

C L I F F O R D

C H A N C E



ENERGY & INFRA UPDATES

AUGUST 2024

**What's new in APAC's Energy Transition?
The latest infrastructure and energy updates**



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1

Australia: Mandatory climate reporting will commence from January 2025

Key takeaway

Australia's new mandatory climate reporting obligations will commence from 1 January 2025. It is important to determine if any entities within your corporate group (or portfolio companies within your fund) are caught by these requirements.

Key details

The *Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024* (Cth) was passed by the Senate on 22 August 2024 and is awaiting Royal Assent. The new mandatory climate reporting obligations are contained in Schedule 4 of the Bill.

The mandatory climate disclosures have been described by government as 'the biggest change to corporate reporting in a generation'. They will be phased in over time for entities that meet certain minimum size thresholds and/or have emissions reporting obligations under the National Greenhouse and Energy Reporting (NGER) scheme in Australia and will commence for group 1 entities from 1 January 2025. The thresholds for inclusion in group 1 are broadly equivalent to the characteristics of the 200th company in the ASX200.

They include an obligation to prepare a sustainability report which must contain certain climate statements together with a directors' declaration that, in the directors' opinion, that entity has taken reasonable steps to ensure the substantive provisions of the sustainability report are in accordance with the *Corporations Act 2001* (Cth).

ASIC guidance is anticipated to be released in the coming months to help entities navigate these changes including to determine if their existing measurement and disclosure frameworks and governance systems are adequate.

Please see our earlier briefing on this topic [here](#).

2

Australia: Investment opportunities for renewable fuels in NSW

Key takeaway

The NSW government has released its ‘Opportunities for a renewable fuel industry in NSW’ discussion paper on the development of a new renewable fuel strategy for NSW and proposed amendments to the existing Renewable Fuel Scheme. This paves the way for increased investment opportunities by private capital in renewable fuels including green hydrogen and sustainable aviation fuel (SAF).

Key details

The NSW government is proposing to develop a new renewable fuel strategy which will broaden the current local renewable fuel industry in NSW as part of its broader commitment to achieving NSW’s emission reduction goals and reaching net zero by 2050.

Examples of renewable fuels include green hydrogen, biogas and biomethane, biodiesel and renewable diesel, methanol and SAF.

As part of this proposal the NSW government intends to amend the Renewable Fuel Scheme (RFS) to align with development in the industry and bring additional renewable fuels and liable parties into the scope of the RFS. The RFS was established under the Energy Security Safeguard and the NSW Hydrogen Strategy to encourage the production of green hydrogen in NSW.

At the federal level, the Australian Government released the Aviation White Paper on 26 August 2024 in which it recognises the importance of SAF as part of the aviation sector’s net zero transition and its commitment to fast track a domestic low carbon liquid fuel (LCLF) industry with an initial focus on SAF and renewable diesel using Australian input from farm to bowser.

3

Australia: Investment opportunities for carbon capture and storage in WA

Key takeaway

Western Australia is creating greater certainty for private capital to invest in carbon capture and storage (CCS) by establishing a regulatory regime to facilitate investment in this sector. This follows a trend across APAC including Malaysia and Indonesia in advancing cross border CCS initiatives including the storage potential of depleted oil and gas reservoirs.

Key details

The *Petroleum Legislation Amendment Act 2024 (WA)* received Royal Assent on 14 May 2024. It amends the *Petroleum and Geothermal Energy Resources Act 1967*, *Petroleum Pipelines Act 1969*, and *Petroleum (Submerged Lands) Act 1982* to provide a legislative framework for the transport and geological storage of greenhouse gases in Western Australia, as well as to enable the exploration of naturally occurring hydrogen through the concept of a 'regulated substance', address operational amendments relating to insertion of polluter pays provisions, royalty metering, underground storage of petroleum and blending of additives in pipelines.

The storage of greenhouse gas storage uses similar technologies to that of the petroleum industry, and so many of the provisions in the bill follow the existing petroleum legislative regime including work program-based acreage releases and title types. Approaches to the treatment of long term liability differs between states and the commonwealth but there is a common recognition that government will ultimately assume long term liability for stored greenhouse gas after it is satisfied with the behaviour of the stored greenhouse gas and completion of the site closure processes.

The Department of Energy, Mines, Industry Regulation and Safety has started developing and consulting on the accompanying regulations which will create a cohesive supporting legislative framework.

4

Australia: Important updates to construction template (AS4000-1997)

Key takeaway

For the first time in 27 years updates have been proposed by Standards Australia to one of Australia's most frequently used construction templates: AS4000-1997 General Conditions of Contract for Construct Only. It is important to be aware of these changes if you participate in the building and construction industry as an equity investor, developer, contractor or financier.

Key details

The updates that have been proposed by Standards Australia to AS4000 do not fundamentally change the risk allocation between the parties under the contract.

Rather they reflect developments in legislation and case law since the 1997 edition (for example a new clause dealing with *Personal Property Securities Act 2009*), contain some modernisation changes (e.g. insertion of a formal instrument of agreement as an option for forming the contract) and amend terminology and structure to make it easier to use and read.

The updates are expected to be finalised by the end of 2024 / early 2025.

Following updates to AS4000 Standards Australia is planning to review and update the complete suite of AS4000-based documents including AS4902-2000 General Conditions of Contract for Design and Construct.

5

Broader APAC Round-up

Japan

Financial incentives for investing in hydrogen

Japan is encouraging investment in robust international supply chains for low carbon hydrogen and its derivatives through the development of a new subsidy scheme.

We have summarised the key aspects of this scheme in a recent briefing which is available [here](#).

Taiwan

EU challenges Taiwan on OSW local content rules

The European Union has requested a dispute settlement consultation with the World Trade Organisation in relation to Taiwan's offshore wind local content rules on the basis that they are "discriminatory". This may have significant ramifications for existing and future OSW projects in Taiwan.

Indonesia

Local content requirements for electricity generation projects in Indonesia

New regulations have been introduced which update the local consent requirements for the electricity infrastructure sector in Indonesia. These requirements will now apply to a broader range of sectors including wind, biomass, biogas and waste-to-energy and an independent verification process has been introduced as part of the hand-over requirements for the relevant electricity infrastructure project (e.g. CP to achieving COD).

Vietnam

Direct PPA regime reshapes the Vietnam power market

The Vietnamese government has approved a direct power purchase agreement (DPPA) mechanism that allows renewable energy generators to sell electricity directly to large corporates. This is likely to make investment in the sector more attractive to foreign investors.

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