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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/departmental-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.

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The Bill does not include a target for the use or generation of renewable energy in the ACT but allows for regulations to prescribe a target.

In addition the Bill establishes a Climate Council who will advise the Minister on matters relating to reducing greenhouse gas emissions and addressing and adapting to climate change.

Emissions will be measured according to a methodology determined by the ACT Minister for the Environment, Climate Change and Water, currently Mr Simon Corbell MLA.

Environment impact assessment amendments

The ACT Government has released an exposure draft Bill proposing changes to the environment impact assessment (EIS) process under the Planning and Development Act 2007 (ACT)

Currently an EIS must be prepared for development proposals with the potential to have a significant environmental impact and that are listed in Schedule 4 to the Act. The Bill proposes that developers undertaking certain types of activities currently listed in Schedule 4 be able to apply to a relevant agency, either the Environment Protection Authority or the Conservator for Flora and Fauna, to declare that a proposal will not have a significant environmental impact. This would mean that these activities would not require an EIS.

Where such an application is made there is no opportunity for the public to comment on whether the proposal will have a significant environmental impact.

The Bill also proposes to amend Schedule 4 to limit the activities which require an EIS. In particular, a number of activities proposed in areas of land which are designated as future urban areas will no longer fall within the list of activities which require an EIS.

In addition the Bill includes a cost recovery provision which enables the ACT Planning and Land Authority to recover the costs associated with the assessment of an EIS from the proponent and for the agency which provides an opinion on whether the proposal will have a significant environmental impact to recover the costs from the proponent.

Interim report on ACT tree management practices

The ACT Commissioner for the Environment has

released an interim report on the ACT's tree management practices and urban tree renewal program. The report highlights the importance of the ACT's urban forest for conserving the natural environment and enhancing the landscape setting for the city. It makes a number of recommendations, including:

- a requirement to inform surrounding residents that a tree is to be removed
- introducing a right to seek reconsideration of a non-urgent decision to remove a sick or dead tree
- making tree assessments available on request
- the automatic replacement of trees which are removed subject to any compelling reasons to the contrary, and
- a city wide tree condition audit to identify gaps in the urban forest.

The Government has indicated that it supports most recommendations.

Inquiry into ecological carrying capacity for the ACT and region

The ACT Legislative Assembly Standing Committee on Climate Change, Environment and Water is conducting an inquiry into the ecological capacity of the ACT and region: <<http://www.parliament.act.gov.au/committees/index1.asp?committee=112&inquiry=975>> Submissions are invited by 12 November 2010.

Draft Hazardous Material Environment Protection Policy

The Environment Protection Authority has released a draft Hazardous Environment Protection Policy (EPP) for public consultation. The EPP contains information and policies relating to the management of hazardous materials. The draft policy is available at <http://www.environment.act.gov.au/__data/assets/pdf_file/0008/198530/Draft_Hazardous_Materials_Complete_WEB_060710.pdf>.

Removal of internal Tribunal review of certain planning and environmental decisions and amendments to Tribunal fees

The ACT Civil and Administrative Tribunal has increased its fees as at 1 July 2010. From this date the new fee for lodging an application for review of a decision under the *Planning and Development Act* is \$184. The fee for an application for review of a decision made under other ACT environmental

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legislation is now \$264.

Amendments have also been made to the *ACT Civil and Administrative Tribunal Act 2008* which remove the ability to seek an internal Tribunal review of certain land, planning and environment applications. Where the Tribunal has decided an application for review of a decision under the *Planning and Development Act 2007*, the *Heritage Act 2004* or the *Tree Protection Act 2005* a party can no longer appeal the decision to the Tribunal. For other decisions a right to seek internal review

of an ACAT decision remains. Amendments have also been made to provide that a person cannot be joined as a party to an application if they are not themselves entitled to make an application under the authorising law. For example, if a person has not made a timely submission on a development proposal under the Planning and Development Act they could not be joined to any proceedings seeking review of a decision on this development as they would not have standing to seek review, subject to any reasonable excuse for not putting in an objection on time.

NEW SOUTH WALES

Dr Nicholas Brunton

DRAFT STATE ENVIRONMENTAL PLANNING POLICY (COMPETITION) 2010

Harshane Kahagalle

The NSW Government has released a draft State Environmental Planning Policy (Competition) 2010 (Draft Competition SEPP) for public comment. This follows several reports and recommendations that suggest that planning laws unnecessarily and inappropriately impose restrictions on the number of retail outlets that can trade in a particular area. The Draft Competition SEPP has been developed by the NSW Government in an attempt to address these concerns. It aims to promote economic growth and removing anti-competitive barriers in planning law.

Background

In July 2008, the Australian Competition and Consumer Commission (ACCC) conducted an inquiry into the competitiveness of retail prices for groceries. Several findings were made including a recommendation that zoning and planning laws be reviewed to ensure they did not unduly restrict competition. Evidence was produced to the ACCC as part of this inquiry showing that planning objections were used by existing operators to deter competition and deter new players from entering the market.

In December 2009 the Coalition of Australian Governments agreed to review planning and zoning legislation in order to improve retail competition.

NSW Review Report

In NSW, following the release of a discussion

paper, the Department of Planning released a Review Report in April 2010. This report identified several anti-competitive issues that needed to be addressed, including:

- removal of restrictions in environmental planning instruments that are anti-competitive
- preventing objections from existing businesses on the basis of an expected loss of trade, or that are otherwise vexatious and lacking in substance
- removing the need to consider the commercial viability of a development when determining whether to provide development consent
- not limiting the number of a certain type of store in designated geographical areas.

Draft Competition SEPP

Following the recommendations made in the Review Report, the Draft Competition SEPP was prepared and exhibited. The Minister for Planning, Tony Kelly, stated that its purpose was to 'remove artificial barriers on competition' and 'to allow genuine competition to flourish between retail businesses which [will] place downward pressure on prices'.

The Draft Competition SEPP applies to all 'commercial developments', which include retail, business and office premises.

Under the Draft Competition SEPP, neither the commercial viability of a proposed commercial development, or the likely impact of a proposed commercial development on the commercial viability of another development (including loss of trade), are matters that can be taken