

NELR recent developments

topics/g8/ipeecsta_eng.pdf and the Joint Statement of various Energy Ministers is at: http://www.g8italia2009.it/static/G8_Allegato/Energia%201,0.pdf

US House of Reps Passes Climate Change Bill

On 26 June 2009 the US House of Representatives passed a 1500 page climate change bill by a slim majority of 219-212. The bill still has to pass the Senate, whether this will happen this year is not clear with the Senators expected to write their own version. The bill requires large US companies to

reduce emissions of greenhouse gases by 17% by 2020 and 83% by 2050, from 2005 levels. A national 'cap and trade' programme is a cornerstone of the bill.

The US is no longer insisting that developing countries make actual cuts in their emissions. Rather the US wants to see large developing nations (such as China, India and Brazil) take action to reduce growth in their emissions and that their actions would be measured, quantified and reported.

FEDERAL

Nicola Durrant

Passage of CPRS Bill through the House of Representatives

The Carbon Pollution Reduction Scheme package was introduced into the House of Representatives on 14 May 2009 and passed 4 June 2009. The Bill will be presented to the Senate when it next sits from 15 – 25 June 2009.

The Opposition presented a motion to defer any decision on the CPRS package which was defeated in the House of Representatives. The Opposition sought to defer a decision on the scheme until the following had occurred:

1. The Copenhagen Climate Change Summit at the end of this year has concluded;
2. The Barack Obama administration in the United States has clarified its intentions in this area;
3. The Government has referred its Carbon Pollution Reduction Scheme (CPRS) to the Productivity Commission so that it may conduct a six-month review to:
 - (a) Assess the national, regional and industry sectoral impact of the CPRS in light of the global financial crisis;
 - (b) Assess the economic impact of the CPRS in light of other countries either not imposing a price on carbon comparable to that proposed for Australia or imposing such a price after different assumed periods of delay; and
 - (c) Conceptually and empirically examine the relative costs and benefits (including emissions reductions) of the key alternative scheme designs against the CPRS; and
4. The Productivity Commission's reports on these

topics have been publicly released.

The motion was defeated 73 to 63.

Footnote: The CPRS Bill was subsequently defeated in the Senate on 13 August 2009. The Government has stated that it will re-present the Bill later in 2009.

Amendments to proposed Carbon Pollution Reduction Scheme Package (CPRS)

On 4 May the Rudd Government announced a number of amendments to the proposed CPRS package including a delay of the commencement of the scheme until 1 July 2011. Other amendments included:

- New Conditional Emissions Reduction Targets:
 - o Of 15 per cent below 2000 levels by 2020 if international agreement is reached where advanced economies reduce, in aggregate, in the range of 15-25% below 1990 levels by 2020 and major developing economies adopt substantive, measurable, reportable and verifiable commitments; and
 - o Of 25 per cent below 2000 levels by 2020 if comprehensive global action is taken capable of stabilising emissions at 450 ppm or lower. This includes advanced economy reductions, in aggregate, of at least 25 per cent below 1990 levels by 2020 and major developing economy commitments with a collective reduction of at least 20 per cent below business as usual by 2020.
 - o Both of these commitments envisage the inclusion of forests (REDD) and the land sector (including soil initiatives) as part of those international agreements.

NELR recent developments

- Global Recession Measures:
 - o One year fixed price of \$10 tonne from 1 July 2011 to 30 June 2012. An unlimited number of these permits will be available during this time but they will not be able to be banked for use in later periods.
 - o An additional Global Recession Buffer will be provided for Emissions-Intensive Trade-Exposed industries for the first five years of the scheme with an additional 5 per cent of free permits for activities eligible for 90 per cent assistance and an additional 10 per cent free permits for those eligible for 60 per cent assistance in year one of the scheme. The rate of assistance will decline at a rate of 1.3 per cent per year.
 - o Additional funding for businesses to undertake energy efficiency measures as part of the \$200 million Climate Change Action Fund for 2009-10.
- Creation of the Australian Carbon Trust incorporating the \$50 million Energy Efficiency Trust and the \$25.8 million Energy Efficiency Savings Pledge Fund as well as measures to recognise the purchase of GreenPower by households in setting the CPRS cap.
- Landfill Legacy Emissions:
 - o The Government further announced on 14 May that legacy emissions from waste landfills would not be covered by the CPRS. Liability will only attach to emissions from waste deposited after the Scheme commencement.
- division,
 - 30.5 million to the Bureau of Meteorology for a Next Generation forecast and warning system and \$48.0 million for radar enhancement.
 - \$240.7 million for the continued operation of the Oceanic Viking.
 - \$100.0 million per annum to the Global Carbon Capture and Storage Institute.
 - \$64.6 million to the National Strategy on Energy Efficiency to improve energy efficiency and performance in residential and commercial buildings.
 - up to \$100.0 million to the National Energy Efficiency Initiative to develop an innovative smart-grid energy network, enabling greater energy efficiency and better integration of renewable energy sources.
 - \$4.5 billion to the Clean Energy Initiative to accelerate the transformation to a low-emissions future, including \$1.5 billion for the Solar Flagships Program.

