

# NELR recent developments

## Greece's revenue alternative

Greece's debt crisis has been at the forefront of media reports over recent months. A little known aspect is Greece's proposal to use revenue from a \$30m solar project to help fund its debt repayment. The proposal includes Greece providing its northern creditors with \$22b worth of electricity generated by the Helios solar energy project. The project was a central mechanism in the bailout aimed at securing the agreement of other European Union countries. The European environment energy and climate change Minister, Mr George Papaconstantinou said that Greece would commit future cash flows from project Helios, or other privatization revenue outside the adjustment program, to further reduce the indebtedness of the Hellenic Republic by up to 15 billion euros, with the aim of restoring the lending capacity of the European Financial Stability Fund.

The project has the potential to deliver nearly \$120b over its 25 year life and would help northern European countries to meet European Union requirements for power sourced from renewable energy. See <<http://www.bloomberg.com/news/2011-10-27/greece-to-use-revenue-from-solar-project-to-pay-debt-eu>>

## China changes air quality standards

In September 2011 China announced that it would include air-borne particles with a diameter of 2.5 microns or less (PM2.5) in its national air quality standards. In most parts of China, PM2.5 account for more than half of the air particulate pollution. PM2.5 has serious health implications. The particles are small enough to penetrate human lung tissue and can cause asthma, lung cancer and cardiovascular disease.

At the seventh Environment and Development Forum held on 22 September 2011, pollution control secretary Zhou Hualin announced that China intended to revise its National Ambient Air Quality Standards to include PM2.5 measurements, recognising the contribution that PM2.5 pollution makes to poor visibility and air quality. The decision is seen as a positive strengthening of China's environmental performance and trend towards a political culture that is more open about environmental conditions. <[http://www.chinadaily.com.cn/china/2012-01/10/content\\_14417799.htm](http://www.chinadaily.com.cn/china/2012-01/10/content_14417799.htm)> and <[www.climatespectator.com.au](http://www.climatespectator.com.au)>

## FEDERAL

## Dr Nicola Durrant and Shol Blustein

### Draft Murray Darling Basin Plan released

A key feature of the draft Murray Darling Basin Plan is the recommendation that a long-term environmentally sustainable level of take of water for consumptive use from the Murray Darling be set at 10 873 gigalitres per year (GL/y).<sup>1</sup> According to the MDBA, using 2009 as a baseline year, the environmentally sustainable level of take would be achieved by reducing consumptive use of water by 2 750 GL/y. Of this, 1 068 GL/y has already been recovered for the environment through buyback and infrastructure improvement schemes, and a further 214 GL/y has been announced recently, leaving 1 468 GL/y to be secured.

It is proposed that a review of the Basin Plan be undertaken in 2015. A seven-year transition period is also proposed, and long-term average sustainable diversion limits will not be enforced until 2019.

<sup>1</sup> <[http://download.mdba.gov.au/proposed/plain\\_english\\_summary.pdf](http://download.mdba.gov.au/proposed/plain_english_summary.pdf)>

The MDBA is seeking submissions on the draft Basin Plan by 16 April 2012.<sup>2</sup>

In November 2011, the Australian Government tabled its final response to the report of the Standing Committee on Regional Australia inquiry into the Guide to the Murray Darling Basin Plan.<sup>3</sup> The Government announced that it would:

- develop and publish a water recovery strategy to provide greater transparency and certainty to communities about how the water purchase program will be implemented
- conduct further consultation with industry on how best to integrate water purchases with infrastructure reconfiguration
- focus on targeted purchases in progressing its commitment to Bridging the Gap (and is not considering general tenders in the southern connected system for the remainder of 2011 and 2012)

<sup>2</sup> <[http://download.mdba.gov.au/proposed/proposed\\_basin\\_plan.pdf](http://download.mdba.gov.au/proposed/proposed_basin_plan.pdf)> and <[http://download.mdba.gov.au/proposed/plain\\_english\\_summary.pdf](http://download.mdba.gov.au/proposed/plain_english_summary.pdf)>

