other jurisdictions

High level information on the regulatory activities undertaken for container deposit schemes in South Australia, Northern Territory and the Australian Capital Territory is outlined below.

Summary across jurisdictions

A.1 Comparing CDS across jurisdictions

	South Australia	Northern Territory	ACT
Scheme overview			
Year program established	1977	2012	2018
Government body	South Australia Environment Protection Agency	Northern Territory Environment Protection Agency	ACT No Waste
Legislation	Environment Protection Act 1993	The Environment Protection (Beverage containers and plastic bags) Act 2014	Waste Management and Resource Recovery Act 2016
Value of consumer refund	$0.10	$0.10	$0.10
Scheme performance			
Number of collection sites	134	13 approved depots (with 1 mobile depot that services two locations)	9 currently (an additional 9 sites will be established within 12 months)
Type of collection facilities	Collection depot	Collection depot, mobile collection service	Collection depot, shopfront
Number of containers collected (2016-17)	587 million	72 million	Data unavailable until end of first quarter (September 2018).
Beverage container return rate (2016-17)	79.9 per cent	48 per cent	31 per cent (estimate)
Number of registered beverage manufacturer suppliers	Not reported	244	~700
Government role			
Responsibilities	▪ Overseeing registration of containers (once registered, registration is 'forever') – In 2017-18 there were 350 applications for 2 495 containers ▪ Approval of collection depots ▪ Assessing the suitability of the waste management arrangement between the super collector and supplier or collection depot, to ensure that the refund is paid, and the containers are aggregated for recycling	▪ Overseeing registration of containers ▪ Approval of collection depots ▪ Approval of coordinators ▪ Approval of waste management arrangements – Can impose conditions for an approval, such as quarterly reporting to the EPA and timeframes for doing so ▪ Ability to establish targets for reuse, recycling or another appropriate disposal. Targets can apply to all CDS participants, or to particular classes	▪ Container approvals ▪ Refund marking ▪ Legislation and regulation ▪ Material recovery facility protocol ▪ Supplier definitions ▪ Container eligibility

	South Australia	Northern Territory	ACT
	▪ Compliance activities including site inspections of retailers, wholesalers, depots and super collectors to check registration of containers ▪ Compliance officers spend ~2 days a week doing site inspections ▪ Processing applications can take from 10 minutes to several days, depending on the number of labels in an application ▪ Compliance officers do not do enforcement activities, this is passed to overarching EPA investigation team and crown solicitors	– ability to suspend or cancel a CDS approval if targets are not met – monitoring of compliance with established targets ▪ Review of quarterly and annual reporting from the CDS coordinator. Reporting includes volumes sold, volumes returned, weight of returned containers (total and by depot), rate of return and destination of each container	
Budget/revenue	Revenue from registration of containers, registration of depots and depot annual fee	Funded through consolidated revenue with no cost recovery	Cost recovery through scheme.
Number of staff	~2 FTE compliance officers	~2 FTE	2 FTE compliance officers funded by the scheme 0.25 FTE funded through a revenue sharing agreement between the ACT Government and the MRF.
Scheme characteristics			
Registration requirements ▪ Method ▪ Fee	Container must be approved by EPA. Suppliers can fill out the application form and return to EPA by e-mail, fax or mail or a recently introduced online portal. Container registration fees are: ▪ Application with1 label: $307.50 ▪ Application with 2 to 5 labels: $512.50 ▪ Application with 6 to 10 labels: $758.50 ▪ Application with 11 to 20 labels: $1 250.50 ▪ Application with 21+ labels: $2 234.50 Depots must pay: ▪ Application fee of $143.50 ▪ Annual fee of $307 for metro depots and $153.75 for regional depots	Registration online through the Container Supply Approval registry. There is **no fee** to apply for a supply approval.	The ACT scheme recognises registration from other states. There is **no fee** to apply for a supply approval.

