

Recycling Victoria Advisory Committee

Legislative Context:

In accordance with Section 37 (2) of the Circular Economy (Waste Reduction and Recycling) Act 2021, the Minister must establish at least one advisory committee that includes persons with relevant skills, knowledge and experience relating to local government and rural and regional communities.

The Minister must consider any advice or comments received from an advisory committee in relation to making, amending, or revoking a service standard as stated under Section 66 (a) (ii) of the Circular Economy (Waste Reduction and Recycling) Act 2021

Purpose

The Recycling Victoria Advisory Committee has been established to inform and advise the Minister and the Head, Recycling Victoria on matters relating to Recycling Victoria's implementation of its legislative functions, as outlined in these Terms of Reference.

Definitions

1. In these Terms of Reference

The Act means the Circular Economy (Waste Reduction and Recycling) Act 2021;

RV Committee means the Recycling Victoria Advisory Committee, established by the Minister by these Terms of Reference;

Code of Conduct means the *Directors' Code of Conduct and Guidance Notes* issued by the Victorian Public Sector Commission¹;

Department means Recycling Victoria, a business unit of the Department of Energy, Environment and Climate Action (DEECA) or its successor;

Appointment and Remuneration Guidelines means the Department of Premier and Cabinets *Appointment and Remuneration Guidelines*, (the Guidelines) as updated from time to time²;

RV means Recycling Victoria;

Head RV means the Head of Recycling Victoria;

Member means a member of the RV Committee and includes a reference to the Chair unless the contrary intention is expressed;

Minister means the Minister for Environment ;

PAA means the *Public Administration Act 2004*;

Public sector employee has the meaning given in section 4(1) of the PAA;

DEECA Relationship Manager means the Head Recycling Victoria;

Secretariat means Recycling Victoria.

¹ published at: <http://vpssc.vic.gov.au/resources/directors-code-of-conduct-and-guidance-notes/>

² available at: <http://www.dpc.vic.gov.au/index.php/policies/governance/appointment-and-remuneration-guidelines>



Energy,
Environment
and Climate Action

Establishment of Committee

2. In accordance with section 37 (2) of the Act, the Minister establishes the Recycling Victoria Advisory Committee (RV Committee) as a Ministerial Advisory Committee from the date of these Terms of Reference (TOR), to provide advice on matters as described in **Functions**.
3. The Minister has classified the RV Committee as a Group C Band 3 advisory committee in accordance with the Appointment and Remuneration Guidelines (the Guidelines).

Functions

4. The RV Committee will provide intelligence and strategic advice to the Head RV and Minister about RV's priorities:

Container Deposit Scheme

- Oversee Container Deposit Scheme (CDS), Scheme Coordinator and Network Operator agreements from mobilisation and ongoing operations.
- Actively regulate the system.
- Deliver key system components, such as to determine first suppliers and eligible containers; and build and maintain a supplier and container registration system.
- Develop and issue required guidelines and protocols.

Market risk and contingency plans

- Identify, monitor and mitigate serious system risks associated with waste, recycling and resource recovery services.
- Prepare Circular Economy Risk, Consequence and Contingency Plan (CERCC Plan) and framework for Responsible Entity Risk, Consequence and Contingency Plans (RERCC Plans) for sector participants.

Market intelligence

- Provide regular, timely, and quality market data and insights to identify the key investment, gaps, issues, and opportunities.
- Provide strategic market information for greater market transparency and confidence for future investment, with a view to enabling stronger circular economy opportunities and interventions.

Engagement and consultative committees

- Engage local government, industry, and place-based stakeholders, and advise the Minister and Head, Recycling Victoria of priorities and issues.

Infrastructure planning

- Identifying long term (30 year) infrastructure needs and protections, providing a more certain investment environment for sector resilience and growth.

Service standards

- Development, implementation and monitoring compliance to a service standard for household waste and recycling services.

Waste to Energy Scheme

- Invite, assess, and determine licence applications from existing thermal waste to energy operators.
- Administer the EOI and full application processes for thermal waste to energy licences under the cap.

Strategic procurement

- Support local government towards best practice strategic procurement, which will support delivery of reliable and consistent service experiences and best value for money for the Victorian community.

