LOCAL GOVERNMENT NSW

Draft

LGNSW Submission on the Clean Air for NSW Consultation Paper

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Opening

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general-purpose councils, associate members including special-purpose county councils, and the NSW Aboriginal Land Council. LGNSW facilitates the development of an effective community based system of local government in the State.

LGNSW welcomes the opportunity to make a submission on the Clean Air for NSW Consultation Paper, particularly given local government's role as a regulator and planning authority which has influence on many of the goals and actions proposed.

LGNSW also appreciates the extension given (from the original closing date of 20 January 2017), in light of the large number of reform proposals out for comment over the December/January period. Please note that in order to meet the revised due date of 17 February 2017, this submission is provided in draft form in anticipation of the LGNSW Board approval. LGNSW will advise the EPA of any amendments to the submission at that time.

Response

The Clean Air for NSW Consultation paper presents a proposed approach and actions to improve air quality. Overall, the actions and areas for further attention are appropriate, however we consider that some of the actions could be strengthened. Comments on specific actions proposed in the consultation paper follow.

Strengthening and better targeting the Load Based Licensing (LBL) Scheme

LGNSW made a submission to the LBL Review issues paper late in 2016. The submission highlighted that sewerage processing/treatment is the only category of licence held by councils (i.e. sewerage treatment plants (STPs) operated by councils' local water utilities) that is subject to LBL, and only a subset of these 220 licences actually trigger LBL.

Although councils are not subject to LBL for air emissions under the existing scheme design, we appreciate that LBL has a part to play in encouraging emissions reduction. Strengthening the LBL scheme to better target the air quality pollutants of greatest concern is supported, providing the rationale and pricing is transparent.

Managing dust emissions in the Hunter rail corridor

LGNSW has previously raised concerns on behalf of our members regarding ongoing issues with uncovered loads and rail-related coal dust in the Hunter Valley. In 2013, the EPA advised that an Australian Rail Track Corporation report on whether coal trains emitted more particle pollution than other trains was to be independently reviewed with respect to the statistical analysis used. We understand that a preliminary review occurred and in September 2015 the Minister for the Environment initiated an independent review of rail coal dust emissions in the NSW coal chain.

The Chief Scientist and Engineer's report, released in August 2016, makes recommendations but has still not provided a definitive answer on the question of rail coal dust emissions. The report stated that further targeted studies are needed to better understand the distribution of particles along rail corridors:

> *"Current studies suggest that an average of 10% of the deposited dust found in or near the rail corridor is attributable to coal, but much more information is needed."* (Executive summary, pp iv)

The Review report went on to say:

> *"The Review is unable to make a formal determination on specific mitigation techniques because there is not enough known about the amount and distribution of particulates in the rail corridor and thus no reference point against which to assess mitigation effectiveness. That said, there is a significant body of literature pointing to moisture as a major factor in reducing dust mobilisation at various components of the coal chain (including for coal trains)."*

The precautionary principle suggests that we should not delay the adoption of dampening measures for coal dust emissions from trains. We strongly suggest that some form of dampening measures be required of coal trains as an interim measure (where they do not currently exist).

The Review makes recommendations on the data collection and analysis required to understand the scope of the problem, however no timeframes are included. Clean Air for NSW currently states that the EPA and OEH in consultation with the Interagency Taskforce on Air Quality in NSW will "consider and act on the recommendations". We strongly suggest Clean Air for NSW outline timeframes for this work be undertaken.

Reducing transport, engine and fuel emissions

A proposed goal in this section is to develop a NSW Electric Vehicle Strategy, which examines the policies and incentives that could be adopted by the NSW Government to increase the uptake of electric vehicles.

LGNSW supports the NSW Government being clear on its policies and options to implement the use of electric cars in urban areas and their ultimate integration into the energy usage of the State and its households. Local government would benefit from a clearly-defined path for the spread of electric cars and the associated infrastructure, so that this can be planned for. Convenience and access to charging stations are a significant factor influencing uptake.

Consideration could also be given to promoting electric-powered small plant equipment such as mowers, leaf blowers and other small plant such as street sweepers. Increasing product availability and providing incentives should help drive the market in this area.

Another proposed goal in this section is to investigate a mandatory emission performance standards policy for motor vehicles operated by or under NSW Government service contracts.

Councils have been reviewing their fleet purchase/management practices for some time now. For example, Blacktown City Council has been proactive in introducing many sustainable initiatives in energy and fleet management to reduce emissions. These include making changes to its fleet makeup through the installation of catalytic convertors and the addition of hybrids and low emission diesels. In 2008 Council adopted the use of alternate fuels and now B20 (20% biodiesel blend), Ethanol blend E10, and CNG (Compressed Natural Gas) are used throughout the fleet. Lake Macquarie City Council and City of Sydney Council are other councils that have also adopted fleet management policies and practices to minimise emissions and to adopt electric vehicles where appropriate.

Minimising non-road diesel emissions

The Consultation Paper states that the EPA is developing a Diesel and Marine Emissions Management Strategy, which investigates requirements for best practice emissions management measures for non-road diesel equipment and locomotives, including potential regulation of emission standards.