	South Australia	Northern Territory	ACT
Super collectors/CDS coordinators/ Scheme administrator	Three **super collectors**: Statewide Recycling Pty Ltd, Marine Stores Pty Ltd and Flagcan Distributors Pty Ltd Super collectors are responsible for establishing the collection system and handling and delivering containers received from the collection depots for reuse and recycling	There are four **coordinators**: NT Coordinators Pty Ltd, Environbank NT Pty Ltd, Statewide Recycling and Marine Stores Pty Ltd Coordinators are responsible for the collection, handling and delivery of containers from collection depots for reuse, recycling or other appropriate disposal	There is one **scheme co-ordinator**: Exchange for Change ACT. The scheme co-ordinator manages financial processes, marketing of the scheme, social research, website building and management, container export protocol, and auditing of participants. Exchange for Change is a joint venture of Asahi, Coca Cola Amatil, Coopers, CUB and lions. There is one **network operator**: Return It. The network operator is responsible for the establishment and management of collection points, processing consumer container returns and coordinating recycling containers.
Re-imbursement process	1 Beverage suppliers establish a contract with a super collector and pay deposits and handling fees to the super collector to establish a collection system for the recovery of beverage containers. Suppliers pay at the end of the month, based on the return rate 2 Beverage supplier passes the costs on to the retailer 3 Retailer passes the cost on to the consumer as part of the total cost of the product 4 Consumer or person who has collected the container takes the container to a collection depot or participating retailer and obtains a refund (cash only) 5 Beverage containers are sorted by material type and returned to the super collector which pays the handling fee to the collection depot	1 Beverage suppliers establish a contract with a scheme coordinator and pay deposits and handling fees to the coordinator to establish a collection system for the recovery of beverage containers 2 Beverage supplier passes the costs on to the retailer 3 Retailer passes the cost on to the consumer as part of the total cost of the product 4 Consumer or person who has collected the container takes the container to a collection depot or participating retailer and obtains a refund 5 Beverage containers are sorted by material type and returned to the coordinator which pays the handling fee to the collection depot	6 Beverage suppliers enter into a Supply Agreement with the scheme co-ordinator 7 The scheme co-ordinator manages the Scheme Operating Account. All transactions for the CDS are managed through this account. 8 At the end of each month the scheme coordinator issues a bill to each supplier based on forecast scheme costs (forecast volume to be recycled and scheme handling costs). 9 Beverage supplier passes costs on to the distributer/retailer, who then pass costs on to the consumer as part of the total cost of the product. 10 Consumer or person who has collected the container takes the container to a collection depot or shopfront (operated by the network operator). The refund is paid to the consumer by the network operator. 11 Refunds for eligible containers recycled through kerbside recycling are paid to the MRF. There is a revenue sharing agreement between the ACT Government and the MRF. 12 Payments (in accordance with the contract) are paid from the scheme operating account to the network operator and scheme co-ordinator.

Source: CIE.

Container Deposit Legislation in South Australia

South Australia's CDL has been in operation since 1977. The participants in the scheme include the beverage suppliers, the wholesalers/retailers, the super collectors, the South Australian EPA and consumers. There are currently 134 registered collection depots and three industry super collectors — Statewide Recycling Pty Ltd, Marine Stores Pty Ltd and Flagcan Distributors Pty Ltd. In 2016-17 the scheme recovered 587 million containers, reflecting a beverage container return rate of 79.9 per cent.[32]

The scheme takes the following form:

- the beverage suppliers establish a contract with a super collector and pay deposits and handling fees to the super collector to establish a collection system for the recovery of beverage containers sold in South Australia
- the beverage supplier passes the costs on to the wholesaler/retailer
- the retailer passes the cost on to the consumer as part of the total cost of the product
- the consumer or person who has collected the container takes the container to a collection depot or participating retailer and obtains a 10-cent refund
- beverage containers are sorted by material type and returned to the super collector which pays the handling fee to the collection depot
  - Glass containers are sorted by colour and sold to a glassmaker for the manufacturing of new bottles, and
  - Aluminium, steel, liquid paperboard and plastic (PET, PVC and HDPE) containers are recycled through markets sourced by the suppler.

Role of the South Australia EPA

The South Australian EPA manages registration and compliance activities. Approximately two FTE compliance officers are responsible for:

- overseeing the registration of beverage containers and approval of collection depots. Processing applications can take from 10 minutes to several days, depending on the number of labels in an application
- assessing the suitability of the waste management arrangement between the super collector and supplier or collection depot, to ensure that the refund is paid, and the containers are aggregated for recycling, and
- conducting compliance activities including site inspections of retailers, wholesalers, depots and super collectors (~2 days a week)

Compliance officers conduct enforcement activities, however the larger compliance matters are passed to the overarching EPA investigation team and/or crown solicitors.

