

6 May 2008

Dr David Hemming
Greenhouse Gas Reduction Scheme Transition Review
Department of Water and Energy
GPO Box 3889
SYDNEY NSW 2000

Email: ggastransition@dwe.nsw.gov.au

Dear Dr Hemming

Transitional arrangements for the NSW Greenhouse Gas Reduction Scheme – Consultation Paper

The NSW Minerals Council (NSWMC) welcomes the opportunity to comment on the Department of Water and Energy's Consultation Paper *Transitional arrangements for the NSW Greenhouse Gas Reduction Scheme* (the Paper), dated April 2008.

NSWMC commends the NSW Government's early action in enacting the NSW Greenhouse Gas Reduction Scheme (GGAS), one of the first mandatory greenhouse gas emissions trading scheme in the world. The NSW mining industry strongly supports the GGAS and has made significant investment in abatement activities primarily through the abatement of coal seam methane emissions by power generation and flaring. It is crucial that this early action is not penalised in the transition to a National Emissions Trading Scheme (NETS).

NSWMC supports the proposed objectives of the transition plan as outlined in the Consultation Paper: effectiveness in reducing greenhouse gas emissions, efficiency, fairness and regulatory certainty and confidence in carbon markets. NSWMC strongly believes that these objectives will only be achieved if the following key principles are achieved in the transition process:

1. No net loss for scheme participants

There is a reasonable expectation by the mining industry that existing or new projects would not be worse off under any future policy framework proposed by the Government to reduce greenhouse gas (GHG) emissions. While the Paper identifies that different timeframes apply to different projects (Section 4.1), the timing of a project's implementation does not alter the reliance on the clear long term policy direction of the NSW Government to reduce GHG emissions.

NSWMC strongly believes that an underlying principle of the transitional arrangements must be that there is no net loss for Scheme participants, particularly given the environmental benefits gain through the abatement activity. This will ensure that early abatement is not penalised and will encourage ongoing abatement activity. This principle must apply regardless of whether the activity generates NSW Greenhouse Abatement Certificates (NGACs) or Large User Abatement Certificates (LUACs).

The Government must publicly and expressly commit to ensuring the principle of no net loss as soon as possible. This will provide investors with ongoing confidence to ensure continued investment in GHG reduction activities. In the past year, there has been a significant collapse in the NGAC market due to the uncertainty introduced by an impending NETS. It is important that investor confidence is restored and not further eroded.



2. Full compensation for existing property rights

Holders of unused abatement certificates, both NGACs and LUACs, at the cessation of GGAS must be provided with the certainty that their property rights will be preserved. This is important to promote investor confidence and sustain the credibility and integrity of the GGAS in the remaining years of the scheme.

3. Tonne for tonne credit

The calculation of the exchange of credits from GGAS to NETS must be on the actual tonnes of abatement, not on carbon price differentials (if any) between the two schemes. This will provide certainty for participants and achieve some simplicity in the transition process.

4. Simplicity

Any transitional arrangements need to be easy to understand and apply for GGAS participants particularly given the current complexities with the administration of GGAS and uncertainties surrounding a NETS.

The attached submission raises further specific comments on the Consultation Paper. We welcome ongoing engagement in relation to this issue. For further information please contact Rachelle Benbow, Deputy Director Environment & Community on 02 9274 1423 or rbenbow@nswmin.com.au.

Yours sincerely



Dr Nicole B. Williams
CHIEF EXECUTIVE OFFICER



NSWMC Submission on the Consultation Paper *Transitional arrangements for the NSW Greenhouse Gas Reduction Scheme*

NSWMC provides the following comments relating to specific sections of the Consultation Paper.

