

AUSTRALIAN SUSTAINABLE BUSINESS GROUP'S

Submission on

Proposed Minimum Environmental Standards in the Scrap
Metal Industry

September 2017



Sydney, Brisbane

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EXECUTIVE SUMMARY

The Australian Sustainable Business Group (ASBG) welcomes the opportunity to comment on the NSW Environment Protection Authority's *Proposed Minimum Environmental Standards in the Scrap Metal Industry*. (MSSMF).

While supporting the general thrust of the MSSMF, the approach can benefit from lessons learnt from other risk based approaches, especially in the storage and handling of dangerous goods. Prescriptive approach was long abandoned in this area replaced with a performance approach. Nevertheless, some prescriptive measures can be provided as an alternative if no risk based approach is applied for various reasons, such as for small sites. However, such prescriptive approaches require careful design and consultation with the sector. Any new measures proposed will also require a transitional period for compliance to be met.

Application of the MSSMF is very broad and could be applied to a service station to a major steel works. This is clearly not its intention consequently, should be limited to scrap metal management is the site's principle activity.

The MSSMF prescriptive standards proposed have considerable issues generated from inconsistency, conflict and causing other knock-on effect of non-compliance or increased risks with WHS and other legislation, with special reference to Australian Standards on Dangerous Goods storage and handling. Examples include:

- Requirements for coverage of handling areas has always been an option and should remain as such
- No consideration of the knock-on effects of roofing on fire safety or extra generation of fire water
- Inconsistency or contradictions on the design of bunds compared to Australian Standards
- Lack of justification for the requirement of substantial hardstand areas where there is low environmental risk

Further consultation with the scrap metal sector is recommended to establish the set of prescriptive standards which are used as a fall back approach where a risk based approach is not used.

There is some confusion as to why the MSSMF has specific applications to licensed shredders where they are managed under appropriate licence conditions.

RECOMMENDATIONS

R1: ASBG recommends that the MSSMF be based on:

- Firstly and preferably a risk-based and performance based approach to environmental performance.
- Secondly as a default option apply a set of prescriptive standards as a substitute to the above.

R2: ASBG recommends the MSSMF list the outcomes it wishes to achieve and makes them the main target for risk-based and default prescriptive systems to aim for.

R3: ASBG recommends the MSSMF be aligned to the risk management requirements for hazardous chemicals under Work Health and Safety legislation.

R4: ASBG recommends the MSSMF only apply to scrap metal facilities where the principle activity of the business is that to store, stockpile, collect or process scrap metal under s34, Schedule 1 POEO Act.

R5: ASBG recommends that the minimum standards:

- Remove the requirement for a covered area/s – it should be optional
- Propose a preferred risk-based approach as a means to manage contaminated rain waters
- Use of a default approach where a risk based approach has not been used.

R6: ASBG recommends that the minimum standards:

- Develop the prescriptive minimum standards in full consultation with the scrap metal sector
- Provide a transition period for the introduction of the minimum standards

R7: ASBG recommends the section on hammermill feedstock should be removed from the MSSMF.

R8: ASBG recommends that:

- Bunds and capture systems be based on R1, R2, R3, R5 and R6 in this submission.
- The need for bunding or secondary capture systems for non-dangerous goods, should be subject to a performance based approach, which prioritises pollutants according to a range of risk issues including chemical impact, location, primary and secondary risk management methods and storage integrity.

1 INTRODUCTION

The Australian Sustainable Business Group (ASBG) is pleased to comment on the NSW Environment Protection Authority's [Proposed minimum environmental standards in the scrap metal industry](#) (MSSMF).

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 120 members comprising of Australia's largest manufacturing companies. Members were involved in the development of this submission and ASBG thanks them for their contribution.

ASBG supports a risk-based, reasonable, flexible and cost effective approach to environmental risk management of industrial facilities by NSW EPA and many other environmental agencies. ASBG's submission focuses on ensuring flexibility in this first environmental risk management minimum standard.

Issues discussed by ASBG on the MSSMF include:

- Setting a precedent for all sites of an industry sector, not just sites with environment licences
- Too broadly defining what is meant by scrap metal industry or scrap metal facility
- Its inconsistency with other controls especially Work Health and Safety legislation, especially the use and application of Australian Standards for Dangerous Goods, its main reference documents and planning codes.
- That it should be based on a preferred risk-based outcome focused approach with default prescriptive methods as a fall back approach.
- Use of coverage on many areas of a scrap metal site be made optional not mandatory

This submission also details issues and provides recommended improvements to the details of the minimum standards, with a focus on use of the last dot point above.

