

15 November 2007

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Dear Sir

**Energy Developments Limited (EDL)  
EDL Submission on the National Greenhouse and Energy Reporting System  
Regulations Discussion Paper (Discussion Paper)**

EDL thanks the Greenhouse and Energy Reporting Taskforce for the opportunity to comment on the Discussion Paper.

**EDL's Background**

By way of background, EDL is an international provider of independent, renewable and low greenhouse gas (**GHG**) emission energy. EDL operates in Australia, the United Kingdom, Europe and the United States, providing services in four main areas of power generation and associated energy solutions:

- Landfill gas (**LFG**) power;
- Coal mine methane (**CMM**) power;
- Remote area power; and
- Liquefied natural gas (**LNG**) and compressed natural gas (**CNG**) power.

EDL owns 64 power generation facilities internationally and, as at 30 June 2007, the Company had a total installed generation capacity of 485 MW. EDL is one of Australia's largest carbon abaters, capturing and utilising approximately 8.5 million tonnes of GHG CO<sub>2</sub> equivalent from its LFG and CMM power generation projects around the world in the financial year ended 30 June 2007.

EDL generates revenue from:

- Providing and selling low emission electricity to direct customers such as large energy retailers and mining companies;
- Generating and selling environmental credits in international, national and state based schemes; and
- Managing LFG related infrastructure on behalf of landfill owners.



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As of 30 June 2007, EDL's Australian operations had a total installed capacity of approximately 327 MW. This total installed capacity is expected to increase to 400MW by December 2007 with the progressive delivery of the predominantly LNG fuelled West Kimberley Power Project in Western Australia.

EDL's Australian customers are typically large 'blue chip' public companies and corporatised government bodies such as state-based energy retailers and landfill owners.

### **EDL's Discussion Paper Submission**

EDL's submission on the Discussion Paper is set out below, following the Discussion Paper headings and "questions for feedback" numbering as applicable.

In summary, EDL's main submission and area of concern in relation to the Discussion Paper subject matter is that companies such as EDL which operate infrastructure to use GHG as fuel for electricity generation on closed sites (eg a closed landfill or closed coal mine where GHG emissions continue after the site is closed) should not be treated as being responsible for the GHG site emissions.

## **Discussion Paper Chapter 2 – Interpreting the legislation**

### **1. Do participants in joint ventures and partnerships support the proposed process for nomination and revocation of nominations of entities responsible for joint ventures and partnerships?**

EDL does not consider the proposed nomination and revocation of nominations of entities responsible for joint ventures and partnerships to be adequate.

The process proposed is similar to that outlined in s2.3 - s2.5 of the Energy Efficiency Opportunities Regulations 2006 and is contingent on the agreement of all parties in the case of both nomination and revocation. Further, where a responsible entity does not nominate, then all joint venture participants will be considered to be responsible entities and will therefore have to report. Accordingly, where there is no agreement, the implication is that all parties will be required to report.

EDL operates a number of energy generation facilities on 'closed' sites: eg where EDL operates on landfill sites where the landfill owner no longer carries out the activities for which the site was originally purchased, but where fugitive emissions generated as a consequence of those original activities continue to be created. The same issue may apply in the future for coal mine based sites where EDL produces CMM power, should the coal mine be suspended or closed, but fugitive emissions continue, and are continued to be used in producing CMM power. In such instances disagreement may arise as to who should be nominated for reporting to the Greenhouse and Energy Data Officer (**GEDO**).

### **EDL's proposal:**

EDL proposes that, where disputes arise in the nomination or revocation of nomination for the purpose of reporting to the GEDO, the GEDO fulfil a similar function to those described under s54 and s55 of the Act.

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EDL further proposes that, in the case of a dispute, nomination should default to those parties whose activities (in the present, past or future) resulted in the actual generation of emissions or who were initially responsible for, owned or had the rights to the emissions (eg landfill operator, coal mine leaseholder).

**2. Are there other items that should be included in the process for nomination and revocation of nominations?**

EDL proposes that additional items ought be included in the process for nomination and revocation of nominations.

As described in Item 1 above, EDL operates energy generation facilities on closed sites owned by another party. In such instances EDL does not consider that EDL is or ought be responsible for the generation or reporting of the fugitive gases resulting from the activities of that party or for which that party is or was properly responsible. In contrast, EDL does consider that EDL is responsible for the generation and reporting of energy generated at that site from the relevant GHG fuel and of the emissions associated with the energy generated (eg generator set exhaust CO<sub>2</sub>).

**EDL's proposal:**

EDL proposes that, where disputes arise in the nomination or revocation of nomination for the purpose of reporting to the GEDO, the GEDO fulfil a similar function to those described under s54 and s55 of the Act.

EDL further proposes that, in the case of a dispute, nomination should default to those parties whose activities (in the present, past or future) resulted in the actual generation of emissions or who were initially responsible for, owned or had the rights to the emissions (eg landfill operator, coal mine leaseholder).

