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8 April 2009

The Secretary  
Senate Select Committee on Climate Policy  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

By email: [climate.sen@aph.gov.au](mailto:climate.sen@aph.gov.au)

Attention: Senators Boswell, Cameron, Cash, Colbeck, Feeney, Furner, Macdonald, Milne,  
Pratt and Xenophon

Dear Sirs/Madams,

**Senate Select Committee on Climate Policy**

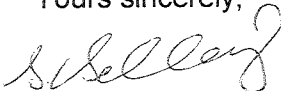
LMS Generation Pty Ltd (LMS) appreciates this opportunity to provide a response to your inquiry into policies relating to Climate Change.

The planned Carbon Pollution Reduction Scheme (CPRS) is a very difficult and complicated piece of legislation. While LMS is committed to reducing Australia's carbon pollution and is supportive of emissions trading, we feel that the CPRS shouldn't be rushed. Getting such a major reform as an emissions trading regime right is crucial and we should not risk ending up with a poorly designed scheme implemented too quickly.

As a longtime active participant in existing emissions trading and also wider action on climate change, including renewable energy generation, LMS is concerned that the introduction of the CPRS will see early movers severely disadvantaged by perverse, presumably unintended negative impacts of the current scheme design. The rushed nature of the proposed CPRS means that there are industry-related issues that have not been adequately addressed.

I would be willing to travel to any destination and would appreciate the opportunity to address the Senate Select Committee.

Yours sincerely,



for **MANAGING DIRECTOR**  
John Falzon

**LMS GENERATION SUBMISSION TO SENATE SELECT COMMITTEE ON CLIMATE  
POLICY – APRIL 2009**

The major climate policy issue facing the Landfill Gas Industry is the **Transition** to the CPRS which will affect the long-term viability of the companies within the industry and the job security of its employees.

This submission has been broken into the following three sections:

- ❖ **Background**                      Australian Landfill Gas Industry
- ❖ **Transition**                        Transition from existing schemes to the CPRS
- ❖ **CPRS Issues**                     Industry concerns with the proposed CPRS

**BACKGROUND**

LMS Generation (LMS) is an Australian owned company with nearly 30 years of experience in successful landfill gas-to-energy projects and is a recognised leader in landfill gas management, renewable energy and carbon credit trading, employing unique processes and technologies developed in Australia.

LMS is part of the Landfill Gas Industry in Australia which is a small but well-established sector associated with the larger Waste sector. The Landfill Gas Industry has been principally responsible for the reduction in greenhouse emissions from the Waste sector, making it one of the largest reducers of carbon pollution from the Waste sector in Australia. As such, LMS has a substantial interest in the outcomes associated with the introduction of the CPRS as it relates to the Waste sector.

Australia's Landfill Gas Industry has cut greenhouse gas emissions by over 4 million tonnes per year (*DCC, 2008b*) and this abatement will make a significant contribution to Australia substantially meeting its Kyoto greenhouse target for the first commitment period. By also displacing carbon pollution-intensive coal-fired power generation, the Landfill Gas Industry has driven even greater emissions reductions.

As an added benefit, the amount of water saved by generating electricity renewably from an organic waste resource instead of coal-fired generation is substantial. These projects save over one billion litres of water every year while generating renewable energy.

The Landfill Gas Industry has invested more than \$500 million in Australia, building over 150 megawatts of base-load power generation capacity, and employs over 300 people directly and several hundred indirectly. This significant investment in abatement projects has been driven by the ability to create offsets under an early mandated emissions trading scheme, the NSW Greenhouse Gas Abatement Scheme (GGAS), and also via the Greenhouse Friendly (GHF) scheme in the voluntary carbon market. Continued viability will be determined by the structure of the proposed CPRS.

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It is therefore critically important that the CPRS is implemented in a manner that continues to support the capture and utilisation of landfill gas, and does not disadvantage the Landfill Gas Industry for being early movers or hinder the continued development and expansion of the sector.

Early movers such as the Landfill Gas Industry should not be badly disadvantaged after proactively reducing Australia's carbon emissions for a number of years, and projects registered under GGAS or other schemes should not now be penalised under the CPRS because of their early action before the Federal Government committed to a national emissions trading scheme.