Transitional Timeframe (Section 4.1)

It is important that the transitional timeframe does not have a perverse incentive of reducing greenhouse gas reduction activity in the short-to-medium term. NSWMC does not support the view that transitional arrangements only need to be considered for the period between 2010 and 2012. The extension of the Scheme by the NSW Government in 2006, with the following commitment, provided a clear signal to business that investments in reducing GHG emissions would be considered well into the future:

“...the NSW Government decided to extend the Greenhouse Gas Abatement Scheme from 2012 to 2020 and beyond or until a national emissions trading scheme is established. The Government has also committed to NSW economy-wide targets to reduce greenhouse gas emissions over next 20 years and by 2050.”¹

NSWMC believes that it is a reasonable expectation of investors that revenue, from GGAS or an alternative policy mechanism, such as a NETS, would be provided into the future on the basis that the Government policy would continue to provide ongoing incentives for greenhouse gas reductions. Therefore, the principle of no net loss must be applied to existing GGAS participants and those projects that have been committed to.

Waste coal mine methane generators and landfill gas (or other waste methane) (Section 4.2.2)

Although there is uncertainty about whether coal seam methane will be covered under the NETS, the objective for any transitional options must be to ensure that the generator is not disproportionately disadvantaged in the transition to NETS. NSWMC supports the proposed calculation of ‘disproportionate loss of value’ in 4.2.1 of the Consultation Paper being applied to coal mine methane generators. This methodology must apply to all projects, investments or contracts made in good faith in consideration of the GGAS.

If waste coal mine methane is not covered at the start of the NETS, the option of including the generation of offsets would be an acceptable transitional arrangement.

Category A generation (Section 4.2.3)

Under the Category A generation rule, there are current projects implemented by the NSW minerals industry where the value created by the abatement activity is claimed by a “deemed retailer” rather than the generator. In the transition to the NETS, the point of obligation or liability will transfer from the electricity retailer to the emitter of greenhouse gases. It is critical that with this changed liability for emissions, the potential to offset this liability either through NGAC’s or permits should be made available to the emitter.

Large user abatement certificates (LUACs) (Section 4.2.5)

It is unclear whether coal mining will be considered a trade exposed emissions intensive (TEEI) industry under the NETS. NSWMC believes it is crucial that the transitional arrangements include options that ensure the four objectives of the transition plan are met in the situation where coal mining is not considered a TEEI.

The fact that LUACs are non-transferable is irrelevant leading into a NETS. The NSW minerals industry requires certainty in relation to the property rights of unused abatement certificates, which must be preserved. The creation of a LUAC still delivers an environmental benefit of a reduction of greenhouse gas emissions. In order to achieve the objective of fairness, LUACs should be treated the same as NGACs in the transition process.

¹ NSW Department of Energy, Utilities and Sustainability’s Extending the NSW Greenhouse Gas Abatement Scheme, Draft Policy Paper 2006.



NSWMC believes the transitional option referenced in response to section 4.2.2 (see above), in relation to coal mine methane generators should apply to the transitioning of LUACs to a NETS to ensure equity among GGAS participants.

Unused Abatement Certificates (Section 4.3)

Holders of unused abatement certificates, including LUACS, at the cessation of GGAS must be provided with the certainty that their property rights will be preserved. This is important to promote investor confidence and sustain the credibility and integrity of the GGAS in the remaining years of the scheme.

The exchange of abatement certificates must be done on a tonne for tonne basis rather than on the price difference, if any, of carbon between GGAS and the NETS. This principle must apply to all GGAS participants. This will ensure some simplicity in an otherwise complex transition process.

New accreditations (Section 4.4)

NSWMC believes that the transitional arrangements need to provide incentives for projects that deliver GHG reductions. Clear arrangements need to be set out, however the proposed cut off date of 1 September 2008 is unreasonable considering the transitional arrangements are yet to be finalised.

Other Issues (Section 4.6)

Transitional and Compliance Costs of NETS

Another aspect of concern is both the transitional costs associated with a potential move to a NETS and ongoing compliance costs within the proposed scheme for existing GGAS participants. For those projects which will potentially straddle the two schemes transitional costs are an unknown and ongoing compliance costs are potentially duplicated. Streamlined administrative arrangements must be a consideration of any transitional arrangements to ensure GGAS participants are not penalised for involvement in early adoption programs.