<sup>3</sup> <<http://www.environment.gov.au/water/publications/mdb/pubs/windsor-inquiry-response.pdf>>

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- establish a separate Commonwealth Environmental Water Office as a distinct entity within the Department of Sustainability, Environment, Water, Population and Communities to improve accountability and stakeholder engagement in environmental water management.<sup>4</sup>

## Discussion paper: Commonwealth environmental water trading

The Australian Government has released a discussion paper on the options for the trading of Commonwealth environmental water. It poses the question of whether water should be used within the current year, carried over for use in future years, or whether trade should occur (disposal or acquisition). Responses to the discussion paper are sought by 27 April 2012.<sup>5</sup>

## State of the Environment 2011 report

The Australian State of the Environment 2011 report was tabled in Parliament on 12 December 2011. Written by an independent committee of experts, the report presents a review of the state of the environment, environmental trends including environmental pressures and drivers, management initiatives and their impacts, and environmental resilience and threats. It also provides an overall outlook for the Australian environment. For the first time the report includes graded 'report-card' style assessments.<sup>6</sup> A summary of the key findings of the report is available.<sup>7</sup>

## Mining coal seam gas in the Murray Darling Basin

The Senate Standing Committees on Rural Affairs and Transport is inquiring into the management of the Murray-Darling Basin. It will examine the development and implementation of the Basin Plan with particular reference to the implications for agriculture and food production and the environment; the social and economic impacts of proposed changes in the Basin and their impacts on the sustainable productivity and viability of the Basin. The committee is also examining the impact of mining coal seam gas on the:

- sustainability of water aquifers and future water licensing arrangements

- property rights and values of landholders
- sustainability of prime agricultural land and Australia's food task
- social and economic benefits or otherwise for regional towns, and the effective management of relationships between mining and other interests
- other related matters including health impacts.<sup>8</sup>

On 30 November 2011, the Interim report on the impact of mining coal seam gas on the management of the Murray Darling Basin was released.<sup>9</sup> It makes a number of recommendations, including that:

- the federal and state governments conduct a thorough review of the appropriateness of adaptive management in the context of regulating the industry, given the significant gaps in information regarding cumulative and long term impacts of the industry
- the Commonwealth not give any further approvals for production of coal seam gas in that part of the Murray-Darling Basin overlying the Great Artesian Basin pending the completion of the Queensland Government's regional groundwater model and the CSIRO and Geoscience Australia basin scale investigation of water resources
- the Commonwealth await the completion of the Namoi Catchment study before considering any applications under the Water Act or the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) for approvals to undertake coal seam gas production
- all future coal seam gas development approvals should be preceded by the development of 'a regional-scale, multi-state and multi-layer model of the cumulative effects of multiple developments' of ground and surface water
- the Commonwealth take the necessary steps to amend the EPBC Act to include the sustainable use of the Great Artesian Basin as a 'matter of national environmental significance'.

The Senate has granted an extension of time for the Committee to report, to 29 June 2012.

4 <<http://www.environment.gov.au/minister/burke/2011/mr20111124.html>>

5 <<http://www.environment.gov.au/ewater/publications/water-trade-discussion-paper.html>>

6 <<http://www.environment.gov.au/soe/2011/index.html>>

7 <<http://www.environment.gov.au/soe/2011/report/key-findings.html>>

8 <[http://www.aph.gov.au/senate/committee/rat\\_ctte/mdb/info.htm](http://www.aph.gov.au/senate/committee/rat_ctte/mdb/info.htm)>

9 <[http://www.aph.gov.au/senate/committee/rat\\_ctte/mdb/interim\\_report/index.htm](http://www.aph.gov.au/senate/committee/rat_ctte/mdb/interim_report/index.htm)>

