



Promoting safer chemical use: towards better regulation of chemicals in Australia

IMPLEMENTATION STRATEGY for Recommendations arising from the Review July 2007

IMPLEMENTATION STRATEGY



Australian Government
Department of Health and Ageing
NICNAS

Existing Chemicals Program Review

**IMPLEMENTATION STRATEGY
FOR RECOMMENDATIONS
ARISING FROM THE REVIEW**

JULY 2007

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INTRODUCTION

This is the National Industrial Chemicals Notification and Assessment Scheme's (NICNAS) Implementation Strategy for the Recommendations arising from the *Final Report and Recommendations of the Existing Chemicals Program Review* of December 2006. The Director, NICNAS received and accepted the Final Report from the Review Steering Committee (RSC), and obtained approval in December 2006 from the then Parliamentary Secretary for Health and Ageing to commence the development of an implementation plan for the recommendations.

Final Review Recommendations

The Final Report identified five key reform drivers, consisting of 23 recommendations (21 substantive and two mechanistic) that address issues ranging from communication and engagement through to legislative reach and control powers.

These drivers are:

1. Better engagement and communication
2. Enhancing mechanisms to identify chemicals of concern: new screening processes
3. Improving efficiency
4. Broadening assessment options
5. Increasing legislative reach: enhanced control powers

The Final Report also categorised the 21 substantive recommendations into three types, namely:

- I** innovative elements to the Existing Chemicals Program
- M** modified elements of the current program
- C** consequential activities that maintain regulatory confidence

It is expected that these recommendations will enhance regulatory efficiency and lead to more effective outcomes for the community, industry and government. The recommended reforms will also provide greater access to information about more chemicals, enhance relationships between stakeholders, including governments, and lead to improvements in the safe and sustainable use of chemicals in Australia.

The Implementation Process

The overall success of delivering significant reforms to the Existing Chemicals Program is dependent on the implementation of the proposed recommendations as an integrated package in consultation with governments, industry and the community via the principles embodied in the NICNAS Community Engagement Charter¹.

Handling of recommendations

A representational Implementation Steering Group (ISG), chaired by NICNAS, will coordinate the implementation of the 21 substantive recommendations from the Report in six coordinated streams which draw together synergies between individual recommendations:

1. Engagement and communication recommendations in Chapter 3 and recommendation 5.1 – implementation to be guided by NICNAS communications strategy;
2. Screening/Prioritisation/Assessment Products-related recommendations 4.1, 4.2, 4.4, 5.2, 5.4, 6.1, 6.2, with subsequent running of recommendation 5.3 – Screening/Prioritisation/Assessment Products Working Party to develop options for approval by the Director, NICNAS;
3. Monitoring recommendation 4.3 – Monitoring Working Party to develop options for approval by the Director, NICNAS;
4. Consultation recommendations 5.5, 5.7, 5.8 - to be implemented within NICNAS;
5. Recommendations 5.11 and 7 to be referred to the Council of Australian Governments (COAG) Ministerial Taskforce on Chemicals and Plastics Regulation Reform – NICNAS will make submissions to the COAG Ministerial Taskforce on these items; and
6. Ongoing recommendations 5.6, 5.9 and 5.10 – these are a continuation of currently improving practice and so do not require specific implementation.

The first mechanistic recommendation (Recommendation 1 concerning the referral of any proposals outside of the policy mandate of NICNAS to the COAG Ministerial Taskforce on Chemicals and Plastics Regulation Reform) is being implemented through Stream Five as described above.

The second mechanistic recommendation (Recommendation 2 that the strategy for the implementation of recommendations be carried out in partnership with industry, community and government using the principles and protocols of the NICNAS Community Engagement Charter) will be applied to the 21 substantive recommendations.

¹ See http://www.nicnas.gov.au/Community/CEF_Charter_PDF.pdf

NICNAS notes that the reforms that will result from the implementation of these recommendations are consistent with international trends towards best practice regulation for existing industrial chemicals. Indeed, a number of the reforms are similar to those adopted by other international regulatory bodies.

