

Existing Chemicals Review National Public Engagement Strategy

**SUMMARY AND EVALUATION REPORT
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**JANE BREMMER AND LIZ HANNA
FOR THE
NICNAS COMMUNITY ENGAGEMENT FORUM**

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Executive summary

Chemicals are used globally for many complex and varied purposes including pharmaceutical and medical products, agriculture, manufacturing and industrial processes and products, and an ever-increasing number and range of personal care products. Nearly every facet of our lives relies on the use of chemicals. Whether we consume chemicals or work with chemicals, they impact upon our lives and our environment.

Industrial chemicals make up a large proportion of those chemicals used in our everyday lives. It is estimated that every year 1500 new chemicals are introduced onto the market globally. These new chemicals are now required to undergo detailed scientific assessments for safety and integrity.

However, Australians are largely unaware that while more than 38 000 chemicals are listed for use on the Australian Inventory of Chemical Substances (AICS) the majority have not been tested for safety to the environment or occupational and public health and safety. This large number of existing chemicals in need of urgent and overdue assessment presents a daunting challenge not only for Australia but also for the global community.

The USA and Europe list 100 000 chemicals on their registers¹⁻³, and the European Union (EU) estimates that existing chemicals account for more than 99 % of the total market volume. It is broadly acknowledged that over 75% have yet to receive any assessment for health or environmental impacts⁴. Many of these chemicals, as in Australia, have been grandfathered onto approved use lists.

Governments around the world have recognised this untenable situation. Increasingly, adverse impact data and emerging environmental and public health indicators linked to the manufacture, consumption, use and disposal of chemicals in our societies, are cause for urgent attention and action, especially if we are to honour the international agreements and treaties related to the environment, public participation and chemical management that Australia has committed to.

In Australia, the federal regulator of industrial chemicals, the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) responded to this problem by establishing an Existing Chemicals Review program. This Review was designed to provide recommendations on how to increase the efficiency and effectiveness of the Existing Chemicals Program, so as to address the backlog of unassessed or inadequately-assessed industrial chemicals in Australia many of which have been grandfathered onto the AICS and are available for use in Australia.

Although the program has existed in NICNAS for some time, few chemicals had been assessed, largely because of the limited options available to NICNAS for chemical assessments. It was felt that the program needed review to make it more responsive and effective for stakeholder needs, more cost effective and to harmonise Australia's program with similar international schemes, reflecting international trends in chemicals management and regulation. NICNAS together with industry and community stakeholders developed a discussion paper⁵ for the

proposed review with recommendations for a more robust and flexible model of existing chemical management.

In 2006 NICNAS, together with the Community Engagement Forum (CEF), conducted a National Public Engagement Strategy which included the release of the discussion paper, and public forums in all capital cities as well as in Townsville, Broome and Inverell.

This report provides an evaluation of the approach taken by NICNAS and the CEF to engage civil society in its Existing Chemicals Review Program. It highlights the strengths and weaknesses of the approach taken and provides recommendations for future NICNAS public engagement strategies. This report was prepared for, and on behalf of the CEF, NICNAS' key public engagement body, which was set up to provide community engagement advice and representation to government from representatives of worker safety, public health and the environment.

Background

CIVIC ENGAGEMENT AND PUBLIC PARTICIPATION: INTERNATIONAL DRIVERS

Civic engagement and public participation in policy and decision-making has been recognised as a fundamental human right. It has been incorporated into international agreements relating to the environment and chemical regulation and policy, (e.g. The Rio Declaration on Environment and Development, the Aarhus Convention and the Bahia Declaration) and associated plans of action (eg. Local Agenda 21, the Johannesburg Plan of Action).

Principle 10 of the Rio Declaration on Environment and Development adopted at the Rio Summit in 1992, states that individuals shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities⁶. It also encourages States to facilitate and encourage public awareness and offer opportunities to participate in decision-making. Access to environmental information, such as pollution data or information about the hazards of chemicals, is thus crucial for effective participation of citizens and workers in environmental decision-making. The principle also urges that effective access to judicial and administrative proceedings, including redress and remedy, be provided.

The Strategic Approach to International Chemicals Management (SAICM) incorporated Principle 10 of the Rio Declaration in its Dubai Declaration and the Overarching Policy Strategy. The involvement of all relevant sectors and stakeholders, including at the local, national, regional and global levels, is seen as a key to achieving the objectives of the Strategic Approach, as is a transparent and open implementation process and public participation in decision-making, featuring in particular a strengthened role for women.

The main stakeholders in the Strategic Approach are Governments, regional economic integration organizations, intergovernmental organizations, non-governmental organizations and individuals involved in the management of chemicals throughout their life-cycles from all relevant sectors, including, but not limited to, agriculture, environment, health, industry, relevant economic activity, development cooperation, labour and science. Individual stakeholders include consumers, disposers, employers, farmers, producers, regulators, researchers, suppliers, transporters and workers. *More details on these international treaties / conventions can be found in Appendix 1.*

AUSTRALIA: NICNAS, THE CEF AND THE PATH TO ENGAGING CIVIL SOCIETY

The Australian Government Department of Health and Ageing is responsible for the safe regulation of all industrial chemicals, through the Commonwealth *Industrial Chemicals (Notification and Assessment) Act 1989* which brings into being the National Industrial Chemicals Notification and Assessment Scheme (NICNAS).

Since its inception NICNAS has engaged with industry through the Industry Government Consultative Committee (IGCC) and provides regulation via a 100% cost-recovery model from industry. Perceptions have existed in the community that this model undermines independent government regulation through the

potential for “he who pays the piper to call the tune”. Notwithstanding such perceptions, NICNAS acknowledged its 14 year history of engaging with the chemicals industry via the IGCC by establishing the Community Engagement Forum (CEF) in 2003.

