

Senate Select Committee on Climate Policy  
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To whom it may concern,

The Australian Landfill Owners Association (ALOA) is grateful for the opportunity to prepare and present a submission to the Senate Select Committee on Climate Policy Inquiry into the exposure drafts of the legislation to implement the Carbon Pollution Reduction Scheme (CPRS).

## Introduction

ALOA is an incorporated entity comprising landfill owners across Australia sharing a concern for the environment and the sustainability of their businesses.

ALOA is the representative voice of the landfill industry in Australia. ALOA membership comprises landfill owners from across Australia.

ALOA members operate over half of the landfill capacity across Australia receiving over 12 million tonnes of solid waste annually. They also provide services in waste disposal, waste treatment and resource recovery and employ over 12,000 people.

Today landfills employ cutting edge technology to minimise their environmental impact such as capturing methane generated by the decomposition of organic waste to produce renewable electricity.

In many respects, modern landfill techniques are a demonstration that corporate action can deliver complementary benefits to our society, the natural environment and business.

ALOA's submission reflects the views and opinions of its members including:

ACT Nowaste - Department of Territory & Municipal Services	Newcastle City Council
Blacktown Waste Services Pty Ltd	SITA Australia P/L T/A Sita Environmental Solutions
Boral Waste Solutions	Thiess Services Pty Ltd
Brandown Pty Ltd	Ti Tree Bioenergy
Breen Holdings Pty Ltd T/A Kurnell Landfill Company	Transpacific Industries Group Limited
Hanson Landfill Services	Veolia Environmental Services
Hi Quality Group	Western Land Reclamation Pty Ltd
Integrated Waste Services	Wollongong City of Innovation
Lucas Waste Management Pty Ltd ATF The Lucas Property Trust	WSN Environmental Solutions
Maddingley Brown Coal P/L	Wyndham City Council

## Overview

ALOA supports in principle the Australian Government on its efforts to establish a framework to reduce carbon emissions in Australia; however has some serious concerns over the manner in which the proposed CPRS has been designed, particularly in relation to its impacts on the waste sector.

ALOA members have been active in reducing greenhouse gas emissions from their operations for the last two decades and the waste sector is the only CPRS covered sector that has recorded a reduction in their greenhouse gases production. It must be noted that this reduction occurred without the guidance of any sort of carbon reduction instrument – market based or otherwise.

Notwithstanding our overall support for the CPRS, ALOA is most concerned with the architecture of the scheme as presented in the draft legislation and will detail in this submission five areas where the CPRS needs modification as it applies to the waste sector.

These areas are as follows:

1. The inclusion of emissions from waste deposited prior to the commencement of the CPRS (“legacy waste”);
2. The coverage of the waste sector before reliable and repeatable measurement techniques are available;
3. The excessive administrative burden required to account for emissions over the next fifty years;
4. The rushed nature of the draft legislation and the current operational uncertainties within our sector based on the lack of draft regulations available at this time; and
5. The disproportionate effect required from the waste sector should the threshold for inclusion effectively be reduced to 10, 000 tonnes of CO<sub>2eq</sub>.

The waste sector accounted for 3 percent of the total national emissions in 2006 and is the smallest sector covered under the CPRS. However as emissions from landfill are released over decades, the CPRS creates a host of measurement and administrative challenges and as such should be simplified as much as possible before commencement of the scheme. Leaving these issues unresolved may create a series of serious perverse outcomes and unnecessarily disrupt a crucial community service.

## The inclusion of legacy waste in the CPRS

The inclusion of legacy waste in the CPRS (as of 2018), is the equivalent of retrospectively taxing landfill owners and their customers for waste deposited two decades ago. This has eventuated despite the waste sector’s comprehensive engagement with the various arms of Government, including those who designed and engineered the proposed scheme.