The reform proposals therefore present opportunities for greater international cooperation and harmonisation on chemical safety issues. At the same time, it is recognised that NICNAS has continued to improve its processes over the course of the three-year Review, and that progress has therefore already been made in implementing various recommendations.

The following is a summary of the 21 substantive recommendations categorised into the six implementation streams. Each recommendation has also been categorised according to the above five drivers and three recommendation types described in the Final Report.

Implementation Stream 1: Communications			Recommendation number
<i>Implement via NICNAS communications strategy</i>			
<i>Chapter 3 recommendations: Better engagement and communication</i>			
Promote community awareness of, education about, and participation in, the Existing Chemicals Assessment Program (Existing Chemicals Program) ²	(M)		3.1
Publish a 'Who's Who Guide' for industrial chemicals safety assessment and management	(C)	(M)	3.2
Develop a current awareness bulletin on international chemical safety information and issues relevant to the program	(C)		3.3
<i>Chapter 5 recommendation: Improving efficiency</i>			
Develop, modify and publish process to filter out and redirect non NICNAS matters and determine the level of response and/or assessment required	(M)		5.1

² Part of this recommendation concerning a two-yearly public nomination process will be progressed under recommendation 4.1.

Implementation Stream 2: Screening, Prioritisation, Assessment Products	Recommendation number	
<i>Working Party to develop options</i>		
<i>Chapter 4 recommendations: Enhancing mechanisms to identify chemicals of concern: new screening processes</i>		
Develop an overall framework for screening of chemicals of concern ³	I	4.1
Screen AICS listed chemicals for hazard and/or risk indicators elements	I	4.2
Develop a framework to identify the circumstances under which down-stream use information is sought as being necessary for prioritisation	I	4.4
<i>Chapter 5 recommendations: Improving efficiency</i>		
Develop scientifically based criteria for prioritisation of chemicals for assessment	M	5.2
Publish the prioritisation process and decisions	C	5.3
Streamline the secondary notification process for existing chemicals originally assessed as new chemicals	M	5.4
<i>Chapter 6 recommendations: Broadening assessment options</i>		
Develop new types of assessment products based on intended output and purposes	I	6.1
Develop information requirements for each new assessment type	M	6.2
Implementation Stream 3: Monitoring		
<i>Working Party to develop options</i>		
<i>Chapter 4 recommendation: Enhancing mechanisms to identify chemicals of concern: new screening processes</i>		
Examine the feasibility of a nationally co-ordinated system of surveillance monitoring and post market reporting	I	4.3

³ Includes the above element from Recommendation 3.1.

Implementation Stream 4: Consultation	Recommendation number	
<i>NICNAS to implement</i>		
<i>Chapter 5 recommendations: Improving efficiency</i>		
Explore with States and Territories improved processes for co-ordination and co-operation including under its MOU group	(M)	5.5
Explore an extension of the Bilateral Agreement with Canada to include existing chemicals	(I)	5.7
Explore the development of similar arrangements with other major trading countries	(I)	5.8
Implementation Stream 5: Refer to COAG Ministerial Taskforce	Recommendation number	
<i>NICNAS to make submissions to COAG Ministerial Taskforce</i>		
<i>Chapter 5 recommendations: Improving efficiency</i>		
Refer the proposal to investigate the barriers to effective implementation of NICNAS recommendations to Ministerial Taskforce on Chemicals and Plastics [Regulation Reform] for their consideration		5.11
<i>Chapter 7 recommendation: Increasing the legislative reach: enhanced control powers</i>		
Refer the range of issues related to the ban, severe restriction and/or the control of certain chemicals to Ministerial Taskforce on Chemicals and Plastics [Regulation Reform]		7
Implementation Stream 6: currently improving practice	Recommendation number	
<i>NICNAS to continue</i>		
<i>Chapter 5 recommendations: Improving efficiency</i>		
Continue to participate in chemicals management forums to ensure harmonised and streamlined regulation of industrial chemicals at the national level	(M)	5.6
Increase and broaden consultation with stakeholders during the assessment process and before recommendations are finalised	(C)	5.9
Recommendations are action statements that are evidence based, specific to the needs identified, achievable, and practical and be directed to the most appropriate body for implementation	(C)	5.10

