

Sustainable shopping

A coalition between the European Retail Round Table and Euro Commerce in Europe has recently established a code of practice for environmental and sustainable business.

The coalition aims to improve business operations in key areas including: promoting more environmental and sustainable sourcing and production of products, waste management improving the environmental performance of distribution by working with transport providers, and supporting the sustainable mobility of customers and workers. Members of the coalition include Ikea and Carrefour.

Many are sceptical about the coalition and recent

reports state that ‘the Code for Environmentally Sustainable Business is a document establishing laudable goals, but is not achieving much more than shrugged shoulders because it has no teeth nor a detailed plan of action. Most likely this is because of the reality of which retailers are keenly aware, tucked into a document’s footnote: a large consumer survey indicated that quality (67%) is most important for making a purchasing decision, followed by price (47%)—environmental impact is only the leading concern for 34% of Europeans’. However, if it means that one business makes a change towards environmental and sustainable practices then such a coalition can only be a benefit. (see <www.enn.com and www.triplepundit.com>).

FEDERAL

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Environment Protection

Australian Government agencies reconfigured

In the post-election reconfiguration of the Federal Government under the Administrative Arrangements Order of 14 September 2010, portfolio departments with a sustainability focus include:

- Sustainability, Environment, Water, Population and Communities
- Climate Change and Energy Efficiency
- Regional Australia, Regional Development and Local Government, and
- Agriculture, Fisheries and Forestry.

See generally <<http://www.dpmc.gov.au/parliamentary/index.cfm>>.

Guidelines for section 516A reporting

Under Section 516A of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) various Commonwealth organisations are required to report in their annual report on how they contribute to ecologically sustainable development (ESD), and how their impacts on the natural environment are mitigated. Guidelines to assist Commonwealth agencies meet the statutory reporting requirements have been released:<<http://www.environment.gov.au/epbc/publications/reporting-guidelines.html>>

Guide to the list of CITES species – updated

The list of species on the appendices to the Convention on the International Trade in

Endangered Species (CITES) has been updated effective from 23 June 2010: <<http://www.environment.gov.au/biodiversity/trade-use/lists/cites/index.html>>.

New listing of threatened ecological community

Grey Box (Eucalyptus microcarpa) Grassy Woodlands and Derived Native Grasslands of South-eastern Australia have now been listed as a threatened ecological community: <: <http://www.environment.gov.au/cgi-bin/sprat/public/publicshowcommunity.pl?id=86>>

Christmas Island mining extension rejected

EPBC Act approval has been refused for a proposal by Phosphate Resources Limited to expand phosphate mining on Christmas Island, due to the likelihood of the proposal leading to unacceptable impacts on nationally listed threatened species, migratory species and Commonwealth land.

The decision by the former Environment Minister, the Hon Peter Garrett AM MP, follows an earlier similar refusal by the Hon Malcolm Turnbull MP. In 2007 the Federal Court overturned the earlier decision due to administrative failings. In a media release on 17 July 2010 Minister Garrett said:

This is an island with an ecology under significant threat and which is already suffering as a result of a range of threatening processes, including land clearing, invasive fauna and weed invasion. In order to extend its mining operations, the company was proposing to clear 256.3 hectares of fragile rainforest which

NELR recent developments

would lead to direct, indirect and cumulative impacts on the island's biodiversity. Not only would the proposed clearing further fragment rainforest habitat, but its effects would extend well beyond the immediate area of clearing and would have a serious impact on a number of island species. It's likely the clearing would lead to the further decline of the island's red crabs which play a key role in maintaining the island's rainforest habitat. It would also result in significant loss of habitat for the Christmas Island goshawk and Christmas Island hawk-owl, as well as impact on the threatened Abbott's booby and Christmas Island frigatebird.

