



Issue 17 – August/September 2012

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1. Clean Energy Future legislative package in practice

The carbon pricing mechanism, which is part of the Australian Government's Clean Energy Future legislative package, came into force on 1 July 2012. The scheme aims to reduce Australia's carbon pollution, and in turn avoid the worst effects of climate change. The Government predicts that under the scheme Australia will cut at least 159 million tonnes per year of carbon pollution by 2020. Analysis by [Climate Works Australia](#) shows that the Clean Energy Future package has the potential to see Australia three-quarters of the way towards achieving its agreed minimum emissions reduction target of 5 per cent below 2000 levels by 2020, using existing technologies alone.

Under the carbon pricing scheme [top polluters](#) now pay for their carbon emissions. Until now, Australia's largest polluters of greenhouse gas have been able to emit carbon into the atmosphere at no charge. The Government now hopes to reduce carbon pollution by charging businesses for the carbon they emit, thereby incentivising polluters to reduce their emissions. The carbon price does not apply to emissions from agriculture, forestry, or fishing industries.

The carbon pricing scheme is supported by initiatives designed to encourage innovation and investment in renewable energy. The Government hopes to drive expansion in the renewable energy industry through initiatives including the investment of over \$10 billion in renewable electricity generation technology research, development, manufacture, and deployment. Grants are also available to businesses wishing to install energy efficient equipment.

The [Carbon Farming Initiative](#) (CFI) aims to reduce greenhouse gases in the atmosphere by creating a system where landholders can earn carbon credits by undertaking measures which increase the amount of carbon stored in soil and trees, and decrease emissions through the destruction and capture of methane. Landholders can then sell these credits to businesses needing to offset their carbon pollution. Landfill waste can be turned into renewable energy through the capture and combustion of landfill gas, and the destruction of methane generated from

manure in piggeries will earn carbon credits, as detailed in approved [Carbon Farming Methodologies](#).

The carbon price commenced at a fixed cost of \$23 per tonne. This price will rise by 2.5 per cent each year until 2015, when it is planned to transition to a flexible price under an emissions trading scheme (ETS). The price of carbon will then be determined by the market.

The Minister for Climate Change and Energy Efficiency announced changes to the carbon pricing scheme in August 2012. These changes affect the price of carbon, as well as the way that carbon credits are traded.

A key change is that Australia's ETS will be linked with the European Union's ETS from 1 July 2015, forming the largest carbon trading scheme in the world. Under the original plan a price floor was to be applied to carbon from the commencement of the ETS so the price of carbon would not fall below \$15. However, due to the recent changes there will no longer be a price floor, and the price of carbon will mirror the EU's carbon price. This has caused concerns that without the protection of the price floor there will be less incentive for investment in CFI projects and in renewable technologies due to price fluctuations and uncertainties.

From 1 July 2015, Australian businesses will be able to purchase emissions permits in the EU ETS to meet up to 50 per cent of their liabilities under the Australian scheme. Negotiations are underway to establish a mutual recognition of carbon units between Australia and the EU's ETS, commencing no later than 1 July 2018, which would allow European businesses to purchase emissions permits in Australia to meet their liabilities under the EU ETS. This mutual recognition would mean that credits from either the Australian ETS or the European ETS would be available for use by relevant businesses. There will also be a limit of 12.5 per cent on the use of international Kyoto carbon units.

The aims of the Clean Energy Future package to reduce carbon pollution and encourage investment in renewable energy technology is a positive step towards avoiding the worst effects of climate change, however continued analysis will be required to ensure that the package is meeting its goals.

For more information about the Clean Energy Future legislative package, [click here](#).

National Update *Law*

2. Giant Kelp Forests nationally listed as an endangered ecological community

The Federal Environment Minister has listed the giant kelp marine forests of south east Australia as an endangered ecological community under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act). This is the first time that a marine ecological community has been listed under national environmental law.

The Minister highlighted the role that the kelp forests play as “important carbon sinks”, which are estimated to be able to hold over 80,000 tonnes of carbon per square kilometre. This is more than double the amount of carbon that some terrestrial forests can hold. The Minister acknowledged the impact of climate change on the community. “Giant kelp forests are being progressively lost due to a warming of the sea surface temperature caused by climate change, invasive species and changing land use and coastal activities that contribute to increased sedimentation and runoff and biodiversity loss.”

The listing means that any action likely to have a significant impact on the giant kelp forest ecological community must be referred to the Minister for assessment under the EPBC Act.