A diagrammatic model of the proposed operation of the reformed Existing Chemicals Program is at Figure 1. This figure has been adapted, in light of the recommendations, from the diagrams presented in the April 2006 public discussion paper *Promoting safer chemical use: towards better regulation of chemicals in Australia* (pages 9-10)⁴.

The model envisages using a number of factors as inputs into a prioritisation process. In contrast to the current program, it is envisaged that the screening process will also include, on a formal basis, inputs from an on-going screening of the Australian Inventory of Chemical Substances (AICS), the Canadian screening process⁵, and post-market reporting.

Other factors that will be taken into consideration include exposure information gleaned from downstream usage, and any international actions. Assessments will be developed with closer consultation of stakeholders, and assessment recommendations will then be embodied in a range of communication devices (assessment products) that are targeted for the needs of stakeholders. Processes for the improved uptake of assessment recommendations, both at the drafting stage, and at the regulatory stage, will also occur. Finally, the ability of NICNAS to control chemicals of concern may also be extended, taking into account other regulatory reforms in the chemicals and plastics industries.

These six streams can be further grouped into three separate mechanisms for implementation, reflecting the varying complexity of the issues:

- Streams 1 (communications), 4 (improved consultations) and 6 (on-going improvements) involve relatively straightforward issues that can be addressed within six to 12 months, and so will be implemented by NICNAS itself with due consultation with stakeholders;
- Streams 2 (screening and prioritisation of chemicals of concern, and development of new assessment products) and 3 (scoping a monitoring system for adverse effects) involve relatively complex and technical issues that will require legislative change and will therefore be implemented over one to several years via technical working parties (one for each of the two Streams); and
- Stream 5 (recommendations on addressing barriers to the effective implementation of NICNAS assessment recommendations, and on new powers to ban, restrict and control certain chemicals) involves issues outside of the mandate of NICNAS and that impact on national chemical regulation reforms, and so will be referred to the COAG Ministerial Taskforce on Chemicals and Plastics Regulation Reform. As part of this process, NICNAS will provide submissions on these topics to the Taskforce and/or the associated Productivity Commission Study. Whilst the process of referring these matters (thereby fulfilling the wording of recommendations) can be completed in one year, the outcomes of the Taskforce may take several years to implement.

⁴ The April 2006 public discussion paper was the basis of public consultations on the Review.

⁵ See Appendix 1 in the *Final Report and Recommendations of the Existing Chemicals Program Review* of December 2006 for a description of the Canadian screening process.

This implementation process is summarised in a flowchart at Figure 2, which shows the division of the implementation streams into short, medium and long-term activities.

The composition of, and Terms of Reference for, the ISG and working parties will be finalised in consultation with stakeholders. Moreover, the recommendations covered by these working parties will need to be prioritised to take account of the available resources that governments, industry and the community can contribute towards their implementation, and the whole process will be guided by the ISG to ensure a timely and coordinated implementation occurs.