LGNSW notes that *The Protection of the Environment Operations (Clean Air) Regulation* 2010 was amended in 2015 to reduce the sulfur content of fuel used by cruise ships in Sydney Harbour. However, this became inoperative when the Commonwealth Government assented to amendments to the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* in December 2015.

LGNSW urges the NSW Government to seek agreement with the Commonwealth Government to enable the operation of the NSW low sulfur fuel requirements. LGNSW also supports best practice requirements for emissions management for marine diesel emissions including shipping, recreational boating and cruise ships.

Extension of Vapour Recovery to regional centres

LGNSW notes that the Consultation Paper proposes to investigate the fuel distribution network and analyse evidence on the benefits of extending requirements to install vapour recovery equipment at fuel depots and new or upgraded petrol stations to regional centres.

Responsibility for regulating vapour recovery requirements under the *Clean Air Regulation 2010* was transitioned to local government on 31 January 2017. Stage 1 and 2 vapour recovery requirements only apply to the greater metropolitan region. With support from the EPA, councils in the relevant region are coming up to speed on their regulatory role with respect to vapour recovery.

LGNSW supports *consideration* being given to extending the vapour recovery requirements to regional centres. However this should also include information gained from the metropolitan roll out regarding the air quality benefits that can be achieved, and the costs to the industry and regulators (councils) of implementation. The merits of the proposal need to stack up.

While LGNSW acknowledges that councils are already the appropriate regulatory authority under the Protection of the Environment Operations Act for service stations, the addition of vapour recovery requirements in regional centres increases the regulatory burden for those regional councils. We refer you to the first recommendation in IPART's draft report on *Review of reporting and compliance burdens on Local Government*, which would require state agencies to do the following (amongst other things) when proposing new regulation:

- consider the costs and benefits of regulatory options on local government, and
- assess the capacity and capability of local government to administer and implement the proposed responsibilities.

Wood smoke reduction

Clean Air for NSW proposes a goal to 'reduce exposure to fine particle pollution from domestic wood heaters'. An action to achieve this goal is to update the Clean Air Regulation to adopt the updated Australian/New Zealand Standards for new wood heaters.

LGNSW supports the adoption of the updated Standard (AS/NZS 4013) which was revised in August 2014, providing a staged approach to setting particle emission and thermal efficiency limits for wood heaters:

- 55 per cent efficiency limit and 2.5 grams of particle emission per kilogram of fuel burnt g/kg) by August 2015;
- 60 per cent efficiency and 1.5 g/kg (0.8g/kg for catalytic heaters) by August 2019.

While this was a significant step from the particle emissions of 4.0 g/kg allowed before the revised Standard, our members called for a reduction in emission limits to no more than 1.0 g/kg at the LGNSW 2014 Annual Conference. We urge the NSW Government to lobby at the national level to adopt a lower emission limit as part of the Standard as soon as possible.

To achieve the wood smoke goal above, the EPA also proposes to investigate further improvements to the wood heater regulatory framework, including education, training and replacement programs. It does not, however, propose to take action on the use of fire for cooking and recreational purposes such as for outdoor pizzas ovens and barbeques on the basis this is “already regulated appropriately under environmental legislation”.

We note that the regulatory provisions exist, however it can be quite difficult to use these to regulate emissions from outdoor wood ovens and chimineas, for example, yet these can create localised air pollution and trigger neighbour disputes in the same way as wood heaters.

In 2014 LGNSW wrote to the Minister for the Environment suggesting that the definition of excessive smoke in the *Protection of the Environment Operations Act 1997* be amended to ‘any visible smoke at any time, except during the 10 minutes immediately after lighting or reloading.’ This removes the reference to ‘visible smoke from a chimney’ from the existing definition, thereby better enabling other forms of wood smoke generation to be regulated. LGNSW also suggests that Clean Air for NSW include a community education campaign on smoke-generating activities more broadly.

Co-benefit actions

A stated goal of the Consultation Paper is to promote more productive use of energy in the transport sector which could also lead to local air quality benefits. LGNSW suggests that this goal be widened to include stationary energy as renewable energy sources and efficient use of electricity will also achieve air quality benefits.

Increasing use of public transport, as proposed, or pooling private transport is also supported. The NSW Government can show leadership by setting targets to move to a 100% electric fleet.

Other comments

LGNSW supports the key point in the ‘Sharing Responsibility’ section to support local government and community actions to improve air quality at a local and regional level. Also supported are the actions proposed to engage and empower stakeholders including hosting a Clean Air Summit, engaging early and communicating results, enhancing and expanding engagement tools and exploring innovative best practice engagement approaches. Working with and providing examples of innovative solutions by local government to local government, for example, is a good way to help councils to gather internal support for moving beyond the norm.

Conclusion

LGNSW welcomes the actions proposed in the Clean Air for NSW Consultation Paper, and recommends further strengthening of specific actions as outlined in this submission. In particular, we urge immediate action on coal dust in rail corridors, and minimising non-road diesel emissions (in the marine context). Improvements can also be made in relation to wood smoke, and the NSW Government continuing to show leadership and provide incentives in the use of public and active transport.

We would be pleased to discuss the issues raised in this submission. Please contact Susy Cenedese at LGNSW on 9242 4080 or susy.cenedese@lgnsw.org.au