**3. Has the nomination process under the Energy Efficiency Opportunities Regulations 2006 been effective without providing undue administrative burden?**

EDL is not aware of difficulties associated with the nomination process under the Energy Efficiency Opportunities Regulations 2006.

**4. Does the proposed level of industry sector classifications provide an appropriate balance between the need for detail and administrative burden?**

In using ANZSIC codes, EDL does not consider reporting under the Subdivision (2 digit) level to be adequate.

EDL's observation is that the lack of clarity in the sectoral definitions (including variations in the definition of combustion installation) used in data collection for the European Union Emissions Trading Scheme (**EU ETS**) has negatively impacted on the design of the caps during phase 1 of the EU ETS, and that this has been shown to have contributed to the over-allocation and the price volatility observed in relation to the EU ETS<sup>1</sup>.

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<sup>1</sup> Betz, R. and Sato, M. (2006), "Emissions trading: lessons learnt from the 1st phase of the EU ETS and prospects for the 2nd phase" in *Climate Policy* 6: 351–359; and Point Carbon (2006), *Carbon 2006 Towards a truly global market*, Hasselknippe, H. and K. Røine: 60. <http://www.pointcarbon.com/> [accessed 12.4.07]

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Given that the ANZSIC classification headings will be utilised in gaining access to accurate emissions and energy reporting for the proposed Australian Emissions Trading Scheme, greater transparency is sought in the ANZSIC codes selected.

EDL notes that one of the principal intentions of the National Greenhouse and Energy and Energy Reporting Act 2007 (**Act**) (at page 2) was the need for:

“A single streamlined national reporting point for greenhouse gas emissions and energy data to assist Commonwealth, State and Territory government programmes and activities.”

At present, electricity generation is however categorized at the Group (3 digit) level and does not distinguish between fossil and non-fossil-fuelled electricity generation, which have very different GHG intensities.

In determining policies for both fossil fuelled and low emissions or renewable electricity generation into the future, it can however be assumed that the government will require accurate and transparent data as to the energy and GHG generation intensities of these different types of electricity generators. In this regard, EDL submits that the Class (4 digit) level classification would be the most appropriate.

EDL also notes that section 9 of the Act defines a facility, in part, as an activity or activities attributable to no more than one industry sector. For this reason, proposals on use of ANZSIC classifications at different levels play a pivotal role in the definition of facilities.

#### **EDL's proposal:**

EDL proposes reporting under the ANZSIC classification headings at Group (3 digit) level in general but, for some Groups such as electricity generation, propose reporting at the Class (4 digit) level.

#### **5. Is the aggregation of the emissions of several small facilities for reporting purposes practical?**

EDL supports the proposed aggregation of emissions of several small facilities for reporting purposes.

#### **6. Is the proposed definition of facilities clear? If not, what would make it clearer?**

EDL supports, in principle, the proposed definition of facilities. However, EDL notes that this definition is dependent on the following definitions:

- A single undertaking/enterprise (as determined by the principal productive activity and attribution to a single location);
- Industry sectors (as determined by the ANZSIC classification codes and the levels of those codes used); and
- Activities associated with those sectors.

For dot points 1 and 3 above, clarification is sought as to the determination of principal, secondary and ancillary activities. This is further discussed in item 7 below.

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**7. Does the framework for determining the principal, secondary and ancillary activities provide sufficient guidance for industry? If not, why not? How could it be improved?**

EDL does not consider that the framework for determining the principal, secondary and ancillary activities provides sufficient guidance for industry.

The issues raised here are similar as for those discussed in items 1 and 2 above. At the time when a landfill site is receiving new waste, that act of waste collection would likely be the principal activity. However, under the current definition for a principal activity – an activity where value added exceeds that of any other activity carried out at the facility – the generation of power from LFG could then become the principal activity once the site closes or if the site is suspended.

**EDL's submission:**

Given the LFG emissions are however generated as a consequence of the initial activity, and the electricity generator provides a benefit to the landfill site in the sense that the electricity generator reduces the non-biogenic emissions of the landfill operator, EDL submits that it would be inappropriate for the electricity generator to be liable for those emissions or the reporting of these emissions.

The same point and submission applies in relation to coal mine based sites involving CMM power production, should the coal mine be suspended or closed, but fugitive emissions continue, and are continued to be used in producing CMM power.

**EDL's comment:**

EDL seeks clarification as to how a principal activity will be defined in situations where a LFG site is deemed to be closed: that is, where the added value of the waste collection that initially generated the emissions no longer exceeds that of electricity generation. The same comment applies in relation to CMM sites.

**8. For vertically integrated activities that occur across two or more ANSZIC Divisions, is distinguishing facilities for each Division workable from a corporate perspective?**

EDL does not foresee difficulties in distinguishing facilities for vertically integrated activities that occur across two or more ANSZIC Divisions

**9. Are there any difficulties with the proposals for reporting emissions from diffuse sources (transport, pipelines and transmission)?**

EDL does not foresee difficulties associated with the proposals for reporting emissions from diffuse sources.