The retrospective provisions that commence on 1 July 2018 do not in any way align to the underpinning values of the CPRS – that is – introducing behaviour change that will in turn lower Australia’s GHG emissions. Penalising landfill owners from 2018 onwards does not in any way have an impact on waste generation or waste composition modification as this waste has already been deposited.

Additionally the creation of a future (post 2018) liability creates three substantial sets of difficulties:

- a) Reduced capacity for the industry to fund future capital expenditure for provision of new and efficient infrastructure aimed at reducing emissions;
- b) Funding difficulties for local government who may not have a customer base for whom to pass these costs on (For example, the Corio landfill in the Greater Geelong City Council would potentially have an unfunded

CPRS liability in the order of tens of millions of dollars should their legacy waste be covered by the scheme from 2018); and

c) Severe accounting difficulties for companies, creating a liability which must be calculated from an unknown carbon price and for an uncertain duration.

Further, as the quantity of legacy waste will vary from landfill to landfill, older sites will be disadvantaged against newer sites. This could result in early closures and reduced service availability.

As a result, ALOA believes emphatically that the inclusion of these retrospective provisions in the CPRS is unfair and is certainly not in accordance with the stated intentions of the CPRS. As such ALOA believes that these provisions ought to be removed from the draft legislation.

Further, the cost of legacy waste emissions simply cannot be passed on to current customers as a CPRS charge as the liability was created by past customers. Therefore, it will have to be pushed into the market as a base price increase.

This is likely to result in smaller customers with less bargaining power receiving higher charges. Additionally, as the quantum of the post-2018 liability depends solely on the length of time a landfill has been open before commencement of the CPRS, older landfills will be disadvantaged simply by virtue of their age and will be burdened with charges of up to two and three times that of newer landfills.

This inequity will surely cause severe market distortions, and will lead to the early closure of some older landfills. The legislation as it stands will, without doubt, cause significant perverse economic and financial outcomes.

### **Coverage of the waste sector before reliable and repeatable measurement techniques are available**

The development of sufficiently accurate and repeatable measurement techniques for landfill gas emissions is a vital element in ensuring that the CPRS operates fairly in the waste sector. Landfill gas emissions should not be included in the CPRS until all measurement issues are dealt with appropriately.

It is important to acknowledge that the production of landfill gas emissions is dependant on a wide range of factors – waste type, design, construction materials, capping, operating procedures and rainfall – and will vary from site to site.

Currently, it is expected that two methods of gas estimation can be established in the short term and that a third – direct measurement – will be available in 5 years. These methods are detailed and constrained by the NGER Determination and are:

Method 1 A default modelling method with three levels of data input:

1. All defaults
2. Actual waste stream (MSW, C&I and C&D) input
3. Actual waste composition (nine wastes) input

Method 2 It is proposed that this method is an advance on Method 1 and will allow the use of actual site measurement to establish the rate of decomposition.

Method 4 This method will be based on direct measurement and its availability will depend on the results of trials currently underway in both Europe and the USA. The adoption of a direct measurement method in Australia will depend on access to equipment and local testing expertise. It is unlikely that this method will be available at smaller sites due to their high cost.

The methodology of estimating green house gas emissions from landfills is still not sufficiently accurate for integration of the waste sector into the CPRS. Current NGER techniques for estimating the amount of methane gas emanating from landfill is expected to have a margin of error of +/- 30 per cent.

Currently experts within the landfill industry believe it will take at least three years to apply Method 2 testing across all sites in Australia. Until that methodology is proven there is no way of accurately knowing whether estimates are too high or too low, compromising the effectiveness of the scheme, and potentially unfairly penalising every household and business in Australia.

Furthermore ALOA and its members are concerned that a revised NGER determination dealing with industry submissions made last year will not be released until May of this year.

The issue of the timing of the new determination highlights a concern raised in the External Audit Consultation Paper published in October of 2008 by the Department of Climate Change which clearly stipulates that:

*"The quality of emissions data that will underpin the CPRS will need to be "investment grade" to provide the market with a sound foundation for decision making".*

Clearly, for the waste sector, measurement techniques are not yet at an "investment grade" level and as such waste sector inclusion in the CPRS must be delayed until at least 2012.