For more information, [click here](#).

3. Fitness club fined by ACCC for making false carbon price claims

A fitness club in Victoria has been fined by the Australian Competition and Consumer Commission (ACCC) for making false claims about the impact of the carbon price on gym membership fees.

GFC Berwick Pty Ltd, trading as Genesis Fitness Club, sent a letter to over 2,000 of its members offering contract extensions at current or reduced membership rates, claiming that taking up the offer would allow members to avoid an increase in membership fees caused by the carbon price. 200 members acted on the offer.

The ACCC believes that GFC Berwick did not have a reasonable basis for claiming that the carbon price would increase the cost of membership fees, raising concerns that people signed lengthy contract extensions that they would not have signed if they were not misled by the carbon price claims. GFC Berwick was fined \$6,600 and was also required to offer those members who signed contract extensions to withdraw at no cost.

To view the infringement notice, [visit the ACCC website](#).

4. Wind Farm win in VCAT *Bald Hills Windfarm Pty Ltd v Minister for Planning* [2012] VCAT 1092

Bald Hills Windfarm Pty Ltd (Bald Hills) was granted a permit for a wind farm energy facility by the Victorian Government. This permit required Bald Hills to commence development of the project before 19 August 2012. Conditions placed on the permit also required Bald Hills to submit development plans to the Minister for Planning before commencing work on the development. Bald Hills submitted the plans to the Minister as required, however the Minister failed to approve them before August 2012.

The Minister's approval of the development plans before the development commencement expiry date was vital to the development because changes to planning controls for wind energy facilities introduced after the permit was issued would mean that if Bald Hills did not commence the development in time the permit could not be extended and the project could not go ahead..

Bald Hills applied to the Victorian Civil and Administrative Tribunal (VCAT) to review the failure of the Minister to make a decision to approve the development plans within a reasonable time after they were submitted.

The Minister argued that a reasonable period of time had not yet elapsed since the plans were submitted.

The Tribunal decided that the Minister had a reasonable time to assess the plans and make a decision, and that any delay on the part of the Minister was unjustified given the urgency associated with the decision and the investment that Bald Hills had already made in the project. The Tribunal determined that the development plans submitted by Bald Hills should be approved, meaning that the development can now go ahead.

To read the decision, [click here](#).

5. Coastal Protection Amendment Bill 2012 (NSW) to change the way sea level rise is managed in NSW

The NSW Government has introduced the *Coastal Protection Amendment Bill 2012* (NSW) into Parliament. If passed, this Bill will change the way that the coast in NSW is managed in response to sea level rise.

The Bill is intended to amend the *Coastal Protection Act 1979* (NSW) and the *Coastal Protection Regulation 2011* (NSW) to allow 'coastal protection works' to be constructed more easily, sometimes without the need for approval. The penalties for offences relating to temporary coastal protection works will be reduced.

Under the current law, landholders can only place coastal protection works such as sandbags in emergency situations such as where beach erosion is occurring, imminent or reasonably foreseeable. The changes will allow landholders to construct temporary coastal protection works in order to reduce the impact or likely impact from wave erosion on land.

Land within the coastal zone will no longer be categorised into coastal hazard risk categories, and the NSW Government will advise councils on how to prepare planning (s. 149) certificates in the absence of these categories. The Government has announced that local councils will no longer be required to use State-wide sea level rise projections in preparing their plans and assessing development applications, and will be given an extra 12 months to complete coastal zone management plans.

Private Land

The changes will mean that a person will not need approval to place complying temporary coastal protection works on their own property. Temporary coastal protection works will no longer be required to be removed 12 months after placement, and the restriction that allows temporary coastal protection works to be placed on private land only once will be removed. Landholders will also be able to place temporary coastal protection works on other private property, as long as they have a lease or an easement or the permission of that landholder.

Public Land

Landholders will be able to apply for a certificate which will allow them to place and maintain temporary coastal protection works on public land for the purpose of mitigating the effects of wave erosion on their own land. No lease or easement will be required. The maximum period for temporary coastal protection works on public land will be increased from 12 months to 2 years. Public authorities will still not be able to unreasonably refuse access to a public place by a person who is legally allowed to place temporary coastal protection works on either public or private land. Additionally, public authorities who issue a certificate for works on public land will no longer be required to appoint an emergency works authorised officer to exercise functions under the certificate.

