AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION

CARBON POLLUTION REDUCTION SCHEME EXPOSURE DRAFT SUBMISSION

14 April 2009

Committee Secretary
Senate Standing Committee on Economics
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

1. Thank you for the opportunity to comment on the Carbon Pollution Reduction Scheme Legislation package. This submission is a copy of the Australian Local Government Association Submission to the Department of Climate Change on the same matter. The proposed CPRS legislation is made up of:
   1. *Carbon Pollution Reduction Scheme Bill 2009* (**CPRS Bill**);
   2. *Carbon Pollution Reduction Scheme (Consequential Amendments) Bill 2009* (**Consequential Amendments Bill**);
   3. *Australian Climate Change Regulatory Authority Bill 2009* (**Regulatory Authority Bill**);
   4. *Carbon Pollution Reduction Scheme (Charges – General) Bill 2009*;
   5. *Carbon Pollution Reduction Scheme (Charges – Customs) Bill 2009*; and
   6. *Carbon Pollution Reduction Scheme (Charges – Excise) Bill 2009.*

2. The Australian Local Government Association (ALGA) represents the interests of more than 560 councils at the Federal level. Its membership is made up of the state and territory local government associations which represent the interests of councils in their respective jurisdictions. The ACT Government is also a member in its role as the local authority in the Australian Capital Territory.

3. In its submission to the Government on the CPRS Green Paper ALGA welcomed the Australian Government's commitment to tackle climate change. In that submission ALGA also noted the technical and political challenges of introducing comprehensive domestic and international measures to address climate change. In this regard ALGA and state and territory local government associations accepted that local government could play a significant leadership role within the community, and stated their commitment to working with the Australian Government to address climate change in a practical and meaningful way.

4. ALGA acknowledges that a number of issues raised in its submission on the Green Paper were addressed in the White Paper. This included the general acceptance of a 25kt CO_2 equivalent threshold for landfills.

5. However, the local government and waste sector is generally dissappointed with:

    - Qualifications to be applied to the 25kt CO2-e threshold for landfills which will result in the reduction of this threshold to 10kt CO2-e under certain circumstances; and
    - the inclusion of legacy waste.

6. Local government considers that these elements add significant to the complexity of the scheme and will add extra cost to landfill operators without significantly reducing greenhouse gas emissions.

7. ALGA and state local government associations commisioned Deacons to prepare an independent Briefing on the CPRS 2009 Bill and associated legislation. This paper can be found on the ALGA website at: http://www.alga.asn.au/policy/environment/greenhouse/

8. This submission is split into two parts. The first part covers the substantive issues contained in the legislative package that are of particular relevance to local government and that have been identified in the Deacons paper. The second part identifies outstanding policy matters that have not been adequately addressed under the proposed Bill.

CPRS Bill 2009 and associated legislation

Measurement

9. The CPRS Bill 2009 and associated legislation is predicated on adequate accounting for, and measurement of, carbon emissions. As previously submitted by ALGA and representatives from the waste sector, there are serious concerns with the accuracy and complexity of measuring greenhouse gas emissions from landfills.

10. ALGA understands that there has been dialogue between the Waste Management Association of Australia, of which a number of councils are members, and the Australian Government on a range of outstanding measurement issues in relation to National Greenhouse Energy reporting Scheme (NGERS) Measurement Determination, and therefore the CPRS. These include:
    - The NGER Measurement Determination should reflect individual waste type DOCfs, in place of the average 0.5 currently adopted by DCC;
    - The collection efficiency included in Method 1 should be varied to 95% for closed and capped landfills;
    - The issue of moisture content in the landfill 'representative zone' in Method 2 should be determined by the operating duration of each cell and not the use of leachate recirculation;
    - Revision of the default waste compositions for MSW, C&I and C&D;

- Updating of the degradability of timber and other harvested wood products (this updating is contingent on new papers in the scientific literature due during 2009/10);
- Removal of rubber/leather, nappies and sludge and the reduction in textiles (for the manmade fibre textiles) from the list of degradable waste components;
- Reconsideration of State based variations in k values for food and garden waste;
- Application of an MCF of 0.75 for food and garden waste to allow for aerobic degradation before collection;
- Increase in the default maximum collection efficiency for Method 1 (currently 75%, Landfill Division has asked for 80%);
- Finalisation of the new Method 2/3 using flux box testing instead of USEPA Method 2E;
- Acceptance of visual waste composition methodologies used widely in Australia for waste composition surveys;
- Acceptance of IR field gas composition instruments as used commonly in Australia instead of gas chromatography;
- Recognition that Method 4 is under development and consideration of that method in the medium term;
- Recognition that methane oxidation is a flux based phenomena not a directly related percentage of residual gas emissions as it is in the current methodologies.

11. Failure to adequately resolve these outstanding issues will potentially result in unfair attribution of costs to landfill operators and subsequently to customers, including rate payers, and may utlimately weaken confidence in carbon markets.

Legacy Waste

12. Local government acknowledges the Government's attempt to accommodate some of the waste sector's concerns with legacy waste through a liability 'holiday' until 2018. However, this does not address the fundamental inequity of retrospective imposition of costs through the inclusion of legacy waste. It also introduces an unnecessary level of complexity into what is already an extremely difficult and technical measurement task.

13. Under the Government's proposal, ALGA notes that the liability holiday will only to apply to waste deposited prior to 1 July 2008. This means that waste currently being deposited in landfills (and which has been deposited since 1 July 2008) has a liability attached, even though the CPRS legislation has not yet been passed and the CPRS has not yet commenced.