#### **Excessive administration**

Many of the covered facilities under the CPRS will be local government landfill operations. As demonstrated in this submission, implementation of the CPRS will create significant new administrative and measurement tasks. In many instances local government will not be able to undertake these services internally and hence will instigate increased costs for external engineering and accounting support.

These additional costs will ultimately present in the form of a financial liability which will be passed on to consumers.

#### **Rushed nature of the draft CPRS legislation and its accompanying commentary**

Both the CPRS draft legislation, and its accompanying commentary state clearly that once a landfill emits 25,000 tonnes or more of CO<sub>2eq</sub> it will be included in the scheme.

The draft legislation goes on to say that if "at any time during the eligible financial year, the landfill facility is within the prescribed distance of another landfill facility that is open for the acceptance of waste" its threshold for inclusion will be 10, 000 tonnes of CO<sub>2eq</sub>.

However the accompanying commentary contravenes this, stipulating that the two landfills within a prescribed distance of one another need to be "competing landfills accepting the same classification of waste."

Clearly there needs to be consistency between legislation and its commentary. ALOA is disappointed that significant errors have been included in these documents.

There will then need to be a flow on of issues raised in the commentary in the accompanying regulations.

Furthermore, the Government has not at present released any complimentary regulatory guidelines to accompany its draft legislation. As such the waste sector (and all covered sectors for that matter) is left without any significant detail as to the role of the CPRS Regulator and hence, the operation and mechanics of the scheme.

If the CPRS is not delayed then landfill owners are likely to manage their measurement risks by recovering higher fees from their customers if commencement proceeds on schedule in 2010.

## The Government's disproportionate response to the waste sector

As indicated previously in this submission, the waste sector accounts for only 3 percent of Australia's annual GHG emissions. In addition, it is the only sector which has reduced its emissions over the last twenty years.

If the threshold for inclusion in the scheme lowered to 10,000 tonnes of CO<sub>2eq</sub> per annum an estimated 300 facilities will be covered. This is a disproportionate and unreasonable attack on the waste sector particularly considering the government's pledge in 2008 that only 1000 of Australia's companies will be covered by the scheme in total.

## Conclusion

ALOA calls for the following:

- Removal of legacy waste provisions
- Delay waste sector coverage until at least 2012
- Simplification of threshold variation provisions
- Improved NGER estimation techniques

Finally, it ought to be noted that in the case of the European ETS, the waste sector has been completely excluded due to the complexity of the issues addressed in this submission.

**As the official voice of the landfill industry in Australia, ALOA requests to testify before this inquiry.**

**Attachments:** Recent media releases from ALOA detailing the issues highlighted in this submission

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## **MEDIA RELEASE**

### **For immediate release**

#### **Government in apparent political rush to finalise CPRS**

**SYDNEY, AUSTRALIA – Thursday, 12 March 2009:** The Australian Landfill Owners Association (ALOA) said today that it is disappointed at the Government's apparent need to rush through the CPRS legislation sacrificing consistency between the CPRS legislation and its accompanying commentary.

Both the CPRS draft legislation, and its accompanying commentary state clearly that once a landfill emits 25,000 tonnes or more of CO<sub>2eq</sub> it will be included in the scheme. The draft legislation goes on to say that if "at any time during the eligible financial year, the landfill facility is within the prescribed distance of another landfill facility that is open for the acceptance of waste" its threshold for inclusion will be 10, 000 tonnes of CO<sub>2eq</sub>.

However the accompanying commentary contravenes this, stipulating that the two landfills within a prescribed distance of one another need to be "competing landfills accepting the same classification of waste."

ALOA spokesman Max Spedding said, "It is apparent that there is a rush to finalise this legislation and this has come at the expense of sound and consistent policy."