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32 South Australia EPA. 2018, 'Container deposits', available at: https://www.epa.sa.gov.au/environmental_info/container_deposit

Mechanisms of cost recovery

The EPA receives payment for the registration of new containers, registration of new depots and annual depot fees. It is important to note there are no ongoing fees once a beverage container has been registered — that is, the registration period is indefinite.

In the 2017-18 financial year, the South Australian EPA received 350 applications for container registrations, covering 2 495 containers. The current fees for new applications for beverage container label approvals are presented in table A.2. Fees range from $307.50 for one label to $2 234.50 for 21 or more labels.

A.2 Fees for new applications for beverage container label approvals

Description	Fee
	$
1 label	307.50
2 to 5 labels	512.50
6 to 10 labels	758.50
11 to 20 labels	1 250.50
21 or more labels	2 234.50

Source: South Australia EPA. 2018, 'Beverage container approval', EPA 954/18, p 4.

The application fee for approval to operate a collection depot is $143.50 with annual fees of $307.50 if located in metropolitan Adelaide or $153.75 if located outside of metropolitan Adelaide.

Container deposit scheme in the Northern Territory

The Northern Territory CDS was established in 2012 under the *Environment Protection (Beverage containers and plastic bags) Act*. The Act was legislated to minimise environmental pollution through the establishment of a beverage container deposit scheme and through regulating the supply of single use, non-biodegradable plastic bags.

In 2016-17 the scheme recovered 72 million containers, representing a beverage container return rate of 48 per cent.[33] The program is modelled on the South Australian scheme and operates as follows:

- the beverage suppliers each establish a contract with a scheme coordinator and make payments to the coordinator in relation to dealing with the containers accepted by the coordinator[34]
- the beverage supplier passes the costs on to the wholesaler/retailer

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33 Northern Territory Environment Protection Authority. 2017, 'Environment Protection (Beverage Containers and Plastic Bags) Act Annual Report 2016-17', available at: https://ntepa.nt.gov.au/__data/assets/pdf_file/0006/463983/2016_2017_CDS_annual_report.pdf

34 Northern Territory of Australia, *Environment Protection (Beverage Containers and Plastic Bags) Act,* Section 11(2)(e).

- the retailer passes the cost on to the consumer as part of the total cost of the product
- any member of the community who presents to a collection depot with an approved empty container is eligible for a 10-cents refund
  - operators of approved collection depots sort approved empty beverage containers by material type. Coordinators are prohibited from requiring collection depots to sort empty containers into more than 9 categories by material type. Containers are not required to be sorted by brand.[35]
  - payments are made by the CDS coordinators to approved collection depots for the collection of approved containers. Coordinators are responsible for accepting containers from collection depots, and for the reuse, recycling or other appropriate disposal of those containers.

There are currently 13 approved depots (with one mobile depot that currently services two locations) and four coordinators — NT Coordinators Pty Ltd, Envirobank NT Pty Ltd, Statewide Recycling and Marine Stores Pty Ltd.

Role of the Northern Territory EPA

The Northern Territory CDS is operated by approximately 2 FTE EPA staff who review applications for supply, depot and coordinator approvals, approve waste management arrangements, conduct compliance activities and can implement recovery gaols.

Supplier, depot and coordinator approvals

The EPA approves applications for supply of containers, depots and coordinators:

- application for supply approval may be made by a manufacturer, distributor or beverage retailer. Applications must detail the manufacturer or distributor of the containers and at least the product name, container contents when full, container capacity, container material, and label material type; and include an image that depicts how the approved refund marking is proposed to be applied to the container. An application for a supply approval must be accompanied by a waste management arrangement between the applicant and an approved CDS coordinator[36]. Approvals remain in force for five years (or for the term of the approved waste management arrangement/s relevant to the approval; whichever comes first), at which time an application for renewal must be made. The Northern Territory EPA must be satisfied that the material types of the containers are suitable for recycling, reuse or other appropriate disposal and the proposed method for the application of the refund marking will not compromise the suitability of the container for recycling, reuse or

35 Northern Territory Environment Protection Authority. 2014, 'CDS Coordinator Guidelines to the Environment Protection (Beverage Containers and Plastic Bags) Act 2014, pp. 7-8, available at: https://ntepa.nt.gov.au/__data/assets/pdf_file/0009/285597/cds_coordinator_guidelines.pdf