5. The RV Committee may also provide advice on other matters raised by the Minister or the Head RV.

Accountabilities

6. In performing its functions, the RV Committee will:
 - a. be guided by a 12-month forward agenda provided by the Head RV;
 - b. meet with the Minister and the Head RV twice a year;
 - c. meet with the Head RV a further five times a year;
 - d. take direction from the Head RV, including on matters referred to the Head RV by the Minister; and
 - e. provide intelligence and strategic advice in line with the forward agenda.
7. Each member of the RV Committee is required to comply with these TOR, and each member's ongoing participation in the RV Committee is their implied acceptance of these TOR.
8. Each member of the RV Committee must at all times act in a manner that is consistent with the public sector values set out in section 7(1) of the *Public Administration Act* 2004. These are: Responsiveness, Integrity, Impartiality, Accountability, Respect, Leadership, and Human Rights,
9. Each member of the RV Committee is required to act in the best interests of the RV Committee and to conduct themselves in a manner that is consistent with their standing as an appointed member.
10. The Code of Conduct for Directors of Victorian Public Entities applies to the RV Committee and its members.

Timeframe

11. The Committee operates from the date of signature of this document until directed by the Minister in writing to cease operating.
12. The RV Committee's TOR will be reviewed annually.

Membership

13. The RV Committee will be made up of no more than eight members, including a Chair appointed by the Minister.
14. The Minister will appoint the eight members of the RV Committee.
15. The inaugural Chair will be appointed by the Minister.
16. The eight members will collectively contain the skills, knowledge and experience outlined below:
 - a. local government (see s37(2) of the Act);
 - b. rural and regional communities (see s37(2) of the Act);
 - c. waste and resource recovery industry operation and service provision in metropolitan, regional and rural settings;
 - d. market regulation of essential services;
 - e. circular economy principles, practice, and development;
 - f. waste and resource recovery sector development and innovation;
 - g. First Peoples self-determination and partnerships; and
 - h. communications with local government, industry, and communities, including digital transformation.
17. To fulfil the requirements of the RV Committee's purpose, and scope, members are expected to:
 - a. have expertise to consider matters and provide views reflecting their knowledge of the sector, communities, or subject matter of relevance to the RV Committee in which they have experience;
 - b. demonstrate an interest in the efficient operation and regulation of the waste and resource recovery sector;
 - c. have a strong understanding of the environment in which RV will operate and broader trends that could impact on that environment;
 - d. share information, sound advice and insights relevant to the scope of the RV Committee's remit; and
 - e. commit to providing honest, constructive and timely feedback that reflects an understanding of a broad range of interests.

Chair

18. The role of the Chair includes:
 - a. provision of leadership and oversight of the performance of the RV Committee's functions and delivery of its accountabilities;



- b. approval of the agenda and minutes of meeting prior to circulation to members and other meeting attendees, and otherwise complying with the **Minutes** section;
- c. chairing committee meetings in accordance with **Meeting Procedure** section; and
- d. complying with any other obligations that the Chair has in these TOR otherwise.

Term of appointment

19. A member is appointed for the term of office specified in his or her instrument of appointment, with the discretion of the Minister to reappoint members as appropriate.

Remuneration & Expenses

- 20. Subject to the Guidelines and these TOR, an eligible member is entitled to receive remuneration for their service on the RV Committee as set out in their instrument of appointment.
- 21. A member who is a public sector employee is only eligible to be paid remuneration as determined in accordance with the Guidelines.
- 22. A member of the RV Committee as a nominated employer representative is not eligible for remuneration, as their work as a member of the committee forms a requirement of their substantive position.
- 23. No additional remuneration is payable to a member for time spent in preparation for meetings of the RV Committee.
- 24. A member is entitled to the reimbursement of reasonable travelling and personal expenses directly related to their service on the RV Committee at the rates, and on the terms, that apply to employees of the Department.
- 25. To claim for remuneration and expenses, members must:
 - a. complete the Department's Commencement Form and other required forms, on appointment; and
 - b. submit Claim Forms to the Secretariat as required, together with supporting evidence.

Removal from office and resignation

- 26. The Minister, without cause or notice, may remove a member from office at any time.
- 27. The office of a member becomes vacant if a member:
 - a. resigns in writing addressed to the Minister;
 - b. is removed from office;
 - c. dies or in the opinion of the Minister, becomes incapable of performing his/her duties; or
 - d. becomes a bankrupt or a person disqualified from acting as a director or acting in the management of a company.
- 28. Upon a vacancy occurring in the office of a member, the vacancy may be filled by the Minister in accordance with these TOR.

Meeting Procedure

- 29. Meetings of the RV Committee may be conducted in a manner determined by the Chair subject to these TOR and any direction given by the Minister.
- 30. If the Chair is absent, or the office of Chair is vacant, the members present at a meeting may elect from the members present a member to preside at that meeting.
- 31. The Chair, or presiding member, must ensure, as far as practicable, that every member has adequate opportunity to participate in discussions.
- 32. Noting that the Committee is an advisory body, when required, the Committee will aim for consensus in its decision making. In absence of agreement, the decision will be made by vote. In the event of a deadlock, the Chair has a casting vote.