See <<http://www.environment.gov.au/minister/garrett/2010/mr20100716b.html>>

Enforceable undertaking for shire council to pay for conservation of protected grasslands

The Pyrenees Shire Council in Victoria will pay \$155 000 towards the future conservation of the natural temperate grasslands of the Victorian Volcanic Plain, after the council agreed on an enforceable undertaking after unauthorised road works destroyed some of the endangered ecological community. Federal environment department spokeswoman, Rose Webb, said

Between June and December 2008, Pyrenees Shire Council damaged about half a hectare of the protected grassland while carrying out road works along the Eurambeen Streatham Road, between the Western Highway and the Glenelg Highway. As a result of the damage, the council will now pay \$17 500 towards research and recovery of the affected species, and \$19 500 towards rehabilitating the damaged area, and will protect one hectare of good quality grassland. 'The council will also spend \$118 000 on improving their environmental planning processes, including the development of an environmental management strategy for the council area. "While it is regrettable that this threatened grassland was damaged, it is good news that this money can be put into the future conservation of the species. An enforceable undertaking is a good alternative to a lengthy court proceeding."

See <<http://www.environment.gov.au/about/media/dept-mr/dept-mr20100414.html>>

Discussion paper released on Australia's natural resource management governance system

The chairs of Australian regional natural resource management (NRM) bodies have released a discussion paper on the NRM governance system. At a meeting in Hobart in 2009, government policies and programs were identified as the greatest single force for future change in natural resource management. The chairs were concerned that the roles of regional bodies and their relationship to the Australian Government had been altered under the new arrangements in the Caring for our Country program, and that there had been little shared discussion about the impacts this would have on delivery of NRM. New arrangements for the Commonwealth Landcare program were also uncertain and it was felt that a broad-based discussion about the NRM governance system as a whole would be a valuable platform on which to base future change.

The paper outlines the structure and mechanisms of Australia's NRM governance system, and draws on science and practical experience in analysing its shortcomings, using a systems framework.

The paper is available on-line at <<https://mail-store-2.its.monash.edu.au/attach/NRM%20Governance%20in%20Australia.pdf>>.

Climate Change

Australia's latest national greenhouse accounts

Australia publishes comprehensive reports on our greenhouse gas emissions in the National Greenhouse Accounts, with the latest released on 27 May 2010. Australia's annual emissions (excluding emissions from land use, land use change and forestry activities) for the four quarters to December 2009 fell 2.4% – from 550 Mt in 2008 to 537 Mt in 2009. However for the most recent quarter, emissions were estimated to have increased by 0.6% on a trend basis. Energy sector emissions increased between 1990 and 2009 by 43%.

See <<http://www.climatechange.gov.au/climate-change/emissions.aspx>>

Australia assists efforts to reduce deforestation

On 28 May 2010 Australia joined 50 countries at

NELR recent developments

the Oslo Climate and Forest Conference in agreeing a partnership for global action to reduce emissions from deforestation and forest degradation in developing countries, commonly referred to as REDD+. Deforestation causes approximately 18% of global greenhouse gas emissions. See <<http://www.climatechange.gov.au/media/dcc-mr20100528.aspx>>.

Newcastle to be Australia's first smart grid smart city

According to a media release dated 7 June 2010, Newcastle will be the site of Australia's first commercial-scale smart grid, in a project that will help Australians to save energy, connect renewable energy to the grid and tackle climate change. From mid-2010, the \$100m Smart Grid, Smart City demonstration project in Newcastle is expected to lead to Australia-wide advances in energy efficiency. Other parts of the trial are to be conducted in Scone, Homebush, Ku-ring-gai and the Sydney CBD. The then-Minister for Climate Change, Energy Efficiency and Water, Senator Wong stated

Smart grids have enormous potential to improve the efficiency of our electricity sector and transform the way we use energy in our homes and businesses. Smart Grids give households the ability to manage their own energy use, as they give consumers information about how much energy they are using and the costs at any time. Consumers can also use Smart Grids with energy efficient 'smart appliances' that can be set to run on off-peak power. If smart grid applications are adopted around Australia they could deliver a reduction of 3.5 megatonnes of carbon emissions per annum.

