

Public Consultation Report

NSW Extended Producer Responsibility Priority Statement

2007



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1. Introduction

1.1 Background

Extended producer responsibility (EPR) policy was introduced in NSW through Part 4 of the *Waste Avoidance and Resource Recovery Act 2001* (WARR Act). EPR policies aim to encourage producers to take physical or financial responsibility for the environmental impacts of their products throughout the products' life cycle. This includes both 'upstream' impacts from choice of materials and manufacturing processes and 'downstream' impacts from the use and disposal of products.

Section 18 of the Waste Act requires the Director General of the Department of Environment and Climate Change (DECC) to publish annual priority statements on EPR schemes that the Director General proposes to recommend for implementation under the WARR Act. The first priority statement (*EPR Priority Statement 2004*) was published in March 2004. *EPR Priority Statement 2007* was published in December 2007. It replaced *EPR Priority Statement 2005 - 06*.

1.2 EPR Priority Statement 2007

EPR Priority Statement 2007 retains those products/materials listed in the *EPR Priority Statement 2005 - 06*. These are:

Agricultural/veterinary (Agvet) chemicals	Packaging
Agvet chemical containers	Paint
Batteries	Plastic bags
Cigarette butts	Polyvinyl chloride (PVC)
Computers	Televisions
End of life vehicle residuals	Treated timber
Mobile phones	Tyres
Office paper	Used oils and lubricants
Other electrical products	

The *EPR Priority Statement 2007* also gives notice of those products that are currently identified as priority wastes for national action by the Environment Protection and Heritage Council (EPHC) that could require regulations relating to producer responsibility schemes to be initiated in NSW in the coming 12 months. This could involve the introduction of a safety net to underpin a voluntary industry EPR scheme (such as the recent regulation in NSW to give effect to the packaging National Environment Protection Measure, NEPM) or could involve full regulation.

The products are:

- Lightweight plastic bags
- Tyres
- TVs; and
- Computers

1.3 Structure of this report

Under Section 18 of the Waste Act, the Director General of the DECC has to publicly advertise every priority statement; invite written submissions on any relevant matter relating to the priority statement and publish a report on all submissions received within three months of the closing date for submissions.

Advertisements inviting written submissions on *EPR Priority Statement 2007* were placed in The Daily Telegraph and Sydney Morning Herald on 30 January 2008. The closing date for submissions was 31 March 2008 but submissions were received till 1 April 2008.

A total of 14 submissions were received. A summary of the submissions are as follows:

Businesses and corporations	1
Government departments and councils	5
Environment groups and other NGOs	2
Industry associations and peak bodies	6

A list of persons/organisations that made submissions is provided at Appendix 1.

This report should be read in conjunction with *EPR Priority Statement 2007*, which is available at: <http://www.environment.nsw.gov.au/warr/eprpriority2007.htm>

2. Comments on EPR framework in NSW

2.1 General framework issues

The **Australian Council of Recyclers (ACOR)** submitted that EPR is an appropriate policy where there is a demonstrated market failure and listed the following core principles as central to any EPR program:

- programs should stimulate improvements in product design to reduce toxicity, enable greater disassembly, resource or component recovery and ultimately facilitate recycling instead of disposal;
- programs should be capable of identifying free riders and protect the valid rights of participants;
- programs should be assisted by appropriate bans on landfilling of product or economic disincentives around disposal;
- there should be measurable targets and quantifiable outcomes which can be monitored by government and participants; and
- timetables, lead times and staged rollout of programs should be set in conjunction with producers and the resource recovery sector to ensure that realistic and viable recovery services can be provided.