Quorum

33. The quorum of a meeting consists of a majority of members presently appointed to the RV Committee.

Minutes

- 34. The Chair must:
 - a. ensure that minutes of each meeting are kept; and

- b. circulate the minutes for comment by members before being formally adopted at the next meeting.

Conflicts of Interest

35. In these TOR:

- a. A '**conflict of interest**' is a conflict between a member's public duty to act in the best interests of the RV Committee and their private interests. It includes a **conflict of duty**, which is a conflict between a member's public duty to act in the best interests of the RV Committee and their duty to another organisation (e.g., due to their role as a board member or employee of that organisation).
- b. A private interest:
 - may be **direct** or **indirect**; and
 - can be **pecuniary** (financial) or **non-pecuniary** (non-financial), or a mixture of both. A non-pecuniary interest may arise from personal or family relationships or from involvement in sporting, social, or cultural activities, etc.
- c. A conflict of interest exists whether it is:
 - **real** (i.e., it currently exists);
 - **potential** (i.e., it may arise, given the circumstances); or
 - **perceived** (i.e., members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the member's performance of his/her duty to the Committee, now or in the future).

36. At the commencement of each meeting, the Chair must enquire of all members whether there is any potential for a conflict of interest to arise in respect to any item on the meeting agenda or any matter to be discussed and an interest held by a member.

37. A member who has a conflict of interest in a matter being discussed at a meeting of the RV Committee must declare the nature of the interest:

- a. at the commencement of a meeting; or
- b. if they become aware of an interest during discussions, as soon as possible after becoming aware of the interest.

A declaration must be made even if the interest is already recorded in the RV Committee's Register of Interests.

38. A member who has made a declaration of a conflict of interest:

- a. must leave the room during the agenda item;
- b. must not take part in any discussion of the issue with other members, either during or outside of the meeting; and
- c. must not vote on the matter to which the declaration relates.

The only exception is if the RV Committee agrees that it would be in the **public interest** for the member to take part in some or all of the discussion and/or voting on the issue. If the conflict is material, it will not usually be in the public interest for the RV Committee to make an exception. If an exception is made, the minutes must record clear reasons why it is in the public interest to do so and what lesser measures will be put in place to manage the conflict. Careful monitoring must occur to ensure that the lesser measures remain in the public interest.

39. The Chair or member presiding at a meeting at which a declaration of an interest is made must cause the declaration and how the conflict of interest will be managed to be recorded in the minutes of the meeting.

40. The Chair must keep a record of declared interests (the Register of Interests). Any member may request and be granted access to this Register of Interests.

41. If a RV Committee member has breached their conflict of interest obligations in these TOR, the Chair must notify in writing the Ministers as soon as practicable after becoming aware of such a breach, including whether the breach is material.³

³ For further information, please refer to the Conflict of Interest support module on DELWP's OnBoard website.



Gifts Benefits & Hospitality

- 42. A member must never make or accept offers of gifts, benefits, and hospitality in their role as a committee member unless it is in the public interest to do so.
- 43. As part of this requirement, members:
 - a. must never solicit gifts for themselves or anyone else;
 - b. must refuse and report any attempt to bribe them;
 - c. must refuse prohibited gifts (e.g., money or similar, gifts that raise a conflict of interest, inconsistent with community expectations, bring the Panel into disrepute, etc.); and
 - d. must declare gift offers to the DEECA Relationship Manager..
- 44. Members must disclose to the Chair any offers of gifts, benefits, and hospitality. The Chair must keep a register of declared offers, which any member may access.

Dispute Resolution

- 45. For the purposes of this dispute resolution procedure, a '**dispute**' exists if:
 - a. two or more RV Committee members have difficulty working together (e.g., due to a conflict of personalities or ideological differences); and
 - b. the situation is unduly affecting the ability of a member, or the RV Committee collectively, to perform their duties in an effective and efficient manner.⁴
- 46. All RV Committee members will avoid disputes, where possible. If a dispute arises:
 - a. the RV Committee members in dispute (the **parties**) will; **acting in good faith, make a reasonable, thorough, and conscientious effort** to resolve the dispute on an **informal** basis, as soon as possible, and in the public interest (the **best interests of the RV Committee**); and
 - b. the Chair will actively guide the parties towards resolution of the dispute.
- 47. It is preferable for disputes to be resolved on an **informal** basis. If a dispute cannot be resolved on an informal basis, then the Chair will place the matter on the agenda of the next RV Committee meeting.
- 48. At that meeting, if the RV Committee is satisfied that: (i) a dispute exists which cannot be resolved on an informal basis; and (ii) it is in the public interest to do so, then the RV Committee will notify the DEECA Relationship Manager in writing of the dispute, the parties and steps taken to resolve the dispute informally.
- 49. The DEECA Relationship Manager will notify the Chair within 21 business days of the options available to resolve the dispute.

