

21 August 2015

NSW Environment Protection Authority (EPA)
Peter Lawson
Manager Chemicals Reform
PO Box A290
SYDNEY SOUTH NSW 1232

Dear Peter

The Australian Sustainable Business Group (ASBG) has prepared this submission on [Proposed Reforms to Environmentally Hazardous Chemicals Legislation Discussion Paper](#) to generally support the reform process.

The Australian Sustainable Business Group (ASBG) is a leading environment and energy business representative body that specializes in providing the latest information, including changes to environmental legislation, regulations and policy that may impact industry, business and other organisations. We operate in NSW and Queensland and have over 130 members comprising of many of Australia's largest manufacturing companies. Members were fully involved in the development of this submission and ASBG thanks them for their contribution.

ASBG strives to assist Government to prepare more efficient regulatory process, with the outcome of achieving practical, efficient, low cost solutions to achieve high environmental outcomes consistent with sound business practices.

ASBG has summarised its key issues:

- Support for the license reforms
- Support for a National approach to the management of certain chemicals and their wastes
- Issues with the review of Chemical Control Orders

1 Support for Licence Reforms

While there are just above 20 licences issued under the EHCL, removal of duplicative reporting and inefficient regulation is always welcomed by ASBG. Placing the reporting requirements under the one existing Protection of the Environment Operations Act 1997, Environment Protection Licence (EPL) for a site is considered an improvement over the separate processes for reporting under two different licences.

2 Support for a National Approach

A key environment regulatory inefficiencies for businesses are the considerable differences between jurisdictions. Having a single National approach from which the same regulatory outcomes are achieved would be welcomed, but not ideal. Having template legislation across Australia would aid considerably aid businesses, however, the approach appears to be National guidelines followed by each jurisdiction incorporating this into their own legislative framework. At least under the national approach the same chemicals will be regulated, albeit under different legal instruments across Australia by the states and territories.

A proposed outcome of the review of the EHCL is to align it with the National Standard for Environmental Management of Industrial Chemicals which should be consistent with:

- [Stockholm Convention on Persistent Organic Pollutants](#) (SC) and
- [The Strategic Approach to International Chemicals Management](#) (SAICM)

Section 6 of the Stockholm Convention supports the use of facilities, such as geological repositories one of which is likely to be developed in the near future, which are not considered as an option under EHCL. S6 is replicated below:

Stockholm Convention Article 6:

(d) Take appropriate measures so that such wastes, including products and articles upon becoming wastes, are:

- (i) Handled, collected, transported and stored in an environmentally sound manner;
- (ii) Disposed of in such a way that the persistent organic pollutant content is destroyed or irreversibly transformed so that they do not exhibit the characteristics of persistent organic pollutants or otherwise disposed of in an environmentally sound manner when destruction or irreversible transformation does not represent the environmentally preferable option or the persistent organic pollutant content is low, taking into account international rules, standards, and guidelines, including those that may be developed pursuant to paragraph 2, and relevant global and regional regimes governing the management of hazardous wastes;
- (iii) Not permitted to be subjected to disposal operations that may lead to recovery, recycling, reclamation, direct reuse or alternative uses of persistent organic pollutants; and
- (iv) Not transported across international boundaries without taking into account relevant international rules, standards and guidelines;

Also relevant to the use of Chandler is Annex F from the Stockholm Convention:

Annex F INFORMATION ON SOCIO-ECONOMIC CONSIDERATIONS

(d) Waste and disposal implications (in particular, obsolete stocks of pesticides and clean-up of contaminated sites):

- (i) Technical feasibility; and
- (ii) Cost;

SAICM contains key sections supporting the development of hazardous waste infrastructure including:

14. The objectives of the Strategic Approach with regard to risk reduction are:...

- h. To reduce the generation of hazardous waste, both in quantity and toxicity, and to ensure the environmentally sound management of hazardous waste, including its storage, treatment and disposal;
- i. To promote the environmentally sound recovery and recycling of hazardous materials and waste;

15. We are committed to strengthening the capacities of all concerned to achieve the sound management of chemicals and hazardous wastes at all levels;

26. We will promote the sound management of chemicals and hazardous waste as a priority in national, regional and international policy frameworks, including strategies for sustainable development, development assistance and poverty reduction;

Both international treaties above supports the development of hazardous waste management infrastructure and supports the development of waste infrastructure, but this is not currently included in EHCL nor any national guidelines. Given that Australia has ratified both conventions, it should apply the full application of both the Stockholm Convention and the SAICM at the national levels.

3 Review of the Chemical Control Orders

ASBG is concerned over the timing for the review of the five CCOs under EHCL:

- [Chemical control order in relation to aluminium smelter wastes containing fluoride and/or cyanide \(1986\)](#)
- [Chemical control order in relation to dioxin-contaminated waste materials \(1986\)](#)
- [Organotin waste materials chemical control order 1989](#)
- [Polychlorinated biphenyl \(PCB\) chemical control order 1997](#)
- [Scheduled chemical wastes chemical control order 2004](#)

3.1 Aluminium smelter and Tri-butyl Tin Wastes

The Aluminium Smelter CCOs was introduced in 1986, and are considered to be out of date. For example, the Aluminium Smelter CCO also prohibits landfilling of such wastes, rather than relying on NSW Waste Classification Guidelines to limit the disposal of wastes based on its chemical properties.

Given the age and the development and improvements in acceptance standards to even general NSW landfills both CCOs are considered out of date and redundant and should be omitted. As a consequence, aluminium smelter and tri-butyl tin wastes will be permitted to explore a number of alternative management methods, but subject to a variety of acceptance criteria, environmental and economic conditions and constraints.

3.2 Dioxin, PCB and Scheduled Chemicals

All of these CCOs are well out of date and do not consider newer types of waste management practices such as a geological repository. Additionally most were drafted before the Stockholm Convention was prepared and signed off post 2001. These CCOs are also based on the very old and outdated Australia and New Zealand Environmental Conservation Council's (ANZECC) national waste management plans including:

- [Polychlorinated Biphenyls Management Plan Revised Edition](#) - April 2003
- [Organochlorine Pesticides Waste Management Plan](#) - July 1999
- [Hexachlorobenzene waste management plan](#) - 1996
- [National strategy for the management of scheduled waste \(PDF - 188.53 KB\)](#) - November 1992

A question is how relevant are these waste management plans to the revision of NSW's CCOs? Given the age and numerous out of date clauses and conditions in the above list, there may be some scope to ignore parts of these plans. For example, the HCB plan includes references to commercial entities which no longer exist and timetables which have long expired.

Currently there appears a conflict between the old waste management plans and ratified international treaties. Clearly though the international treaties are newer and ultimately the direction that Australia must adopt to comply with them.

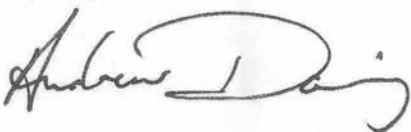
As a consequence, ASBG considers there are three options available to the EHCL reform approach:

1. Wait for the national waste management plans to be updated, but this could take over 10 years at the national level, and then a few more years to be adopted in NSW
2. Include a legal mechanism under EHCL to automatically uptake changes to National chemical guidelines or waste management plans and incorporate it into NSW laws
3. Permit NSW CCOs to vary from any older waste management plans and adopt variations based on consistency with international treaties, such as the Stockholm Convention.

ASBG recommend the 3rd option be adopted, permitting NSW ECHL to also consider international conventions if older national waste plans are inconsistent.

Should you require additional information on the content and issues raised in this submission please contact me.

Yours sincerely



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