

ENVIRONMENT NETWORK WEEKLY (ENW)

AEBN National ENW e-news – 12 March 2024

FORTHCOMING AEBN EVENTS



[AEBN WEBINAR]

- **PLAN FOR 2024:** [2024 AEBN Annual National Environmental Compliance: New Laws, Developments and Funding from across Australia for Business in 2024](#)

About this webinar

This annual AEBN Conference Webinar is designed for industry, business and councils to assist you to PLAN FOR 2024. This Conference Webinar will focus on the key **EXPECTED CHANGES IN 2024** on environmental and climate change laws & funding from across Australia for business in 2024 – to assist you and your organisation to remain compliant.

Program

The [Program](#) is now available.

Date/Time

14 March 2024
10.00am to 4.00pm

Details/Register

[Details available and Register is now open](#)

FEDERAL

Safeguard Mechanism: Draft Earnings Before Interest and Tax Guidelines and calculating the Default Prescribed Unit Price: Comment sought

To minimise the risk of [carbon leakage](#), the Safeguard Mechanism reforms introduced the trade-exposed baseline-adjusted (TEBA) framework. The framework provides a reduced decline rate for a three-year period for facilities with a scheme cost impact above a specified threshold.

The Federal Department of Climate Change, Energy, the Environment and Water (DCCEEW) is seeking feedback on two different technical aspects that feed into the TEBA calculations. They are:

- the [draft Earnings Before Interest and Tax \(EBIT\) Guidelines](#)

The *Earnings Before Interest and Tax (EBIT) Guidelines* is intended to provide direction on how manufacturing facilities covered by the Safeguard Mechanism calculate EBIT for the purpose of applying for a TEBA determination. The draft EBIT Guidelines provide the direction required to calculate EBIT at a facility level and whether the guidelines sufficiently cover all facilities regardless of corporate or operating structure.

- the [Default Prescribed Unit Price Consultation Paper](#).

The *proposed approach for calculating the Default Prescribed Unit Price*. This is a value calculated and published by the DCCEEW before 30 June each

financial year and is required to calculate a Safeguard facility's scheme cost, for the purposes of its TEBA application.

Your feedback will assist DCCEEW to develop a final set of EBIT Guidelines and to develop the process for calculating the Default Prescribed Unit Price.

Please provide [feedback](#) by 5:00pm AEDT **4 April 2024**.

Design Paper on Expanded Capacity Investment Scheme (CIS): Comment sought

The Federal Department of Climate Change, Energy, the Environment and Water (DCCEEW) is seeking feedback on the [proposed design of the expanded Capacity Investment Scheme \(CIS\)](#), including the proposed delivery methods for the scheme's national rollout.

The CIS will bring jobs and investment to regional communities, strengthen industries that create our sustainable future and support First Nation people in preserving their unique culture and heritage and to remain on Country.

The design paper provides more information on the CIS, including the:

- proposed implementation approach, tender schedule, and volumes
- proposed design for clean dispatchable and renewable generation revenue underwriting agreements
- tender process and assessment.

Through competitive tenders, the Australian Government seeks bids for renewable capacity and clean dispatchable capacity projects to:

- deliver an additional 32 GW of capacity by 2030
- fill expected reliability gaps as ageing coal power stations exit
- deliver the Australian Government's 82% renewable electricity by 2030 target.

Feedback received through the consultation will be used to inform the design of the CIS, including the Term Sheets, Tender Guidelines, and draft contract for the first national tender.

Please provide [feedback](#) by 25 March 2024.

Australia Government declares an area in Southern Ocean as offshore wind zone

The Federal Department of Climate Change, Energy, the Environment and Water (DCCEEW) has announced that the Australian Government declared an area in the Southern Ocean, off western Victoria, as suitable for offshore wind development on 6 March 2024.

The zone will:

- create hundreds of job opportunities during construction in addition to ongoing operational jobs
- generate over 2.9 GW of offshore wind energy – enough to power over 2 million homes
- drive economic growth
- help us secure reliable and cheaper energy for households and businesses
- help us reach net zero by 2050.

The declaration follows consultation with local communities, state and local government representatives, First Nations people, existing industries including shipping, defence, fishing, and other marine users.

This is the third area declared suitable after:

- [Gippsland](#), Victoria
- [Hunter](#), NSW

[View a map of the Southern Ocean](#) off western Victoria, declared wind zone.

Australia's greenhouse gas emissions for Sept 2023 quarter: Released

The Federal Department of Climate Change, Energy, the Environment and Water (DCCEEW) has released the latest [Quarterly Update of Australia's National Greenhouse Gas Inventory: September 2023](#).