The CEF was established as a direct recommendation of an earlier NICNAS reform, the Low Regulatory Concern Chemicals (LRCC) program, whereby community comment was sought on the introduction of reduced regulatory burdens for using chemicals considered of ‘low concern’. The feedback received through this program showed that while the community supported the introduction of reforms to encourage the increased use of safer chemicals by manufacturers and industry, these regulatory concessions needed to be balanced with action to address the backlog of existing unassessed chemicals in use as well as the historical absence of active engagement with civil society. *For details of the LRCC program see Appendix 2.*

On 10 November 2003 the CEF had its inaugural meeting. Appointments to the CEF were made by the Minister for Health and Ageing from peak national organisations, with two members each representing the sectors of public health, worker health and safety and the environment. Members were chosen for their expertise in the following areas:

- knowledge of industrial chemicals in a regulatory context
- ability to represent a broad cross section of community views of civil society
- understanding of community concerns related to the regulation of chemicals
- knowledge of Government processes involving industrial chemicals regulation.

The CEF’s terms of reference at the time were to provide advice on:

- strategies to improve public access to chemical health and safety and environmental information
- community right to know issues underpinned by the community *right to know* charter
- the development of NICNAS’s stakeholder engagement strategies
- all relevant NICNAS programs and participate where practicable, and
- other issues, as required^a.

Engaging civil society is a difficult task. Many Non Government Organisations (NGOs) have limited resources, rely on volunteers and are increasingly time-constrained, thus reducing the capacity for and motivation to engage with government agencies especially if there is a history of poor relations and uptake of community input. The slow pace of change and constant political reorienting of policy further erodes civil society’s confidence in engaging with government. The CEF recognises the difficulties associated with opening the policy process to incorporate the input of civil society and with instituting and resourcing meaningful dialogue and congratulates NICNAS on its willingness to commit to actively engage with the public. It is in this recognition that the CEF is keen to continue assisting NICNAS in furthering this aim.

Since its establishment, the CEF has developed a Community Engagement Charter to provide guidance for NICNAS on stakeholder engagement and a Community Engagement Framework which operationalises this charter. The CEF

continues to participate in a number of working and advisory groups such as the Nanotechnology Advisory Group, Cosmetics Advisory Group, and ECR Implementation Steering Group and its associated working groups. It also contributes submissions and other advice to NICNAS and other agencies in relation to chemical regulatory issues.

More about the CEF can be found in NICNAS's *Community Engagement Forum* brochure (available at: www.nicnas.gov.au/Community/CEF_Brochure_PDF.pdf)

More information about the Existing Chemicals Review can be found on the NICNAS website at:

www.nicnas.gov.au/About_NICNAS/Reforms/Review_Of_The_Existing_Chemicals_Program.asp and
www.nicnas.gov.au/About_NICNAS/Reforms/Review_Of_The_Existing_Chemicals_Program/EC_Review_FINAL_REPORT.pdf

REPORTING THE EXISTING CHEMICALS REVIEW PUBLIC ENGAGEMENT STRATEGY

Establishing the Community Engagement Forum (CEF) provided the opportunity for NICNAS and the CEF to work together to facilitate community engagement on projects such as the Existing Chemicals program Review (ECR).

The Review project had a clear public interest imperative and while NICNAS had started the Review in 2003, it wasn't until the CEF had been formally established, that their involvement commenced.

In March 2006 the public engagement process commenced, including a national public forum "road show" (in which members of the CEF and NICNAS staff visited centres to provide an overview of the process and to receive advice about it from the community) between May and July 2006.

As of the time of writing this report, the Existing Chemicals Review is in the implementation phase. This report seeks to:

- assess the effectiveness of the ECR Public Engagement Strategy
- provide evaluation and feedback for the ECR Public Engagement Strategy
- inform the implementation phase of the ECR and other future NICNAS public engagement strategies;
- provide a guide to other Government agencies for public engagement; and
- make recommendations on all of the above.

THE EXISTING CHEMICAL REVIEW

In light of the complex challenges facing regulatory assessment, the aim of the Existing Chemical Review (ECR) was to assess the efficiency and the effectiveness of the existing chemicals program with a view to repositioning it to be more cost-effective as well as more responsive and timely to stakeholder needs. It was also intended to harmonise with comparable schemes and reflect international trends.

Efficiencies were anticipated to flow from better utilising overseas testing and assessment program outputs. To determine national priorities for assessment

of existing chemicals, and address the needs of the community and industry, a process of effective stakeholder engagement was recommended.

Prior to establishing a formal review mechanism including a Steering Committee to oversee the Review (RSC), NICNAS executed a number of preliminary scoping activities.

The original 2003 strategy planned for the Review involved:

- preliminary consultations with a range of stakeholders
- development of an Options Paper
- public consultation phase to facilitate input into the reform process as proposed in the options paper
- a final report outlining the various options identified for implementation, and an impact analysis of them, and
- establishment of a revised implementation program.

PRELIMINARY CONSULTATION PHASE

To assist identification of options from a range of stakeholders, NICNAS ran a series of focus groups at the beginning of the review process. Meetings were held during July and August 2003 between Program staff and approximately 30 different organisations and representatives from government, worker safety, public health, environment groups and industry familiar with the Program.

About 20 key stakeholders were familiar to NICNAS, through involvement with the LRCC program. Additional clinicians and people with an interest in environment, public health and worker safety were then targeted. These included key representatives from the Australian Council of Trade Unions (ACTU) and the National Toxics Network (NTN).

These meetings were used to scope the issues for the RSC to develop into a review framework, and from the information gained, NICNAS prepared a list of suggested issues and areas that should be included in any formal review of the EC Program. To further develop the identification of issues, NICNAS then held a **Brainstorming Workshop** in August 2003.

The Brainstorming Workshop discussions were based on the following:

- role of the Program
- operation of the Commonwealth *Industrial Chemicals Notification and Assessment Act 1989* (ICNA Act)
- relationships with other agencies
- program priorities and processes
- Priority Existing Chemical (PEC) assessments, and
- enhanced communication and better public access to information.

