

Draft Submission on the Handling of Early Collected Carbon Tax Charges held by Landfill Operators

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Opening

Local Government NSW (LGNSW) is the peak body for councils in NSW, representing all 152 NSW general-purpose councils, the special-purpose county councils and the NSW Aboriginal Land Council.

LGNSW is a credible, professional organisation that represents the views of councils to NSW and Australian Governments; provides industrial relations and specialist services to councils; and promotes NSW councils to the community. LGNSW facilitates the development of an effective community-based system of Local Government in NSW.

LGNSW welcomes the opportunity to make a submission to the Handling of Early Collected Carbon Tax Charges held by Landfill Operators Consultation Paper. Local Governments have already shown a willingness and enthusiasm to mitigate or reduce their emissions, and the emissions of their communities. Over the past two decades Local Government has actively engaged in programs to reduce greenhouse gas emissions from council operations and also implement community greenhouse abatement programs. Councils have participated in the Cities for Climate Protection program, developed their own programs, policies and processes and forged partnerships with government agencies and the private sector.

The Framework is of direct relevance to the following councils in their capacity as landfill operators emitting over 25,000 tonnes of carbon emissions:

- Albury City Council
- Blue Mountains City Council
- Cessnock City Council
- Dubbo City Council
- Manly, Mosman Municipal, Warringah and Pittwater Councils as shareholders of Kimbriki
- Maitland City Council
- Shellharbour City Council
- Tamworth Regional Council
- Wagga Wagga City Council
- Wollongong City Council
- Wyong Shire Council

Please note that in order to meet the consultation deadline, this submission is provided in draft form in anticipation of the LGNSW Board approval in April 2015. LGNSW will advise the Department of any amendments to the submission at that time.

Response

Refunding the early collected carbon tax revenue

The Framework proposes that landfill owners negotiate with stakeholders to determine whether a refund is possible. NSW Local Government is concerned that this will raise the expectation of all customers that they can negotiate with councils. Councils require more clarity around who is and is not entitled to a refund (perhaps direct contract customers only) to reduce administrative burden and debate over end customer benefit.

Without this certainty, any project would be difficult to scope and almost impossible to financially commit to. It also unclear whose responsibility it is for initiating a direct relationship refund. Accordingly, LGNSW seeks clarification on whether landfill owners are obliged to

initiate refunds or alternatively if landfill owners only need to consider claims for refunds? If so, within what timeframe can a claim be made?

Key Principles

LGNSW agrees with the key principles set out in the consultation paper as follows:

1. Simplicity – easy to understand and administer,
2. Transparency – information on the funds collected and how the funds will be spent should be made publicly available,
3. Additionality – emissions reductions achieved by these investments should be in addition to legal or regulatory obligations and not financed by the Emissions Reduction Fund (ERF),
4. Voluntary – investment is at the discretion of landfill owners.

Investing in reducing emissions

LGNSW agrees with investing the remaining funds that cannot be returned to customers in emission reduction projects whether this be through abatement activities or the purchase of Australian Carbon Credit Units (ACCUs). However, abatement activities should not be limited to waste projects. Landfill operators may not be able to achieve the additionality criteria or there maybe third party contracts that overly complicate abatement projects at the landfill site. NSW Local Governments would like the option of undertaking abatement activities in other service areas such as street lighting, building energy efficiency, pool heating, etc.

Method for determining the level of investment

LGNSW supports a simple and transparent approach to determining the funds for investment.

The abatement-based approach is complex. There is a possibility that the amount could be underestimated (\$8/tonne emissions) or overestimated (\$24.15/tonne). Local Government landfill operators based their charges on forecast carbon price estimated by Treasury. A proxy price based on the Pre-Election Economic and Fiscal Outlook is preferred if the abatement-based method is adopted.

LGNSW prefers the revenue-based approach as it is the most transparent and accurate. The majority of councils support this view. However, LGNSW notes that a small number of councils prefer the abatement-based approach.