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## Amendments to Antarctic protections

In November 2011, the Australian Government introduced legislation to the House of representatives seeking to amend the *Antarctic Treaty (Environment Protection) Act 1980* (Cth) to implement three measures agreed to by nations under the Antarctic Treaty and the Madrid Protocol. The new measures will enter into force when approved by all 28 Consultative Parties to the Antarctic Treaty, including Australia.<sup>10</sup>

The Antarctic Treaty (Environment Protection) Amendment Bill 2011 (Cth) would:

- allow the Australian environment minister to grant a safety approval or an environmental protection approval, and to impose conditions on such approvals
- create new offences and civil penalties for unapproved activities, activities in contravention of the conditions under a safety or environmental protection approval, and offences and civil penalties related to environmental emergencies
- establish a liability regime for environmental emergencies that occur in the Antarctic
- implement new offences and civil penalties applicable to tourist vessels operating in the Antarctic.<sup>11</sup>

## Biodiversity Fund 2011–12

The Australian Government has established a number of funds for the land sector as part of its Clean Energy Future plan.<sup>12</sup> This includes the Biodiversity Fund which will invest around \$946m over the next six years to help land managers store carbon, enhance biodiversity and build greater environmental resilience across the Australian landscape. The Biodiversity Fund will invest in the following three main areas:

- biodiverse plantings – funding will help land managers expand native habitat on their property through planting mixed vegetation species appropriate to the region. This will help build landscape resilience and connectivity
- protecting and enhancing existing native vegetation – funding will support land managers to protect, manage and enhance existing native

vegetation in high conservation areas on their land for its carbon storage and biodiversity benefits

- managing threats to biodiversity – funding will control the threat of invasive pests and weeds in a connected landscape.

The 2011–12 application round closed on 31 January 2012.<sup>13</sup>

## Olympic Dam Mine expansion approved

On 10 October 2011, the proposed expansion of Olympic Dam mine in South Australia received approval under the EPBC Act subject to 100 conditions of approval including establishing a 140 000 hectares offset area, biodiversity conservation, environment protection management programs and compliance strategy.<sup>14</sup>

## Coal companies' enforceable undertaking

Centennial Angus Place Pty Ltd and Springvale Coal Pty Ltd and have provided the Australian Government with an enforceable undertaking that they will pay \$1.45m towards a research program to be administered by the Fenner School of Environment and Society at the Australian National University.<sup>15</sup> The companies' coal mining operations on the Newnes Plateau, near Lithgow in New South Wales have been found to have caused a significant impact on the endangered Temperate highland peat swamps on sandstone ecological community.<sup>16</sup> An investigation by the Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC) found there has been a loss of ecosystem function shown by loss of peat, erosion, vegetation dieback and weed invasion in three swamps and a large slump hole, several metres wide and more than one metre deep, has formed at the East Wolgan swamp.<sup>17</sup>

## EPBC Amendment (Emergency Listings) Bill

The Environment Protection and Biodiversity Conservation Amendment (Emergency Listings) Bill 2011 (Cth) provides for the emergency listing of threatened species and ecological communities where they are at

13 <<http://www.environment.gov.au/cleanenergyfuture/biodiversity-fund/apply.html>>.

14 <<http://www.environment.gov.au/minister/burke/2011/mr20111010.html>>

15 <<http://www.environment.gov.au/epbc/compliance/pubs/enforceable-undertaking-centennial.pdf>>

16 <<http://www.environment.gov.au/about/media/dept-mr/dept-mr20111021.html>>

17 <[#centennial">http://www.environment.gov.au/epbc/compliance/judgements.html](http://www.environment.gov.au/epbc/compliance/judgements.html)>#centennial>

10 <<http://www.environment.gov.au/minister/burke/2011/mr20111123.html>>

11 <<http://www.comlaw.gov.au/Details/C2011B00248>>

12 See <<http://www.environment.gov.au/cleanenergyfuture/index.html>> for other funds available.

risk from a significant and imminent threat.<sup>18</sup> The bill was introduced into the Senate on 13 October 2011.