Observers

- 50. A person who is not a member of the RV Committee, such as a presenter or an observer ('Observer'), may attend all or part of a RV Committee meeting on the Chair's written invitation.
- 51. An Observer may, at the invitation of the Chair, make a presentation to the RV Committee or participate in discussions in a RV Committee meeting and is required to step out of a meeting on the Chair's request.
- 52. An Observer who is not a public sector employee will be required to sign a Deed of Confidentiality.
- 53. An Observer must either destroy or return all copies of documents provided to them for the purposes of that meeting at the end of that meeting.

Confidentiality

- 54. Members of the RV Committee must not give to any other person, whether directly or indirectly, any information acquired by reason of being a RV Committee member, except to the extent necessary to exercise the RV Committee's functions or provide information in accordance with these TOR.
- 55. Members of the RV Committee must not improperly use their position, or any information acquired by reason of their position to gain an advantage to themselves or other people or cause detriment to the RV Committee.

⁴ A difference of opinion between RV Committee members in relation to a proposed decision (e.g., strategic, business, policy, etc.) is not a 'dispute'. It is the normal difference of views that the RV Committee talks through together in a considered, courteous, and constructive manner before voting to make its decision, in accordance with the RV Committee's meetings and decisions procedures.

56. The Minister may authorise the RV Committee to release specified information to third parties.
57. On the termination or expiry of a member's appointment, the member must return all documents relating to the RV Committee to the Chair.

Privacy

58. The RV Committee must have processes in place to ensure that its members, in the course of their duties on the RV Committee, comply with the requirements imposed by or under the Privacy and Data Protection Act 2014 as if the RV Committee is a public sector agency for the purposes of that Act.

Freedom of Information

59. Members of the RV Committee should be aware that all documents of the RV Committee (such as meeting agendas, board papers, minutes) will be held by the department and will be subject to the *Freedom of Information Act* 1982.

Intellectual Property

60. The rights to Intellectual property created by the members of the RV Committee in the course of their duties on the RV Committee, including any reports required under these Terms of Reference, is the property of the State of Victoria. However, the Minister on behalf of the State grants the RV Committee a licence to use this property as authorised under these TOR.
61. In this clause, Intellectual property includes legal rights that protect the results of creative efforts including copyright, proprietary rights in relation to inventions (including patents), registered and unregistered trademarks, confidential information (including trade secrets and know how), registered designs, circuit layouts, and all other proprietary rights resulting from intellectual activity in the industrial, scientific, literary, or artistic fields, but does not include moral rights.

Time Commitment

62. The RV Committee is expected to meet five (5) times per year with Head RV and two (2) times a year with the Minister and Head RV, with additional meetings agreed by the Chair and Head RV in response to specific needs.
63. The location of meetings will be held either in the Melbourne CBD, by remote video conferencing, or another location as advised.
64. Members are expected to attend a minimum of 75 per cent of meetings.

Secretariat support to the RV Committee

65. Administrative support to the RV Committee will be provided by Recycling Victoria.
66. Day to day liaison for the RV Committee will be through the Head RV or his or her nominee.
67. Support provided by the Secretariat includes:
 - a. organising meeting rooms/video conference arrangements;
 - b. taking minutes;
 - c. preparing and distributing agendas for RV Committee meetings, in consultation with the Chair, including any meeting papers;
 - d. other administrative support (e.g., processing claims for reimbursement of remuneration and expenses); and
 - e. assisting in drafting reports.
68. The Secretariat will disseminate information and papers to members in an efficient and effective manner.
69. The costs of the RV Committee will be met by RV.

Review and amendments

70. The Minister may amend these TOR in writing at any time.
71. These TOR will be reviewed at the end of the first 12 months of the committee's operation and then annually from there on in.
72. The Minister may revoke these TOR in writing at any time and upon revocation of these TOR the RV Committee ceases to exist.



73. In accordance with Section 37(3) of the Act, Recycling Victoria will make these terms of reference available on their website.

A handwritten signature in blue ink, appearing to read "Ingrid Stitt", is positioned above the printed name.

Ingrid Stitt MP
Minister for Environment
Minister for Early Childhood and Pre-Prep

Dated 2/8/23