The focus group consultations and brainstorming workshop generated four issues papers with accompanying background documents. This led to the identification of three distinct work areas, as described under the three technical working groups (see below). The development of a draft Discussion Paper followed with NICNAS seeking further focussed consultations on the draft paper to provide an

opportunity for the early inclusion of other options not previously identified, before release to the general public.

EXISTING CHEMICALS REVIEW STEERING COMMITTEE (RSC)

NICNAS sought external advice to assist in the review of the EC Program. The Review Steering Committee (RSC) was established to provide this expert advice, and report to the NICNAS Director. The RSC was charged with the task of setting a framework for the review and to oversee its activities. The Committee consisted of 11 members as follows:

- independent chair (National Occupational Health and Safety Commission NOHSC)
- three community representatives
- three industry representatives
- three government representatives, and
- one independent expert

with the Director NICNAS as an Ex-Officio (non-voting) member of the committee.

After this considerable preliminary phase, NICNAS formally commenced its Existing Chemicals Review (ECR) Program with the first meeting of the Review Steering Committee (RSC) on 12 November 2003.

The Steering Committee's terms of reference were to review the current Program with a view to its:

- efficiency and effectiveness
- flexibility and responsiveness to stakeholder needs, and
- harmonisation with comparable schemes and reflecting international trends.

The Steering Committee, therefore, would:

- oversee the review processes and provide advice on issues relevant to the Program review
- contribute to and provide strategic direction on the:
 - development of the public options paper
 - consultation strategies
 - review of submissions received, and
 - final paper on the future direction of the Program
- assist with other tasks relevant to the review at the request of the Director (NICNAS), and
- draft Final Report and Recommendations on the future of the Existing Chemicals Program to the Director, NICNAS by February 2006.

ESTABLISHMENT OF WORKING GROUPS

As a result of preliminary consultation, the RSC identified a need to establish three independent working groups to address separate components of the Existing Chemicals Review. These working groups would report to the RSC

and provide information for the basis of the final discussion paper that would be released for full public comment.

Working Group 1:

How to detect and identify issues and concerns?

Inputs: Develop a framework and criteria for the Program to detect and identify hazards, risks and concerns.

Working Group 2:

What course of action should the Program use to address existing chemical issues and concerns?

Process: Develop a framework and criteria for the Program's assessment processes to better address the hazards and/or risks and/or concerns.

Working Group 3:

How best to ensure the efficient and effective implementation of the Program's activities?

Outputs: Develop a regulatory framework and criteria for ensuring best practice regulatory activity for existing chemicals to improve national implementation of NICNAS recommendations including safe use and/or elimination and/or risk reduction activities.

With the work of the RSC and associated working groups under way, the community representatives of the RSC raised concerns that the CEF had not been engaged to provide advice on the imminent draft discussion paper nor, as a key NICNAS community representative group, had the opportunity to make comment on the draft report. At its 24 January 2006 meeting, the RSC agreed to formally engage the CEF to design a public engagement strategy for the ECR and to provide preliminary comment on the draft discussion paper as a recognised key stakeholder.

The CEF met on 27 March 2006 to develop their ideas for a detailed public engagement strategy for the ECR, actively underpinned by the Community Engagement Charter.

Existing Chemicals Review public engagement strategy

With the establishment of the CEF and Community Engagement Charter, the Existing Chemicals Review represented an opportunity to implement a stakeholder-led national consultation process. Although the RSC was established by November 2003, consideration of a public engagement strategy did not eventuate until 2006, after CEF members on the RSC alerted NICNAS to the lack of a formal public engagement process for the release of the discussion paper.

At a meeting on the 27th March 2006 NICNAS and the CEF explored three potential options for public engagement for the release of the ECR Public Discussion Paper.

OPTIONS FOR PUBLIC ENGAGEMENT

Option 1 Passive release of Discussion Paper with media, circulation to organisations and NICNAS website

The disadvantage of this option was that key stakeholders would not necessarily be identified nor become actively engaged with the program without some face to face interactions. It was felt that a more pro-active approach was warranted given the review's inherent national public interest.

Option 2 That NICNAS facilitates the public engagement

The disadvantage of this option was that the community may be less interested in actively participating with a department-led process where historical relations may be strained and the community was less likely to relate and respond to public servants compared to recognised community representatives.

Option 3 Facilitated engagement, with the CEF leading the public engagement process with logistical and technical assistance from NICNAS

It was agreed that this option was likely to deliver the best outcome.

This option was chosen, based upon a model of stakeholder-led public involvement that had been used successfully in moving towards resolution of controversial chemicals/hazardous wastes issues in Australia. The application of this model is most completely described in the Australian Government Department of the Environment, Water, Heritage and the Arts paper *On Schedule Eventually: A case study of problem solving through effective community consultation*⁷, a description of the scheduled waste process that also includes an independent evaluation of the public engagement process used there⁸.

Specifics of the strategy proposed to maximise community engagement to contribute to the ECR were:

- development of a Discussion Paper
- dissemination of that Discussion Paper for public comment
- public forums
- incorporation of public comments into Review process
- preparation of the ECR Report
- enactment of Review findings, and
- evaluation of the engagement process.

The recommendations

The following recommendations concerning the management of public engagement strategies were proposed and further developed by the CEF members during the period of public engagement in 2006.

Each is addressed in detail in the following pages.

Recommendation 1	Successful public engagement strategies require consideration and planning at the concept stage of any project.
Recommendation 2	Provide early identification and creation of a stakeholder database.
Recommendation 3	Provide ongoing maintenance and updating of the ECR stakeholder database.
Recommendation 4	Provide for early inclusion of CEF advice on the style and language of NICNAS public communications.
Recommendation 5	Design flexibility into the process.
Recommendation 6	Ensure procedural fairness and transparency is provided at public forums.
Recommendation 7	Provide for feedback and evaluation as part of the process.
Recommendation 8	That the communications stream of the ECR be given greater priority and progressed as soon as possible.
Recommendation 9	That the NICNAS website be updated to become more user friendly to the general public and provide for easier access to the EC review information.