Consultation process

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

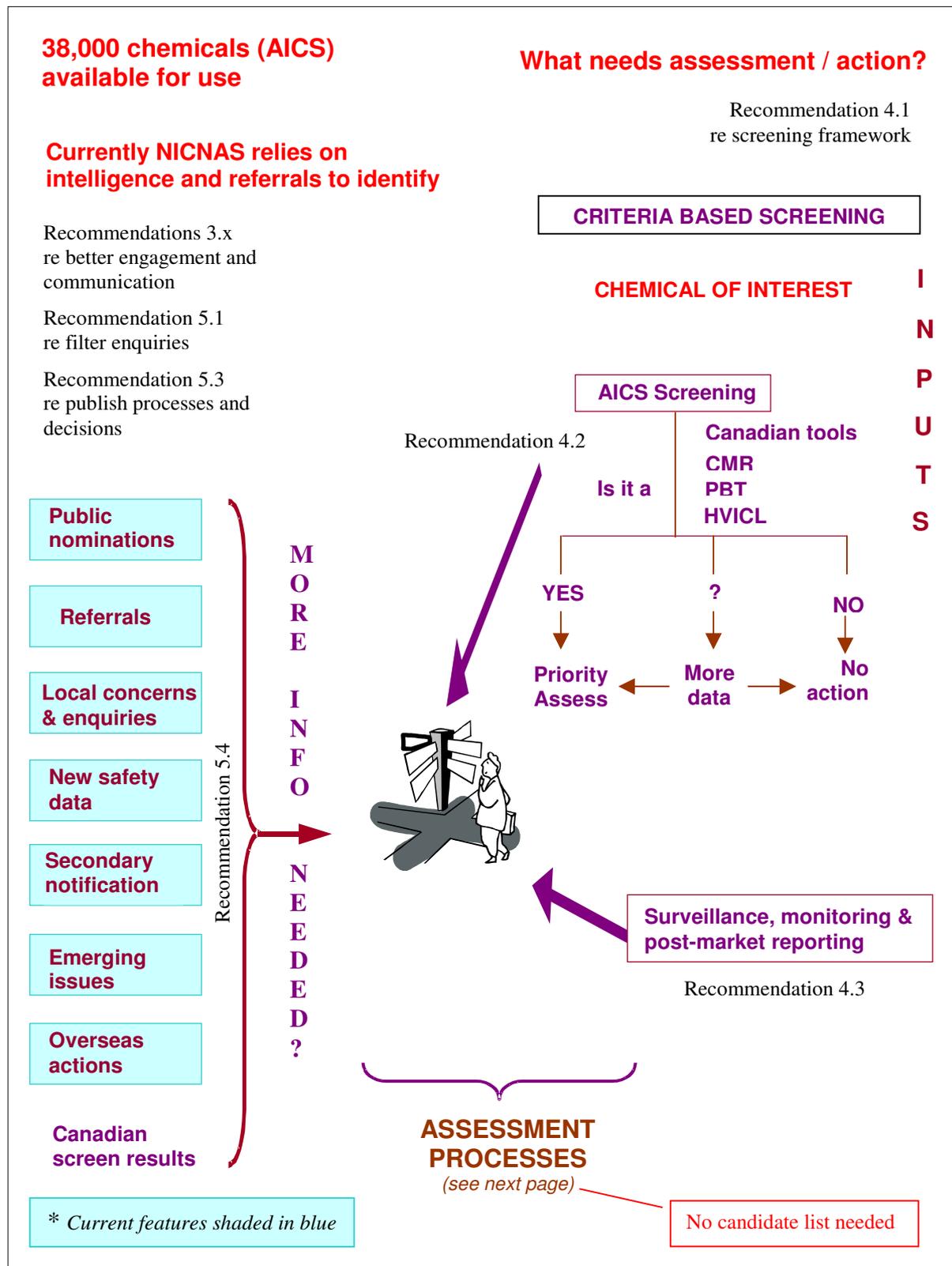
- the use of a representational ISG;
- communication of progress in the implementation of the recommendations via improved NICNAS communication channels that are the subject of the first driver for better engagement and communication noted above;
- the use of working parties and technical workshops to develop the more technical recommendations; and
- 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.