Enhanced target will boost renewable energy

Modelling of the impacts of changes to the design of the expanded renewable energy target have been released which shows that the enhanced Renewable Energy Target (RET) is expected to drive up to \$19b in total investment in large-scale renewable energy generation in the period to 2030.

The Government announced enhancements to the Renewable Energy Target in February 2010. From 1 January 2011 the Renewable Energy Target, which is designed to ensure 20% of Australia's electricity supply in 2020 will come from renewable sources, will include two parts – the Small-scale Renewable

Energy Scheme (SRES) and the Large-scale Renewable Energy Target (LRET).

Discussion paper on renewable energy reporting

On 7 July 2010 the Department of Climate Change and Energy Efficiency released a discussion paper entitled: Treatment of Renewable Energy in the National Greenhouse and Energy Reporting System. The aim of this paper is to seek feedback on the treatment of voluntary renewable energy purchases, notably GreenPower™ and voluntarily surrendered Renewable Energy Certificates (RECs), for the calculation of scope two emissions under the National Greenhouse and Energy Reporting System (NGERS).

Amendments to ozone protection regime

The *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* (Cth) (the Act) controls the manufacture, import and export of all ozone depleting substances (ODS) and their synthetic greenhouse gas (SGG) replacements. On 26 May 2010 a bill to amend the Act was introduced to the Federal Parliament, which is intended to improve the operation of the Act by:

- introducing a civil penalties regime and providing for the establishment of an infringement notice scheme
- clarifying the powers of inspectors, particularly in relation to the collection and testing of ozone depleting substances and synthetic greenhouse gases and search of electronic data storage
- providing for inspectors to be assisted in exercising their powers
- improving the procedures for dealing with evidential material, including the seizure, retention, return or forfeiture of that material and providing for enhanced testing arrangements
- clarifying the purposes of the Ozone Account, which is a Special Account established by the Act, to support the development of evidence-based policy by allowing research to be funded from the Account, and
- by making a number of other technical and administrative amendments to the Act.

According to the Explanatory Memorandum, the amendments contained in this Bill address a number of issues that have arisen in the operation of the Act since 1989, particularly in relation

NELR recent developments

to compliance and enforcement. The Bill was considered by the Environment, Communications and the Arts Legislation Committee on 28 May 2011 which determined that there were no substantive matters that required examination.

Energy Efficiency Disclosure Act 2010 (Cth)

In June 2010 Federal Parliament enacted legislation to establish a national scheme requiring building energy efficiency certificates to be issued to provide information about the energy efficiency of large commercial office buildings at the point of sale, lease and sublease. The Senate Standing Committee on Environment, Communications and the Arts had tabled its report on the bill in May 2010. A digest providing information about the legislation is accessible at <<http://www.aph.gov.au/library/pubs/bd/2009-10/10bd152.pdf>>.

Inquiries into the Home Insulation and Green Loan Schemes

Inquiries into the Home Insulation Program

There have been several inquiries into the Foil Ceiling Insulation program including the independent Hawke Review (April 2010) and the Senate Environment, Communications and the Arts References Committee (July 2010).

The Hawke Review

The independent Hawke Review was handed down in April 2010 and concluded that:

- implementation of the program was rapid to provide an immediate stimulus response to the potential impacts of the global financial crisis on the Australian economy (p.p.x).
- existing frameworks, including occupational health and safety at the state and territory level, were not sufficiently geared up for the 1 July 2009 start date (p.p.xiv).
- take up of the program was extraordinary and unexpected. Business models, including audit and compliance frameworks, need to be scalable and flexible to address this unprecedented demand (p.xi).
- lack of a state regulatory structure for the insulation industry was a significant factor (p.xvi).
- a targeted compliance and audit program should have been rolled out much earlier (p.xi).
- the opportunity to step back from the day to day management of the program, ask hard

questions and test assumptions was not taken until late in proceedings - resources were tied up with crisis management (p.xii)

- 'proactive, senior executive oversight and adequate program management are absolutely essential to ensure the necessary resources are brought to bear on programs of this profile and significance in a timely way' (p.x)
- 'a stronger management structure, earlier implementation of the audit and compliance program, and better targeting of compliance effort early in the program could have mitigated the risks to more acceptable levels, but never to zero' (p.xiv).