## **Listing of three new threatened ecological communities**

The Minister has approved the listing of three new threatened ecological communities. These are:

- Arnhem Plateau Sandstone Shrubland Complex<sup>19</sup>
- Lowland Rainforest of Subtropical Australia.<sup>20</sup> See also text for Victoria, p 28.
- Upland Basalt Eucalypt Forests of the Sydney Basin Bioregion.<sup>21</sup>

## **Consultation paper on cost recovery under the EPBC Act**

The Department of Sustainability, Environment, Water, Population and Communities has released a consultation paper outlining options for recovering the costs of national environment law regulatory activities and reform. This document was open for public comment until 31 October 2011.<sup>22</sup>

## **Protection for the Australian Alps from cattle grazing**

On 21 October 2011, it was announced that the Australian Government had introduced a new regulation under the EPBC Act to protect the Australian Alps National Parks and Reserves from cattle grazing. The Government proposed to undertake a process of consultation with the States and Territories regarding the draft regulation. According to the Government's media release, the regulation specifies that grazing of domestic stock including cattle would have a significant impact on the heritage values of the Australian Alps Heritage Area and that any future new grazing activities proposed in the Australian Alps Heritage Area, including the Alpine National Park, would require assessment under the EPBC Act.<sup>23</sup>

The Victorian Government has since referred the matter to the Australian Government under the EPBC Act. The Victorian Government proposes to reintroduce cattle

18 <<http://www.comlaw.gov.au/Details/C2011B00211>>

19 <<http://www.environment.gov.au/cgi-bin/sprat/public/publicshowcommunity.pl?id=111>>

20 <<http://www.environment.gov.au/cgi-bin/sprat/public/publicshowcommunity.pl?id=101>>

21 <<http://www.environment.gov.au/cgi-bin/sprat/public/publicshowcommunity.pl?id=60>>

22 <<http://www.environment.gov.au/epbc/publications/consultation-draft-cost-recovery.html>>

23 <<http://www.environment.gov.au/minister/burke/2011/mr20111021.html>>

on a trial basis to determine whether they would assist in the reduction of fuel load in the region.<sup>24</sup>

## **Maritime Legislation Amendment Act 2011 (Cth)**

The *Maritime Legislation Amendment Act 2011* (Cth) commenced following assent in early December 2011. The Act aims to deter shipping companies and crew from engaging in unsafe and irresponsible actions at sea, particularly near environmentally sensitive marine ecosystems in Australia and on the high seas. The Act increases the penalties payable under the *Navigation Act 1912* (Cth) and the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* (Cth). New offence provisions are created, such as where the master of a ship fails to report in accordance with the regulations after an incident in a mandatory reporting area such as the Great Barrier Reef Marine Park.<sup>25</sup>

## **Bioregional planning: Temperate East Marine Region**

A draft marine bioregional plan and a Commonwealth marine reserves network proposal has been released for the Temperate East Marine Region comprising nine marine reserves in Commonwealth waters, including the:

- Jervis Commonwealth marine reserve
- Hunter Commonwealth marine reserve
- Cod Ground Commonwealth marine reserve (existing reserve with boundary adjustment and zone name change)
- Solitary Islands Commonwealth marine reserve (Commonwealth waters) (existing reserve with boundary adjustment to Pimpernel Rock and zone name change)
- Clarence Commonwealth marine reserve
- Tasmantid Commonwealth marine reserve
- Gifford Commonwealth marine reserve
- Lord Howe Commonwealth marine reserve (includes existing reserve Lord Howe Island Marine Park (Commonwealth waters), existing Elizabeth and Middleton Reefs marine national nature reserve and proposed new areas and zone name change)