RECOMMENDATION 1

FUTURE PUBLIC ENGAGEMENT STRATEGIES MUST BE PLANNED AT THE CONCEPT STAGE OF ANY PROJECT

By considering the Public Engagement Strategy at the concept stage a more holistic approach to the project can be adopted and the design can reflect important features such as tailored communications with different stakeholder sectors at certain stages of the project.

It also provides room for staged communications throughout the project, which in turn has a capacity- building effect by providing early and ongoing communication with stakeholders preparing them for upcoming opportunities to be informed and engaged with the project. Streamlining the public engagement strategy into the project timeline assists all team members to be aware of the process, milestones and expectations for public engagement. It provides more time for any unforeseen issues to be addressed within the set timeframe. Essentially, as with any project, early and inclusive planning enhances the likelihood of a successful outcome.

Active stakeholder identification.

A key element of any successful public engagement process is to have a comprehensive and up-to-date stakeholder data base. This requires not only the identification of all key organisations but also names and contact details for the key personnel likely to take an interest, as well as potentially interested individuals.

For the ECR, with initial contacts from the focus group consultations already documented, this exercise involved examining the accuracy of and building upon existing NICNAS databases, which were quite limited. Involving the CEF and its members' detailed knowledge of stakeholder networks led to expanding the stakeholder database several-fold to over 600 potential stakeholders. This provided a direct conduit for communication via the CEF members to the ECR project.

RECOMMENDATION 2

PROVIDE EARLY IDENTIFICATION OF STAKEHOLDERS, AND CREATE AN ACTIVE STAKEHOLDER DATABASE

With any database, its effectiveness relies on keeping it up to date and active. This inherently requires flexibility to meet the changing demographics, issues/campaign focus, human resources issues and level of corporate knowledge held within the environment, worker and public health sectors over time. Essentially, stakeholder databases are active entities requiring ongoing maintenance and consideration. They represent the most fundamental and basic tool for any successful public engagement strategy, providing a critical measure of success for that project and ongoing capacity building for the benefit of the community, industry and government.

Consequently, adequate resources and time need to be afforded to this basic but major component of a Public Engagement Strategy. The initial time and resourcing efforts at the beginning of a PES towards a strong active stakeholder database, will deliver rewards later in the process through a more engaged set of stakeholders and informed stakeholder input. These efforts can also provide long-term capacity-building benefits for NICNAS which cannot be overstated, as enhanced community relationships will provide the basis for future public participation in NICNAS reforms and assist the CEF and NICNAS to be able to meet their commitments under the Community Engagement charter and associated framework.

RECOMMENDATION 3

PROVIDE ONGOING MAINTENANCE AND UPDATING OF THE ECR STAKEHOLDER DATABASE

ECR discussion paper

The discussion paper played a central part in the review process. Accordingly, considerable effort and resources contributed to its development. The four background and four draft issues papers developed during the preliminary phase of focus groups and brainstorming roundtables contributed to its development.

The CEF, RSC and NICNAS agreed that the review held a broad public interest imperative. Consequently, a strategy to actively seek public input into the discussion paper would best involve going out to the public to directly ask their views, as well as seeking written submissions.

It was agreed that a series of Public Forums was needed in all capital cities and selected regional centres. The surrounding publicity could also serve to raise the profile of NICNAS, and further publicise the report, and hopefully generate additional commentary from people unable to attend the meetings, but able to access either online or through hard copies.

In April 2006 the discussion paper *Promoting safer chemicals use: towards a better regulation of chemicals. Discussion paper for public engagement on a new model for the NICNAS Existing Chemicals Assessment Program* was released for an eight-week public submission period. It stated:

The purpose of this Discussion Paper is to seek public comment on a range of proposals to enhance the program. The paper also explains and discusses the issues and concerns identified to date. NICNAS would like to receive comment from anyone interested in the regulation of industrial chemicals in Australia. You may have a particular interest or work in one of the following areas: public health, worker health and safety, environmental health, environmental protection, sustainability and climate change, chemicals manufacture, waste management, downstream users of chemicals, government regulation of chemicals (federal, state, territory or local) or a non-government agency.

NICNAS would like to hear from people interested in industrial chemicals at any point in their life cycle eg. from manufacture – to use – to disposal.

Critical to the accessibility and understanding of the discussion paper for the community was the involvement of the CEF in advising on the use of language and framing of issues. This allowed each sector to contextualise the ECR in relation to their own sector's issues.

For example, in regional areas where chemical regulation often relies on the experience and knowledge of local government environmental health officers, contextualising the ECR for these workers increased their attendance at forums and participation in the review. Similarly, designing the invitation to suit the environment sector, by highlighting the relevant issues of chemical regulation to the environment, increased this sector's involvement and contribution.

RECOMMENDATION 4

PROVIDE FOR EARLY INCLUSION OF CEF ADVICE ON THE STYLE AND LANGUAGE OF NICNAS PUBLIC COMMUNICATIONS

Dissemination of the Discussion Paper

NICNAS utilised a number of different methods to publicise the Draft Discussion paper and advertise the public forums. This involved:

- direct mail-outs to individual stakeholders, government agencies, academia, NGOs and industry.
- advertisements in State and National papers
- internal government advisories
- NICNAS website, bulletins, chemical gazette
- the Industry Government Consultative Committee (IGCC), and
- other media (ie. press releases, radio interviews).