Senate Environment, Communications and the Arts References Committee review of the Energy Efficient Homes Package (ceiling insulation)

The Senate Inquiry issued a fairly damning report into the home insulation program in July 2010.

Some of the key findings were:

- the Home Insulation Program failed to deliver the potential benefits that the Government promised would flow from the program, and design and implementation failures appear to have left the insulation industry worse off than before the development of the program (p.xiii).
- the haste in rolling out the full program by 1 July 2009 was a major cause of problems that subsequently arose (p.xviii).
- the use of a maximum rebate and medicare billing model meant that, 'as householders had no motivation (and almost certainly no expertise) to check the quality of the work, it left the way open to program abuses by unscrupulous newcomers to the industry who encouraged a large influx of inexperienced installers' (p.xvii).
- the Department did not adequately anticipate the high risk created by the huge influx of inexperienced and unqualified workers. When issues did emerge, the Department's responses were both slow and often inadequate (p.xv iii).
- the risks were sufficiently flagged in the Minter Ellison's April 2009 Risk Register and had been raised with the Government by various industry stakeholders as early as February 2009 (p.xv).
- there was a systematic failure to implement, enforce, and communicate to the industry

NELR recent developments

and workforce (p.xvi). The key mistake was failing to ensure that all personnel involved in installation were properly trained; not just supervisors overseeing untrained workers. It was unreasonable to assume that written warnings about fire and electrical safety would effectively reach workers in the roof (p.xvi)

It appears that the option of mandating safety switches as a condition of participation was never considered (p.xvi). There was also no requirement to switch off the household power during installation (p.xvii).

There was evidence that imported thermally non-compliant insulation had been installed in some homes which would not deliver the intended energy efficiency dividend (p.xxi).

Further information can be accessed at http://www.aph.gov.au/senate/committee/eca_ctte/eehp/index.htm, but a Government response was not available in late September 2010.

Independent inquiry into the Green Loans Program – the Faulkner Review (June 2010)

The Greens Loans program involved the provision of free home sustainability assessments by accredited assessors with recommendations to address energy and water use. The Government offered interest free loans of up to \$10 000 for accredited financial institutions to enable those recommendations to be carried out. In April 2010 Patricia Faulkner was engaged to undertake an inquiry into the procurement activity which had occurred under that scheme and in particular to consider whether those activities had been conducted with probity (p.2).

The Faulkner Review concluded that (see p.p.2-3):

- 96 per cent of the procurements examined had been procured through direct source (not open competition) and in 75 per cent of cases only one supplier was approached.
- There was evidence of contract splitting to avoid requirements for authorisation from senior management or the need for more competitive tendering processes (p.18).
- There were repeated and systematic breaches of Regulations 9 and 10 of the Financial Management Act 1997 and regulations and non compliance with Commonwealth Procurement Guidelines.

- There were inconsistent treatment of tenderers and inconsistent treatment of accredited assessors. For example, Fieldforce was allowed to bypass the overloaded customer service centre in making assessment bookings and was allowed to continue making online bookings for some months after the call centre ceased allowing new customer bookings to be made by other agencies (pp.32-33). There were also unaddressed conflicts of interest including the suggestion of inappropriate relationships with suppliers (see p.15).
- The Green Loans teams lacked the suitable procurement and project management skills to manage this kind of program. As a result, there was poor contract management and lack of commercial terms in contracts including a high percentage of payments not connected to contract milestones or deliverables. In some cases 100 per cent of the contract was payable upon signing (p.20). There were also significant cost escalations and weak budget control including an IT project manager contract for \$49,588 which escalated to \$462,000 and a contact service centre contract valued at \$770,000 which increased to \$3.4 million (p.20).
- The program operated largely in isolation from DEWHA's corporate support functions such as the procurement and legal branches (pp.36-42). However, the inquiry noted that there was no evidence that any direction had been given to the department to adopt such short cuts in minimising the need for approvals outside the program area (p.3).
- The program was designed from scratch rather than leveraging on learning and knowledge from similar State based programs (p.3).
- The program was designed to include an audit program for spot checks. However, an auditor was not engaged until late April 2010 (p.33).