36 An application for a CDS approval must be accompanied by a copy of each proposed waste management arrangement relevant to the approval (section 21(1)(b) of the Act).

other disposal; and that the NT EPA has, under section 23A of the Act, approved each waste management arrangement relevant to the approval.[37]

- applications for collection approvals must specify the time and days that the collection centre will be open to the public. The Northern Territory EPA must be satisfied that the proposed collection centre is accessible to the general public in that location and open on a consistent and regular basis[38]; and that the NT EPA has, under section 23A of the Act, approved each waste management arrangement relevant to the approval
- CDS coordinators collect, handle and deliver regulator containers from collection depots for reuse, recycling or other appropriate disposal. The coordinator must be able to accept all empty approved containers.

Approval of waste management arrangements

The EPA reviews and approves waste management arrangements. There are three kinds of waste management arrangements —supplier and coordinator, depot and coordinator and primary and secondary coordinator.

The waste management arrangement between the supplier and coordinator and depot and coordinator must include provisions addressing the following:

> … (a) the collection, sorting, aggregation and transportation of the containers when empty (b) the reuse, recycling or other appropriate disposal of the containers when empty (c) the minimisation of the handling and sorting of the containers when empty (d) payments of the refund amount and other amounts to be made by a CDS coordinator to an operator of a collection depot in relation to the containers accepted by the coordinator (e) payments to be made by a supplier to a CDS coordinator in relation to dealing with the containers accepted by the coordinator (f) a dispute resolution process for settling disputes between the parties to the arrangement (g) matters prescribed by regulation…[39]

The waste management arrangement between the primary and secondary coordinator. Agreements need to be enacted between a primary and secondary coordinator. A secondary coordinator is one who accepts containers from an operator with which they have an approved operator arrangement, however, the coordinator is not a party to the approved supplier arrangement relating to those containers. These agreements are concerned with:

- establishing a method for weighing and counting accepted containers
- ensuring the primary coordinator reimburses the secondary coordinator for the operator costs (customer refund, collection, sorting, aggregation and delivery) and a process fee (activities to prepare accepted containers for transportation for reuse, recycle or appropriate disposal), and

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37 Northern Territory of Australia, *Environment Protection (Beverage Containers and Plastic Bags) Act,* Sections 23(2)(a), and 24(b).

38 Northern Territory of Australia. 'Environment Protection (Beverage Containers and Plastic Bags) ACT', *as in force 1 January 2017*, Section 24B.

39 Northern Territory of Australia. 'Environment Protection (Beverage Containers and Plastic Bags) ACT', *as in force 1 January 2017*, Section 11.

- reimbursement for transportation costs and proceeds of sale, for instance, if the proceeds of the sale exceed the transport costs.[40]

Compliance activities

The EPA conducts compliance activities including:

- reactively auditing retail outlets, for instance, if a customer complains that they purchased a beverage that did not have the refund stamp, and
- responding to allegations of fraud, for instance, a customer with containers from interstate or before the schemes establishment attempting to redeem the refund
- reviewing quarterly and annual reporting from the CDS coordinator; and CDS depots. Reporting includes volumes sold, volumes returned, weight of returned containers (total and by depot), rate of return and destination of each container (whether recycled, reused or other appropriate disposal), by material type; and containers redeemed (delivered to a depot in exchanged for the refund amount) by material type.[41]

Establishing recovery targets

The EPA has the authority to establish targets for reuse, recycling or other appropriate disposal. Targets can apply to all CDS participants, or to particular classes. While this has not been conducted to date, it does provide the EPA with the power to:

- suspend or cancel a CDS approval if targets are not met, and
- monitor compliance with established targets.