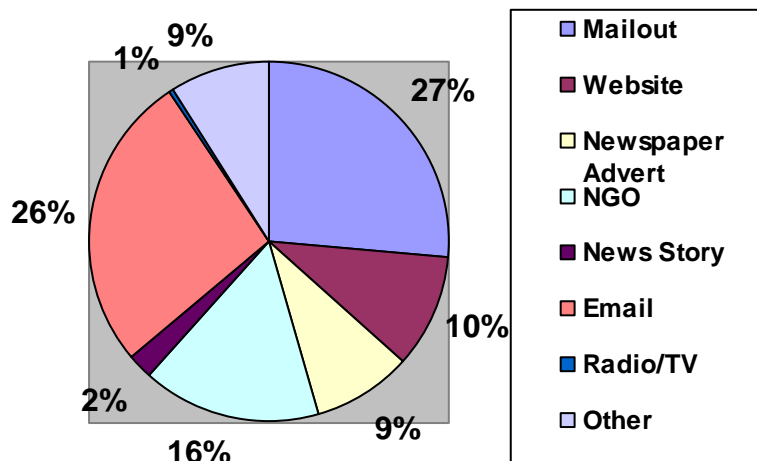
In addition the CEF assisted by:

- direct invitation and advertising to their respective sectors via email, website, telephone, mail-outs
- advertising through CEF networks (ie. unions, environmental NGOs, health NGOs)
- other media (ie. press releases, radio interviews, letters to the editor etc).

A summary of the evaluation and feedback data that was collected at the forums provides percentage details of the methods used to attract members of the public to the forums. The chart shows that mail outs and emails were the predominant method of attracting stakeholders to the forums.

This data supports the approach used by NICNAS and the CEF in designing the communications to suit the stakeholder, whereby the greatest reach was achieved through targeted, well-worded covering letters to stakeholders by mail and email, many of which were sent through CEF NGO networks.

I heard about the public forums from:



Dissemination of the discussion paper also provided an opportunity to advertise the public forums and created media opportunities in most States and Territories. Tapping into the knowledge and contacts within each CEF sector enhanced media opportunities and broader dissemination of the discussion paper, whilst raising awareness amongst the community, industry (especially downstream users) and other related government agencies of chemical regulatory issues in Australia.

Public forums

It's great to see NICNAS engaging with the community – very encouraging!
 Government stakeholder, Sydney

The ultimate success of the ECR Public Engagement Strategy must be attributed to the willingness and commitment by NICNAS to resource and participate in a national series of public forums. Below are details of the public forum locations and dates.

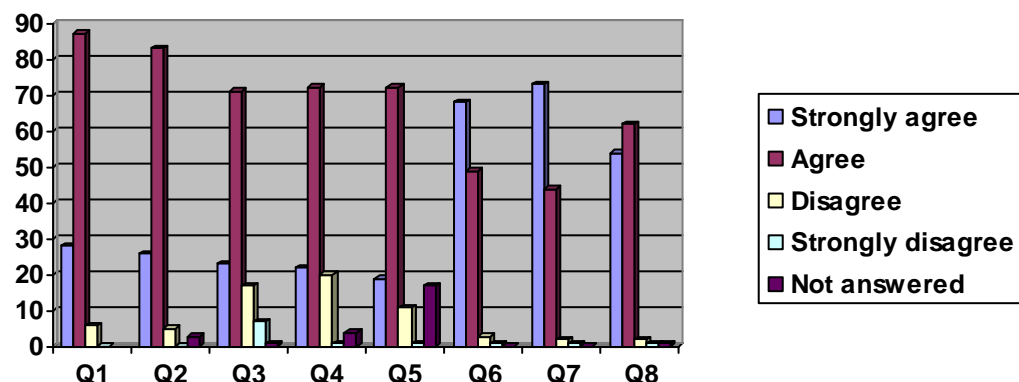
State Territory	City	Date	Time	Venue
NSW	SYDNEY	Mon 15 May	10 am 7 pm	Mercure Hotel 818 George St
WA	PERTH	Tues 16 May	2 pm 7 pm	Mercure Hotel 10 Irwin St
	BROOME	Wed 17 May Thurs 18 May	7 pm 9 am	Mercure Inn Continental Weld St
SA	ADELAIDE	Mon 22 May	2 pm 7 pm	Rydges South Park 1 South Terrace
NT	DARWIIN	Tues 23 May	2 pm 7 pm	Novotel Atrium 100 The Esplanade
ACT	CANBERRA	Mon 29 May	2 pm 7 pm	Quality Inn, Cnr Melrose Drive & Woden
QLD	TOWNSVILLE	Mon 29 May	2 pm 7 pm	Mercure Inn Woolcock St
	BRISBANE	Tues 30 May	2 pm 7 pm	Novotel Brisbane 200 Creek St
TAS	HOBART	Wed 31 May Thur 1 June	7pm 9am	Hotel Grand Chancellor 1 Davey St
VIC	MELBOURNE	Thurs 1 June Fri 2 June	7 pm 10 am	Novotel Melbourne on Collins 270 Collins St

In addition to these forums an additional meeting was held at a suitable location in Inverell NSW on the 14th June 2006, so as to allow MCS-affected members of the community to attend. This meeting represented flexibility in the design and fostered good will towards MCS sufferers by recognising the importance of their contribution to the review and accommodating their specific needs so as to be able to contribute.

One hundred and seventy (170) people attended the forums. Most identified themselves as non-aligned community members (32%). The next largest group came from government (28%), industry (24%), and the remaining (16%) identified themselves as clinicians, NGOs, other associations, and academics. Whilst some public forums were well attended, there were a few which had very low numbers. Early identification of stakeholders and earlier communication to them may have increased attendance at the forums.

Evaluation sheets were completed by 121 attendees, and these showed strong support of the engagement process as detailed in the graph below.

Summary of evaluation questionnaire



ECR Evaluation Sheet questions

- Q1 The aim and expected outcomes were clearly communicated.
- Q2 The background information was comprehensive and written in language that allowed effective participation.
- Q3 The information relevant to the forum was communicated in a timely manner.
- Q4 The timelines for input were clear and realistic.
- Q5 Special needs were adequately accommodated.
- Q6 The constructive exchange of views was encouraged.
- Q7 All participants were able to state views.
- Q8 The room and venue facilities were suitable.

It is clear from this summary, that there was overall support for the approach taken to conduct the public forums. Whilst participants agreed that the information was clearly communicated and relevant, a small corresponding level of disagreement at Q3 and Q4, was felt over the timeliness of information delivery and proposed timelines. Improvement in this area may be achieved through an earlier start to developing a PES as recommended earlier in this report and, particularly, providing earlier information to interested stakeholders. Of particular note, is the strong support shown by stakeholders for the inclusiveness and constructive exchange of ideas at the forums.

