

## Local Government in NSW, a pivotal role, or convenient fallback?

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Ladies and gentlemen

Thank you for attending today's forum.

I think there remains in waste policy, and particularly in the area of extended producer responsibility, an element of a lack of direction: We have not yet quite determined exactly where we want to go. And as they say, "If you don't know where you're going, any road will take you there"

We talk, quite rightly, about sustainability. We all express good intent about maximising resource recovery, to bring about a reduction in the impact of waste on the environment, and we think that equates to a pursuit of sustainability. But is it enough?

The particular focus of my talk today is Extended Producer Responsibility or EPR. And I could have titled this presentation "Swimming Upstream". Because EPR should be all about assigning responsibility upstream. One could be forgiven, however, for thinking that it's actually about muddying the water. And pursuing true EPR is sometimes like trying to swim upstream against a strong current. Let me illustrate.

The definition of EPR, according to NSW Legislation, is:

15 (1) an *extended producer responsibility scheme* is a scheme ... in which the producer's responsibility for a product (including physical or financial responsibility) is extended to the post-consumer stage of the product's life-cycle.

So far so good. But the very next clause includes quite a different definition of EPR:

15 (2) Any such (EPR) scheme includes a scheme for product stewardship (that is, shared responsibility for the life cycle of products including the environmental impact of the product from the extraction of virgin materials, to manufacturing, to consumption and through to and including ultimate disposal and post-disposal consequences).

Are you confused yet by an Act that assigns and diffuses responsibility, all within two consecutive clauses?

Let's stir up the waters a little more, by adding a couple of teaspoons of that monument to farce and self-denial, the National Packaging Covenant, signed off by industry and some sectors of government which proclaims:

**“shared responsibility”** refers to the equitable distribution of responsibility for the management of the environmental impacts of consumer packaging to the most appropriate participants within the packaging supply and recovery chains.

Equitable distribution? Sounds to me like a ludicrous game of pass the parcel. Except that the music so often stops when local government is holding it.

So where does this recipe for confusion leave us? It leaves us with a very piecemeal approach to EPR by industry. And who can blame them? They want clear direction, a level playing field, and they get mixed messages.

One of the areas that does confuse them is, how should they relate to Local Government?

Take your average council, providing waste collection, periodic kerbside clean ups, and a recycling service. Maybe a garden waste collection as well.

Now take your average manufacturer. Could be any product. Lets say whitegoods, or computers, or paint. You can well understand the temptation to say “councils already have a system of recovering goods. Some of them will even fit in the wheelie bin”

Does the muddled assignation of producer responsibility resulting from our confusing legislation mean that it’s a council’s job to ensure that these goods are separated from the waste stream and appropriately recycled or reused?

And where should the cost for this end of life product management ultimately rest? Any good industry lobbyist will pull out the old adage “Well the consumer pays, one way or another, either through the point of sale or through their rates”

And I notice that in Western Australia, the recently tabled Waste Avoidance and Resource Recovery Bill includes as one of its major objectives, “to **enable** producers of products that generate problematic wastes to **share with consumers** of those products the responsibility of reducing and dealing with those problematic wastes”

I am dismayed that (apart from plagiarising the name and structure of the NSW legislation) our western colleagues appear to have learnt nothing from our last ten years’ experience. Our NSW experience suggests that WA are embarking on a singularly un-ambitious objective and actually a step backwards in terms of industry accountability. But if they were to replace “enable” with “require” and “share responsibility” with “take responsibility”, well then, now they’d be getting somewhere.

Of course there is a much bigger issue that remains conveniently unaddressed while we all cluster around the end of

the pipe, and that's the need for a rationalisation and a reduction in consumption at the front end.

In metropolitan NSW, a landfill crisis during the 1990s was also used as an impetus to ask some fundamental questions about the way we as a society consume; the way we manage our consumer durables such as whitegoods, computers and motor vehicles and the way that we package durable and single use goods.

We live in an age where it is cheaper to replace than repair, where packaged goods can cost more than loose items. The economy is geared to, and evaluated by, the volume of "throughput" of products. There is a long history associated with this, right back to the 1950s and '60s, when our wide-eyed respect for emerging technologies was replaced by a gradual acceptance of the expendability of those commodities.

This acceptance was encouraged and fuelled by the realisation by industry (it didn't take them long!) that the sooner you can replace an old product with a new product, the better the bottom line looks. The importance of having "this year's model" became industry's catch cry. More recently in the IT world, it was made a necessity, where your "old" computer won't run the latest software.