40 Northern Territory Environment Protection Authority. 'CDS Coordinator Guidelines to the Environment Protection (Beverage Containers and Plastic Bags) Act 2014', p 12, available at: https://ntepa.nt.gov.au/__data/assets/pdf_file/0009/285597/cds_coordinator_guidelines.pdf

41 Northern Territory Environment Protection Authority. 'CDS Coordinator Guidelines to the Environment Protection (Beverage Containers and Plastic Bags) Act 2014', p 9, available at: https://ntepa.nt.gov.au/__data/assets/pdf_file/0009/285597/cds_coordinator_guidelines.pdf

A.3 Responsibilities of Northern Territory CDS participants

To promote efficiency in the CDS by allowing collection depot operators to utilise barcode reading technology and to improve the accuracy of records, the following processes must be followed:

- If a container has a barcode, suppliers are required to provide CDS coordinators (with whom they have an approved supplier arrangements) a full list of barcodes of approved containers.
- Within 7 days of receipt of the supplier barcode document list, CDS coordinators must provide a copy of the barcode document to the other CDS coordinators and each collection operator with whom they hold an operator arrangement.
- CDS coordinators who receive a supplier barcode document from another coordinator must forward the supplier barcode to the collection depots with which they have an operator management.

Sales data reporting obligations:

- Within 21 days of the end of each quarter, suppliers are required to provide their coordinator with data on the total number of aggregated approved containers by material type that have been sold in the NT during the last quarter. This is referred to as the supplier sales document.
- Within 7 days of receiving the supplier sales documentation, CDS coordinators must provide each other with a statutory declaration stating the total number of approved containers by material type, anticipated to be sold in the NT during the quarter. This is used to calculate the proportion of redeemed containers and their associated handling fee, transportation costs and proceeds of sale attributable to coordinators.

Auditing of coordinators:

Each financial year, the coordinators must appoint an external auditor to review the activities of each coordinator. Moreover, an auditor may be utilised at any time a coordinator believes that information provided by another coordinator is inaccurate.

Appointment of a third party by the coordinators:

Collectively, the coordinators can appoint a third party to aggregate the required reporting data from each CDS and calculate payment fees and claims. This would mean that the data surrounding market share, operator costs, processing fees, transportation and proceeds of sales can be managed with more confidence of anonymity of manufactures with which coordinators have agreements.

Source: Northern Territory Environment Protection Authority. 'CDS Coordinator Guidelines to the Environment Protection (Beverage Containers and Plastic Bags) Act 2014', available at: https://ntepa.nt.gov.au/__data/assets/pdf_file/0009/285597/cds_coordinator_guidelines.pdf; Northern Territory of Australia. 'Environment Protection (Beverage Containers and Plastic Bags) ACT', *as in force 1 January 2017*.

Container deposit scheme in the ACT

There are approximately 180 million beverages consumed each year in the ACT with around 25 per cent of these currently being recycled.[42] The ACT CDS was introduced to increase recycling rates and reduce litter by providing a $0.10 refund on eligible (beverage) containers. The ACT CDS commenced on 30 June 2018 under the *Waste Management and Resource Recovery Act 2016* (as amended by the *Waste Management and Resource Recovery Amendment Act 2017*).[43]

The ACT CDS recycles eligible containers (most aluminium, glass, PET, HDPE, steel and liquid paperboard beverage containers between 150 millilitres and 3 litres) via 9 collection points (including 2 depots), as well as kerbside collection. Crushed and damaged containers are accepted for recycling (and refund) and are identified through a manual process, rather than a barcode system. The scheme is funded on a **cost recovery basis**.

There are approximately 150 million containers of eligible size that could be recycled through the scheme per annum.[44] The estimated recovery rate is 70 per cent (105 million containers), with 39 per cent of the collection coming from kerbside and the other 31 per cent from the CDS network. To date, the ACT Government estimates that approximately 0.5 million containers have been recycled through the CDS network. More reliable data will be available at the end of September 2018 (the first quarter of reporting). Industrial and commercial deliveries to ACT Materials Recovery Facilities (MRF) (i.e. the remaining 30 per cent) are not eligible for a refund, although all containers will be recycled.

The ACT Government has appointed Exchange for Change ACT as the scheme coordinator for the CDS for a 7-year period. The primary task of the scheme coordinator is to manage financial transactions in the CDS network (through the Scheme Operating Account) for recycled containers. Exchange for Change ACT receives a fixed payment for their role that is fully cost recovered through the system. The organisation is a joint venture of beverage companies (Asahi, CCA, Coopers, CUB and Lion).

Beverage suppliers enter into a supply agreement with Exchange for Change ACT. Exchange for Change ACT issues suppliers a monthly invoice to beverage suppliers for their contribution of eligible containers to the market. Suppliers are currently charged a flat fee of $0.0994 per container, which is expected to increase to $0.10445 per container by September 2018. There are approximately 700 suppliers who have signed up to the scheme in the ACT.