The report shows emissions were 459.7 million tonnes of carbon dioxide equivalent in the year to September 2023. This is a decrease of 0.5% (2.2 Mt CO₂-e) compared with the previous year.

The change in emissions over the year to September 2023 reflects movements across sectors, including:

- Ongoing reductions in emissions from electricity (down 4.9%; 7.7 Mt CO₂-e) as renewable energy uptake continues to displace fossil fuel power sources;
- Decreased fugitive emissions (down 2.3%; 1.1 Mt CO₂-e), reflecting a fall in coal production and reductions in emissions from natural gas venting and flaring;
- Increased emissions in stationary energy (excluding electricity) (up 0.7%; 0.7 Mt CO₂-e), reflecting increased combustion activity;
- Increased emissions from agriculture (up 2.5%; 2.0 Mt CO₂-e), as favourable conditions brought record crop production and increased beef cattle populations; and
- Increased transport emissions (up 4.5%; 4.2 Mt CO₂-e) reflecting the ongoing recovery from COVID-related travel restrictions.

Emissions in the year to September 2023 were 25.4% below June 2005

levels – the base year for Australia's 2030 Paris Agreement target.

New accreditation body for solar installers and designers announced

The Clean Energy Regulator (CER) has approved Solar Accreditation Australia (SAA) as the new installer and designer accreditation scheme operator (ASO) under the Small-scale Renewable Energy Scheme (SRES).

SAA is a new entity established to carry out its functions independently while being accountable to the CER.

The SRES provides a financial incentive for the installation of small-scale solar systems. Systems must be installed by a licenced electrician who has been specifically trained and demonstrated as capable of installing rooftop solar.

[Information for installers and designers](#) is now available.

VICTORIA

Waiver on waste levy for disaster waste

The Victorian Government is assisting communities affected by the February 2024 emergency events by removing charges to dispose of disaster waste.

The waste levy for disposal of disaster waste to landfill will be waived. Gate fees will be covered for landfills and transfer stations. This means all disaster waste can be disposed of free of charge.

Disaster waste is any material:

- deposited on a property by the emergency events of 13 February 2024,
- damaged by the emergency events of 13 February 2024.

Please find out if the waiver applies to you at [Free disposal of bushfire and storm waste](#) until 30 April 2024.

NEW SOUTH WALES

Protection of the Environment Operations (Waste) Amendment (Waste Facility Contributions) Regulations 2024 –

Effective 1 March 2024

The NSW Government announced that the [Protection of the Environment Operations \(Waste\) Amendment \(Waste Facility Contributions\) Regulation 2024](#) commenced on 1 March 2024.

It amends the [Protection of the Environment Operations \(Waste\) Regulation 2014](#) to remove Kyogle local government area from the Regional Levy Area for the purposes of the waste levy until 30 June 2027.

Update on Asbestos in mulch: Supply chain tracing completed by NSW EPA

NSW EPA has announced it has reached the end of the supply chain as it traces mulch linked to the asbestos contamination originally discovered at the Rozelle Parklands.

Over the past eight weeks, approx. 6,500 tonnes of mulch have been tracked, assessed and tested, with nearly 1,200 samples taken for analysis.

At this stage, 75 sites have returned a positive result for asbestos in mulch. NSW EPA advises that all sites have low levels of asbestos contamination and NSW Health advises the risk to health is low.

The initial phase of supply chain testing is complete; however, NSW EPA's criminal investigation is continuing to explore multiple lines of inquiry.

The NSW Asbestos Taskforce has supported NSW EPA's investigations on the ground with crews from Fire and Rescue NSW, SafeWork, Public Works and the Natural Resources Access Regulator.

The Taskforce will continue monitoring the situation while moving to broader consideration of legacy asbestos in NSW.

The NSW Government will move to tighten regulations and strengthen penalties for a range of environmental crimes.

The Office of the NSW Chief Scientist and Engineer is also continuing its review of asbestos in waste and recovered materials, including mulch. It is expected to be finalised this year.

QUEENSLAND

Environmental Protection (Powers and Penalties) and Other Legislation Amendment Bill 2024 –

Introduced to QLD Parliament

The *Environmental Protection (Powers and Penalties) and Other Legislation Amendment Bill 2024* was introduced into Queensland Parliament on 13 February 2024.

The Bill implements the Government's response to the review of the *Environmental Protection Act 1994* (Qld) undertaken by retired Judge Richard Jones and Barrister Susan Hedge in 2022. ([Independent Review of the Environmental Protection Act 1994 \(Qld\) Report: Independent review into the adequacy of existing powers and penalties](#)).

The Bill will give the environmental regulator additional tools to prevent environmental harm before it occurs.