The **Australian Paint Manufacturer's Federation** endorsed the principle of EPR and considered the aim of EPR is to ensure that producers take physical or financial responsibility for the environmental impacts of their products throughout the products life cycle. The Federation believes that the State Government has not implemented *"appropriate mechanisms to enable industry to respond to the obligations flowing from the "extended producer responsibility" philosophy"*. It recommends that the State Government should *"establish a special unit tasked with responsibility for liaising with private sector organisations as they seek to assume responsibility for product life cycles."*

Boomerang Alliance stated they were *"alarmed"* at the failure of the *EPR Priority Statement 2007* to assess any of the 17 wastes of concern that have been the focus of attention since 2004. Boomerang Alliance stated there was inadequate explanation of why only four "wastes of concern" were identified and that national priority wastes is *"passing the buck to National Process"*. Concern was expressed that NSW will not meet its own waste reduction targets as a consequence of its *"chronic inaction"*. The Expert Reference Group (ERG) was criticised as being a DECC run and dominated group.

The **Butt Littering Trust** commented that it is very concerned that only four of the 17 "wastes of concern" are proposed to be managed by mandated EPR schemes in the 2007-2008 year.

Ku-ring-gai Council submitted that to provide any meaningful comment, the performance of nominated sectors as evaluated by the ERG needs to be included in the Priority Statement.

Ku-ring-gai Council also submitted that there is little evidence of progress on either voluntary or regulatory EPR schemes for the wastes of concern and that the statement is generalised and non-specific. The Council recommended that government report more fully and that future reports include programming timing and progress and provide details of funding arrangements. The Council also recommended that the Section 88 Levy monies be considered for use in recovery solutions for wastes of concern including subsidisation in conjunction with EPR schemes.

Lake Macquarie City Council stated that there appears to be no commitment to ensuring the update of EPR since the language in the *EPR Priority Statement 2007* is couched in terms of *"could"*. The Council also comments that voluntary mechanisms to date *"have proven to be ineffective and the EPHC should move straight to full regulation."* The timing of the implementation period of EPR schemes was also queried.

The **National Timber Product Stewardship Group** submitted its support for a product stewardship approach to waste management as it considered that *“this approach recognises that each party (including government) in the supply chain has a role to play in minimising and managing environmental impacts of a product during product manufacture, use and at end of life.”*

The **Vinyl Council of Australia** submitted that an EPR focus should be only on products and applications as opposed to a generic material focus. The Council supports safety net regulation to underpin voluntary industry schemes.

2.2 Proposed new process for identifying wastes of interest in NSW

The **Australian Council of Recyclers** (ACOR) submitted that it was frustrated and disappointed to see continued focus on *“relatively benign”* products such plastic bags and little opportunity for selecting more appropriate products or materials. ACOR welcomed the opportunity to review and provide feedback on the revised criteria and *“trusts that toxicity, hazardous to human health and impacts on and to resource recovery and resource efficiency will be three of the key criteria.”* ACOR submitted that the product selection criteria must be logical, transparent and consistent with its set of core principles for EPR.

Boomerang Alliance stated that it was *“alarmed”* that after seven years of inaction DECC is proposing to start from scratch with an entirely new process for identifying not “wastes of concern” but “wastes of interest”. Boomerang Alliance asserted that the complete revision of the process for identifying wastes of concern for potential EPR schemes is likely to result in setting the process back to where it was in 2001 and that this is completely inappropriate.

Ku-ring-gai Council expressed concern about a new process for identifying key wastes of concern. The Council, called for DECC to *“indicate clearly on whether this will include a change of policy by the government and if so how this will impact from the current policy and programming involving EPR schemes and how these mechanisms are enacted under current legislation.”*

The **National Timber Product Stewardship Group** (NTPSG) supported a new process that will *“broadly identify “wastes of interest” by clearly identifying and describing the nature of the problem presented by each particular waste”*. NTPSG maintained that the current process has created *“unnecessary apprehension”* in some sectors of the community about products or materials listed. The group commented that the current process is also unclear about how listed products or materials are removed off a priority list.

The **Vinyl Council of Australia** regarded the new process as an improvement in that the term “waste of interest” replaces “waste of concern” the latter of which may be construed negatively. The Council commented that it would like to see the addition of explicit criteria for the inclusion of a product as a “waste of interest” and a clear process identified for sectors to address such criteria and *“be recognised as no longer an ‘interest’ relative to other wastes”*. The Council reiterated its concern with the current lack of clarity for how products and materials may be removed from the existing list of 17 “wastes of concern” once criteria has been satisfactorily addressed.