For more information, [click here](#). To read the Bill, [click here](#).

Policy

6. Senate report on the *Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012 (Cth)* released

The Australian Senate Economics Legislation Committee has released its report on the *Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012* (Cth), a Private Senators Bill which was introduced by Senators Xenophon and Madigan in June 2012. The Bill proposed to amend the *Renewable Energy (Electricity) Act 2000* (Cth) to give the Clean Energy Regulator powers to ensure that wind farms do not create excessive noise.

The Bill proposes that a wind farm will be prevented from receiving accreditation if it produces excessive noise, which is defined as a level of noise that exceeds background noise by 10 dB(A) or more when measured within 22 metres of any premises that is used for residential purposes as a place of work, or as a place where people habitually congregate.

Under the Bill, wind farms would also be required to publish information about noise, wind speed and direction, weather conditions, and power output online.

In the Report, the Committee recommends further studies by an appropriate body will be required to properly examine the merits of the Bill, and highlights that the Government's response to the noise created by wind farms is still in development.

To read the report, [click here](#). To read the Bill, [click here](#).

7. Renewable Energy Target Review

The Climate Change Authority is conducting a review of the Renewable Energy Target (RET) following the release of the [Renewable Energy Target review Issues Paper](#). The Renewable Energy Target aims to create financial incentives to encourage the development of renewable energy in Australia.

Public comment was invited to the review throughout August and September 2012. EDO NSW, as part of the Australian Network of EDOs (ANEDO), made a submission to the review. To read the ANEDO submission, [click here](#).

8. ACT Government releases new climate change strategy

The ACT Government has released [AP2: A new climate change strategy and action plan for the Australian Capital Territory](#). The plan outlines the ACT Government's responses to climate change, including actions to reduce emissions and to increase awareness and knowledge of climate change across Government and through the community.

The plan details the ACT Government's actions to achieve its target of a 40 per cent reduction in the ACT's greenhouse gas emissions by 2020, and carbon neutrality by 2060. This includes a new renewable electricity consumption target of 90% renewables by 2020.

For more information, [click here](#). To read the plan, [click here](#).

International Update

Law

9. Philippines climate change fund established

The Philippine President has affirmed the Peoples' Survival Fund through the *Republic Act No. 10174*, an amendment to the *Climate Change Act of 2009* which creates a fund for local governments and communities to carry out climate change adaptation programs, including land and water resources management, agriculture and fisheries, health, infrastructure development, and natural ecosystems programs.

For more information, and to read the Act, [click here](#).

10. New York City Council passes climate change legislation

New York City Council has passed legislation which establishes two panels who will advise the City on the threats of climate change. The legislation establishes the New York City Panel on Climate Change, which is a group of scientists, and a task force of Government agencies and private sector partners including energy and telecommunications sectors. The panels will make recommendations to the City Council on how the city should adapt to more frequent storms and heat waves. The panels were established by Mayor Bloomberg in 2008, however this legislation institutionalises the panels and extends their responsibilities.

For more information, [click here](#).

Policy

11. United Nations Bangkok Climate Change Conference

The United Nations Bangkok Climate Change Conference was held in August and September 2012. These were informal talks in the lead up to the Doha Climate Change Conference (COP18) in November 2012.

No new agreements or deals were reached at the Conference, however the Executive Secretary of the UN Framework Convention on Climate Change said that the talks were still worthwhile because key issues have been advanced further than many had expected, raising the prospects for a successful Doha Conference.

NGOs have, however, criticised the United States and Australia for blocking action on a global climate deal and on the second commitment period for the Kyoto Protocol which would require countries to commit to making further cuts in greenhouse gas emissions.

The Kyoto Protocol first commitment period expires 31 December 2012, with the second commitment period commencing 1 January 2013. Australia has still not indicated whether or not it will participate in this second commitment period. The US never took part in the Kyoto Protocol, and Canada, Japan, and Russia have confirmed that they will not be joining the second commitment period.

For more information, [click here](#).

12. New carbon offset methodology approved: Louisiana wetlands restoration project

The American Carbon Registry (ACR) has approved an offset methodology which has the potential to help restore coastal wetlands in the Gulf of Mexico.

Landholders who undertake wetland restoration activities will earn carbon credits by using the methodology to calculate the amount of carbon and other greenhouse gases the wetlands will hold over time. The methodology also allows for credits to be earned through the slowing of wetland destruction and thus the avoidance of emissions. Landholders will be able to sell the carbon credits to businesses wishing to offset their greenhouse gas emissions.