Additional budget allocations for climate change included:

- \$15 billion for the Australian Government Climate Change Strategy.
- \$12 million to shape and influence international efforts to tackle climate change.
- \$31.2 million to build on the scientific understanding of climate change.
- \$16.1 million to develop the National Accounting Toolbox.
- \$4.5 billion to the growth of clean energy generation.

The Budget and the Environment

In the recent Federal Budget the government committed \$9 billion over five years to the areas of energy efficiency, environment and water including announcements that:

- in the Murray-Darling basin, the Government has brought forward funding to buyback water entitlements, developed a new scheme to promote urban stormwater harvesting and will provide extra funding to help small landholders to leave irrigation.
- \$12.9 billion water for the Future Program to help Australians prepare for and adapt to a future with less water.
- \$33.6 million for Commonwealth Parks and Reserves.
- \$36.9 million for the Department's Antarctic

Launch of the Global Carbon Capture and Storage Institute

The Global Carbon Capture and Storage Institute was formally launched by the Prime Minister on 16 April 2009. Funded by the Australian Federal Government, the GCCSI is charged with accelerating the worldwide development, deployment and implementation of carbon capture and storage technologies. Although physically located in Canberra, membership includes government and industry stakeholders, researchers, and non-government organisations from around the world. The GCCSI is intended to play a key role, along with the International Energy Agency and the Carbon Sequestration Leadership Forum, in achieving the G8 group's goal of the broad deployment of

NELR recent developments

CCS technology by 2020. The G8 group of leading economies last year stated that it must commit to at least 20 fully integrated, industrial-scale projects by 2010 in order to achieve the broad deployment of CCS by 2020.

Offshore Carbon Capture and Storage –Acreage Release and Guidance Notes

The *Offshore Petroleum and Greenhouse Gas Storage Act 2006* provides for a system of access and property rights for the geological storage of greenhouse gas in offshore waters under Commonwealth jurisdiction. As the first step in the process of providing these access and property rights, the Minister for Resources and Energy announced on 27 March 2009 the release of ten offshore areas for the exploration of greenhouse gas storage areas. These release areas are located in the Gippsland Basin, Torquay Sub-basin, Otway Basin, Vlaming Sub-basin and Petrel Sub-basin. The areas are for work program bids only.

The Government also released *Guidance Notes for Applicants* which sets out information on:

- the application process for obtaining an Assessment permit, including what is required in application bids and the selection criteria used in assessing applications. The Guidance Notes state that the aim is to select the bid most likely to achieve the fullest assessment of the GHG storage potential within the area;
- permit conditions that will apply. The Assessment permit will provide the title holder with the right to explore for GHG storage formations and, if successful, the exclusive right to convert this to an injection licence; and
- special notices outlining the rights and interests of other parties in the release areas.

Release of Environmental Guidelines for Carbon Dioxide Capture and Geological Storage

In May 2009, the Environment Protection and Heritage Council released the *Environmental Guidelines for Carbon Dioxide Capture and Geological Storage 2009*. The guidelines are intended to build on the *Carbon Dioxide Capture and Geological Storage – Australian Regulatory Guiding Principles* endorsed by the Ministerial Council on Mineral and Petroleum Resources in 2005. The guidelines are intended to demonstrate

“best practice” and to provide national level consistency and certainty for stakeholders in the application of current environmental regulatory processes. The document provides guidance in relation to environmental assessment, monitoring and site closure of CCS projects and coordination of environmental regulation by jurisdictions.

