



NSW Farmers Submission to Review of the Load-Based Licensing (LBL) scheme.

2017

**NSW Farmers' Association
Level 6 35 Chandos Street
St Leonards NSW 2065**

Ph: (02) 9478 1000

Fax: (02) 8282 4500

Email: emailus@nswfarmers.org.au

NSW Farmers' Association Background

The NSW Farmers' Association (the Association) is Australia's largest State farmer organisation representing the interests of its farmer members – ranging from broad acre, Livestock, wool and grain producers, to more specialised producers in the horticulture, dairy, egg, poultry, pork, oyster and goat industries.



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Executive Summary

The NSW Farmers' Association (the Association) is Australia's largest state farming organisation representing the interests of the majority of commercial farm operations throughout the farming community in NSW. Through its commercial, policy and apolitical lobbying activities it provides a powerful and positive link between farmers, the Government and the general public.

The Association appreciates the NSW EPA's invitation to respond to its review of the Load-Based Licensing (LBL) scheme.

It is the Association's position that any LBL scheme should be premised upon the principle of "polluter pays" and be committed to achieving triple bottom line outcomes.

The Association provides the following submissions in response to EPA's invitation for feedback on its review of the Load-based Licensing Scheme: Issues Paper.



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1. The LBL is not an emissions reductions scheme .

NSW Farmers has a concern that the review of the LBL scheme is an attempt to cross over into 'emissions reductions scheme' territory , whereas emissions reductions schemes in relation to a changing climate, ought to be considered quite separate, primarily to avoid farmers paying twice for the emissions that are relied upon for the creation of their produce. The Issues Paper states that the “purpose of the LBL review is to ensure the scheme is fulfilling its potential in achieving emissions reductions effectively and efficiently” (Executive Summary- page x).

It is the submission of NSW Farmers that the EPA's licensing regime is not about emissions reductions per se, it is to provide adequate incentives for license holders to create less pollution in their licensed activities. Objectives of the LBL scheme as set out in clause 13 of the POEO General Regulation reflect this – the first objective being “ to provide incentives to reduce the load of pollutants emitted based on the polluter pays principle and to do so within an equitable framework.” The subtle difference is important. If one of the aims of the scheme is to contribute to state or national emissions reductions targets, then this needs to be transparently spelled out so licence holders have full transparency on the options available to them in terms of increasing efficiency and intensity of emissions. Given the unique role of agriculture in NSW (the creation of food and fibre as part of a carbon 'cycle') it would be incorrect to apply licencing fees to farmers based on emissions alone.

There is work currently being undertaken by a cross agency NSW group lead by the Office of Environment and Heritage on the Climate Change Fund *Draft Strategic Plan 2017-2022*. There has been \$500M set aside for assisting the NSW Government to achieve its aspirational objective for New South Wales to achieve net-zero emissions by 2050, and to assist and work in partnership with the Commonwealth Government who has primary responsibility for setting and achieving Australia's emission reduction targets.

We warn against the LBL Scheme review resulting in placing emissions reductions as its core focus, as this would represent an unnecessary duplication and many Government agencies 'double dipping' in Emissions Reductions territory.



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2. Assessable Pollutants.

The EPA is reviewing LBL pollutants to ensure that the most appropriate pollutants are included in the scheme. It is noted that through the review, the list will be refined to include only those pollutants with sufficient priority to warrant inclusion in the scheme and that this will be determined by reference to the latest scientific evidence.

It is not clear from the information provided in the review what would be the implications for producers and what pollutants will be a priority. NSW Farmers recommends a holistic and equitable approach to determining the weight given to certain pollutants on the proposed priority system.

3. Critical Zoning of NSW.

A number of critical zones have been designated for selected pollutants to air and water. We note that this is to reflect areas where pollutants are likely to have a more harmful impact on the health of the environment and community including areas with higher population density or areas that are environmentally sensitive.