3. Comments on wastes of concern

The *EPR Priority Statement 2007* stated that the 17 nominated product sectors and schemes identified in previous EPR Statements had been retained and that they continued to be evaluated by the ERG. A number of submissions provided comments on the progress of some of these wastes in implementing EPR. These are summarised below.

3.1 Agvet chemicals

Boomerang Alliance identified a lack of recovery targets and lack of information on the expected relationship between chemical sales and the expected amount of chemicals available for recovery over time. It recommended that the Minister should require Chemclear to set clear collection targets and timeframes in consultation with stakeholders, and to report annually against these targets and make these reports public. Chemclear's targets should be credible and adapt to changing circumstances in the agricultural sector.

3.2 Agvet containers

Boomerang Alliance recommended that the NSW Government should require *drumMUSTER* to switch from a levy based system to a deposit-refund system for chemical containers; that *drumMUSTER* be required to develop a clear and robust methodology and set clear targets and timeframes in consultation with stakeholders to ensure that recovery, weight reduction and recyclable packaging rates are improved; and public reports should be provided annually against these targets.

3.3 Batteries

The **Australian Council of Recyclers (ACOR)** submitted that lead acid batteries "*MUST*" be included as "priority wastes of concern" or "wastes of interest" by all state and federal governments.

Boomerang Alliance recommended that the NSW Government should immediately initiate a mandatory EPR scheme for all used lead acid batteries including a deposit charge per battery with five yearly reviews on the size of the deposit as well as a ban on these types of batteries from landfill and classification as hazardous waste. The Alliance also wants the NSW Government to immediately initiate a mandatory EPR scheme on the importers and producers of NiCad batteries and to classify these as hazardous waste and ban them from landfills. In respect of single use batteries, Boomerang Alliance recommended that manufacturers be required to deliver a proposal for a product stewardship scheme to address the waste of non-renewable resources.

3.4 Cigarette butts

The **Butt Littering Trust** strongly recommended that cigarette butts be included as a "priority waste" for national action by the EPHC and called on NSW to make cigarette butts a regulatory priority due to cigarette butts being the number one item being littered in Australia¹.

3.5 Computers

The **Australia Information Industry Association (AIIA)** attached a copy of a previous report provided to EPHC² and submitted that computer recycling should not be on the EPHC agenda given the absence of a benefit relative to costs and considering issues such as: lack of evidence about risk to the environment from disposal in landfill; potential risks to the environment and to workers from collection and reprocessing; costs of systems; and that none of the input materials are "*running out*."

¹ [Keep Australia Beautiful National Litter Index and Clean-up Australia Day March 2008](#)

² [AIIA and Planet Ark, E-waste Program Development Phase Report for Discussion and Feedback, June 2005](#).

The **Blue Mountains City Council** strongly supported EPR regulation for both computers and televisions and stated it has been following the progress of the Priority Statements particularly as it relates to e-wastes. The Council has offered its two waste management facilities as a collection point for any appropriate industry funded scheme.

Boomerang Alliance recommended that the NSW Government should immediately initiate a mandatory EPR scheme for computers including industry responsibility for orphan and historic computer waste and that computers be classified as a hazardous waste and banned from NSW landfills.

Star Components - see Televisions

The **St Georges Councils** want urgent NSW Government action on the delivery of an e-waste EPR scheme. The Councils request that DECC use its powers under WARR Act to introduce an e-waste EPR, Product Stewardship or take-back scheme.

3.6 End of life vehicle residuals

Boomerang Alliance recommended that NSW should immediately initiate a mandatory EPR scheme that requires all vehicle manufacturers and importers to develop a product stewardship scheme that takes responsibility for the removal of all fluids and major non-metallic items from end of life vehicles prior to shredding.

