

27 November 2016

Environmental Impact Assessment Improvement Project  
Department of Planning and Environment  
Level 22, 320 Pitt Street  
Sydney NSW 2000

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The Australian Sustainable Business Group (ASBG) is pleased to comment on the Department of Planning's *Environmental Impact Assessment Improvement Project – discussion paper* (EIA Paper).

The [Australian Sustainable Business Group](http://www.asbg.net.au) (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 fully involved in the development of this submission and ASBG thanks them for their contribution.

This response largely focuses on improving the efficiency of monitoring, auditing and reporting of compliance, not just against the Development Consent conditions, but all environmental compliance matters. ASBG has identified a number of issues including:

- Minimise the regulatory overlap between planning and operational conditions
- Recognition of the use of Environmental Managements System for environmental compliance
- Use of a commencement provision where a one-stop-shop assessment of environmental conditions starts
- Variation in scale of projects

#### **Minimise the regulatory overlap**

Following receipt of Development Consent (DC) on a designated development, many sites must deal with multiple oversights especially from both the Department of Planning (DPE) and Environment and the Environment Protection Authority (EPA). As Environment Protection Licences (EPL) must reflect the initial operational requirements of DC conditions these reporting and other requirements often overlap. Consequently, in many cases the DPE and EPA are reviewing the same metrics, duplicating the work for such sites and Government agencies involved. As an example, many sites with EIA DC and EPLs are required to undertake the following:

- DPE annual environment reports
- Triennial environment reports
- Multiple independent environmental assessments
- Safety hazard audits
- EPL annual return
- EPL annual report
- EPL annual ambient report
- EPL annual web report
- EPL monthly web reports

ASBG considers there is an opportunity to streamline these oversight provisions by providing a one-stop-shop for both Development Consent (PC) and Environment Protection Licence (EPL) and other environmental conditions.

ASBG recognises that certain compliance requirements under current legislative and agency responsibility arrangements must be undertaken by specific agencies. Nevertheless, coordination between Government agencies has been achieved in other areas resulting in other one-stop-shops<sup>1</sup>. Given these past examples there is an opportunity to improve coordination between environmental agencies to give to the licensed site the effect of a one-stop-shop or similar. Should inconsistencies or even conflicts arise then perhaps a Government policy may help to provide a clear process on which one should dominate.

#### **Recommendation R1**

- ***Environmental oversight should be a one-stop-shop or similar and streamlined to reduce duplication of assessment.***
- ***If more than one agency must be involved a cooperative process to remove duplication and inconsistencies between them should provide to the assessed site the appearance of a one-stop-shop.***

#### **Recognition of Other Assessments**

Large industrial sites subject to the EIA process also run third party certified Environment Management Systems (EMS) such as ISO 14001. All the reporting and compliance requirements from the various agencies, such as the DEP, EPA even SafeWork NSW, must be properly managed under such an EMS. Hence, where an operational site has a robust internal and external auditing process, DPE and other agencies should consider the need for ongoing independent audits or a reduced set of audit requirements. Requiring the use of additional independent audits on substantially the same, if not a smaller set of issues, is duplicative and imposes considerable costs.

Obviously there may be concerns that the EMS and audit is not robust. In such cases an independent assessment can be made on its robustness, which for example could be revisited every 5 years or so. This audit should be of smaller scope, cost and time, but provide confidence of that a standard of audit has been achieved.

#### **Recommendation R2**

***Consider the removal for independent audits where the site can demonstrate third party audits have undertaken the same or better standard and scope required.***

#### **Use of a One-Stop-Shop Commencement Provision**

ASBG considers a timeline should be made where all the environmental compliance issues should be transitioned to a one-stop-shop. It is recognised that there is a temporary period of time where multiple agency oversight is required. This is likely from the issuance of a new Develop Consent to the commencement of a full operational stage for new sites. Consequently a timeframe could be prepared to include a commencement provision where the one-stop-shop fully replaces multiple oversights.

Members have seen over time amendments to the EPLs conditions which can render them inconsistent with Development Consent requirements. As a consequence, the site can be subject to conflicting requirements, especially as the EPA deals with operation conditions, which, over time can be subject to variation. Changes to EPA legislation and policy occur regularly due to a range of issues, but this is not the case with DC. To rationalise this, ASBG contends there is a need for a documented hand over process on environmental compliance to commence generally after the commissioning phase is completed and the operational phase commences. Such a transition should be co-ordinated, structured and transparent, whereby the one-stop-shop environmental compliance oversight takes over and commences for that site.

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<sup>1</sup> Service NSW claims to run 8 one-stop-shops for a range of NSW Government administrative services.

### **Recommendation 3**

- ***A documented, transitional and transparent commencement process be provided from which the one-stop-shop approach where all environmental compliance requirements will commence.***
- ***The process will consider all environmental compliance requirements are undertaken in efficient manner aimed to provide a clear consistent approach and avoids duplication and inconsistencies.***

### **Variation by Scale**

ASBG considers the community consultation process is a vital component of the EIA process. However, the degree of advanced and overall consultation and engagement processes should be flexible to consider the varying scales of projects which trigger being a designated development. A metric could be prepared which may use proportional approach and other issues such as community concerns. Certainly a one size fits all does not reflect the variations in scale for designated developments.

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

**Yours Sincerely**



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