



Update on the National Greenhouse and Energy Reporting (NGER) Act and Applicability to Local Government

December 2009

What is NGER?

The National Greenhouse and Energy Reporting (NGER) Act 2007, and its subordinate legislation, “establishes a national framework for mandatory reporting by corporations of their energy production, energy use, and greenhouse gas emissions”. Under the Act, approximately 70% of Australia’s emissions will be reported to the Greenhouse Energy Data Office in the Department of Climate Change (DCC) beginning in the 2008/09 financial year. Data collected will inform government policies and activities relating to energy and climate change, assist in meeting international emissions and energy reporting obligations and provide information for the proposed Carbon Pollution Reduction Scheme (CPRS).

What is the CPRS?

The Carbon Pollution Reduction Scheme (CPRS) is the emissions trading scheme proposed by the Australian Government and released as a white paper in December 2008 with the aim of reducing Australia’s greenhouse gas emissions. Under the scheme, large emitters of greenhouse gases (GHG) will have to purchase and surrender a permit for every tonne of GHG they emit. The monitoring and collation of GHG emissions data will be done via the NGER reporting framework.

What is a GHG?

Greenhouse gases (GHG) are gases that increase the atmosphere’s capacity to hold heat, and under the definitions of the CPRS include all six Kyoto Protocol gases: carbon dioxide, methane, nitrous oxide, sulphur hexafluoride, hydrofluorocarbons and perfluorocarbons. All GHG are reported as carbon dioxide equivalents (CO₂-e) to standardise the heating effect of each gas. GHG emissions that have to be reported under the NGER Act are those released by fuel consumption (and production), industrial processes and waste decomposition. GHG emissions from agriculture and land use are not counted at this stage. Both Scope 1 (direct emissions e.g. from petrol used in corporate cars, natural gas in heaters, organic breakdown in landfills) AND Scope 2 emissions (indirect emissions that result from the use of electricity, heat, cooling or steam that is generated elsewhere e.g. at a power plant) need to be recorded.

Does my organisation have to report GHG emissions under the NGER Act?

According to Local Governments for Sustainability briefing paper release in May 2009, “only a small number of local governments are currently likely to meet the participation requirements of the NGER Act. This is because most councils are not likely to be considered constitutional corporations, and only very large councils (with a population of at least several hundred thousand residents), or councils that have operational control of landfills or water and sewage services, are likely to meet the emissions thresholds”. Follow the attached flow chart to determine if your organisation meets the requirements for NGER reporting (Figure 1). There are a few key areas that may affect councils and these are summarised below:

1. Street Lighting

In most cases councils do not have operational control over street lighting. Of those that do, only councils that provide street lighting to a population of approximately half a million residents would use enough electricity to meet the Scope 2 energy thresholds (estimate by the Cities for Climate Protection program). The Scope 1 emissions released in the generation of the electricity are the responsibility of the power generating company.

Currently the purchase of GreenPower does not count as a GHG emissions offset – all purchased electricity is considered to be fossil fuel derived grid electricity.

2. Municipal Waste

Landfill generates methane during the process of organic matter decomposition (Scope 1 emission). If a council owns and operates a landfill, they are responsible for reporting all the emissions from the landfill, regardless of the source of the waste. If a council sends waste to a facility not owned or operated by them, they do not have to report emissions. Where a council has arrangements with a third party (e.g. a contractor who manages and operates the landfill or a third party who owns and operates gas capture equipment), councils should seek legal advice to determine if they are the controlling corporation.

Scope 1 GHG emissions from landfill vary depending on the content, age, quantity and management of the waste, and other factors such as the climate, so councils need to determine emissions on a case-by-case base. The DCC provides a Solid Waste Emissions Calculator on their website. Only Scope 1 and 2 GHG emissions from currently operating landfill are counted under the NDER Act.

Under the CPRS only Scope 1 emissions from landfill facilities will be counted. “Legacy emissions” from the decomposition of waste disposed prior to 1 July 2008 will count towards GHG thresholds but will be exempt from requiring permits until 2018. However, a lower threshold of 10 kilotonnes (down from 25 kilotonnes) of emissions will apply to landfill sites within a distance yet to be defined from another land fill facility.

3. Water supply and sewerage services

Under the NGER Act (Regulation 2.20), an activity or series of activities covered under “water supply, sewage and drainage services” that are under the operational control of a single corporation and have some inter-connectivity are considered to be single network-type facility and Scope 1 and 2 GHG emissions from such would need to be reported. Where contractual arrangements with a third party exist councils should seek legal advice to determine if they are the controlling corporation.

Both Scope 1 (methane and nitrous oxide) emissions generated from wastewater treatment, sludge treatment, and released effluent post-treatment AND Scope 2 emissions (from the use of electricity and other fuels used in running the facility) need to be counted under the NGER Act. Again, emissions need to be calculated on a case-by-case basis. Under the proposed CPRS only Scope 1 emissions will be considered.

4. Other

Current differences between the proposed CPRS and the current NGER Act mean that more councils may need to report their emissions once the CPRS is introduced in July 2011. Currently the CPRS applies to all entities (persons including local government and not just constitutional corporations) that exceed the 25 kilotonnes of Scope 1 (not Scope 2) GHG emissions per year. See table 1 for a comparison of the two schemes.

It is recommended that councils document GHG emissions calculations and decision making processes in case they are required to undergo a NGER-compliance audit. Councils that may need to report in the future under the CPRS are encouraged to implement data collection and relevant information management systems. Councils that currently do not meet the criteria for reporting under the NGER Act cannot report voluntarily but may need to report under the proposed CPRS once it is introduced.

Table 1: Key differences between the current NGER Act and proposed CPRS (Source: ICLEI)

Element	NGER Act (current)	CPRS (proposed)
Effective from	1 July 2008	1 July 2011
Entities covered	Constitutional corporations	Any entity that meet the thresholds
Emissions covered	Scope 1 and 2	Scope 1 emissions only
Facility thresholds	Emissions: 25 kt CO ₂ -e Energy: 100 TJ	Emissions: 25 kt CO ₂ -e and 10kt CO ₂ -e for landfill
Landfills	Operating landfills	All landfills operating since 30 June 2008

Reporting arrangements

For those councils that do have to report under the NGER Act they should have registered with the DCC by 31 August 2009 using the NGER reporting tool (www.climatechange.gov.au/reporting/register/) and submitted a report for the 2008/09 financial year by 31 October 2009 using the Online System for Comprehensive Activity Reporting (OSCAR).

If a council is unsure if it constitutes a “constitutional corporation” under the NGER Act it should seek legal advice. Failure to comply with the Act will lead to penalties.

Further information on the NGER Act:

DCC website at: www.climatechange.gov.au/reporting

Chapter 1: Determining Participation” in the *National Greenhouse and Energy Reporting Guidelines*, DCC, 2008: www.climatechange.gov.au/reporting/guidelines/pubs/ngerreporting-guidelines-aug08.pdf

Further information on the CPRS:

www.climatechange.gov.au/emissionstrading/

Chapter 1: Amendments to the National Greenhouse and Energy Reporting Act 2007” in the *Commentary on the draft CPRS (Consequential Amendments) Bill 2009*, DCC 2009: www.climatechange.gov.au/emissionstrading/legislation/pubs/commentary_consequential_amendments.doc

Calculators for working out GHG emissions under the NGER Act:

www.climatechange.gov.au/reporting/calculator/

Figure 1: Flow chart of the key criteria required for reporting under the NGER Act.

