

Evaluation of treated timber initiative – Final Report – EPA response to recommendations April 2020

Recommendation 1: Program appropriateness	EPA response
<p>(a) The Program is consistent with the intent of national and NSW Government policy and legislative commitments to improve the management of hazardous materials and wastes and reduce their risks to the environment and human health. This includes the aims of the <i>Pesticides Act 1999</i> with respect to restricted chemicals like CCA and the objectives of the <i>Waste Avoidance and Resource Recovery Act 2001</i> (WARR Act) regarding increasing the recovery or problem wastes such as CCA treated timber.</p>	<p>The EPA continues to develop policies and implement programs consistent with its commitment to improved pesticides management and finding innovative solutions to ‘problem waste’ and to promote targeted awareness and safe use of chemicals and pesticides in the community.</p>
<p>(b) The Program objectives are consistent with the statutory objects of the Trust, specific goals in the NSW State Plan 2021 (current at the time the Program was commenced) and corporate objectives of the EPA.</p>	<p>The EPA continues its commitment to reduce risks from hazardous chemicals, including pesticides, reduce waste and improve behaviour associated with waste disposal through its Strategic Plan 2017-2021</p>
<p>(c) It is appropriate that government play a role in improving consumer awareness as part of a holistic multi-faceted approach to tackle ‘wicked problems’ created by hazardous materials and problem wastes when doing so is a public good and/or is intended to address a market failure. However, the Program was not part of a holistic approach with complementary initiatives to address the risks of CCA in treated timber. Rather it was a consumer education campaign designed by the EPA as a sole substitute for regulation and a foundation for potential future regulation.</p>	<p>NSW EPA is part of a robust national regime for regulating chemicals, which extends to chemically treated products. Registration of agricultural and veterinary chemicals in the Australian marketplace is centralised under the Australian Pesticides and Veterinary Medicines Authority (APVMA). CCA has been regulated as a restricted chemical under a national framework since 2012. This means CCA products can only be supplied to, and used by, suitably trained persons authorised under state and territory law. SafeWork NSW (a project partner) applies the “Code of Practice for Safe Handling of Timber Preservatives and Treated Timber” in workplaces. The EPA also regulates CCA waste under the <i>Protection of the Environment Operations Act 1997</i>, including a general immobilisation approval in accordance with Part 10 and Clause 101 of the POEO (Waste)</p>

	<p>Regulation 2014. The project was designed to supplement these regulatory approaches with consumer information for DIYers, where regulation is less effective, not as a substitute.</p>
<p>(d) While the Program represents a public good, it appears to have been unnecessary to address any market failure. This is because retailers of treated timber appear to have pre-existing consumer awareness strategies which the Program duplicated, and retailers were disinclined to participate in the Program because they had their own consumer information strategies. Because the Program was not co-designed by the EPA with industry, the EPA was ill-equipped to identify duplication with existing retailer consumer education strategies as a risk to Program implementation.</p>	<p>When researching the project, the EPA found little existing consumer awareness information. Retailers did not advise the EPA that they had existing strategies at the time the EPA or its project partner, the OEH Sustainability Program, engaged them. On the contrary, major retailers agreed to distribute project information to their stores and hosted the training module on their in-house learning platforms, at least for a time. The EPA is still unaware of any retailer produced products in this area (most recent check on the largest retailer's website showed no information, except a link back to EPA website project information). However, the EPA would welcome the opportunity to review any retailer consumer awareness and information strategies to align and improve its own outputs.</p>
<p>(e) The Program may have been able to successfully concentrate on specific market failures that may have required solutions regardless of existing retailer led consumer information strategies if:</p> <ul style="list-style-type: none"> ▪ Proposals such as these submitted to the Trust under the New Government Priorities funding stream were subject to the same rigorous scoping applied to Trust's Major Projects Strategic stream; ▪ The Program had been designed to complement a product stewardship scheme; and ▪ The Program had been designed to respond to resource recovery market dynamics and needs in waste streams 	<p>The <i>Waste Avoidance and Resource Recovery Act 2001</i> enables the NSW Government to implement 'extended producer responsibility schemes' (EPR), which place the responsibility for the end-of-life environmental impact of a product on the producer. Similarly, Product Stewardship schemes can be created under the Commonwealth's <i>Product Stewardship Act 2011</i> which provides a mechanism for national level EPR schemes that can be either voluntary, co-regulatory or mandatory. Treated timber is an example of a product that would be amenable to a national stewardship approach. A National Timber Product Stewardship Group (NTPSG) previously undertook significant work to research and develop a national strategy for all post-consumer timber. The EPA would support reactivation of efforts toward a national approach but notes that treated timber needs to be considered within the context of other problem waste priorities and resource constraints.</p>