24 <<http://www.beefcentral.com/p/news/article/996>>

25 <<http://www.aph.gov.au/library/pubs/bd/2011-12/12bd060.htm>>



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- Norfolk Commonwealth marine reserve.<sup>26</sup>

The draft Temperate East Marine Bioregional Plan contains information on the marine environment and conservation values of the Temperate East Marine Region, including protected species, protected places and key ecological features. The draft Temperate East Plan sets broad objectives for conservation, identifies priorities and outlines strategies and actions to achieve them. Specific advice on environmental assessments and referrals to assist people who wish to undertake activities that may impact on the marine environment in Commonwealth waters and other matters of national environmental significance is also presented in the draft Plan.<sup>27</sup> Submissions closed on 21 February 2012.

## Bioregional planning: Coral Sea

The proposed Coral Sea Commonwealth Marine Reserve will be located in Commonwealth waters on the eastern side of the Great Barrier Reef Marine Park.<sup>28</sup> Submissions on the proposal closed on 24 February 2012.

## National Offshore Petroleum Safety and Environmental Management Authority

On 7 December 2011 the Federal Executive Council approved amendments to legislation governing environmental management arrangements for offshore petroleum and greenhouse gas storage activities in Commonwealth waters. Amendments which came into effect on 1 January 2012 are a result of changes to the:

- *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth)
- *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* (Cth)
- *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004* (Cth)
- *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* (Cth).<sup>29</sup>

The role of the former National Offshore Petroleum Authority has been expanded to include the regulation

26 <[#networkproposal](http://www.environment.gov.au/coasts/mbp/temperate-east/consultation/index.html)>.

27 <[#plan](http://www.environment.gov.au/coasts/mbp/temperate-east/consultation/index.html)>

28 <<http://www.environment.gov.au/coasts/mbp/coralsea/consultation/index.html>>

29 <<http://www.nopsa.gov.au/document/Notice%20-%20Changes%20to%20environmental%20management%20arrangements%20-%20December%202011.pdf>> .

of occupational health and safety, wells and well operations and the structural integrity of facilities and environmental management within Commonwealth waters.<sup>30</sup> Commonwealth waters are usually 3 nautical miles from the low water mark to 200 nautical miles out to sea at the edge of Australia's Exclusive Economic Zone (EEZ). From 1 January 2012 these functions will be performed by the new National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA).<sup>31</sup>

## National offshore petroleum titles administrator

On 1 January 2012, the National Offshore Petroleum Titles Administrator (NOPTA) was established as a branch of the Resources Division of the Department of Resources, Energy and Tourism (RET). NOPTA's key functions in Commonwealth waters are to:

- provide information, assessments, analysis, reports, advice and recommendations to members of the Joint Authorities and the responsible Commonwealth Minister in relation to the performance of those Ministers' functions and the exercise of their powers
- manage the collection, management and release of data, titles administration, approval and registration of transfers and dealings
- oversee the keeping of the registers of petroleum and greenhouse gas storage titles.<sup>32</sup>

States and the Northern Territory (NT) will maintain a titles administrator role in State and NT waters. NOPTA's head office will be in Perth, with a regional office in Melbourne.

## Draft Conservation Management Plan for the Southern Right Whale (2011–16)

Southern right whales (*Eubalaena australis*) are currently listed as endangered under the EPBC Act. A draft recovery plan that conforms with the International Whaling Commission's Conservation Management Plan format, while meeting the requirements of a recovery plan under the EPBC Act was open for comment until

30 <<http://www.nopsa.gov.au/document/Booklet%20-%20New%20arrangements%20for%20offshore%20petroleum%20environmental%20management%20regulation.pdf>> .

31 <<http://www.nopsa.gov.au/>>

32 <<http://www.ret.gov.au/RESOURCES/NOPTA/Pages/nopta.aspx>>

13 February 2012.<sup>33</sup> The draft plan outlines the current status of and threats to the southern right whale in Australian waters and prioritises recovery actions for the 2011–16 period.