Landfill operators collected funds as a reserve to pay for future carbon tax liability. LGNSW maintains that all funds collected for this purpose should be available to implement the Framework (i.e. refund or used for carbon abatement). The revenue-based approach ensures a landfill operator does not gain a windfall profit from funds that are no longer required for a potential carbon tax liability. Additional revenue derived from interest on the reserve can be excluded.

Disclosure of amount of early collected carbon tax revenue held

NSW Local Government Code of Accounting Practice and Financial Reporting prescribes reporting of income generated under the Clean Energy Future Scheme and the carbon tax liability. This is done through the annual report which is published on each council's website. LGNSW supports the public disclosure of the carbon tax revenue held and the level of investment in carbon abatement activities for all landfill operators, as NSW Local Government is already required to do.

Criteria for emission abatement projects

While there needs to be some rigour around the criteria for emission abatement projects, it should not be so onerous that it limits participation.

LGNSW notes the following on the suggested criteria:

1. A new project. This definition could be expanded to include a modification or add-on to an existing project that achieves additional emission abatement beyond the original project. It should also include projects that have previously considered but were shelved as a result of the carbon tax repeal.
2. Additional to legal or regulatory requirement. LGNSW supports this and agrees that projects should not receive ACCUs under the Emissions Reduction Fund (ERF).
3. Will operate for at least 7 years. While it is expected that the emissions abatement projects will have some longevity, this criteria places additional burdens on participants which is not in keeping with the overall intent of the *Carbon Tax Repeal Act 2014*.
4. Will abate at least 100 tonnes of emissions per year. This would ensure that projects will not just improve landfill operations but also achieve emission reductions. Given the quantum of funds held, this should be achievable but there may be some situations where funds will limit the abatement achieved. Some flexibility may be required on this criterion.
5. Will employ commercially proven abatement methods. LGNSW supports this.
6. Co-funded. LGNSW rejects the co-funding criteria. This is not in keeping with the overall intent of the *Carbon Tax Repeal Act* where consumers and businesses benefit from the removal of the carbon tax. NSW councils did not expect to be left with additional revenues. In fact the Local Government Investment Order (section 625 of the *Local Government Act 1993 (NSW)*) prevents councils from investing in carbon mechanisms for the primary purposes of engaging in trade and making a profit. Co-funding requirements, when councils are already under financial pressure, is an additional burden that will prevent councils from participating in emission abatement projects. Council budgeting processes are currently underway for the 2015/16 financial year. If co-funding were required, NSW Local Government would not meet the timeframe expectations as additional funds would not become available until after June 2016.
7. Based on an approved method. LGNSW supports this if it is not limited to the ERF methodologies, as they do not cover waste diversion projects.

Disclosure of investments

LGNSW agrees that it is appropriate for landfill operators to disclose the amount of early collected carbon tax held, the level of investment and the estimated emission reductions to give legitimacy to the Framework. This should be achieved through a centralised public database rather than relying on individual landfill operators to publish their data.

LGNSW agrees that disclosing the amount of abatement achieved will add rigour to the Framework. However, as the Framework is voluntary there is no onus on the landfill operator to verify the abatement was achieved. The National Greenhouse and Energy Reporting Scheme (NGERS) may be a proxy. However, other factors may influence the reported emissions.

Using carbon credits units

LGNSW supports the purchasing of ACCUs as it offers a simpler way to discharge the early collected carbon tax and still support carbon emission reductions. As stated, the ACCU must be transferred to the Commonwealth and be retired. They should in no way be banked for future use by the landfill operator. It is also recommended that landfill operators disclose the level of investment made and the number of ACCUs purchased.

Administration and compliance costs

LGNSW supports administration and compliance costs being deductible. This is especially important for regional areas, where there will be additional costs associated with obtaining specialist advice (such as NGER auditors).

Timeframe for the voluntary Framework

Assuming that the guidance around the refunding can be clarified, and that process is not protracted it should be possible to commit the funds by 31 December 2016. NSW Councils will have additional steps over private landfill operators such as the requirement to have the expenditure endorsed at a council meeting. Individual councils may choose to undertake public consultation given the level of expenditure.

Conclusions

LGNSW is supportive of a framework that is easy to implement and achieves a reduction in carbon emissions. The process should be transparent as possible given participation is voluntary.