3.7 Mobile phones

Boomerang Alliance recommended that the Minister should immediately initiate regulatory action on a mandatory EPR scheme for mobile phones based on the current low recovery rate of the industry scheme.

Star Components³ expressed concern that voluntary EPR schemes were self defeating and likened them to *"leaving the fox in charge of the chickens."* The submission cited the mobile phone industry recycling scheme as an example of an industry run scheme with an extremely low collection rate.

3.8 Office paper

Boomerang Alliance recommended that the Minister should immediately initiate regulatory action to mandate EPR within the paper industry to ensure that the industry takes full physical and/or financial responsibility for the proper recovery and reuse/recycling of office paper, that high quality office paper continues to comprise 10% of waste going to landfill in NSW and progress is unacceptably slow.

3.9 Other electrical products

The **Australian Council of Recyclers (ACOR)** stated that there is a *"desperate need"* for EPR schemes for a number of products. This included all mercury containing lamps due to the recent Commonwealth Government announcement to phase out incandescent globes and switch to compact fluorescent lamps (CFLs). ACOR cited toxicity and potential to impact human health and potential to contaminate the recycle and end products from (AWT) plants as the reason mercury containing lamps should be subject to an EPR program. ACOR supported a national approach underpinned by legislation to protect participants from *"free riders"* and strict enforcement.

Boomerang Alliance recommended that the Minister should require producers and importers of whitegoods to provide proposals on how it will reduce the amount of shredder floc going to landfill from end of life whitegoods by June 2008. If no satisfactory report is received DECC should report on

³ Star Components is a dedicated supplier of spare parts and electronic components and is a member of the Australian Electronic Service Industry.

regulatory options for the producers of whitegoods to reduce the amount of shredder floc going to landfill from end of life whitegoods by December 2008.

With regards to fluorescent lamps, Boomerang Alliance recommends that if a Federal Government or industry commitment to a product stewardship plan for is not forthcoming by December 2008, the NSW Government should implement a mandatory EPR scheme for this industry.

For all other post-consumer electronic and electrical equipment Boomerang Alliance want the NSW Government to implement a mandatory scheme including consultation with the community in setting recovery targets. Classifying post-consumer electronic and electrical products as hazardous waste and banning them from municipal landfills was also recommended.

Star Components – see Televisions.

3.10 Packaging

Boomerang Alliance recommended that the NSW Government should take immediate regulatory action to establish effective, regulatory EPR schemes for one or more materials if the mid-term evaluation at the end of 2008 demonstrates unsatisfactory progress of the Covenant/National Environment Protection Measure (NEPM) model against its targets and key performance indicators. In the meantime, the NSW Government should continue to support the implementation of key actions and processes necessary to ensure that the strengthened Covenant is effective.

3.11 Paint

Boomerang Alliance recommended that the paint industry should consult with the community to finalise its product stewardship plan and to develop agreed recovery and recycling targets and timelines. If a voluntary product stewardship scheme, including recovery and recycling targets, is not forthcoming by July 2008, the NSW Government should initiate regulatory action to mandate an EPR scheme for this industry.

Port Stephens Council recommended the establishment of an industry fund for waste paints for local councils and private waste facilities to enhance existing facilities and establish new facilities and services to ensure waste paints are disposed of appropriately.

3.12 Plastic bags

Boomerang Alliance recommended that if the plan to phase out plastic bags has not been completed by the end of 2008, the Minister should immediately ban the handing out of free light weight plastic bags by large supermarkets. The Alliance asserted that the Minister should also affirm that degradable plastic bags are not a suitable alternative for lightweight plastic bags until further research and standards are available.

The **National Association of Retail Grocers of Australia** (NARGA) submitted that the EPHC does not have a sound case for government intervention in the management of plastic bags. The Association commented that the use of taxes, levies or bans aimed at further reducing the rate of plastic shopping bag use will have negative environmental, economic and social consequences. NARGA commented that further government intervention will cause impacts such as higher costs, longer check out queues and loss of convenience.