## Product stewardship amendments – televisions and computers

A national scheme for recycling televisions and computers came a step closer with the making of the *Product Stewardship (Televisions and Computers) Regulations 2011* (Cth) on 8 November 2011, 3 months after the *Product Stewardship Act 2011* (Cth) came into effect.<sup>34</sup> There is a new material recovery target of 90% for materials that need to be recovered through the recycling process for further processing into useable materials and to limit the amount of material being sent to landfill. This is consistent with the estimated average material recovery rate currently being achieved by Australian recyclers of televisions and computers. The target will not come into effect until the 2014–15 financial year, to provide time to standardise measurement and reporting methodologies.<sup>35</sup>

## Carbon Farming Initiative commences

The Carbon Farming Initiative is ‘open for business’<sup>36</sup> following the commencement of the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth) and the making of the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* (Cth).<sup>37</sup> The Carbon Farming Initiative is a key component of the Australian Government’s Clean Energy Future plan as it enables farmers, land owners, local government and a range of other stakeholders to reduce greenhouse gas emissions by adopting various land-based greenhouse gas abatement measures.<sup>38</sup>

## Australia’s Clean Energy Future package

Australia will have a carbon pricing mechanism from 1 July 2012 following the commencement of the *Clean*

33 <<http://www.environment.gov.au/biodiversity/threatened/publications/recovery/draft-for-comment-southern-right.html>>.

34 <<http://www.environment.gov.au/settlements/waste/ewaste/>>

35 <<http://www.environment.gov.au/settlements/waste/ewaste/>>

36 <<http://www.climatechange.gov.au/minister/greg-combet/2011/media-releases/December/mr20111208.aspx>>

37 <<http://www.climatechange.gov.au/cfi>>

38 <<http://www.climatechange.gov.au/minister/greg-combet/2011/media-releases/December/mr20111208.aspx>>

*Energy Act 2011* (Cth). The details of the mechanism were described in detail (2011) 3 *NELR* 5–6. The Australian Government is developing the regulatory infrastructure to support this mechanism.

On 30 September 2011, the Australian Government invited expressions of interest from eligible generators seeking to participate in the Contract for Closure program. The Program aims to support the closure of around 2 000 megawatts of highly emissions-intensive electricity generation capacity by 2020. Eligible generators selected through a competitive tender process will be able to seek Australian Government payment to retire their operations by an agreed date. Eligible generators were invited to respond by 21 October 2011. Five generators have been invited to proceed to the negotiation phase:

- Playford Power Station (Alinta)
- Energy Brix (HRL)
- Hazelwood Power Station (Hazelwood Power Partnership, 91.8% owned by International Power GDF Suez Australia)
- Collinsville Power Station (RATCH)
- Yallourn Power Station (TRUenergy).

The negotiation stage will involve the generators being asked for detailed closure proposals, followed by bilateral negotiations between the Australian Government and the relevant generator.<sup>39</sup>

## Australian Renewable Energy Agency

The *Australian Renewable Energy Agency Act 2011* (Cth) establishes the Australian Renewable Energy Agency (ARENA). ARENA will commence operations on 1 July 2012 and is charged with managing approximately \$3.2b in Australian Government funding for renewable energy such as solar (including large scale solar), biomass, biofuels, ocean and geothermal.<sup>40</sup> The *Australian Renewable Energy Agency Act 2011* (Cth) received royal assent on 4 December 2011.<sup>41</sup>

39 <<http://www.ret.gov.au/energy/clean/contract/Pages/ContractforClosure.aspx>>

40 <<http://www.climatechange.gov.au/minister/greg-combet/2011/media-releases/October/mr20111012.aspx>>