## Discussion Paper Chapter 4 – Reporting obligations

**17. It is proposed that registered corporations may only be required to report data related to specific thresholds exceeded in a given reporting year – would this cause any confusion in relationship to reporting requirements?**

EDL does not foresee confusion arising in this regard.

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**18. Will the proposed process for nominating another person (e.g. contractor) to report information to the GEDO cause any problems with contractual arrangements?**

EDL does not foresee problems with the proposed process for nominating another person to report information to the GEDO in terms of contractual arrangements.

**19. Are there any reasons why reporting on energy production and consumption by fuel type and equipment type would be impractical?**

EDL considers reporting on energy production and consumption by fuel and equipment type to be impractical where reporting of activity and emissions data is disaggregated by equipment type. However, where reporting of equipment types is similar to that already in place for the National Pollution Inventory (NPI), that is where equipment types are reported separately to fuel combustion and emissions, such reporting is supported by EDL.

**EDL's comment:**

EDL supports reporting of energy production and consumption by fuel type. EDL supports separate reporting of equipment type that is qualitative in nature as already implemented under the NPI.

## Discussion Paper Chapter 6 – Disclosure of information

**20. Are there any concerns in relation to the proposed level at which a corporation's information will be published? If so, what are the concerns and why?**

EDL does not have concerns over the proposed level at which a corporation's information will be published.

**21. Are there any reasons why scope 1 and scope 2 GHG emissions of corporations should not be published separately?**

EDL supports the separate publication of scope 1 and scope 2 GHG emissions of corporations. The reasons for this are that:

- a) Data for scope 1 emissions only is required for the emissions trading scheme currently under discussion to commence in 2011. Accordingly accurate data for scope 1 is required separate to that of scope 2;
- b) Accurate data for scope 2 emissions is required to enable government in determining where and how electricity is being consumed. This knowledge is fundamental in enabling the design of future policy addressing energy efficiency efforts at the sectoral level.

**22. Is there any additional information that is being provided by corporations that should be published to ensure the objects of the legislation are met? If so, what and why is it needed?**

EDL support a scaled requirement for accuracy and quantity of information. Thus, those emitters whose energy consumption and/or energy and GHG generation and/or responsibility is greatest, should be required to report more information to a higher degree of accuracy

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than those whose energy consumption and/or energy and GHG generation is lowest.

**EDL's proposal:**

EDL proposes a scaled requirement for accuracy and quantity of information according to the degree of energy consumption and energy and GHG generation/responsibility.

**23. Are there any concerns in relation to the agencies that data can be disclosed to under s26 (1)?**

EDL does not have concerns in relation to the agencies that data can be disclosed to under s26 (1). However, EDL considers that data is made available should also be freely available to market participants: EDL takes the view that the unsatisfactory and undesirable price volatility observed in the EU ETS (and best avoided in an Australian Emissions Trading Scheme) was attributable to a lack of transparency and information disclosure in the market.

## Other areas where EDL seeks additional clarification

### **BIOGENIC EMISSIONS**

EDL understands that the International Panel on Climate Change considers the carbon dioxide generated from combusting LFG to be biogenic and part of the natural carbon cycle and therefore exclude this emissions source from national inventories.<sup>2</sup>

**EDL's comment:**

EDL seeks clarification as to whether or not emissions generated from the combustion of LFG that are biogenic in origin will be required to be reported.

### **REPORTING PERIODS**

Chapter 4, section vii of the Draft Regulation Impact Statement (**RIS**) proposed that:

“Companies would be required to submit reports once annually, with data divided into two blocks of six months covering the periods January-June and July-December...(and that).....The default reporting period would be the Australian financial year, although companies would be able to nominate a calendar year reporting period when they register as a reporting entity under the legislation.”

It is currently unclear as to whether the option to report on the calendar year or in two six monthly blocks is still available: the possible implication being that is that it is not.

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<sup>2</sup> Intergovernmental Panel on Climate Change. Greenhouse Gas Inventory Reference Manual: Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories, Vol. 3, Pg. 6.28, (Paris France 1997).

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Given that most other emissions trading schemes run on the calendar year, it is proposed that an Australian Emissions Trading Scheme (and the reporting that supports that scheme) should similarly operate on a calendar year basis. This would facilitate the fungibility of permits for different vintages and as a consequence, linkage between schemes.

**EDL's proposal:**

EDL propose that an Australian Emissions Trading Scheme (and the reporting that supports that scheme) should operate on a calendar year basis to facilitate linkage between schemes. At the very least, the reporting of data in six monthly blocks, as proposed in the RIS, should be mandatory.

Again, EDL thanks the Greenhouse and Energy Reporting Taskforce for the opportunity to comment on the Discussion Paper.

Please do not hesitate to contact us should you wish to discuss any aspects of our comments.

Yours faithfully

A handwritten signature in black ink, appearing to read 'G. Pritchard', with a long horizontal stroke extending to the right.

Greg Pritchard  
Finance Director  
Energy Developments Limited