

Australian Energy and Resources Update: January 2014

Welcome to our monthly update on Australian energy and resources-related legal developments. This update is intended as a snapshot and not specific legal advice (nor an exhaustive coverage of all relevant issues). If you would like further information on any specific issue, please let us know.

Energy White Paper signals major review of government policy

The Australian Government has released an Issues Paper as the beginning of consultation on an Energy White Paper, planned for 2014, as part of a broader package of Government reforms.

The Energy White Paper will set out an integrated and coherent Australian Government position on energy policy.

The issues paper, released in December 2013 by Commonwealth Minister for Industry Ian Macfarlane, seeks comment on questions relating to:

- security of energy supplies;
- regulatory reform;
- the role of government;
- growth and investment;
- trade and international relations;
- workforce productivity;
- energy productivity; and
- alternative and emerging energy sources.

Industry input on the issues paper will drive policy positions in a green paper

to be released for consultation in May 2014. The Green Paper will then inform the development of a final Energy White Paper, expected to be released in September 2014, which will set out an integrated Australian Government position on energy policy.

Submissions on the issues paper are due by 7 February 2014. A copy of the issues paper can be found at http://ewp.industry.gov.au/sites/ewp.industry.gov.au/files/energy-white-paper-issues-paper_0.pdf.

One stop shop for environmental approvals well underway

The Australian Government has successfully completed stage 1 of its environmental regulation "green tape" reduction plan with the execution of memoranda of understanding in December 2013 with all State and Territory governments to develop bilateral assessment and approval agreements.

Once an assessment and approval bilateral agreement is signed by a particular state or territory, the need for the approval of the Commonwealth Environment Minister under the *Environment Protection and Biodiversity Conservation Act 1999*

Key issues

- Energy White Paper signals major review of government policy
- One stop shop for environmental approvals well underway
- Green Army Draft Statement of Requirements
- Funding to the Energy Efficiency Opportunities Program cut
- Emissions Reduction Fund Green Paper Released
- Western Australia reviews Mine Closure Plan Guidelines
- WA reviews penalties payable under resources legislation
- Strict conditions imposed on Queensland projects to protect Great Barrier Reef
- NSW government finalises CSG safeguards

(Cth) is removed for projects that fall within the scope of the agreement.

Queensland and New South Wales have already executed new agreements with the Commonwealth that extend the scope of existing assessment bilateral arrangements

but both fall short of the full “approval” bilateral agreement at this point.

Information on the bilateral agreement process in each jurisdiction can be found at

<http://www.environment.gov.au/topics/about-us/legislation/environment-protection-and-biodiversity-conservation-act-1999/one-stop>.

Green Army Draft Statement of Requirements

The Australian Government is seeking public comment on the Green Army Draft Statement of Requirements.

The Green Army is a Coalition Government environmental conservation initiative with objectives including combating land degradation, cleaning up waterways and re-vegetating sand dunes and mangrove habitats. Participants in the programme will receive a training allowance, obtain skills and potential qualifications in areas of environmental remediation.

The Draft SOR sets out important features of the programme. The Australian Government is seeking public consultation on its practical implementation, particularly in relation to the recruitment and training of participants.

The consultation period closes on 4 February 2014. For more information visit

<http://www.environment.gov.au/node/35131>.

Funding to the Energy Efficiency Opportunities Program cut

The Australian Government has announced funding cuts to the Energy

Efficiency Opportunities Program (EEO).

The program will continue in its current form until 30 June 2014, after which funding will cease. Several industry groups have commented on their disappointment at the cut to funding of the programme. In lieu of EEO funding, the Australian Government proposes to utilise the Energy White Paper (discussed above) to develop a new energy efficiency policy.

The previous Coalition Government introduced the EEO in 2006 to help Australia's largest energy users save on their energy bills. A recent review found that the EEO assisted participants save more than A\$1 billion in energy costs annually.

Despite the funding cuts, companies that are currently subject to the efficiency and reporting requirements under the Energy Efficiency Opportunities Act 2006 (Cth) must continue to comply with the Act.

Emissions Reduction Fund Green Paper Released

On 20 December 2013, the Australian Government released its Emission Reduction Fund (ERF) Green Paper.

The ERF, which will commence on 1 July 2014, is central to the Coalition Government's Direct Action Plan, which proposes to cut emissions to five per cent below 2000 levels by 2020.