41 <[http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;adv=yes;orderBy=priority,title;page=1;query=Dataset\\_Phrase%3A%22billhome%22%20ParliamentNumber%3A%2243%22;rec=9;resCount=Default](http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;adv=yes;orderBy=priority,title;page=1;query=Dataset_Phrase%3A%22billhome%22%20ParliamentNumber%3A%2243%22;rec=9;resCount=Default)>

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## Clean Energy Regulator start date

On 15 November 2011, the Minister for Climate Change and Energy Efficiency, the Hon Greg Combet AM MP, announced that the new administrative body for the carbon pricing mechanism, the Clean Energy Regulator, will commence from 2 April 2012. It will administer the carbon pricing mechanism, the National Greenhouse and Energy Reporting Scheme, the Renewable Energy Target and the Carbon Farming Initiative.<sup>42</sup>

## Australian National Register of Emissions Units

On 31 October 2011 consultation draft *Australian National Register of Emissions Units Regulations* (Cth) were released for comment.<sup>43</sup> The proposed register will be used to track Australian carbon credit units generated under the Carbon Farming Initiative, Kyoto units issued under the Kyoto Protocol, and carbon units issued under the carbon pricing mechanism.<sup>44</sup> These regulations were made on 7 December 2011.<sup>45</sup>

## Draft Energy White Paper released

On 13 December 2011, the Minister for Resources and Energy and Tourism, the Hon Martin Ferguson AM MP, released the draft *Energy White Paper, Strengthening the Foundation for Australia's Energy Future*, for public comment.<sup>46</sup> It contains a series of proposed priorities for the Australian Government to address the various challenges affecting Australia's energy sector. The four priorities proposed are:

- strengthening the resilience of Australia's energy-policy framework
- reinvigorating the energy market reform agenda
- developing Australia's critical energy resources – particularly gas
- accelerating clean energy outcomes.

The consultation period closes on 16 March 2012. The Australian Government intends to release the final Energy White Paper in mid 2012.

42 <<http://www.climatechange.gov.au/minister/greg-combet/2011/media-releases/November/mr20111115.aspx>>

43 <<http://www.climatechange.gov.au/minister/greg-combet/2011/media-releases/October/mr20111031.aspx>>

44 <<http://www.climatechange.gov.au/minister/greg-combet/2011/media-releases/October/mr20111031.aspx>>

45 <http://www.comlaw.gov.au/Details/F2011L02585>.

46 <<http://minister.ret.gov.au/MediaCentre/MediaReleases/Pages/DraftEnergyWhitePaperReleased.aspx>>

## Australia's new resources tax regime

On 23 November 2011, the Minerals Resource Rent Tax Bill 2011 (Cth) was passed by the House of Representatives. The proposed Minerals Resource Tax (MRRT) will apply to all new and existing iron ore and coal projects in Australia and will be applied at a rate of 30% on the taxable profit of a project from 1 July 2012.<sup>47</sup>

The passage of the MRRT through the House of Representatives was made possible by an agreement between the Government and the Independents Tony Windsor and Rob Oakeshott.<sup>48</sup> The agreement requires the establishment of an Independent Expert Scientific Committee (Committee) under the EPBC Act. The Government will provide \$150m for the Committee to:

- advise on research priorities and commission and coordinate research to inform the assessment and management of extractive industry impacts, particularly relating to coal seam gas and major coal mining developments, including through engagement with relevant natural resource management/catchment management authorities
- provide scientific advice to federal and state ministers so that regulatory decisions take into account the best available scientific advice,
- and support the development of relevant best-practice national standards.

Before the necessary legislative amendments are made to establish the Committee, the Government has agreed to create an interim board for the Independent Expert Scientific Committee.

The agreement also requires the Government to establish a National Partnership Agreement through the Council of Australian Governments (COAG) focussed on the work of the Committee. The Government will provide \$50m to the states to deliver the Partnership, which aims to 'lift the standard of extractive industry regulation across all jurisdictions, on a consistent basis'.

