



australian network of environmental defender's offices

Submission on the *Prime Minister's Task Group on Energy Efficiency Issues Paper*

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The Australian Network of Environmental Defender's Offices (ANEDO) consists of nine independently constituted and managed community environmental law centres located in each State and Territory of Australia.

Each EDO is dedicated to protecting the environment in the public interest. EDOs provide legal representation and advice, take an active role in environmental law reform and policy formulation, and offer a significant education program designed to facilitate public participation in environmental decision making.

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Introduction

The Australian Network of Environmental Defender's Offices Inc (ANEDO) is a network of 9 community legal centres in each state and territory, specialising in public interest environmental law and policy. ANEDO welcomes the opportunity to provide comment on the *Prime Minister's Task Group on Energy Efficiency Issues Paper*.

It is widely recognized that energy efficiency measures are one of the most cost-effective ways to reduce emissions, and that it is expected that up to 65 percent of global emissions cuts by 2020 will come from energy efficiency.¹ ANEDO submits that Australia needs to have best practice legislation, regulations and standards in each jurisdiction to achieve vital efficiency gains.

ANEDO recommends that the Task Group implement an audit of all current legislative and regulatory measures that relate to energy, with a view to identifying regulatory barriers and perverse incentives, and a gap analysis of where new best practice regulation is needed to achieve energy efficiency.

We also note that while developing best practice energy efficiency law and policy is essential, it is one of a range of legislative and policy measures needed to reduce Australia's greenhouse gas emissions. Measures such as implementing a well-designed and effective ETS and robust renewable energy targets remain vital. ANEDO has made extensive recommendations regarding necessary legislative architecture in relation to the Carbon Pollution Reduction Scheme (CPRS) and the Renewable Energy Target (RET).² However, the continued absence of a carbon price in Australia means it is even more crucial that the Australian Government, and state and territory governments, ensure that best practice energy efficiency regulatory regimes are in place to contribute to significant emissions reductions by 2020.

Energy Efficiency Roundtable

The Environmental Defender's Office of NSW recently participated in an Energy Efficiency Roundtable convened by the Total Environment Centre in Sydney (4th March 2010). Participants of that Roundtable have subsequently produced a communiqué (15th April 2010). ANEDO strongly supports the following recommendations for reforms outlined in the communiqué:

- Set mandatory national energy efficiency goals for 2020 and beyond with clear annual targets;
- Create incentives in the National Electricity Market (NEM) to foster energy efficiency and distributed energy;
- Strengthen institutional support for the 'smart grid';
- Build energy efficiency trade skills and workforce capabilities through national training programs;
- Create strong incentives and regulatory drivers for energy efficiency in industry, commercial buildings and households;
- Mandate stringent vehicle fuel consumption standards and recognise the contribution from recycling and materials resource efficiency; and
- Require best-practice energy efficiency in government operations.

¹ International Energy Agency; and see the communiqué available at www.tec.org.au.

² ANEDO submissions are available at: <http://www.edo.org.au/edonsw/site/policy.php#1>.

Role of regulation

As a network of public interest legal centres, ANEDO is primarily concerned with the regulatory options for enhancing energy efficiency. Many of the actions areas identified above require legislative underpinning.

Although there are a range of policy measures in existence across Australia, such as energy efficiency labeling legislation and building standards, we recommend a review of the legislative architecture in each jurisdiction that relates directly to or indirectly affects the implementation of energy efficiency measures. This would involve an audit of all energy-related regulatory measures that currently operate, including those that promote energy efficiency and those that currently create barriers to gaining full energy efficiency benefits. This would range from a comprehensive review of the National Electricity Law (NEL) that underpins the National Electricity Market (NEM), to review of state energy legislation, to consideration of non-energy legislation that has implications for energy efficiency, such as planning and development laws in each jurisdiction.

There are a range of existing regulatory measures that could be extended. Amendments could be made to relevant instruments ranging from national, state and territory legislation, to regulations, standards, and even lease agreements. Using NSW as an example, the BASIX scheme under planning legislation that currently applies to new residential buildings, could be extended to apply to new commercial and industrial buildings.³ Residential tenancies legislation could be amended to incorporate lease schedules with energy efficiency clauses.

The audit should be comprehensively identify:

- Existing legislation, regulations and standards that directly and indirectly relate to energy efficiency measures, and identify how the existing instruments need to be amended;
- Regulatory gaps where there is currently no regulation (or inadequate regulation) and where new best practice regulation is needed; and
- Whether there is a need for a national energy efficiency regulatory framework to ensure consistency and best practice.

The recommended audit of relevant legislation and regulations should complement ongoing audit processes (for example Audit Office reviews of various grants and voluntary schemes), to determine the actual, verifiable contribution of energy efficiency measures to economy-wide efficiencies and emissions reductions.

The Issues Paper notes that the Government is pursuing a deregulation agenda to reduce regulatory burdens and promote best practice regulation (page 16). ANEDO submits that it may be necessary to introduce best practice regulations in each jurisdiction to ensure energy efficiency programs have clear requirements, and are enforced and monitored. A cost-benefit analysis undertaken during the preparation of regulatory impact statements for new instruments is likely to reveal the cost benefits and co-benefits (as acknowledged in the Issues Paper) of such measures would out-weigh concerns about adding to a perceived regulatory burden.

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³ See: State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004