### **TRANSITION**

It appears that the Landfill Gas Industry will lose the income from both GGAS (NSW Greenhouse Abatement Certificates, or NGACs) and GHF offsets under the currently proposed CPRS. Therefore it faces a substantial loss of earnings in the order of 55% of EBITDA.

The structure of the Industry means that this lost revenue can never be recovered by companies like LMS or passed on to a customer. The loss cannot be reduced by the reduction in permit liability as the permit liability rests with the landfill owner; and because it is a reduction of saleable output rather than increased costs, it therefore cannot be passed on to a customer.

Generally long-term off-take contracts are required in order to finance these projects, and therefore electricity and MRET REC prices are set for that period. This means the firm also cannot gain any additional income from possible price increases in electricity or RECs until these contracts expire. Even if it were possible to renegotiate these contracts, the forecast increase in wholesale electricity and REC prices would not compensate for the loss of the multiple carbon offsets currently created for the destruction of fugitive methane from these projects.

Companies that have invested heavily and that have built assets based on existing schemes that require a long-term payback and have considerable sunk costs should not be financially disadvantaged by any new scheme. Therefore, we feel that there is a strong case for compensation for companies in the Landfill Gas Industry under the proposed CPRS as the returns from our projects will be significantly affected.

The Department of Climate Change (DCC) has advised that there may be some transitional assistance for GGAS participants until 2012, but little detail has been provided at this stage and exactly what will become of our projects and LMS beyond 2012 remains uncertain. We have also been advised that GHF will be abandoned. The Landfill Gas Industry does not meet the current proposed requirements for strongly affected industries as set out in the White Paper and is therefore currently ineligible for compensation due to the fact that we are large abaters rather than large emitters.

It seems extremely ill-balanced to compensate large coal-fired electricity generators that have been polluting the environment for decades and not compensate the Landfill Gas Industry which

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has been actively achieving carbon reductions by abating multi millions of tonnes of carbon pollution each year.

We ask the Senate Select Committee to ensure that early movers such as LMS are not severely disadvantaged in spite of having proactively reduced Australia's carbon emissions via projects registered under GGAS or other schemes. It would be a perverse outcome if Landfill Gas Industry operators are now penalised under the CPRS despite their having pioneered early action on emissions reductions, while the coal industry is compensated at public expense.

## **CPRS ISSUES**

### **Offsets**

Offsets are a major issue for LMS as they have driven investment and emission reduction in Australia thus far but have been specifically excluded from the CPRS.

LMS agrees with maximising international alignment for the scheme, but it is difficult to understand why an offset created overseas, such as a CDM credit from Asia, will be allowed into the CPRS when an identical Kyoto-compliant offset created from an uncovered source in Australia will be ineligible. Surely the Australian Government should be promoting carbon abatement that drives investment and job creation in Australia, especially in the current economic climate.

The Federal Government has faced a barrage of concern about the threat of 'carbon leakage' where large emitters move overseas to avoid costs. Yet the current CPRS design risks promoting 'reverse carbon leakage' where large abaters are pushed overseas and the associated jobs and taxes move with them. LMS has been under great pressure over a number of years to develop projects overseas rather than pursue prospects here in Australia. Now Australian projects and companies such as LMS will have substantially reduced returns due to the loss of offset income from GGAS and GHF and may be forced to abandon plans here and look overseas.

An alternative would be to allow the creation of offsets from emissions captured at landfill facilities under a 25kt CO<sub>2</sub>-e threshold and from legacy waste. That could then subsequently be traded into the CPRS as a permit equivalent, as the various international permits can.

This type of arrangement would not be difficult to administer as there are already well designed schemes available, NSW GGAS, Greenhouse Friendly and CDM. The methodologies, registry requirements and so on already predominantly exist within GGAS and could be relatively easily transferred to Canberra.

It would provide an incentive to capture the gas emitted from older waste and smaller sites without placing additional burden on ratepayers. It would also be in line with the Government's stated position of lowest cost abatement.