47 <<http://minister.ret.gov.au/MediaCentre/MediaReleases/Pages/FairReturnAustraliaResourceWealth.aspx>> and <<http://www.ato.gov.au/taxprofessionals/content.aspx?doc=/content/00286481.htm>>

48 <<http://www.treasurer.gov.au/DisplayDocs.aspx?doc=pressreleases/2011/141.htm&pageID=003&min=wms&Year=2011&DocType=0>> and <<http://www.tonywindsor.com.au/releases/111121.pdf>>

State and federal agencies charged with the regulation of extractive industry assessments will be required to take into account advice from the Committee relating to the impacts of extractive industries and to ensure all approval processes take into account advice from the Committee. The Government will work towards agreeing the National Partnership Agreement at the first meeting of COAG in 2012. If agreement cannot be reached, the Government will introduce legislation to amend the EPBC Act to achieve similar outcomes.<sup>49</sup>

In the same sitting that the MRRT was passed, the House of Representatives also passed the Petroleum Resource Rent Tax Assessment Amendment Bill 2011 (Cth). The Act amends the Petroleum Resource Rent Tax (PRRT) established by the *Petroleum Resource Rent Tax Assessment Act 1987* (Cth). The PRRT currently applies to all petroleum (oil and gas) projects in offshore areas (other than certain production licenses derived from the North West Shelf exploration permits). The PRRT is applied at a rate of 40% on the taxable profit of a

project.<sup>50</sup> The amendments proposed by the Petroleum Resource Rent Tax Assessment Amendment Bill 2011 (Cth) would extend this tax to all Australian onshore and offshore oil and gas projects, including the North West Shelf. The Government has announced that, if successful, the extension to the PRRT will come into effect from 1 July 2012.

On 10 November 2011 the Minerals Resource Rent Tax Bill 2011 and related bills were referred to the Economics Legislation Committee with a reporting date of 14 March 2012. Submissions were due by 23 December 2011.

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<sup>49</sup> <<http://www.treasurer.gov.au/DisplayDocs.aspx?doc=pressreleases/2011/141.htm&pageID=003&min=wms&Year=2011&DocType=0>> and <<http://www.tonywindsor.com.au/releases/111121.pdf>>

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<sup>50</sup> <<http://www.ato.gov.au/businesses/content.aspx?doc=/content/39230.htm&pc=001/003/117/001/001&mnu=44895&mfp=001&st=&cy=1>>

## AUSTRALIAN CAPITAL TERRITORY

## by EDO (ACT) volunteers

### Challenge to development approval for suburb of Coombs

The Conservation Council of the South-east Region and Canberra is challenging an approved development application for the suburb of Coombs in the Molonglo Valley in inner-Canberra (DA 2011/20676). The Council considers the approved development to be inconsistent with the Territory Plan, the *Planning and Development Act 2007* (ACT), the Coombs and Wright Concept Plan, the residential Subdivision Code, and the approval conditions under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). The Council argues that unacceptable vulnerability to bushfire will be created for some residential dwellings, and that habitat for the Pink-tailed Worm Lizard (*Aprasia parapulchella*) will be compromised. *Aprasia* has special protection status, and is listed as vulnerable under ACT, NSW and Commonwealth biodiversity protection legislation. The Council aims to have all bushfire buffer zones moved

100 metres outside the Molonglo River Corridor and nature reserve boundaries in order to ensure protection to threatened species and endangered ecological communities, and to have some housing areas removed from the Plan.

The suburbs of North Weston, Coombs and Wright were assessed and approved under EPBC Act Part 9 referrals (2009/4752, 2009/5041 and 2009/5050).

All urban and commercial development in the Molonglo Valley must follow an approved Structure Plan which is part of the Territory Plan. The Structure Plan includes planning and development guidelines and principles for urban development and associated infrastructure in Molonglo and North Weston. Development is also subject to the *Molonglo Valley Plan for the Protection of Matters of National Environmental Significance* (the Plan).