

MCCC Submission - Assessment of EPA Greenhouse Gas Licensing Framework and Policy Implications

The Maules Creek Community Council (MCCC) has been interested in greenhouse gas (GHG) emissions for a long time, making many submissions to government at state and federal level, and seeking civil enforcement in the Land and Environment Court to ensure the Environment Protection Authority (EPA) properly assesses climate change when approving pollution licenses.

And for good reason. The Maules Creek area is extremely vulnerable to climate change, surrounded by National Parks, State Forests and State Conservation Areas. Not to mention the four export coal mines within 20 kilometers which directly threaten our water supply and environment and indirectly threaten via heavy contributions to climate change and global warming.

Residents are regularly involved in the Rural Fire Service, and Maules Creek members have received awards for their service. Agriculture is particularly vulnerable. Between heat, fire, and water insecurity, the burden of climate change is very real for our community.

We welcome the changes to the policy inertia of recent decades; however, we caution that the proposed documents do not come with a roadmap for escalation or enforcement of GHG limits. The MCCC is very concerned that the expectation of 'business as usual' is prevalent in the GHG polluter community, and that escalation is on the 'never-never', when real, binding and deep cuts are required if this policy is to align with the science of less than 2°C of warming.

Summary and Policy Implications

The MCCC has long pursued stronger climate accountability in environmental regulation, seeking to ensure that the NSW EPA fulfils its statutory duty to consider greenhouse gas (GHG) emissions when issuing or reviewing Environment Protection Licences (EPLs). This culminated in MCCC's 2024 proceedings before the Land and Environment Court (MCCC v EPA [2024] NSWLEC 71), which, although dismissed on technical grounds, clarified that community organisations have standing to enforce the EPA's duties under the Protection of the Environment Operations Act 1997 (POEO Act). Importantly, the Chief Judge did not award costs against the MCCC, recognising the public interest in the case.

That judgment exposed serious weaknesses in the EPA's existing framework. The EPA was able to satisfy the Court that it had 'considered' GHG emissions and 'fit and proper person' requirements, even though there was no written record or reasoning demonstrating how those considerations were met. This shows how opaque the current five year licence review process remains, with minimal opportunities for public oversight or accountability.

The EPA's 2025 proposed Climate Change Licensing Framework, comprising the Proposed Climate Change Licensee Requirements, Climate Change Mitigation and Adaptation Plans (CCMAPs), and Greenhouse Gas Mitigation Guide for NSW Coal Mines, represents a meaningful improvement. For the first time, GHGs would be explicitly treated as regulated pollutants, and all high emitting licence holders would be required to prepare and publish 10 year mitigation and adaptation plans (CCMAPs), report GHG emissions annually to the EPA (aligned to NGERs but publicly available), implement sector specific abatement measures, and support independent verification through regional monitoring networks (starting in the Hunter and Gunnedah Basins).

These reforms go some way toward addressing the transparency and enforcement gaps that the MCCC encountered in court. However, critical elements are still missing:

- There is no roadmap for escalation or enforcement. The proposals stop short of setting mandatory emission limits or binding reduction trajectories under the POEO Act, leaving a risk that ‘business as usual’ continues indefinitely.
- Scope 3 emissions remain optional in CCMAPs, despite being by far the largest share of total emissions from coal and gas operations.
- Exemptions and time extensions for mitigation technologies (e.g. ventilation air methane oxidation) risk delaying genuine reductions.
- There is no explicit mechanism for community monitoring or third party review of reported data, even though community groups often have detailed local knowledge of emission and pollution patterns.

The experience of the MCCC’s case demonstrates that without enforceable duties, the EPA’s discretion alone has not delivered meaningful climate action in the coal mining sector.

Policy Implications

1. Statutory escalation path required: The framework should specify a clear timeline for moving from voluntary reporting to enforceable emission caps in EPLs, e.g. by 2030 for coal sector licensees.

2. Community enforcement and data access: All GHG data collected under CCMAPs should be published in open formats and integrated with the EPA’s public licence database. Community groups should be able to trigger licence reviews or compliance audits under s78 if significant discrepancies are identified. Quantitative comparison of polluter facilities in NSW and elsewhere is a must.

3. Explicit ‘fit and proper person’ oversight: EPA should publish compliance histories and reasoning whenever renewals or reviews occur for licensees with repeated offences, ensuring transparency in s83 POEO Act considerations.

4. Integration with planning and land use decisions: Climate licensing under the POEO Act should interact with the Environmental Planning and Assessment Act 1979 to ensure consistency between approval, operation, and decommissioning stages.

5. Alignment with NSW and Commonwealth targets: Emission limits and reduction plans should align with NSW’s 70% reduction by 2035 and net-zero by 2050 targets, including methane specific intensity benchmarks consistent with IEA Net Zero pathways.

6. Recognition of local climate vulnerability: Given the Maules Creek district’s exposure to extreme heat, bushfire risk, and water insecurity, the EPA should prioritise adaptive measures in regional CCMAP templates and monitoring networks.

Conclusion

The EPA’s proposed reforms are a long overdue step towards meaningful regulation of greenhouse gases under the POEO Act. However, without an escalation mechanism, binding limits, and explicit pathways for community oversight, the framework risks replicating the discretionary weakness that led to MCCC’s failed judicial review. The Maules Creek community has shown consistent commitment to constructive engagement, and the EPA’s objectives would be

strengthened, not hindered, by enabling transparent, evidence based community participation in climate enforcement.

Bibliography

- Maules Creek Community Council Inc v Environment Protection Authority [2024] NSWLEC 71.
- NSW Environment Protection Authority. (2025a). Proposed Climate Change Licensee Requirements: Consultation Draft. Sydney: EPA.
- NSW Environment Protection Authority. (2025b). Climate Change Mitigation and Adaptation Plans: Proposed Mitigation Requirements. Sydney: EPA.
- NSW Environment Protection Authority. (2025c). Proposed Greenhouse Gas Mitigation Guide for NSW Coal Mines. Sydney: EPA.
- Lock the Gate Alliance. (2024). Critique of NSW EPA greenhouse gas licensing reforms. Retrieved from https://www.lockthegate.org.au/ghg_nsw_coal.