The EPA has determined the criteria for critical zones. NSW Farmers' stresses the importance of applying these criteria in a balanced and flexible way, which gives appropriate weight to social, economic and environmental considerations. In this respect, NSW Farmers is of the view that further information is required as to how the criteria will be applied.

Further to the above, many regional areas of NSW are undergoing regional development and planning strategizing as part of the broader NSW planning review process, by which State Environmental Planning Policies (SEPPs) are being reviewed and streamlined. NSW Farmers submits that a section of the Issues Paper should address the integration of wider land use planning reform and regional strategies that are occurring across the different regions of NSW.

NSW Farmers further submits that the review of the LBL should become integrated with the Department of Planning and Environment's work on these reviews. From a landholder and licence holder perspective an integrated approach would provide certainty for landholders who are also EPA EPL holders if Government agencies from local councils to State Department planning officials to use the same terminology in land use planning, and 'zoning' terms.



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4. Scheduled Activities.

Scheduled activities were designed to capture the most significant industrial point-source emissions. The scheme uses a multi-tiered approach to specify which licences are included in the scheme and which pollutants they need to pay a load fee. We note that the review will consider whether there is justification for treating licensees differently and any potential inequities.

NSW Farmers supports a polluter pay system and also the principle of no pollution no pay. NSW Farmers is therefore supportive of the factors particular to a licensee being taken into consideration. There does however need to be a very clear basis for different licensees being treated differently and NSW Farmers supports further investigation in this respect.

NSW Farmers' members urge caution against additional compliance costs and regulation being introduced as part of the review of scheduled activities. Any changes to costs and regulations must consider actual emissions and be clear and transparent to ensure that they are reasonable and equitable and achieve triple bottom line outcomes.

5. Load Limits.

Load limits are intended to act as an incentive for licensees to reduce their emissions and these may be renegotiated to allow for the commencement of new activities at the premises or a significant expansion of existing activities where appropriate.

NSW Farmers' notes that load limits are not intended to constrain production. In reviewing the guidelines for assessing when a load limit is warranted and determining appropriate load limits, there should be a commitment to achieving triple bottom line outcomes and the decision making process should be reasonable and flexible. It is not clear whether there will be an increase in operational costs to producers under the proposed changes, especially in the critical zones. Further consideration should be afforded to this in the review, having regard to the possibility of more scheduled activities and a longer list of pollutants.

6. What are LBL licensees saying? – 2014 LBL industry survey.

The LBL Issues Paper has included the remark that LBL holders believe that the fees are too low to provide an adequate incentive to reduce pollution (Executive Summary, page ix) and page 27 (the 2014 LBL industry survey). The feedback from our members who are licence holders is that it is in fact the discount offered that is too low, not the fees. We recommend against using this survey to increase fees based on this premise, as that would be false.

Furthermore, artificially inflating fees to provide a better 'incentive' to reduce pollution is a de facto price on pollution and would not be acceptable to NSW Farmers industries.



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Conclusion

As stated above, NSW Farmers is concerned that the review of the LBL scheme is an attempt to cross over into 'emissions reductions scheme' territory, whereas emissions reductions schemes in relation to a changing climate, ought to be considered quite separate, primarily to avoid farmers paying twice for the emissions that are relied upon for the creation of their produce. The EPA's licensing regime is not about emissions reductions but rather, about providing adequate incentives for license holders to create less pollution in their licensed activities.

If however, one of the aims of the scheme is to contribute to state or national emissions reductions targets, this should be clearly stated so that licence holders have full transparency regarding the options available to them to increase efficiency and intensity of emissions. Given the unique role of agriculture in NSW (the creation of food and fibre as part of a carbon 'cycle') it would be incorrect to apply licencing fees to farmers based on emissions alone.

We are of the view that any review of the LBL Scheme should avoid placing emissions reductions as its core focus, as this would represent an unnecessary duplication and many Government agencies 'double dipping' in Emissions Reductions territory.