Overall these results support the use of solution-seeking public forums as a method to attract stakeholder input on major NICNAS reforms. Many of the associated evaluation comments made by community, government and industry stakeholders also reflect support for the engagement process and proposed ECR reforms.

Well run session with good emphasis on participation. Might have benefitted from slightly longer session

Government stakeholder, Sydney

Flexibility in meeting times and location.

Providing public forums in all capital cities and some regional centres increased the reach of the public engagement. Often Commonwealth public engagements are confined to Sydney/Melbourne/Canberra, limiting national public input and contributing to perceptions of south-east centrism. By being seen and heard in all capital cities and those regional areas, NICNAS was better able to inform the Australian public on the review and encourage submissions.

I didn't know NICNAS existed until last weekend. I was very impressed with feedback from other participants

Industry stakeholder, Queensland

By providing both business and after-hours times for the meetings, a greater cross-section of the public was able to attend. This approach was successful in attracting state and local government workers and chemical regulators during office hours as well as providing an opportunity for the community to engage after hours.

The willingness to be flexible, inclusive and adjust meeting times and locations to suit the needs of key stakeholders such as the managers of state regulatory agencies and the MCS-affected community, allowed for these important perspectives to be better captured in the process and encouraged a greater understanding of their particular issues, enhancing trust and respect between them and NICNAS and contributing to important community capacity building for the regulator.

RECOMMENDATION 5

DESIGN FLEXIBILITY AND INCLUSIVENESS INTO THE PROCESS, PARTICULARLY TO CATER FOR THE REQUIREMENTS OF SPECIAL NEEDS STAKEHOLDERS

Format of public forums.

The format of the public meetings encouraged contributions from all sectors. Each forum was facilitated by a CEF member and supported by NICNAS technical staff. This allowed for a more relaxed, informal approach to the presentation with the important support of NICNAS staff to provide any necessary technical clarifications and expertise when required. The presentation used appropriate language and focus for different sectors, with the aims and expectations of the review clearly articulated up front.

A facilitated discussion of the key recommendations was provided and allowed for the documentation of the community's comments and concerns to be displayed on the screen as the discussion unfolded. This ensured that an active and transparent documentation of the forum's contributions was recorded, which was later received by NICNAS as a formal submission. This encouraged trust and respect for the process and public contributions, as all involved could see and hear issues as they were raised, debated and documented in a consensus way to inform the process.

In effect this capacity-building approach allowed for all participants to be educated and informed on the ECR, raising awareness of the differing attitudes and perceptions held within civil society and between all stakeholders present. Forum participants were encouraged to make further submissions after the meeting. By ensuring all participants did not leave without being strongly encouraged to fill out the evaluation sheet, important feedback was received at every forum to contribute to a valuable database to improve and build upon for future public engagement work.

RECOMMENDATION 6

ENSURE PROCEDURAL FAIRNESS AND TRANSPARENCY IS PROVIDED AT PUBLIC FORUMS

RECOMMENDATION 7

INCORPORATE FEEDBACK AND EVALUATION AS AN ESSENTIAL PART OF THE PROCESS

Summary of the public forum outcomes

By taking well-designed public forums directly to stakeholders, including interested individuals, a number of positive outcomes were achieved.

1. Raising awareness of NICNAS, CEF and chemicals in society.

The community's awareness of NICNAS as the federal regulator of industrial chemicals and their roles and responsibilities, was significantly raised, particularly for the general community, local and state government, academia, environmental and health NGOs, union groups and by industry downstream users. The community was better able to understand the complex issues related to regulating chemicals and chemical impact risks to the environment and health generally.

This will have long-term benefits for NICNAS and consumers in general as a better informed public are more able to engage in such reviews and provide input for future policy and decision making. A more informed public sector is better able to access information on chemical safety and disposal and to provide advice/information to NICNAS when requested, particularly downstream users of chemicals.

Most importantly though, the ECR PES increased confidence in the community about the regulatory approach NICNAS would take to rectify the existing chemicals problem – that being a large backlog of unassessed chemicals available for use in Australia and how the regulator will prioritise and assess them for the protection of health, safety and environment. By informing and including public contributions into what is a global problem, the Commonwealth Government can have more confidence in its reform actions and outcomes. This is a win-win approach to regulatory issues, especially where the issues are contentious, high risk and involve commercial and public interests.

Very good informative Forum and very important for the public

Community stakeholder, Darwin

Knowledge of other chemical regulators and their relation to each other was significantly raised. One of the undertakings made in the review was not to ignore any issues raised that were outside NICNAS's regulatory function but to ensure that they were brought to the attention of the appropriate authority/ies. By having a person present to acknowledge issues outside the ECR, yet receive these concerns and ensure they were passed on to the appropriate body, respect and trust between government and community was enhanced. This was particularly important for those in the community with concerns for pesticide safety, regulation and environment/health impacts.

Awareness was also raised about the existence of the Community Engagement Forum and its role within NICNAS and in relation to the review. This enhanced the community's understanding of "community right to know" and public participation

in policy decision making. The public forums provided an opportunity to empower the community to engage with government which will have a net benefit for the Commonwealth Government across the board.

2. Better quality engagement on the ECR discussion paper.

It is clear from the feedback evaluations and submissions received that the ECR discussion paper was better received and understood generally in the community than if only a discussion paper had been mailed out. With a more informed and engaged civil society sector the quality of submissions received was raised. As the community was better able to understand the relationship between the ECR and their workplace, health, environment and community, stronger and more detailed submissions were provided. Submissions reflected community expectations of the chemical industry and government regulators, which is imperative for all best practice industry regulation and good governance.

Can't understand why we are not following overseas research (I understand we only have an agreement with Canada). Keen to see a cradle to grave approach to chemical use and disposal. Far too many reporting structures and agencies involved in this. Far too hard to get a clear process in place to even engage the public.

