

24 April 2025

Resource Recovery Innovation Pathway
NSW Environment Protection Authority
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RE: Submission on the Resource Recovery Innovation Pathway

1 Overview

The Australian Sustainable Business Group (ASBG) wishes to provide comments on the [Resource Recovery Innovation Position Statement and Concept Papers](#).

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 about 100 members comprising of Australia's largest manufacturing and infrastructure companies and other related businesses.

ASBG welcomes and supports the overall concept and position statement on resource recovery innovation. Our members look forward to an easier path for NSW to provide a clear to follow, incentivised framework, with clear outcomes so NSW can provide some leadership in developing innovative waste and recycling processes. This submission was made from input from ASBG's Policy Reference Group members.

2 Other Government Agencies

ASBG strongly supports the NSW EPA's efforts to encourage resource recovery innovative processes and their corresponding pilot plants and demonstration commercial plants. ASBG notes the EPA has very limited sole jurisdiction over such developments. Concepts Paper discusses coordinating with Department of Planning (DoP), where it recognises that significant delays are likely to eventuate, due to this overarching layer at the planning consent level. Working with the DoP is identified as a Stage 2 action, but there appears no such agreement in place yet, but vital for this process to work effectively.

ASBG contends that Local Government's planning approval, will be likely triggered for many such innovative processes. EPA stresses that issuance of an Environment Protection Licence (EPL) must have consent support from the planning approvals process first. Consequently, where required,

additional environmental and public concerns will be raised via this approval process across multiple government agencies.

Due to the regulatory pathway for new or expanded developments, NSW does not have a single agency to assess and approve building even small innovation pilot or pre-commercial plants, unlike available to the Victorian EPA.

In NSW gaining planning permission from a Council can be constrained by public objectors. Objectors reasons can come from a variety of positions, including environmental, aesthetics, opposition to change, power plays or even competitor issues, which introduces considerable uncertainties. This uncertainty detracts the financing of such projects in NSW. Without better interrelation between the other government agencies, Victoria will remain the lead state in which to undertake and develop resource recovery innovations.

3 Few May Escape Planning Consent

ASBG acknowledges there will be some innovative processes, which can use the Innovation Trial Licence (ITL), without additional planning approval. However, this would be limited to those EPL holders where their scheduled licence activities align with their current planning consent. There can be issues even here on differences and interpretations of what is proposed and what is permitted.

For example, Site A has planning consent to undertake brick and concrete recycling. Site A wishes to develop an innovative timber recycling process as well. The site has a Resource Recovery activity — [s34 Schedule 1 POEO Act](#)—on its EPL. Consequently, EPA would be reluctant for that site, which, to permit its expansion to include timber recycling, as timber recycling is not specifically covered in its planning consent. Consequently, the innovative timber recycling process likely requires planning approval from the consent authority, generally the local Council.

ASBG considers, the triggers for needing planning approval to then use an ITL will be a more likely outcome than not in NSW, given the constraints legally imposed on EPLs and ITLs. Gaining planning approval is more time consuming and less certain than obtaining a variation to their existing EPL. This still detracts from undertaking such projects in NSW, despite EPA's efforts.

4 Whole of Government Planning Guidelines on Innovation

ASBG members are concerned that triggering such planning requirements, if not included in this—Resource Recovery— innovation process, will invoke its obstacles, delays, public input and roadblocks directly and from the other agencies involved. Consequently, a continuation of the current planning consent actions will make the innovative process too difficult and will only be taken up minimally in NSW. What is needed is a joint DoP and EPA, leading set of guidelines and documents, for the other NSW Government agencies to follow.

Should the Innovation Trial Licence (ITL) be of a scale, or otherwise include the approval or oversight of the Department of Planning, then other NSW Government agencies will be invited to be involved. For example, if a site requires changes to its planning consent, where the Council invites and

receives additional controls from multiple other Government agencies, including Fire + Rescue, TfNSW, NSW Health, Heritage NSW, Water NSW, DCCEEW etc.

ASBG members find that where more than one regulator is involved in any approvals process it becomes far more difficult for the applicant. Inter-agency differences on multiple issues will likely delay and perhaps stop an ITL from progressing. ASBG considers only a few of the ITL applications may by-pass some of the planning approval issues.

ASBG recommends the EPA work with the Department of Planning (DoP) to release supporting planning guidelines for mandatory consideration and use by consent authorities, which is consistent with the EPA's Innovation Trial Licence. The corresponding DoP guidance should be concurrently released with the EPA's Position Statement.

ASBG suggest that developing a State Environment Planning Policy – Innovative Processes, could be prepared concurrently, with the similar lines of the EPA's Position Statement and ITL approach. In any event an appropriate guidance documentation is required to ensure all NSW planning consent authorities use it.

Overall to make an effective Resource Recovery Innovation Pathway will require a whole of Government approach, ASBG considers this will include at a minimum Department of Planning and Local Governments.

The alternative, if possible, is to ensure that EPA has the lead role in such a process and can over-rule other agencies where required.

5 Appendix and Activities Clarification

Clarification is required in the Position Statement's Appendix for the *In Scope* area. *Collaboration on existing licensed premises*, states:

Proponent is licensed and wants to innovate within licensed activity for environmental benefit.

ASBG considers this requires some clarification as it somewhat vaguely focuses on the licensed activity. Consequently, this is assumed to mean the activities, from [Schedule 1 POEO Act](#), which are listed on the current Environment Protection Licence (EPL). This needs to be clarified if this is the meaning under this part. Additionally, there needs to be clarification that having a Resource Recovery activity on an EPL does not mean this applies to all resource recovery activities, but is dependent or limited by the site's planning consent conditions. This, relationship to the EPL listed activities, should extend to *Innovation on existing licensed premises* in the Appendix.

A related issue also arises where the site has Planning Consent, but all the potential approved activities are not listed in the EPL.

For example, a landfill has consent to also undertake Resource Recovery, but this is not included in the sites' EPL. In such cases can an ITL be issued without reference to a consent authority as this requirement has been met? ASBG is looking for some reassurance that in such cases there is a good chance additional planning consent can be avoided and the EPA will be the sole approval agency.

6 Appendix and EPL Variations

In the Appendix under *Innovation on existing licensed premises* it states:

An existing EPL holder wants to trial changes to their process or use waste inputs that differ from what is currently approved on their EPL.

This suggests that a variation to the EPL, e.g. under L2.1 table, is all which is required. This would be true if there is no issue with the site's planning consent, as discussed. Correspondingly, this outcome is also true for *Collaboration on existing licensed premises*. Overall, the Appendix *Description[s]* are not complete and unclear as to their application and connection to planning approval and sharing of similar issues. A more detailed and improved layout of the Appendix is required.

Should you require further details and clarification of the contents of this submission please contact me.

Yours Sincerely



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