New Declared Conservation Zone under the EPBC Act

In May 2009, the area of the Coral Sea under Australia’s jurisdiction was declared a conservation zone under the *Environment Protection and Biodiversity Conservation Act 1999* to provide interim protection while the area is being assessed for possible inclusion in one or more Commonwealth marine reserves.

The Coral Sea Conservation Zone covers approximately 972,000 km of Australian waters and seabed east of the Great Barrier Reef Marine Park, out to the edge of Australia’s Exclusive Economic Zone. It is the second, and largest, marine conservation zone declared under the EPBC Act. Certain activities within the Coral Sea Conservation Zone will now require a permit under the *Environment Protection and Biodiversity Conservation Regulations 2000* including commercial tourism activities and scientific research.

Consultation on Bilateral Agreement with Queensland under EPBC Act

The bilateral agreement currently in place between the Commonwealth and the State of Queensland under the *Environment Protection and Biodiversity Conservation Act 1999* will expire on 13 August 2009. The Commonwealth Minister for the Environment proposes to enter into a new bilateral agreement before 14 August 2009, based on the current agreement

As with the existing bilateral agreement, the draft agreement would provide for the accreditation of particular Queensland assessment processes under the EPBC Act. Proposed actions that would otherwise require assessment under the EPBC Act could be assessed using one of the accredited Queensland assessment processes for the purposes of both Queensland legislation and the EPBC Act. After assessment, the proposed action would still require approval from the Commonwealth Environment Minister under the EPBC Act.

Uplisting of the Tasmanian Devil

The world's largest surviving marsupial carnivore has been given increased status under the Commonwealth EPBC Act. On 22 May 2009 Environment Minister, Peter Garrett announced that the Tasmanian Devil will be uplisted from vulnerable to the endangered category under the EPBC Act.

Amendments to the EPBC Regulations 2000

Amendments to the EPBC Regulations relating to the taking of fish in Commonwealth reserves and conservation zones commenced on 16 May 2009. The amendments provide for determinations by the Director National Parks in relation to these areas and provide restrictions and offence provisions in relation to activities which do not comply with those determinations.

Olympic Dam Mine Expansion – EIS released for public comment

The environmental impact statement for the Olympic Dam mine expansion in South Australia (including export of copper concentrate through the Port of Darwin) was released by BHP Billiton on 1 May 2009 for public comment until 7 August 2009. The EIS has been prepared to meet the

requirements of the Australian, South Australian and Northern Territory governments.

Documents are available at http://www.environment.gov.au/cgi-bin/epbc/epbc_ap.pl?name=current_referral_detail&proposal_id=2270.

Determination Regarding Management of Acid Sulphate Soils by South Australian Government

The Environment Minister determined on 12 May 2009 that a proposal by the South Australian Government to take emergency action to manage acid sulphate soils in the Goolwa Channel, Finniss River and Currency Creek, SA, does not need further assessment under the EPBC Act. The South Australian Government has made a series of undertakings to ensure there are no significant impacts on nationally protected matters including:

- the provision of an additional 50 GL of freshwater into the Lower Lakes,
- delivery to the system of any water captured that is in addition to that required for emergency treatment, and
- an undertaking that no water will be extracted for irrigation from the water captured.

NEW SOUTH WALES

Nicholas Brunton

DUTY TO REPORT CONTAMINATION UNDER THE CONTAMINATED LAND MANAGEMENT ACT 1997

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Background

The remaining amendments to the Contaminated Land Management Act 1997 (CLM Act) commenced on 1 July 2009, including the 'duty to report' provisions under s.60.

The new *Guidelines on the Duty to Report Contamination under the Contaminated Land Management Act 1997* (the Guidelines), which provide guidance as to how the duty is to be interpreted, do not come into force until 1 December 2009 and the NSW Department of Environment, Climate Change (DECC) has indicated that the duty itself will not be enforced until that time.

However, the fact that the amendments have

officially commenced, and that the original provisions are no longer in existence, means we have no other choice but to apply the new regime.

What is the duty to report?

Under the CLM Act:

- persons whose activities have contaminated land; and
- landowners whose land has been contaminated,

must notify DECC of that contamination.

What are the main changes to the duty?

Level of awareness/knowledge

An owner of land, or a person whose activities have contaminated land, must notify DECC of contamination as soon as practicable after the person 'becomes aware' of such contamination. Under the new regime, the definition of awareness is expanded to include not only actual awareness,