2 MINIMUM STANDARDS SET PRECEDENCE

With the *Proposed minimum environmental standards in the scrap metal industry*. (MSSMF) the NSW EPA has proposed a new precedent in the management of environmental risks on all scrap metal sites, regardless if they are covered by an Environment Protection Licence (EPL). While poor environmental practices by scrap metal facilities have been noted by the EPA, the minimum standards will establish prescriptive standards, which can easily be expanded other business sectors and EPLs, via new minimum standards or regulators simply using MSSMF as a reference guide on other sectors.

As a consequence, the MSSMF requires careful drafting as it will likely be used as a precedent for use on other sectors. Such use can be broad such as a guideline by EPA in the application of licence conditions to other sites' holding EPLs.

ASBG considers the MSSMF has merit, but in its current form is too prescriptive and does not permit flexible and cost effective alternatives that achieve a similar or better level of risk management. Given this is a first in establishing environmental management risk management standards it is essential that the MSSMF is carefully drafted, flexible and is based on performance based standards as a first priority. A set of prescriptive methods can also be used but only as a fallback position where no risk-based review and implementation has occurred. Put simply, the MSSMF should preferably ensure and recommend firstly a risk based and performance based approach to environmental performance. If this is not achieved then the site could demonstrate a default position from a set of prescriptive methods that can be applied where the later has not been used.

R1: ASBG recommends that the MSSMF based on:

- ***Firstly and preferably a risk-based and performance based approach to environmental performance.***
- ***Secondly as a default option apply a set of prescriptive standards as a substitute to the above.***

ASBG considers the MSSMF should be rewritten to be outcome focused then offering two processes to achieve these outcomes; risk based then default methods. It appears the main environmental outcomes the MSSMF wishes to achieve includes:

- Minimisation of the contamination of land from typical liquids and contaminants from scrap metal facilities
- Minimisation of contamination of stormwater emitted from scrap metal facilities
- Minimisation of air pollution including dust, odour, noise and vibration

However, MSSMF concerns over fire risk is confusing as it seems to very much overlap with WHS legislation, but does little to consider the firewater risk caused by requiring covered areas. However, if a roof is added without considering the fire risk this causes and increased firewater generation this could lead to poorer environmental outcomes.

ASBG notes that MSSMF also is concerned with human health impacts on site and the spread of disease vectors such as mosquitoes. While human health is an area covered by NSW EPA's legislation it should also use the current methods and practices used under Work Health and Safety legislation and practices used by SafeWork NSW and also the legalisation covered under Department of Health.

R2: ASBG recommends the MSSMF list the outcomes it wishes to achieve and makes them the main target for risk based and default prescriptive systems to aim for.

3 CONSISTENCY WITH MANAGEMENT OF CHEMICALS

Use of prescriptive standards has been long used and abandoned under work health and safety area in the storage of hazardous chemicals. In 2005 dangerous goods storage and handling regulations abandoned its prescriptive approach, largely based on the application of control measures specified under the Australian Standards on Dangerous Goods. There were two main reasons for this:

- If a site had a hazardous incident, but complied with Australian Standards or WorkCover's exemptions, the incident was considered a rare accident and no further action was required, as the site complied with the prescriptive requirements.
- WorkCover NSW was receiving over 5,000 applications annually to vary from the generic and inflexible control measures under Australian Standards for Dangerous Goods. This overloaded the department.

Consequently, under the Work Health and Safety Regulation 2011, a performance based approach is used. Under this arrangement sites are required to address their own risks and apply appropriate control measures to minimise this risk. Australian Standards for Dangerous Goods (ASDG) become a reference and a set of guidelines along with other guidelines standards and industry codes. Where a site finds it cost ineffective to use ASDG control methods, a risk assessment can be undertaken to find control methods which achieve a similar or better management of risks.

Unfortunately, there is no reference to WHS legislation and the use of ASDGs, especially AS 1940¹. In addition, the main legislative mechanism where on-site infrastructure is controlled is under planning legislation. Consequently, the MSSMF needs to also align with the planning processes. Use of Australian Standards dominates this area, further reason to align with them.