Academic stakeholder, Perth

Not only was the quality of submissions raised but, as expected, so too was the quantity. This is evidenced by the increased number of submissions received on this review in comparison to previous NICNAS calls for public submissions on major projects. NICNAS received 54 public submissions which was a marked increase in the number of submissions usually received on similar projects. This can be attributed to the increased reach that the public engagement strategy provided for by design, including taking the forums to all capital cities and to regional centres, designing a procedurally fair public forum format and the inherent capacity building such a process affords. As with all public engagement strategies, an increase in the quality and number of public submissions is the best outcome and a measure of success for any process.

Finally, it must be acknowledged that any public engagement strategy is only as good as far as it is resourced. Therefore it is acknowledged that the commitment made by NICNAS to initiate and resource the ECR public engagement strategy was critical to its success. The importance of resourcing and committing to public engagement at all levels of governance continues to receive global recognition and prominence.

Implementation of the ECR

Thank you for this. I am hopeful that the review outcomes will be made public and that the outcomes will be implemented.

Community stakeholder, Perth

In July 2007, NICNAS published its report, *Implementation Strategy for Recommendations arising from the Review (2007)*⁹.

In this report it states:

Consultation process

The Implementation Strategy will utilise a four-tiered approach to consultation and communication with industry, governments and the community:

- 1. the use of a representational ISG*
- 2. communication of progress in the implementation of the recommendations via improved NICNAS communication channels that are the subject of the first driver for better engagement and communication noted above*
- 3. the use of working parties and technical workshops to develop the more technical recommendations, and*
- 4. the convening of public meetings, as appropriate, to consult with industry and community on the more broad reaching recommendations, such as those in Stream 5 that will be referred to the COAG Ministerial Taskforce on Chemicals and Plastics Regulation Reform, and the monitoring of adverse effects (Stream 3) that will likely require significant involvement from community-based health professionals.*

These consultations will need to involve the broadening from NICNAS's traditional Occupational Health and Safety (OH&S) contacts to include improved contact with the public and environmental health areas, such as through the Environment Protection and Heritage Council (EPHC) Chemicals Working Group. In this way, full community confidence in NICNAS and its Existing Chemicals Program will be ensured, whilst enabling the benefits of enhanced program efficiency and effectiveness to flow on to all stakeholders.

While the NICNAS communications strategy identifies four mechanisms to consult with the public about the implementation of the ECR recommendations some of these mechanisms are, however, recommendations of the ECR itself and have not yet been fully implemented

Points two and four (above) relate to specific streams of recommendations within the ECR. Certainly these mechanisms will provide for increased consultation during their development and implementation but consideration may be needed to ensure that the improvements, particularly in the communications stream, will provide for adequate reporting back to the community on all of the ECR recommendations.

Furthermore, the ISG as a representational body does not represent civil society itself, but instead has 3 out of nine representatives being one each for health, environment and workers. There is a critical difference in referring to the CEF for public engagement representation rather than to the ISG and this is reflected in their different terms of reference. The ISG has been set up to oversee the review process, not to provide public engagement in and of itself on the Implementation of the EC Review. Similarly, technical working groups of the ISG

do not represent civic engagement itself because they are a function of the work of the review.

The NICNAS website reveals that some of the communications stream of recommendations have not yet been finalised and that accessing information about them requires a convoluted series of links and redirections to be able to negotiate the website.

In particular, key aspects of recommendations 3.1, all of 3.2, 5.1 and 5.3 are yet to be finalised.

RECOMMENDATION 8

THAT THE COMMUNICATIONS STREAM OF THE ECR BE GIVEN GREATER PRIORITY AND PROGRESSED AS SOON AS POSSIBLE

Given that the implementation strategy for the ECR was finalised in June 2007, it is time to finish implementing the first and easiest of the recommendations of the ECR. The interconnectedness and intent of this group of recommendations was to build upon the previous gains made from the ECR public engagement strategy with a view to continuing the community's awareness and involvement in the review.

RECOMMENDATION 9

THAT THE NICNAS WEBSITE BE UPDATED TO BECOME MORE USER FRIENDLY TO THE GENERAL PUBLIC AND PROVIDE FOR EASIER ACCESS TO THE EC REVIEW INFORMATION

Final comments

When considering the recommendations in this Report, which seek to build upon the positive outcomes from the ECR PES, it needs to be acknowledged that this will require government commitment to support and resource ongoing activities.

NICNAS is well placed to build upon these past successes and increase awareness in the general public, industry and all levels of government of their role as a regulator of industrial chemicals and associated major reform work. The Australian community will have greater confidence in government policy when they have been actively and equitably involved in the process to create it. This is not just common sense but internationally recognised, 'community right to know' and human rights principles.

Other Government agencies may wish to utilise the information gained from this report in pursuit of their own public engagement strategies and raising their own profiles within the Australian community. Such Public Engagement Strategies could benefit the work being undertaken on Australia's health and environmental obligations under International Treaties, such as the Stockholm Convention on Persistent Organic Pollutants.

Appendices

APPENDIX 1: INTERNATIONAL CONVENTIONS RELATING TO CHEMICALS MANAGEMENT AND PARTICIPATORY DEMOCRACY

1992 RIO DECLARATION ON ENVIRONMENT AND DEVELOPMENT

Principle 10

In 1992, 179 nations met at the Earth Summit in Rio de Janeiro, Brazil, and adopted a set of principles to guide future development. These principles define the rights of people to development, and their responsibilities to safeguard the common environment. The principles build on ideas from the Stockholm Declaration at the 1972 United Nations Conference on the Human Environment

“Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”

<http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>

AARHUS CONVENTION

The United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters ([Aarhus Convention](#)) was adopted on 25th June 1998 in the Danish city of Aarhus at the Fourth Ministerial Conference in the 'Environment for Europe' process. The Convention is a major initiative to strengthen environmental democracy and it acknowledges that achieving sustainable development requires the involvement of all stakeholders.

The Aarhus Convention states:

In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.,.

