



# LBL changes - larger companies left to do the heavy lifting

By Inside Waste, Wednesday 14 December 2016

The Australian Council of Recycling (ACOR) has expressed concerns that proposed changes to the NSW load-based licensing (LBL) scheme would put more regulatory and financial burden on larger business, where they would be expected to do the heavy lifting, while smaller operators would come under limited or close to no regulatory observance.



Last month, the NSW EPA released an issues paper examining how the state's LBL scheme is working.

The review looked at the scheme in detail, identified a range of issues and various potential options for improvements, and considered feedback received including a survey of LBL licences. More [here](#).

Consultation closes on December 23 and ACOR has prepared a submission for the regulator.

Overall, ACOR is supportive of the LBL scheme, saying it is an incentive for licensees to reduce pollutants to the environment.

However, placing more regulatory and financial burden on larger businesses may "further exacerbate the compliance gap between minority (large businesses) and the greater majority of smaller industry participants," ACOR said in its submission.

"This then may act to further decrease the ability of bona fide recyclers to compete against smaller operators and exporters that do not attract the same regulatory enforcement," ACOR CEO Grant Musgrove wrote.

"This issue has been especially true in the resource recovery and recycling industry sector as a rampant lack of compliance has been used as a means to achieve successful commercial advantage, i.e. cost saving, over regulated and licensed operators."

The other concern ACOR has is that the load-based licensing principle - polluter pays - has been "somewhat misconstrued" in the issues paper, according to "anticipations of the EPA".

"For instance, the issues paper concerns itself heavily with PM10 emissions and in fact page six provides a graphical representation of the huge effects of mining and electricity generation by comparison to other

sources, yet the paper then goes on to mention land use changes in Western Sydney created by population increase, and the need to elevate compliance in those areas," Musgrove noted.

"The EPA would of course be aware that Western Sydney is the epicentre of resource recovery operators in NSW and as a result, a very clear inference is drawn that despite emissions being of far greater volume and impact elsewhere, the EPA intends to drive further compliance and regulatory cost into the heart of resource recovery and recycling in NSW.

"Further, in the discussion around water discharges, the issues paper identifies effects of mining in the creation of salinity issues (page eight). This once again sponsors thought that the greatest effect for LBL impact is in the mining industry yet ACOR is very concerned that the EPA's focus for LBL will be to approach existing Western Sydney license holders given the EPA's historical predilection to doing so. This will simply mean that existing licensed resource recovery operators, being the minority of industry participants, and those that generally hold environmental observance far higher than their industry colleagues, will once again be targeted to pay for the environmental harm caused by others."

Turning to today's waste streams, ACOR highlighted that these were becoming more complex and toxic. As such, it said more attention should be given to enhance the regulatory burden and compliance by waste generators and not those providing positive externalities for the community through reprocessing and all of the co-benefits of recycling.

Finally, ACOR noted that the current system provided a "soft touch" to deliberate polluters and said by actively disregarding environmental controls or community standards for profits, fines and enforcement would rarely match the crime or negative externality.

"While we understand the EPA is considering increasing fines, the propensity for the EPA to concentrate the majority of its observance on licenced operators means that these will be primarily levelled at existing bona fide operators, not the large-scale wilful polluters across many industries including resource recovery and recycling," Musgrove said.

"ACOR suggests that deterrence against wilful environmental damage may be better dealt with by criminal offence uplift and increased regulatory observance, rather than a market-based instrument."

The draft issues paper can be found [here](#).

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