3.13 Polyvinyl chloride

The **Vinyl Council of Australia** continued to *“question the listing of a ‘material’ as a ‘waste of interest’ or ‘concern.’*” It submitted that polyvinyl chloride (PVC) is a material with a wide range of uses with not a single identifiable group of end users as other ‘wastes of concern’.

The Council contended that there is no single set of environmental impacts related to all PVC applications as differing manufacturing techniques and additives are used and different barriers or opportunities exist to improved recovery and recycling.

3.14 Televisions

Boomerang Alliance recommended that the NSW Government should immediately establish a state based EPR scheme for televisions and that the community be engaged to participate in the development and finalisation of such a scheme. Boomerang Alliance stated that the lack of a suitable television take back scheme four years after being listed as a waste of concern and after industry has undertaken the tasks requested is inappropriate.

Star Components maintained that the current focus on "end of life" issues addresses the symptoms but not the causes of e-waste problems and that the focus should be on prevention and/or extending life spans. Star Components stated that due to the proliferation of brands and a lack of service assistance that the *"Electronic Service Industry is finding it hard to justify its existence in a throw-away society."* The submission was concerned that the Electronic Service Industry has not been involved in the e-waste debate. Star Components recommended a multi faceted approach and the consideration of policies that would reduce over consumption.

Blue Mountains City Council and the **St Georges Councils** - see Computers.

3.15 Treated timber

Boomerang Alliance recommended that the Minister should require annual progress reports from industry to ensure recovery targets are being met. If robust targets are not met, the Minister should consider regulatory action to establish a mandatory EPR scheme for treated timber.

The **National Timber Product Stewardship Group** (NTPSG) reaffirmed its support to work with DECC to identify and described the nature of any problems presented by all post consumer timber of wood products. NTPSG agrees with the *EPR Priority Statement 2007* that NSW actions are best implemented as part of a national strategy as the group have adopted a similar approach.

3.16 Tyres

Boomerang Alliance recommended that the community be engaged to participate in the *"finalisation of the PSA and NEPM for used tyres as opposed to consultation after the industry and government have finalised these"*. The Alliance called for the Minister to immediately regulate to establish a state based EPR scheme for tyres if an adequate Commonwealth or national scheme on tyres is not forthcoming.

4. Other comments

The **Australian Council of Recyclers** (ACOR) submitted that gas bottles and smoke detectors *"MUST"* be included as "priority wastes of concern" or "wastes of interest" by all state and federal governments as these materials all have the potential to seriously impact the recovery and recycling efforts of their members.

The **Port Stephens Council** asserted that marine flares are a *"significant issue"* since they are now required in all marine vessels and there is not safe method of disposal. The Council proposed an immediate funded take back scheme to stop unwanted marine flares becoming *"orphaned wastes"*.

The **St Georges Councils** submitted data on an e-waste collection day in November 2007 which resulted in the collection of almost 45 tonnes of e-waste at a cost of \$26,000 which was borne by the Councils ratepayers. The Councils stated that with increasing purchase rates and obsolescence coupled with the need to ensure the conservation of raw materials it was important to see increased recycling of such products.

Appendix 1

List of Submissions

No.	Name of Company Individual	City/State/Country
1	Australia Information Industry Association	Kirribilli, NSW
2	Australian Council of Recyclers	Balgowlah, NSW
3	Blue Mountains City Council	Katoomba, NSW
4	Boomerang Alliance	Sydney South, NSW
5	Lake Macquarie Council	Speers Point, NSW
6	Star Components	Toongabbie, NSW
7	Kogarah, Hurstville and Rockdale Councils	Hurstville, NSW
8	National Association of Retailer Grocers of Australia	Hurstville, NSW
9	National Timber Product Stewardship Group	Sydney, NSW
10	Ku-ring-gai Council	Gordon, NSW
11	Vinyl Council of Australia	Altona, Victoria
12	Port Stephens Council	Raymond Terrace, NSW
13	Butt Littering Trust	North Sydney, NSW
14	Australian Paint Manufacturers' Federation	North Sydney, NSW