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### **Coverage and measurement**

The measurement of emissions produced in the Waste sector cannot effectively be 'measured and verified at reasonable cost and with reasonable accuracy'.

The calculation of emissions from waste is anything but an exact science. This difficulty in measurement is why the Garnaut Climate Change Review (2008) suggested that waste not be included in the CPRS and the reason that waste has not been included in other emissions trading schemes around the world.

It is not included in the EU ETS and is not slated to be included in the post 2012 commitments. The EC report into the *Inclusion of Additional Activities and Gases into the EU-Emissions Trading Scheme (2006)* states regarding landfills 'Monitorability is low, mainly due to the high uncertainty in emission determination'.

The LETS Update Report (*Environment Agency 2006*) provides a shortlist of criteria for assessing whether a sector should be included in the EU-ETS. The Waste sector does not meet these criteria in Europe or in Australia and if the Government intends to link the CPRS with international schemes such as the EU ETS then compatibility and equality between the schemes should be a major consideration.

Measurement technology and accuracy is improving but it is very expensive and the alternative modeling techniques provided in the White Paper and NGER appear inconsistent with the measured data. Therefore the inclusion of the Waste sector in the CPRS and the methods of estimation proposed will cause considerable technical difficulties, come at a considerable cost to the community, and may cause perverse environmental outcomes.

### **Thresholds**

The CPRS legislation indicates that the emissions threshold for scheme participation for the Waste sector will be reduced from 25kt CO<sub>2</sub>-e to 10kt CO<sub>2</sub>-e where another facility is located within the region. This is a considerable reduction and it would seem unfair that one sector should be singled out for a lower threshold over all others.

In LMS's experience a landfill site emitting 25kt or less would be a relatively small regional site typically run by a local Council. These small regional sites generally do not have gas extraction infrastructure and would therefore require considerable capital expenditure to upgrade the facility and then incur ongoing operational costs. The administrative costs associated with measurement and reporting would also be high.

A DCC Discussion Paper indicates that the reduction of the threshold would likely double the number of sites covered under the scheme with a minimal reduction to overall emissions. The reduction of the threshold would therefore place a considerable additional burden on regional Australian ratepayers for a minimal gain.

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Waste diversion is raised as an issue in the Discussion Paper. However, this appears to have been raised by a small interest group within the waste industry and appears to have little support in the broader industry. The current legislation also favours some technologies over others with some waste treatment facilities being subject to lower thresholds than others. Many landfills will have a lower threshold than alternatives but with little or no scientific evidence to back the assumed environmental benefits from these alternatives that come at a considerable additional cost to local Australian ratepayers.

Thresholds should be the same for all industries and all participants.

The best way to address emissions below the threshold is to allow offsets to be created. It has been proven through existing schemes that the ability to create offsets will drive the capture of these emissions by the private sector. As noted, most of these sites are owned by Councils and a commercial incentive from permit or offset creation will transfer the burden of gas capture and disposal from local ratepayers to private enterprise.

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#### List of References

Department of Climate Change (2008a), *Carbon Pollution Reduction Scheme Green Paper*, Canberra, Available <http://www.climatechange.gov.au>

Department of Climate Change (2008b), *Waste Sector Greenhouse Gas Emissions Projections 2007*, Canberra, Available <http://www.climatechange.gov.au>

Department of Climate Change (2008c), *Carbon Pollution Reduction Scheme, Consultation Meeting – Discussion Paper: Coverage of Landfill Emissions, August 2008*, Canberra

Department of Environment and Heritage (2005f), *Waste Sector Greenhouse Gas Emissions Projections 2005*, Canberra, Referenced from Productivity Commission (2006).

Environment Agency (2006), *LETS Update: Decision Makers Summary*, Bristol, Available: <http://www.environment-agency.gov.uk>, Accessed 16<sup>th</sup> April 2008.

European Commission Directorate General for Environment (2006), *Inclusion of additional activities and gases into the EU-Emissions Trading Scheme*, Available: <http://ec.europa.eu>, Accessed 16<sup>th</sup> April 2008.

Garnaut Climate Change Review, Emissions Trading Scheme Discussion Paper, March 2008

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