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42 See Transport Canberra and City Services, *Container Deposit Scheme Discussion Paper* https://www.tccs.act.gov.au/__data/assets/pdf_file/0005/1182569/CDS_Discussion_Paper.pdf, pages 5-6.

43 See http://www.legislation.act.gov.au/a/2017-36/current/pdf/2017-36.pdf.

44 ACT NoWaste (2018), *Container Deposit Scheme Decision Regulation Impact Statement* http://www.tccs.act.gov.au/__data/assets/pdf_file/0019/1225513/ACT-CDS-Decision-Regulation-Impact-Statement-2.pdf, page 15.

Beverage suppliers can only enter into a scheme agreement for containers that have been registered. The ACT Government is responsible for container registration. If containers are registered in other jurisdictions (South Australia, the Northern Territory, New South Wales and soon to be Queensland), this registration will be recognised in the ACT. The cost of container registration to suppliers in the ACT is free.

There are currently over 7 000 containers registered in the ACT CDS. The majority of these containers were registered in other jurisdictions and the registration was recognised in the ACT. It is currently unknown how many new container registrations will occur in the ACT per year.

Return-It is the network operator of the ACT CDS and their primary role is to establish and maintain the collection point network across the ACT. They are also responsible for counting and reporting on containers volumes and paying refunds to customers. Return-It will establish another 9 collection points within the first 12 months of operation of the scheme. Collection points in the ACT to date are all face to face however there are opportunities to establish collection points using reverse vending machines (a decision to be made by Return-It).[45] Return-It reports volumes collected weekly to the scheme coordinator and receives $0.10 per eligible container, plus a handling fee from the scheme operating account. The organisation has been appointed for a 5-year period.

Kerbside recycling

Refunds for containers recycled through kerbside are split between the ACT Government and the ACT MRF through an agreement established by the ACT Government.

At the end of every quarter, a payment is made from the ACT CDS Scheme Operating Account to the MRF based on volumes of eligible containers collected from kerbside. The same refund as that of the CDS collection points per container ($0.10) applies.

Role of ACT Government NoWaste

Unlike other jurisdictions, regulation of the CDS is not outsourced to an environmental regulator. ACT NoWaste, is part of ACT Transport and City Services, and is responsible for policy, legislation and regulation of the scheme (amongst other waste management programs).

The ACT Government is responsible for container approvals, legislation and regulations (overseeing the scheme coordinator and network operator), approving and licensing collection points, MRF protocol, supplier definitions, container eligibility, monitoring scheme performance and compliance, and investigating consumer complaints. The ACT Government also reviews reporting provided by Exchange for Change ACT and the MRF on volumes recycled, and financial transactions from the Scheme Operating Account.

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45 The ACT Government reviews proposed collection points to ensure that they comply with all requirements including licence approvals, in accordance with the *ACT Waste Management and Resource Recovery Regulation 2017*. See https://www.legislation.act.gov.au/View/sl/2017-20/current/PDF/2017-20.PDF.

ACT NoWaste has two full time compliance officers that are fully funded from the scheme. Compliance officers review reporting of scheme participants, monitor liquidity of the scheme and process container registrations. An additional employee (0.25 FTE) is funded through the revenue sharing arrangement to address complaints, monitor revenue sharing and manage communications. All entitles have compliance obligations under the legislation and supporting regulation.

The Minister engaged the Independent Competition and Regulatory Commission under a Disallowable Instrument[46] to monitor beverage prices and competition in the industry from one month prior to the introduction of the CDS.[47] The Commission will monitor prices until 30 June 2019 and provide a report to the ACT Government.

46 ACT Government, *Independent Competition and Regulatory Commission (Inquiry into beverage price impacts relating to the ACT Container Deposit Scheme) Terms of Reference Determination 2018*, http://www.legislation.act.gov.au/di/2018-69/current/pdf/2018-69.pdf.

47 Independent Competition and Regulatory Commission (2018), *Issues paper Container Deposit Scheme Price Monitoring,* http://www.icrc.act.gov.au/wp-content/uploads/2018/07/Report-4-of-2018-Issues-Paper-Container-Deposit-Scheme-Price-Monitoring.pdf, page iii.

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