If you doubt what I'm saying, go to the hardware store and try to buy the six screws you need to mend your shelf. Blister pack of five? Damn! Try getting a quote on repairing your mobile phone when it breaks down. Compare the cost of replacing the transmission in your four year old Hyundai Excel with buying a new model. Ask your computer repairer about having your Windows '98 computer upgraded to run Windows XP programs. All of these things can be done. But invariably you will be told, buying a new one is a cheaper option.

If you need any further proof of this, there is no better gauge of a society's wastefulness than a council clean up.

Who is going to pay for the removal and disposal of these goods, including, in NSW, the waste levy ramped up significantly from last July? In this case it will be Canada Bay City Council, but it could have been any council. And like all councils, I say "Thank goodness for the scavengers"

And do you think this planned obsolescence is changing? Think about the impact in a few years of the shift to digital TV!

No one would deny the basic principle that those corporations who market goods and encourage a frequent turnover of goods through planned obsolescence, exorbitant charges for servicing and spare parts and irresponsible packaging, should also be financially responsible for the cost of dealing with their products at end of life, an end which occurs all too soon.

Whenever governments try to reassign this responsibility upstream, however, industry are quick to reply with their catchcry: "the consumer pays one way or another, so it's much easier that they pay through their council rate system" Easier for who? And more importantly, does it really send a clear signal and bring about behavioural change. Because that's what we're ultimately seeking. Changes in consumer behaviour that will in turn, bring about changes in production, for sound economic reasons.

Faced with regulating industry or coercing councils into providing a better service, successive state and federal governments have historically taken the line of least resistance. So the "product stewardship" or "shared responsibility" ethic underpins our policy instruments rather than genuine Extended Producer Responsibility

To give the NSW Government its due, we have, enshrined in legislation, the principle of extended producer responsibility or EPR. It's a good start, on paper at least. The Act requires the Department of Environment and Conservation (DEC) to publicly advertise each year a priority statement with respect to the extended producer responsibility schemes the Director-General proposes to recommend. It is designed, plain and simple, to point the finger at problem industries and say "sort something out"

Translating that into action has, however, proven somewhat more difficult. It remains to be seen, five years since the legislation was passed, whether the Government has the "bottle" to do what is necessary. The NSW Department of Environment and Conservation has my sympathies: they can't say it but I will: they are working with a flawed rule book. The Government needs to bite the bullet on industry accountability and thereby give our bureaucrats some real teeth.

Otherwise, councils will continue to be put upon take up the slack, clearing away discarded motor vehicles, chasing illegal dumpers, collecting computers, televisions and fridges from the kerbside, dealing weekly with the never ending tide of packaging. And we are none of us getting any younger.

## **Conclusion**

I suggested in my introduction that we lack a clear vision of where we want to go with our waste management and sustainability objectives.

Part of this lack of vision might be because as stakeholders, we're all standing too close to our particular issue and we're focussed on that. Consequently, the bigger picture is blurry.

- If you're a waste operator, you're probably (and understandably) focussed on the sustainability of your business in a pretty competitive marketplace.
- If you're a council, you are facing the realities of trying to work within budget and trying to deliver a good standard of service while minimising cost increases which need to be passed on to the community.
- If you're a State agency, you have to balance altruistic aspirations for waste reduction and sustainability with political , budgetary and regulatory realities in the run up to an election. And please, don't even start me about the issue of political donations from big business and the impact that has on the setting of good policy and genuine public interest.

As I mentioned before, we talk, quite rightly, about sustainability. But what does it mean? In NSW in the 1990s we had ambitious targets to reduce waste by 60%. Then in 2001 when we embarked on the Waste Avoidance and Resource Recovery Strategy, we settled for an objective "To hold level the total waste generated for the next 5 years (based on 2000 levels)". Meanwhile some jurisdictions have committed to zero waste targets. What, we must ask, is an acceptable objective for waste policy?

Addressing consumption levels will, I feel, be the real key to bringing about true waste reduction and sustainability. And I stress, **Sustainability does not mean sustaining our present situation.**

I believe that governments, state and local, are doing what they can within the constraints of political expediency and the significant influence that industry wields over political policy. We need to recognize and address that influence and regulate in a fair, "level playing field" way to require producers to take genuine responsibility for what they produce.

We need to make some tough decisions now, choose where we want to go and map out a journey.

Otherwise, by only dealing with the tail end of the process we will continue to talk the talk, but it may well be the same talk in ten years.

Thank you