The Green Paper outlines the three key principles of the ERF:

- crediting emissions reductions by the existing Clean Energy Regulator;

- purchasing emissions reductions at the lowest cost by the government; and
- safeguarding emissions reductions using wide range of projects and measures.

Comments on the Green Paper can be made until 21 February 2014. Submissions will aid the development of a White Paper, to be released after submissions have been assessed.

For further information visit: <http://www.environment.gov.au/topics/cleaner-environment/clean-air/emissions-reduction-fund/green-paper>.

Western Australia reviews Mine Closure Plan Guidelines

The Western Australian Department of Mines and Petroleum (DMP), in collaboration with the Office of the Environmental Protection Authority, is seeking stakeholder feedback on a full-scale review of the Mine Closure Guidelines.

The Guidelines, which were first released in 2011, set a minimum standard for how Mine Closure Plans are structured and how mine closure management is assessed.

Feedback is the first stage of the consultation process. The other key stages, and their suggested timeframes, are:

Stage 2: Preparation and release of responses to the submissions (February 2014);

Stage 3: Release draft guidelines for stakeholder comment (April 2014);

Stage 4: Consultation meetings with stakeholders (April-May 2014);

Stage 5: Preparation and release of responses from the consultation meetings (May-June 2014);

Stage 6: Publish final version of the guidelines (July 2014).

Consultation closed on the guidelines on 22 January 2014, but for more information visit <http://www.dmp.wa.gov.au/19089.aspx>.

WA reviews penalties payable under resources legislation

The Western Australian Department of Mines and Petroleum is reviewing penalties for non-compliance with the requirements of the following legislation:

- Dangerous Goods Safety Act 2004;
- Mining Act 1978;
- Offshore Minerals Act 2003;
- Petroleum (Submerged Lands) Act 1982;
- Petroleum Geothermal Energy Resources Act 1967; and
- Petroleum Pipelines Act 1969.

A third-party consultant undertook a complete review of the current penalty scheme and will provide policy options to the DMP. This resulted in a Statutory Penalty Review Resource Paper being released in December 2013.

An Options for Penalty Changes paper has also been released. This document summarises the alternatives identified in the Resource Paper against each of the relevant pieces of legislation.

The DMP is seeking stakeholder feedback on the options presented in the Resource Paper and Options for Penalty Changes paper. DMP will

then release a draft Penalties Policy for further public review and comment.

More information can be found at <http://www.dmp.wa.gov.au/19199.aspx>.

Strict conditions imposed on Queensland projects to protect Great Barrier Reef

During December 2013, the Australian Minister for the Environment, Greg Hunt, announced the approval of four contentious Queensland projects under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). Approval was given to:

- the capital dredging program for the proposed Terminals 0, 2 and 3 at the Port of Abbot Point;
- the Adani T0 project at Abbot Point;
- the Arrow Liquefied Natural Gas Facility on Curtis Island; and
- the Arrow Gas Transmission Pipeline to Curtis Island.

Given these projects' close proximity to the World Heritage-listed Great Barrier Reef, some of the strictest conditions in Australian history have been placed on these projects to ensure that any environmental impacts are avoided, mitigated or offset.

In total, 95 environmental conditions were imposed on the Adani T0 Abbot Point project and 53 were imposed on the Curtis Island LNG project.

While announcing these approvals, the Minister also announced greater protection for the Great Barrier Reef. It is the Minister's intention that all future capital dredging projects within the Central and North Queensland coastal zone will be for shoreline, near to shore or land reclamation

disposal, rather than have dredge spoil dumped within the boundaries of the Reef.

NSW government finalises CSG safeguards

On 28 January 2014, New South Wales Deputy Premier Andrew Stoner, Minister for Planning and Infrastructure Brad Hazzard and Minister for Resources and Energy Anthony Roberts announced landmark coal seam gas (CSG) reforms in the State, which provide added protection for approximately 5.3 million hectares of the State's homes and high quality farmland.

The safeguards apply coal seam gas exclusion zones across New South Wales to cover "Critical Industry Clusters", residential zones, an additional seven rural villages and future growth areas in 55 council areas.

CSG exclusion zones now apply to 2.7 million hectares of land in New South Wales. In addition, the independent scientific "Gateway" process will protect approximately 2.8 million hectares of valuable farming land by ensuring that impacts on land and water from resource proposals are considered at the beginning of the assessment process.

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