R3: ASBG recommends the MSSMF be aligned to the risk management requirements for hazardous chemicals under Work Health and Safety legislation.

Most industrial sites storages of dangerous goods were designed at the planning phase using AS DGs. If these were not well covered at the Development Application (DA) and post inspection phase, then that is an issue for the approving Council. A Council trying to apply MSSMF standards post DA could create legal issues. Additionally, many Council may operate scrap metal collection sites and will first need to comply to set an example for the community.

ASBG notes the EPA has published its [Storing and Handling Liquids: trainers manual](#), but this has not been a standard used in the building design sector for design purposes. There are number of similar guidelines among international environmental agencies, but again these are good practice guidelines or best practice guidance a long way from setting minimum standards for design the MSSMF proposes to be.

¹ AS 1904 Storage and Handling of Flammable and Combustible Liquids

4 WHAT ARE SCRAP METAL FACILITIES?

The intent of the MSSMF is summarised:

Under this proposal, scrap metal facilities that do not currently require a licence from the EPA will not be required to obtain one, but would need to comply with the proposed standards.

This set of minimum standards is a first; it is also a first in application to all scrap metal sites not just those with EPLs. As discussed, it sets precedence for other business sectors in future minimum standards. Additionally, it will become a guideline for Approved Regulatory Authorities to apply them to industry and business activities broadly. Of concern is the proposed broad capture of the MSSMF stated as:

This proposal applies to any site that stores, stockpiles, collects, dismantles, or processes scrap metal from end-of-life vehicles, white goods or other sources.

This 'definition' is so broad that a simple service station that stores a few drums of scrap to steel refineries could be captured. Considering its broad application, this is a poor legal definition. This would not be the case if the MSSMF applied to EPL sites only, as the definition used would be that used under the POEO Act Schedule 1 s26 Metallurgical Activities. Also under Schedule 1 the threshold is a capacity to process more than 10,000 tonnes per year of scrap metal.

It also important to consider the cost impacts especially on smaller operators of the MSSMF. Recycling is often a marginally profitable industry. Small cost increases can result in the cessation of recycling. In addition, the used parts suppliers play a valuable role in the efficient recycling in society.

R4: ASBG recommends the MSSMF only apply to scrap metal facilities where the principle activity of the business is that to store, stockpile, collect or processes scrap metal under s34, Schedule 1 POEO Act.

ASBG considers there is no need to single out end-of-life vehicles as such activities would be captured where scrap metal recycling is the principle activity. Hence, service stations, car wreckers, steel yards etc, which are not principally a scrap metal facility should not be captured.

If the definition of scrap metal facilities was to be made broader, for the purposes of the MSSMF, then a full cost benefit analysis should be conducted which would include the reduction in the scrap metal collection sector due to these proposed standards and the impact on recycling of metals and increases in landfilling. Even then a cut off process capacity should be set to simply its application.

5 ISSUES WITH THE STANDARD PRESCRIPTIVE REQUIREMENTS

5.1 Storage and dismantling areas

All end-of-life vehicles, white goods, and other scrap metal must be stored and dismantled/processed on hardstands under-covered areas with appropriate drainage infrastructure.

ASBG takes issue with the need to for *covered areas* as standard, which appears many times in the text. There is no AS DG² requiring the use of coverage for the storages of liquid or solid dangerous goods; roofing is always an option. While there is the potential for spills and precipitation to wash contaminants into a drainage system the prescription of coverage should be removed.

Roofing of flammable stores also adds further complications to the design as fire fighting systems have to be redesigned as fire hose access can be restricted by a roof. There are many other requirements to consider when fitting a roof over a store of flammable or combustible liquids such as the fitting internal sprinkler systems and spark proof lighting. Prescribing a roof on flammable and combustible stores under the MSSMF is misleading as no consideration or references are given for the additional safety requirements as set out under AS 1940-2004³.