Inquiry by the Senate Standing Committee on Environment, Communications and the Arts into the Green Loans Program

On 10 March 2010 the Senate referred an inquiry into the Government's Green Loans Program to the Environment, Communications and the Arts References Committee for inquiry and report by 21 June 2010. The committee received 181 submissions and held a public hearing on 29 June

NELR recent developments

2010. The Senate later extended the reporting date to 6 August 2010.

On 6 August 2010, the Committee noted that due to the prorogation of the 42nd parliament and the need to thoroughly consider the evidence it has received to date, the committee intended to table its final report as soon as practicable.

See <http://www.aph.gov.au/senate/committee/eca_ctte/green_loans/interim_report/report.pdf>

Repercussions of reviews

New Green Start program

The Green Loans program will be phased out and will transition to a new Green Start program, to be delivered through Commonwealth grants in two rounds: In the first round, the Commonwealth will fund the delivery of energy assessments for households. Grants will be awarded to accredited assessors and organisations who can deliver high quality assessments through a competitive process. In the second round, the Government will seek proposals from community and welfare sector NGOs and other organisations to provide practical help to low-income and disadvantaged Australians to improve their energy efficiency.

Changes made to program arrangements include:

- delivery of the Green Start program through grants, improving value for money, transparency and outcomes;
- removal of demand-driven component of the Green Loans program to safeguard against budget blowouts;
- the appointment of a probity advisor to review the proposed grants assessment process for

Green Start;

- the department to seek assurance from an independent adviser that the proposed arrangements are consistent with the recommendations of the independent reports, including the Faulkner inquiry;
- auditing assessors to ensure they are complying with the guidelines; and
- internal Department changes to assist executive and staff to manage risks, including enhanced training.

Both the Department of Climate Change and Energy Efficiency and the Environment Department made a number of internal changes, including the appointment of Audit Committees with Chief Internal Auditors. Staff in both departments will be able to report matters of concern directly to these CIAs.

See Department of the Environment Water Heritage and the Arts, 'Doing Our Business Better, Response to the Review of the Administration of the Home Insulation Program (the Hawke review) and the Independent Inquiry into the Green Loans Program (the Faulkner review)' (July 2010), available at: <http://www.environment.gov.au/about/publications/review/index.html>

See Department of Climate Change and Energy Efficiency, 'Response to the Review of the Administration of the Home Insulation Program (the Hawke review) and the Independent Inquiry into the Green Loans Program (the Faulkner review)' available at: <http://www.climatechange.gov.au/~media/publications/energy-efficiency/departamental-response-to-hawke-and-faulkner.ashx>

AUSTRALIAN CAPITAL TERRITORY

Kirsten Miller

ACT proposes greenhouse gas reduction targets

The ACT Government's Climate Change and Greenhouse Gas Reduction Bill 2010 proposes Australia's most ambitious greenhouse gas reduction target – carbon neutrality by 2060. The target requires emissions to be balanced by avoidance and mitigation activities, and emissions offsets outside the ACT.

The Bill proposes interim targets of a 40% reduction by 30 June 2020, based on 1990 emissions levels,

and 80% reduction by 2050. The Bill also sets a target for per capita emissions to peak by 30 June 2013.

The Bill provides for regular reporting of emissions levels and activities taken towards meeting the targets. An independent entity will prepare an annual report on emissions and progress to meeting the targets. In addition the Minister must prepare an annual report on the actions taken to address climate change, greenhouse gas emissions and targets. This report must be tabled in the ACT Parliament.