14. Local government believes that this approach is fundamentally inequitable. Local government contends that there will be great difficulties in arriving at any reliable estimate of the emissions resulting from waste already deposited in landfill over several years, perhaps decades, prior to July 2008. Clearly these landfills operated under a scenario which was not geared to the accurate measurement of incoming waste tonnages or composition, making any attempt at reliably estimating

greenhouse gas emissions very difficult. As a matter of fairness, at the very least if legacy waste was to be included in the scheme, then the liability should only attach to waste deposited from the commencement of the scheme i.e. 1 July 2010.

15. Even so, such an approach would still not address the broader and more fundamental inequity resulting from the inclusion of legacy waste. The inclusion of emissions from legacy waste requires a contingent financial liability to be borne by current rate payers for disposal of waste by 'previous generations'. This is fundamentally inequitable. Further, there is no clear behavioural or operational change that can be undertaken to reduce pollution and to ameliorate these impacts, as the waste has already been landfilled. The inclusion of legacy waste represents a cost which cannot be avoided. Measures to retro-fit methane collection infrastructure on closed landfills are immensely cost prohibitive and, by Department of Climate Change (DCC) estimates of post closure emissions, achieve very little in terms of greenhouse gas reduction. Indeed, the production and installation of such infrastructure would incur a greenhouse gas "cost". In light of this inequity and the fact that no reduction in pollution can be achieved, local government's preferred position is that legacy waste be omitted from the CPRS legislation.

16. The inequity of the proposed legacy arrangement is best illustrated in the example where council-controlled landfills, some significant in size, have recently closed or are about to be closed within the next year or so. Under the proposed legislation councils will accrue a significant contingent liability without having access to any revenues to offset this expense. In one case alone (Corio), ALGA understands that the contingent liability of the council is expected to be in the order of $30m - $40m.

17. The treatement of legacy waste under the CPRS 2009 Bill and associated legislation in local government's view introduces an unnecessary level of complexity into what is already an extremely vexed measurement task for landfill operators.

18. Deacons cites work undertaken by Hyder Consulting in its report on "Options for Covering Waste Facilities under an Emissions Trading Scheme", 10 June 2008 that shows that inclusion of emissions from legacy waste could result in a cost of $15.45-$39.02 per household per year, compared to a cost of $6.37-$14.06 for a landfill that entered the Scheme after 2010. [1]

Threshold/Proximity Rule

19. Local Government is concerned that the 25kt CO2-e threshold which applies to covered sectors is proposed to be varied for the waste sector. This special treatment of the waste sector appears to be inequitable and unfair.

20. The proximity rule was introduced into the CPRS Bill as a result of suggestions from the industry that the 25kt CO2-e threshold may cause displacement of waste

[1] Figures based on emissions permit price of $20 per tonne CO_2-e and discount rate of 10%. Please refer to the report for other assumptions

from those sites over the threshold (i.e. large landfills) to those sites under the threshold (i.e. small landfills); the rationale being, that there would be differential pricing between the larger landfill (with a CPRS liability) and the smaller landfill.

21. Since the publication of the CPRS White Paper, ALGA has undertaken further consultation with its members and representatives of the waste industry and ALGA now believes that the potential for diversion is essentially a theoretical concern, and in practice under current contractual and operational arrangements is unlikely to be resolved through the proposed proximity rule. In fact, feedback from some member councils indicates that the proximity rule may well create worse distortions than a blanket 25kt CO2-e threshold.

22. In consultations conducted by the Government, it appears that a distance under consideration for the proximity rule may be around 80km. This seems to be based on anecdotal input and theoretical models about the distance which a waste transporter would be prepared to travel to redirect waste to keep a landfill "below threshold". This assumption does not acknowledge council boundaries, and the unlikelihood of waste being transferred to a neighbouring council's landfill, irrespective of proximity. While detailed mapping has not been able to be undertaken, local government is concerned that under this threshold the number of landfill covered under this provision would be considerably increased from the estimated 100 sites expected to be covered under a 25,000 tonnes CO2-e threshold.

23. ALGA note that Deacons has been asked by the Australian Landfill Operators Association (**ALOA**) to assist it to prepare revised drafting of the current provision in the CPRS Bill dealing with thresholds. The intent is that the lower threshold will not be an automatic threshold, but rather will be triggered following an application by an affected landfill operator (i.e. where a landfill operator covered by the Scheme is losing waste tonnage to another landfill which is not covered by the Scheme). In other words, the threshold applied to the whole landfill industry will be 25,000 tonnes CO2-e, but in the event of demonstrated diversion from covered landfills to uncovered landfills, the Authority will have the ability to lower the threshold to 10,000 tonnes CO2-e. The Authority will be required to determine what an appropriate distance is, in determining whether to apply the lower threshold. Further, it is intended that once the smaller landfill closes, then the threshold for the large landfill will revert to 25,000 tonnes CO2-e, but the threshold for the smaller landfill will stay at 10,000 tonnes CO2-e for 10 years following closure. ALGA sees relative merit in this approach when compared with a blanket proximity rule, but notes that it still represents a highly complex system to regulate and the ultimate level of greenhouse gas emission reductions that will be achieved is questionable.

Outstanding Policy Issues

Complementary measurers

24. As previously indicated, local government is committed to working collaboratively with the Government to reduce greenhouse gas emissions. ALGA acknowledges that the CPRS as it applies to large waste landfills (25kt CO2-e)

will make some contribution to the reduction of Australian greenhouse gas emissions.

25. This submission essentially argues that the proposed approaches to vary the 25kt CO2-threshold for landfills (as well as the inclusion of legacy waste) are inequitable and therefore undesirable.

26. ALGA believes that the Government should support complementary measures such as incentives to utilise alternative treatment technologies and gas capture technologies to reduce carbon emissions from smaller landfills.

27. Local Government also believes that there is a need for greater recognition of, and support for, voluntary measures including offsets, that may be adopted by councils to reduce their greenhouse gas emissions.

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