"Buried in the 392 pages of draft CPRS legislation there is a ticking time bomb for the landfill industry. It seems as if the nine months of consultation our industry has had with the Department of Climate Change has been largely ignored"

ALOA is also concerned about the issues associated with measurement techniques which have not been addressed by the Government. Current world's best practice techniques for measuring the amount of methane gas emanating from landfill had a significant margin of error of +- 30 per cent.

Spedding said," The methodology of estimating green house gas emissions from landfills is still out".

Experts within the landfill industry believe it will take at least three years until measurement techniques are refined to a point where that margin of error can be driven down.

"By 2012, we should be able to accurately measure the greenhouse gas from landfills", Spedding said.

But until that methodology is proven there is no way of accurately knowing whether estimates are too high or too low, compromising the effectiveness of the scheme, and potentially unfairly penalising every man woman and child in Australia who generates waste.

ALOA is also calling for legacy waste emissions to be fully excluded from the CPRS rather than partially excluded as proposed in the draft legislation.

Depending on climate conditions, organic material deposited in a landfill can take up to 50 years to fully decompose generating green house gas emissions throughout that period requiring the purchase of permits for emissions from this legacy waste means taxing current landfill users for emissions produced by decades of previous users.

“The inclusion of legacy waste emissions in the CPRS is akin to charging households today for the electricity generated for use by our parents. Owners of individual landfills could be stung with a carbon tax in the order of tens of millions of dollars each year as of 2018, without any revenue stream to pass on the costs.”

Some operators that cannot afford to pay will ultimately be forced out of business, sending their employees to straight to the dole queue.

ALOA said recently that it supports the Australian Industry Group’s call to suspend the start of the Carbon Pollution Reduction Scheme until 2012.

**Media contact:**

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**About ALOA:**

The Australian Landfill Owners Association (ALOA) is an incorporated entity comprising landfill owners across Australia sharing a concern for the future viabilities of the environment and their businesses.

Members of the Association receive and manage over half of the total solid waste generated in Australia. They provide services in waste disposal, waste treatment and resource recovery and employ over 12,000 people.

ALOA members operate a vast number of landfills across Australia and receive over 12 million tonnes of solid waste. These landfills employ state of the art technology to minimise any environmental impacts and generally capture methane generated by the decomposing waste to produce renewable electricity.

## **MEDIA RELEASE**

### **For immediate release**

#### **Landfill operators support Australia Industry Group on Carbon Pollution Reduction Scheme suspension**

**SYDNEY, AUSTRALIA – Friday, 27 February 2009:** The Australian Landfill Owners Association (ALOA) today said it supports the Australian Industry Group's call to suspend the start of the Carbon Pollution Reduction Scheme until 2012.

ALOA Secretary Max Spedding said current world's best practice techniques for measuring the amount of gas emanating from landfill had a significant margin of error of +- 30 per cent.

"Experts within the landfill industry believe it will take at least three years until measurement techniques are refined to a point where that margin of error can be driven down," Mr Spedding said.

"By 2012, we should be able to accurately measure the greenhouse gas from landfills."

"But until that technology is proven there is no way of accurately knowing whether estimates are too high or too low, compromising the effectiveness of the scheme, and potentially unfairly penalising the waste management sector.

"ALOA is committed to working with Government to develop and refine more sophisticated measurement techniques" Spedding said.

ALOA has also called for legacy waste emissions to be fully excluded from the scheme rather than partially excluded as proposed in the CPRS White Paper. ALOA believes that 'grandfathering' of legacy waste for only ten years, will cause severe market distortions and as such calls on the Government to extend grandfathering for at least fifteen years.

Depending on climate conditions, organic material deposited in a landfill can take up to 20 years to fully decompose generating green house gas emissions throughout that period. Requiring the purchase of permits for emissions from this legacy waste means taxing current landfill users for emissions produced by decades of previous users.

Spedding said, "The inclusion of legacy waste emissions in the CPRS is akin to charging households today for the electricity generated for use by our parents".

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