ASBG understands that the EPA's main purpose of requiring a roof is to minimise the generation of bund waters. There may be other environmental advantages too such as dust and odour control, but in this application a roof offer only marginal improvement. A roof over a small flammable store is costly, but a large area the cost becomes considerable and there are many other options which are available for management of contaminated waters from such areas. Consequently, the prescriptive requirement for a roof is considered too prescriptive and in many cases too expensive and outside the requirements of AS DG. Also placing a roof without considering other safety and environmental impacts can result in poorer outcomes. For example, a fire in a flammable liquid store that has a simple roof as described in the MSSMF can require more fire water resulting in poorer environmental performance.

Design of storage and processing areas is generally undertaken at the planning stage and installed after planning approval. Post rectification of on-site infrastructure is very expensive and will require, in most cases additional development approval. Most buildings are not required to be automatically compliant with the latest version of the Australian Building Code (ABC). Put simply buildings are somewhat grandfathered, meaning they remain compliant based on the contents of the ABC edition at the time of design and planning approval. Only where buildings are to change use does the Australian Building Codes Board offer guidance on modifying buildings. Its Guide [Upgrading Existing Buildings](#) is non-mandatory with a focus on cost effectiveness. Again a flexible risk-based approach is used, negating the need for prescriptive and mandatory requirements. The MSSMF in its current form appears contrary to the ABC Board approach, which is a panicle of planning standards.

R5: ASBG recommends that the minimum standards:

- ***Remove the requirement for a covered area/s – it should be optional***
- ***Propose a preferred risk-based approach as an means to manage contaminated rain waters***
- ***Use of a default approach where a risk based approach has not been used.***

² Covers at a minimum AS 1940-2004, AS NZ 1596-20014, AS 3780-2008

³ AS 1904 -2004 and s5.2.4 Roofs over tanks covers many additional design requirements for roofs.

The prescriptive conditions, such as hardstand areas and dirty water capture systems should be developed with the scrap metal industry in consultation rather than listing prescriptive requirements under the minimum standards. Even then the costs and considerable increase in required infrastructure for this sector is considered considerable. Hence, a transitional program to permit the installation over period of time, for example, 5 years would be a fair approach to enable accrue of funds, especially, at the smaller scale to install the systems required under the MSSMF.

R6: ASBG recommends that the minimum standards:

- ***Develop the prescriptive minimum standards in full consultation with the scrap metal sector***
- ***Provide a transition period for the introduction of the minimum standards***

5.2 Liquid, and chemical controls

This section has a number of issues:

1. *Fuel and other liquids must be drained prior to any processing or storage of end-of-life vehicles. Liquids that are removed must be stored on covered and suitably bunded hardstand areas*

The first sentence implies that immediate drainage is required. This should be rewritten to provide practicality and flexibility where there are temporary and long term storage areas. Obviously temporary storage where end of life vehicles are waiting for such drainages to occur will need a place and time to remove liquids. Alternatively other risk management approaches can work such as quick through put.

Again the requirement for coverage of an area to minimise bund waters can be very costly method and one unnecessary where other suitable drainage and dirty water systems are used that more cost effectively control and manage these dirty waters. For a large area dirty water management system using drains sumps, pumps and storage tanks can be far more cost effective means to manage these environmental risks than a roof. Recommendations R1, 2, 3, 5 and 6 apply here.

2. *Facilities must have a documented procedure kept on site outlining how spills will be prevented and what to do in the event of a spill. This procedure must be reviewed annually.*

This appears to reflect the main Pollution Incident Response Management Plan (PRIMP) requirements of spill management procedure and annual review. For sites with EPLs this is already required under their PIRMPs. Imposition of such requirements on smaller sites is considered excessive, when spill kits are already required. To assist a simple generic procedure will apply similar but simpler than that used for liquid waste transporters. Such a plan should be simple as the risks involved are far lower than for licensed sites. A simple procedure written with full consultation from the scrap metal sector would be an appropriate way forward.

5.3 Hammermill Feedstock

The requirement *free of other wastes* is considered far too broad and subject to misinterpretation as a strict standard. As there are only 3 metal shredders in NSW this issue should be handled at the EPL condition level and negotiated with each site.

This section introduces a new outcome: *to prevent unnecessary contamination and an increase in shredder floc...* However, the shredder process's ability to manage floc and separate out metals from other materials is not limited to its input stream quality alone. Efficient extraction of metals and other recycling by-products from its feed stocks is the purpose as a metal recycling facility. MSSMF should be outcome focused first not input and process focused.

