

recent developments

FEDERAL GOVERNMENT

Wayne Gumley

The Carbon Pollution Reduction Scheme Green Paper released

In July 2008 the Federal Department of Climate Change released a Green Paper on climate change responses. The paper canvasses options and preferred approaches on issues, such as which industry sectors will be covered and how emission caps will be set. It also includes ways to address the impacts on Australian households, emissions-intensive trade-exposed industries and other strongly affected sectors. The Federal Government plans to release a White paper and draft legislation in December 2008. A comprehensive description of the Green paper is provided in the article by Elisa de Wit and Rachael Webb of Deacons Lawyers in this issue.

The CPRS Green paper and supplementary materials are available at: <http://www.climatechange.gov.au/greenpaper/index.html>

Garnaut Climate Change Review

The Garnaut Climate Change Review presented its Final Report to the Prime Minister of Australia and the eight states and territories on 30 September 2008.

The Review was an independent study conducted by economist Professor Ross Garnaut, commissioned by Australia's Commonwealth, state and territory governments in 2007. The Review produced four major documents as a basis for public discussion. An interim report was presented to First Ministers and released in February 2008; a discussion paper on the proposed emissions trading scheme in March, a draft report on 4 July and a supplementary draft report on 5 September.

All materials released by the Review, including reports, papers and transcripts

from public addresses and submissions to the Review are available at:

<http://www.garnautreview.org.au/CA25734E0016A131/pages/home>

The OECD's second Environment Performance Review of Australia

This independent review of Australia's environmental performance by the OECD was released in March 2008. It's broad recommendations were that it will be necessary for Australia to:

- strengthen environmental policies and their implementation
- further integrate environmental concerns into economic and social decisions
- further develop international environmental co-operation.

For the full report see: <http://www.oecd.org/dataoecd/29/54/40287648.pdf>

Bilateral Agreement with Sth Aust

On 2 July 2008 the Commonwealth of Australia entered into a bilateral agreement with South Australia in accordance with subsection 45(4) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and Division 16.1 of the *Environment Protection and Biodiversity Conservation Regulations 2000*. For further details see:

<http://www.environment.gov.au/epbc/assessments/bilateral/sa.html>

Draft Bilateral with Victoria

On 11 October 2009 a draft bilateral agreement for the accreditation of various Victorian assessment processes was released. Public comments were sought by 5pm on Monday 10 November 2008. For further details see:

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<http://www.environment.gov.au/epbc/assessments/bilateral/vic.html>

Review of the Environment Protection and Biodiversity Conservation Act 1999

On 31 October 2008 the Minister for the Environment, Heritage and the Arts commissioned an independent review of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), the Australian Government's central piece of environmental legislation. Section 522A of the EPBC Act requires it to be reviewed every 10 years from its commencement.

The review is being undertaken by Dr Allan Hawke. This is the first review of the EPBC Act since its commencement on 16 July 2000. The review will assess the operation of the EPBC Act and the extent to which its objects have been achieved.

Community participation in the review is encouraged. There will be opportunities for public input over the course of the review. The first stage of this public input process has commenced and written submissions are now invited. The closing date for submissions is 19 December 2008. A discussion paper is available at:
<http://www.environment.gov.au/epbc/review/publications/discussion-paper.html>

Henry Review of the Australian Tax System to include environmental aspects

On 13 May 2008 the Australian Government announced a comprehensive review of Australia's tax system to be chaired by Treasury Secretary Ken Henry. The review will encompass Federal and State taxes,

(except the GST) and interactions with the transfer system.

Environmental law enthusiasts should note that objectives of the review set out in the Terms of Reference include many taxation issues which have significant effects upon environmental outcomes, as follows:

2. Raising revenue with least harm to economic efficiency, provide equity (horizontal, vertical and inter-generational) and minimise complexity;
3. To create a tax structure that will position Australia to deal with the ... environmental challenges of the 21st century including;
 - the role to be played by environmental taxes;
 - the role and structure of company taxation;
 - enhancing taxation arrangements on consumption (including excise taxes), property (including housing), and other forms of taxation collected primarily by the States; and
 - the interrelationships with the proposed emissions trading scheme.
4. To enhance overall economic, social and environmental wellbeing, with particular emphasis upon:
 - affordable housing;
 - efficient resource allocation; and
 - reducing complexity and compliance costs.
7. The relationship of the tax system with transfer payments system.
9. Consideration of all relevant tax expenditures.

The full Terms of Reference are set out in Appendix A of Commonwealth of Australia (2008) *Architecture of Australia's Tax and Transfer System* at 327.

The home page for the Henry Review is at:
<http://taxreview.treasury.gov.au/Content/Content.aspx?doc=html/home.htm>