Fig 1: PROPOSED OPERATION OF REFORMED PROGRAM

(Adapted from pages 9-10 of Discussion Paper, April 2006)



Assessment processes

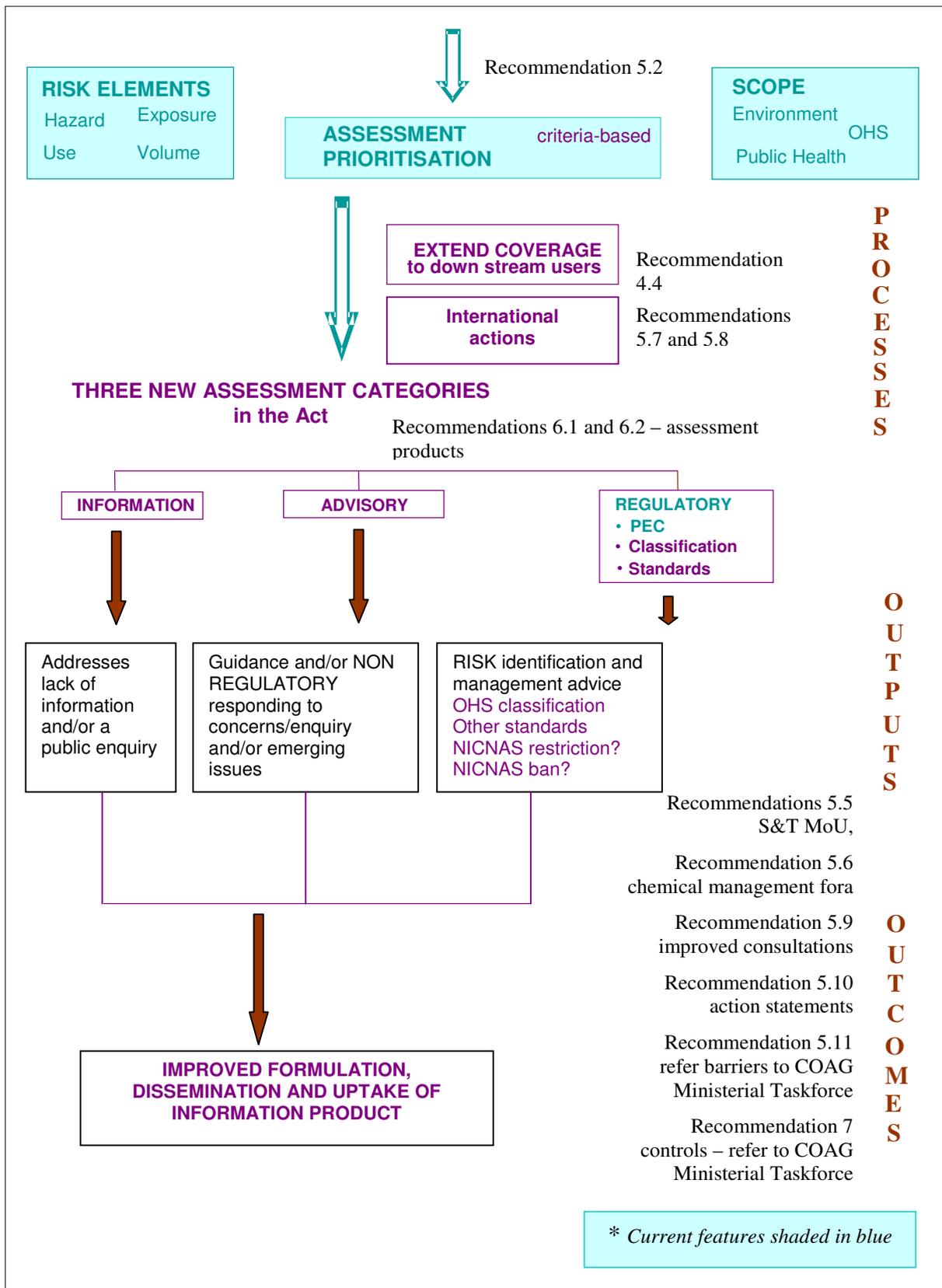
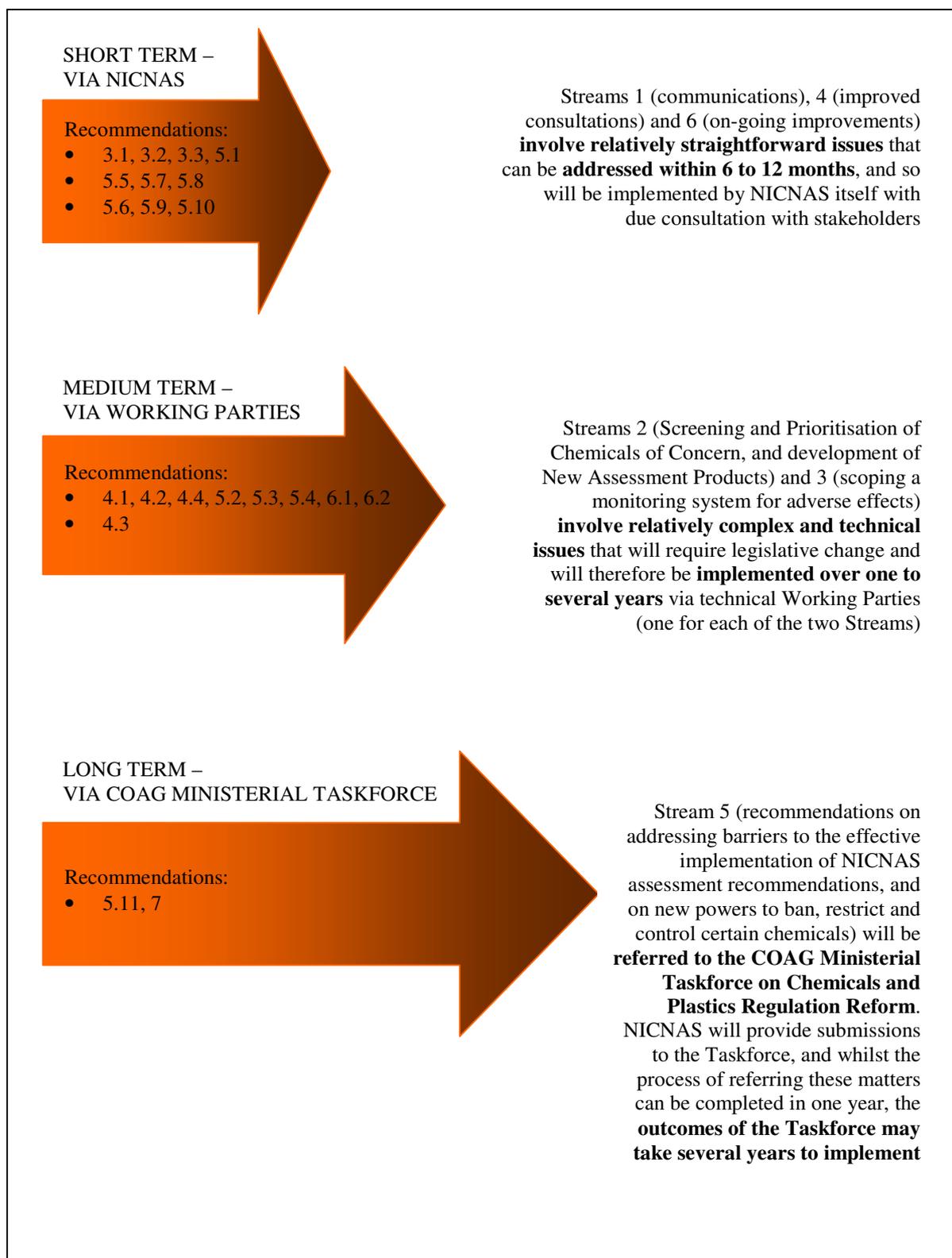


Fig 2: IMPLEMENTATION FLOW CHART



FURTHER INFORMATION AND COMMENTS

Background information on NICNAS and the reform of the Existing Chemicals Program, including updates on the implementation process, is available on the NICNAS website at: www.nicnas.gov.au.

As noted in this paper, the Implementation Strategy Group will consult with stakeholders throughout the implementation process. At the same time, NICNAS welcomes comments directly to:

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