If salting of the floc to obtain the levy discount available for the three shredders is an issue, this should be controlled under the EPL and the mass-balance process. Overtime the management of shredder-floc has the potential to change and for example be sent for energy recovery, rather than landfilling. Locking in prescriptive input stream requirements under the MSSMF at this stage will prevent future innovative methods being implemented until the standard is changed.

The criteria for ozone depleting substances and PCB waste management are already legislative requirements and consequently do not represent a minimum standard under the MSSMF as they are redundant. How to best physically manage such actions should be developed with the scrap metal sector.

R7: ASBG recommends the section on hammermill feedstock should be removed from the MSSMF.

5.4 Waste Management issues

ASBG agrees that all wastes must be managed according the waste regulatory requirements. This also applies to other waste activities such as burning of waste, which should refer to the *POEO (Clean Air) Regulation 2010*. Again these can be repeated in the MSSMF but are essentially redundant.

5.5 Noise Vibration and Controls

The section requiring the operation and maintenance of plant and equipment should refer back to the proper sections 124 and 125 under the POEO Act 1997, rather than reword the meaning in the MSSMF. Also this seems to apply to the shredders and not other sectors. Again, another redundant addition.

5.6 Construction of Bunds

The section is contrary to AS DGs and should be changed to align; otherwise the MSSMF will impose considerable, costly and unnecessary rectification costs. Please consider:

- No AS DG requires 110% bunding⁴
- Most AS DGs permit the use of a drain valve, especially AS 1940 - 2004
- Many AS DGs permit the use of alternatives to bunding such as tanks, double skins, drainage systems etc
- No AS DG requires a roof, it is only an option with additional design criteria required.

What is presented in the MSSMF is considered good environmental practice as it goes beyond AS DGs requirements. Consequently, they are too inflexible and should not be used for minimum prescriptive design criteria. ASBG considers the bunding requirements for DGs in a minimum standard document must be made far more flexible and be aligned with WHS legislation in order to reduce costs and provide a similar or better risk management outcome to that of AS DG.

It is also unclear as to what liquids is the *Constructions Of Bunds* section applying to? ASBG assumes it applies for any potential pollutant. While it is appreciated this is proposed to apply to scrap metal facilities, the precedent it sets is of concern.

Under this MSSMF section it requires that all dirty water tanks and stores (any potential pollutant) be bunded. However, this is not applied in practice to many effluent systems or storage of pollutants on any other sites. In addition, there is no Australian Standard containing prescriptive environmental control measures for non-DGs. Management of risk of non-DGs is performance and outcome based. Mandated Pollution Incident Response Management Plans (PIRMP) require a risk-based approach⁵ used with no prescriptive methods used. Also, most effluent stores such as sediment dams and sewage treatment tanks do not require secondary containment. [The Blue Book](#) does not require secondary containment, yet the sediment dams generally contain pollutants. Even sewage and effluent systems, tanks, aerobic and anaerobic treatment plants and dams do not require secondary containment. To do so would be cost prohibitive. Alternatives to secondary containment systems are used in these types of storages, again based on the risk. Consequently mandating bunding on all liquid pollutants is unnecessary and impractical.

R8: ASBG recommends that:

- ***Bunds and capture systems be based on R1, R2, R3, R5 and R6 in this submission.***
- ***The need for bunding or secondary capture systems for non-dangerous goods, should be subject to a performance based approach, which priorities pollutants according to a range of risk issues including chemical impact, location, primary and secondary risk management methods and storage integrity.***

There are just too many variables associated with non-dangerous goods storage and handling for environmental protection. To limit this, the liquids identified in Table 1 of the MSSMF should refer to either the appropriate Australian Standard for storage and handling if it is a dangerous good, other appropriate guidelines or standards if they exist. Again a risk based approach should be the preferred method, followed by a default prescriptive approach which is consistent with Australian Standards.

⁴ AS 3780 s5.4.2 states *In order to facilitate the management of emergencies, it is recommended that compound capacities be about 10% greater than the minimum values specified above..* Note bunding is only specified for bulk tanks, not packages where a spill containment system is acceptable.

⁵ Under the [Environmental Guidelines: Preparation of pollution incident response management plans](#) these risk assessments are captured under the term Pre-emptive actions to be taken.

Should further details and explanation of the above points be required please contact ASBG.

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