For more information, see:

www.unitar.org/cwg/publications/egd/aarhus_convention.pdf
www.unitar.org/cwg/publications/egd/aarhus_convention.pdf

SAICM – STRATEGIC APPROACH TO INTERNATIONAL CHEMICALS MANAGEMENT

More than 150 Heads of State and Government gathered at the 2005 New York World Summit. This meeting endorsed the Strategic Approach to International Chemicals Management (SAICM). In so doing, they resolved:

To promote the sound management of chemicals and hazardous wastes throughout their life cycle, in accordance with Agenda 21 and the Johannesburg Plan of Implementation, aiming to achieve that by 2020, chemicals are used and produced in ways that lead to the minimization of significant adverse effects on human health and the environment, using transparent and science-based risk assessment and risk management procedures, by adopting and implementing a voluntary strategic approach to international management of chemicals, and to support developing countries in strengthening their capacity for the sound management of chemicals and hazardous wastes by providing technical and financial assistance, as appropriate.

SAICM recommends that chemical management adopts a ‘*transparent and open implementation process, and public participation in decision-making*’. It is difficult to contemplate valid reasons for managing chemicals (or anything else), in any other way. . It is difficult to contemplate valid reasons for managing chemicals (or anything else), in any other way. This approach is a potent tool for promoting harmonious democracy, and hence is a key to civil society. It also provides an effective way to protect the health of the public, workers, vulnerable groups and the environment from the harmful effect of chemicals.

INTERGOVERNMENTAL FORUM ON CHEMICAL SAFETY: THE BAHIA DECLARATION

Increasing access to information, knowledge, and skills development in chemical safety, recognizing that communities have a right-to-know about chemicals in the environment and to participate meaningfully in decisions about chemical safety that affect them.

For more information. See:

www.who.int/ifcs/documents/forums/forum3/en/index.html

APPENDIX 2: THE LRCC REFORMS

As a strategy to promote Australian business competitiveness, the Australian Government gave a commitment in 2001 to the Chemicals and Plastics Agenda to reduce unnecessary regulation. Industry had asserted that regulation hampered the introduction of new and safer chemicals. This commitment involved NICNAS working with industry to ensure the most efficient regulatory system for industrial chemicals, that is, a system designed to ease the burden of introducing newer and safer chemicals. Inherent in this system was an agreement to consider and

develop new options for assessing and testing chemicals of low regulatory concern.

On 19 November 2002, the Parliamentary Secretary to the Minister for Health and Ageing, the Hon Trish Worth, MP, announced the establishment of an Industrial Chemicals of Low Regulatory Concern (LRCC) Taskforce. Their task would be to consider a range of options for progressing this reform initiative, and provide expert advice on how NICNAS could introduce flexibility into the industrial chemicals assessment process. It was also to identify a mechanism which would allow for fast tracking of the introduction of previously-assessed new chemicals onto the Australian market, without compromising public health or the environment.

In conducting the reform process, the LRCC Task force and NICNAS engaged in a consultation process to receive input from the chemical and plastics industry bodies, government and non-government organisations; and worker and community representatives. The LRCC also took advice provided by NICNAS' Technical Advisory Group (TAG) on confidentiality and access to information as a result of industry and community consultations. In addition to providing input on issues of public interest tests associated with confidential listing on the AICS, TAG also identified a range of community concerns which focussed on access to chemical information, community right-to-know and community consultation. TAG identified "other situations in the NICNAS legislation that called for decisions based on the public interest, acting as informal public interest sounding board and participating in regular and ongoing public consultation meetings and workshops with NICNAS stakeholders".

The LRCC Taskforce adopted the persuasive arguments presented by TAG on engaging civil society. It highlighted the advantages to NICNAS in maintaining an ongoing dialogue with the public through the establishment of a formal consultative mechanism, and made a formal recommendation to establish a community-based forum. The LRCC Task force released the "*Final Report and Recommendations for NICNAS Low Regulatory Concern Chemicals (LRCC) Reform Initiative*" in June 2003. Among the 13 recommendations presented was a call to improve access to chemical information, and three related to community consultation.

These were:

Recommendation 12.1

NICNAS improve community participation in NICNAS' decision making processes through the establishment of a community based Consultative Forum.

Recommendation 12.2

NICNAS and the IGCC, in consultation with the newly established community Consultative Forum, explore options to expand NICNAS' public inquiry service to address aspects of community right-to-know by considering options. (7 options were listed)

Recommendation 12.3

That the open and inclusive consultation model adopted for LRCC reform processes to be used by NICNAS in future reform processes.

References

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4. Weiss B LP; *The developing brain and the environment: An introduction*; Environmental Health Perspectives 2000; 373-4; 108 (Supplement 3) June
5. Australian Government Department of Health and Ageing – NICNAS; *Promoting safer chemical use: towards better regulation of chemicals in Australia – a discussion paper for public engagement on a new model for the NICNAS Existing Chemicals Assessment Program*; April 2006
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7. Australian Government Department of the Environment, Water, Heritage and the Arts / National Advisory Body & Scheduled Wastes Management Group; *On Schedule Eventually: A case study of problem solving through effective community consultation*, March 2000; available from: www.environment.gov.au/settlements/publications/chemicals/scheduled-waste/community-consultation.html#35)
8. ARTD Management and Research Consultants; *Evaluation of the Scheduled Wastes Program – Final Report*, March 1998
9. Australian Government Department of Health and Ageing – NICNAS; *Promoting safer chemical use: towards better regulation of chemicals in Australia – Implementation strategy for recommendations arising from the review*; July 2007

Endnote

- a The CEF Terms of Reference were amended in August 2009 to read:

The Terms of Reference for the Community Engagement Forum ensure that it will provide advice on:

- *strategies to improve public access to chemical health and safety and environmental information;*
- *community right to know issues underpinned by the implementation of the community engagement charter;*
- *the development of NICNAS's stakeholder engagement strategies;*
- *all relevant NICNAS programs and participate where practicable; and other issues, as required.*

Notes