<p>(f) Consideration should be given to ensuring that government agencies developing projects for Trust funding engage with Trust Administration during the project scoping phase to gain their independent guidance and assistance with program/project design including effective stakeholder consultation and co-design principles.</p>	<p>The EPA developed the project plan in close consultation with the Trust Administration and took the Trust's advice over several months in preparing the plan. The project plan was approved by the Trust at the time of making the grant.</p>
<p>Recommendation 2: Program management</p>	
<p>(a) Prior to being considered by the Trust, all proposals under the New Government Priorities funding stream should be subject to the same process and requirements for co-design and scoping as the Trust's Major Projects Strategic funding stream. This will provide the Minister the flexibility to continue to bring forward new priorities for funding but will ensure proposals are well designed and fit for purpose by meeting Trust Objects, satisfying expectations arising from an analysis of Strengths, Weaknesses, Opportunities and Threats (SWOT), and meeting risk management standards. This will reduce the risk of design failures which lead to projects being less effective and efficient.</p>	<p>The EPA today supports a co-design approach to such projects (which were less in vogue in 2013 when the project was conceived) and agrees that the project would have benefited from a co-design approach. The EPA did work closely with officers from the OEH Smarter Choice sustainability program and sought to understand and respond to industry in designing its messages and outputs.</p> <p>The EPA partnered with and engaged other government and non-government stakeholders to deliver its message. These partnerships included SafeWork NSW, which regulates occupational timber use, NSW Health, the NSW Department of Local Government's Sustainable Choice program, the public education and TAFE sectors, local councils, independent retailers and timber merchants, and the NPWS.</p> <p>The EPA is taking co-design approaches in more recent projects in the pesticide regulation space.</p>
<p>(b) Agencies who are proposed to deliver projects for funding under the New Government Priorities stream should demonstrate that there are no other more cost effective solutions to influencing consumer action, such as via regulation. Proposals should detail the costs and benefits of regulatory and other options previously considered and why they are inferior to receiving program funding from the Trust.</p>	<p>The EPA notes this recommendation regarding future proposals.</p>

(c) Proposals for Trust funding under the New Government Priorities stream which are specifically submitted as substitutes for regulation or a foundation for future regulation should include the detailed reasons why immediate regulation is an inferior solution and the timeframe for proposed future regulation. This will assist the Trust to examine the need for funding and whether project funding is sustainable until regulation is introduced.

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(d) Prior to being approved for funding by the Trust projects which propose interventions for consumer behaviour change should demonstrate the following design features:

- All projects should have examined their Strengths, Weaknesses, Opportunities and Threats (SWOT) to ensure they have properly evaluated actual market need for the intervention and are proposing solutions which can address that need effectively and efficiently. This should include:
 - Analysis to identify how the market is operating, whether there are any barriers to consumers and stakeholders participating in the Program, and the best ways to communicate with consumers based on their preferences/priorities and the outcomes being sought;
 - Analysis of preliminary baseline data about consumer behaviour and application of this data as a platform from which to detail how and why the proposed project will influence behaviour change;
 - Demonstrated consultation with the behavioural insights teams within the NSW Government to gain data and advice to inform their design; and
 - An outcome measurement regime that is based on realistic assumptions about risks and barriers to obtaining data from consumers

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and includes risk mitigation strategies which can satisfy the Trust's minimum expectations about outcome delivery.

- Where required, relevant external experts should have been engaged at an early stage to advise on market and supply chain dynamics, relevant commercial issues affecting program implementation and preferred communication/marketing techniques to influence the audiences the Trust normally targets for behaviour change.
- The scope and implementation of programs requiring the participation on non-government and government stakeholders should be designed in consultation with those stakeholders. Projects which have not been co-designed with stakeholders who are being proposed as implementation partners should not be supported by the Trust.

- (e) All proposals considered by the Trust which are interventions for consumer behaviour change should be subject to the following additional assessment:
- Agencies should demonstrate that they have the internal capacity and organisational commitment to manage this kind of program over the long term. This should include:
- A demonstrated holistic approach to tackling a problem within which a consumer education campaign is one component and supported by other policy and regulatory solutions;
- Demonstrated solid relationships between the agency and any industry and non-government partners who may be required to implement the program;

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<ul style="list-style-type: none"> • A funding commitment from the agency to continue supporting program objectives after the Trust funding has expired; and • The corporate knowledge and capacity to manage the program with and without the assistance of external expertise. 	
<p>Recommendation 3: Program effectiveness</p>	
<p>(a) Future program design should consider applying recommendations 1 and 2. This would reduce risks to the effectiveness of program outputs and outcomes.</p>	<p>The EPA notes this recommendation regarding future proposals.</p>
<p>(b) The EPA should consider funding an ongoing digital marketing strategy to drive traffic to its website to increase and maintain community awareness about CCA treated timber. This is consistent with deploying a community education campaign as a substitute for regulation.</p>	<p>The EPA will consider this implementing additional digital marketing within the context of other problem waste and chemical regulation priorities and resources constraints.</p>
<p>Recommendation 4: Program efficiency</p>	
<p>(a) Future program design should consider applying recommendations 1, 2, and 3. This would improve potential allocative efficiency (value to consumers) and technical efficiency.</p>	<p>The EPA notes this recommendation regarding future proposals.</p>
<p>Recommendation 5: Value for money</p>	
<p>(a) Recommendations 1 to 4 in this evaluation should be implemented to improve the overall value for money of future initiatives like the Program.</p>	<p>The EPA notes this recommendation regarding future proposals.</p>