For more information, [click here](#).

Media, Reports, and Other News

13. CSIRO Report: *The implications of climate change for Australia's biodiversity conservation and protected areas*

The [CSIRO](#) released the final synthesis of its report *The implications of climate change for biodiversity conservation and the National Reserve System* in September 2012. This report will inform the future management of Australia's protected areas.

The report follows CSIRO's analysis of the effects of climate change on Australian biodiversity and the implications for conservation and the National Reserve System. The analysis shows that climate change is likely to lead to very significant and widespread ecological impacts, and that there will be many threats to biodiversity, including alien species, altered fire regimes, and human uses of land and water due to adaptation in other sectors.

The report finds that Australia will need to reassess its conservation objectives, understanding that biodiversity, as well as Australia's biodiversity values, will change.

For more information and to read the report, [click here](#).

14. National Climate Change Adaption Research Facility Marine Climate Change Report: *Marine Climate Change in Australia Impacts and Adaptation Responses 2012 Report Card*

The [National Climate Change Adaption Research Facility](#), in conjunction with the CSIRO and the Australian Government Fisheries Research and Development Corporation, has released the *Marine Climate Change in Australia Impacts and Adaptation Responses 2012 Report Card*. This report card aims to summarise current knowledge of marine climate change impacts for Australia, highlighting key knowledge gaps and adaptation responses.

A key finding of the report is that climate change is already happening, evidenced by widespread physical changes including rapid warming of the southeast and increasing flow of the East Australia Current. Increasing biological impacts include reduced calcification in Southern Ocean plankton and Great Barrier Reef corals from both warming and acidification.

For more information, and to read the report card, [click here](#).

15. Calls for research into coal seam gas emissions

The [Australia Institute](#) has released *Measuring Fugitive Emissions: Is coal seam gas a viable bridging fuel?*, a policy brief which discusses the measurement of fugitive greenhouse gas emissions produced during the coal seam gas (CSG) extraction process. The brief claims that underestimating fugitive emissions from CSG has the potential to reduce the efficiency of the carbon price, as CSG extractors will not be paying the tax on all of their emissions. Additionally, the report claims that underestimating fugitive emissions will also prevent Australia from correctly calculating its contribution to climate change

The brief recommends that before further CSG production is approved, research should be conducted on fugitive emissions from CSG extraction, in turn allowing the total figure of CSG emissions to be accurately calculated. This will allow the measurement of the true impact that CSG extraction has on Australia's greenhouse gas emissions.

To read the policy brief, [click here](#).

The [Climate Institute](#) has released *Coal Seam Gas Emissions: Facts, Challenges and Questions*, a discussion paper on the greenhouse gas implications of CSG in Australia. The paper recommends that the Commonwealth Government, with funding from the CSG-LNG industry, should commission independent research into

emissions from CSG extraction in Australia, including emissions after production has finished, and that emissions measurement and estimation methods should be updated on the basis of these research findings. The paper also recommends that the regulation of CSG production should enforce best practices and meet national standards.

To read the discussion paper, [click here](#).

16. Local councils told not to pay carbon price

The NSW Division of Local Government has advised local councils that they are prohibited from purchasing carbon credits to meet their obligations under the *Clean Energy Act 2011* (Cth) due to restrictions in the *Local Government Act 1993* (NSW) on councils purchasing derivatives.

The Australian Parliamentary Secretary for Climate Change and Energy Efficiency has said that the *Local Government Act 1993* (NSW) does not prohibit local councils from complying with the *Clean Energy Act 2011* (Cth), because the restrictions only apply to the investment of money by local councils, and do not apply to the purchase of carbon credits.

For more information, [read this article](#).

17. Invitation to Join EDO NSW's Scientific Expert Register

EDO NSW is seeking scientific and technical experts with 10 or more years' experience in a range of fields to join our [Expert Register](#). PhD students are also encouraged to apply.

The Expert Register is a list of scientific experts who are willing to assist EDO NSW with public interest environmental matters on a pro bono basis. A key aim of the service is to increase the public's capacity to participate effectively in the environmental planning and development assessment process.

EDO NSW is also seeking to develop relationships with research organisations and environmental consultancies interested in doing pro bono work.

If you would like more information on how to be involved in the scientific work of EDO NSW, and have expertise in climate science or a relevant environmental field, please contact EDO NSW on 02 9262 6989.