

Australian Energy and Resources Update

Welcome to our monthly update on Australian energy and resources-related legal developments.

This month we highlight the election results in Queensland and their likely impact on the energy and resources sector. As we go to press, the incumbent Liberal government had lost power, with the Labor party likely to form a state government with the support of independents.

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.

Queensland election brings change of government – and policies

The Queensland State election was held on 31 January, with the incumbent Liberal National Party (LNP) Government defeated. The Australian Labor Party (ALP), led by Annastacia Palaszczak, looks likely to form a state government and made several election promises that will impact the energy, resources and infrastructure sectors.

The ALP opposes the leasing of public assets as a means of addressing State debt. Instead, it has pledged to aggregate all state-owned energy companies into a single network business and a single generation business, which the ALP believes will produce savings of more than A\$150 million per annum.

The ALP has also announced that two-thirds of the returns from any

income-earning public assets will be quarantined into a trust from 2018-19 and utilised to pay down debt.

The ALP also announced its opposition to 100% fly-in fly-out (FIFO) workforces for mining operations near regional centres or existing mining communities, with all existing FIFO arrangements to be reviewed by a future ALP Government in its first 100 days of office.

As part of this policy, the ALP will amend the *State Development and Public Works Organisation Act 1971* (Qld) to require the Coordinator-General consider whether workers are being provided with the choice to live in regional communities when making approval decisions on Environmental Impact Statements (EIS). Social Impact Assessments will also be formally re-introduced into the EIS approval process, with penalties for non-compliance.

Key issues

- Queensland election brings change of government – and policies
- Productivity Commission to review Australian Workplace Relations Framework
- Western Australian EPA defines fracking role.

The ALP also announced a number of policies concerning the Great Barrier Reef. An ALP Government will invest A\$100 million over five years towards water quality initiatives in the Reef and convene a high-level taskforce to reduce pollution run-off into the Reef by 80% by 2025. It will also ban sea-based dumping of capital dredge spoil and trans-shipping operations within the Reef and reinstate coastal planning laws abolished by the current LNP Government.

The ALP's policies can be accessed here: <http://annastacia.com.au/labor-policies/>.

Productivity Commission to review Australian Workplace Relations Framework

The Australian Productivity Commission has released a number of issue papers to guide public consultation as part of its review of Australia's workplace relations framework, including the operation of the *Fair Work Act 2009* (Cth). Submissions are due by 13 March 2015.

Some of the issues on which the Commission is seeking submissions are minimum wages, awards, penalty rates, unfair dismissal, bargaining and the performance of the Fair Work Commission. It is also asking for feedback on individual experiences (both as employees and as employers) of operating within the existing framework.

The Commission has been asked to investigate and report on options to improve workplace laws and consider the capacity for the present framework to adapt in the long term to structural adjustments and global economic changes, with a particular focus on matters including:

- unemployment, underemployment and job creation;
- productivity, competitiveness and business investment;
- the capacity for business and the labour market to respond to changing economic conditions;
- the ability for employers to flexibly manage and engage with their employees;
- barriers to bargaining; and

- red tape and compliance burdens for employers.

The following five issue papers set out the current workplace relations framework in detail and pose questions that the public may consider and comment upon:

1. The Inquiry in Context (an introductory paper which outlines the objectives of the current workplace relations system and details the operation of the Commission and the scope of its inquiry);
2. Safety Nets;
3. The Bargaining Framework;
4. Employee Protections; and
5. Other Workplace Relations Issues.

A draft report will be released by the Commission in June/July 2015, and there will be further opportunities for the public to comment on the Commission's inquiry. The issues papers can be accessed here: <http://www.pc.gov.au/inquiries/current/workplace-relations/issues>.

Western Australian EPA defines fracking role

The Western Australian Environmental Protection Authority (EPA) has recently released a bulletin that explains the EPA's role in the approval of hydraulic fracturing ('fracking') for onshore natural gas from shale and tight rocks in Western Australia.

While not directly responsible for approving fracking proposals, the EPA's environmental impact assessment process provides a transparent process through which the environmental impacts of fracking proposals will be considered.

The EPA will assess any fracking proposal it considers likely to have a

significant impact on the environment and make recommendations to the Minister for Environment. The Department of Mines and Petroleum must also refer any fracking proposals that it receives and which potentially have a significant effect on the environment to the EPA for assessment.

In deciding whether to assess a proposal, the EPA will have regard to the significance of the impacts, including cumulative impacts that the proposal is predicted to have on the environment.

The EPA may also have regard to additional criteria, such as the scale of the proposal, uncertainty with respect to the available information, whether the proposal is likely to impact an environmentally sensitive area, and whether the proposal may impact a drinking water source area.

The EPA is also working with the Department and other government departments and agencies to develop a Western Australian Shale and Tight Gas Framework which will provide a whole of government description of the regulatory framework for the shale and tight gas sector in the State.

A copy of the bulletin is available here: <http://edit.epa.wa.gov.au/EPADocLib/EPB22-Fracking-171214.pdf>.

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