The changes will ensure there is appropriate emphasis on human health, wellbeing and safety in our environmental legislation, and shifts the focus to proactive prevention of environmental impacts.

Some of the key changes being proposed in the Bill include:

- Ensuring that environmental 'nuisance' can be considered serious or material environmental harm, which will in turn open up a broader range of compliance tools

and stronger penalties to address persistent issues.

- Combining a number of existing compliance notices (Direction Notices, Clean-up Notices and Environmental Protection Orders) into a new tool called an Environmental Enforcement Order (EEO) that can be used to require operators to improve on-site processes causing unacceptable environmental harm, such as persistent offensive odour.
- introducing a new 'General Environmental Duty' offence which can be applied if someone fails to take reasonably practicable action to prevent or minimise material or serious environmental harm.
- introducing a 'duty to restore environmental harm' requiring operators to restore the environment to the condition it was in prior to an incident.

The [Bill and explanatory notes](#) are now available.

The Bill has been referred to the Health and Environment Parliamentary Committee.

Asbestos found in NuGrow Ipswich

In South East QLD, the QLD Department of Environment, Science and Innovation (DESI) and the Asbestos Safety Unit of Workplace Health and Safety Queensland (WHSQ) last month conducted inspections, sampling and testing of 23 landfill operations, transfer stations, landscape suppliers, composters and mulch suppliers.

As a result of this testing, a small amount of asbestos was detected in a general-purpose soil product stockpile at NuGrow's Ipswich composting facility. There were no other positive detections in product materials across the other sites. Officers have since tested a further 17 samples at NuGrow and all returned negative results for asbestos. DESI has also been undertaking air monitoring in the area and results so far indicate that asbestos levels in the residential areas

in the vicinity of the NuGrow facility are consistent with the typical concentration of background airborne asbestos in the environment.

Out of an abundance of caution, action has been taken to impose requirements on NuGrow to protect health, safety, and the environment. This includes WHSQ prohibiting NuGrow from disturbing the contaminated stockpile, and DESI ordering NuGrow to take all reasonable and practical measures to prevent asbestos from being released into the air and assess potentially affected material on the site.

The department is continuing to work with WHSQ and Queensland Health, to assess any health risks to members of the public.

Asbestos-contaminated waste is not authorised in any circumstance to be used in the manufacture of mulch or any other products in QLD and must be appropriately disposed of to landfill.

Information on the [regulation of asbestos](#) is available.

Stockpiling green waste results in enforcement action

Stockpiling of green waste at a site in Swanbank QLD has seen the QLD Department of Environment, Science and Innovation (DESI) order the waste operator to take immediate action to better manage their green waste stockpiles on their site. This action was taken by DESI following a fire in late December 2023.

In January 2024, DESI issued an Environmental Protection Order under the *Environmental Protection Act 1994* to the operator requiring immediate steps to be taken to minimise fire risks, including by reducing the size and changing the configuration of the stockpiles on site.

When waste fires occur they present a threat of environmental harm and adverse impacts to human health.

All waste facilities have an obligation to manage their activities in a way that minimises fire risks.

DESI's [Guideline – Prevention of fires in waste stockpiles](#) provides information on the departments expectations when it comes to reducing the threat of environmental impacts associated with fires.

Offensive odours result in DESI filing restraint order application against company

The QLD Department of Environment, Science and Innovation (DESI) has filed [a restraint order application against NuGrow Ipswich Pty Ltd](#) as a result of ongoing offensive odours.

This is part of DESI's enhanced compliance activities and ongoing investigations.

The application seeks orders to limit certain aspects of NuGrow's operations, including receiving certain highly odorous wastes with the aim of bringing relief to the local community.

DESI is committed to holding non-compliant operators to account and if granted by the court and not complied with, there is a significant penalty that may be imposed.

The application was heard in the Planning and Environment Court over two days from 31 January 2024. There was evidence from both DESI and NuGrow before the court and both parties provided submissions in support of their respective positions.

Waste management activities have a higher risk of causing odour nuisance in the community, and operators are reminded of their responsibility to ensure that they are implementing all necessary measures to mitigate any off-site impacts and comply with all of their environmental obligations.

DESI will take enforcement action, including court action against any operator who is found to be wilfully and unlawfully causing an odour nuisance in the community.

Additional waste levy exemptions

As a result of severe weather events in QLD during January 2024, the QLD Department of Environment, Science and Innovation (DESI) has granted further waste levy exemptions to the following local government councils -

- Lockyer Valley Regional Council (LVRC)
- City of Gold Coast (CGC)
- Levyable waste disposal sites -
 - Gatton Landfill and Laidley Waste Disposal Facility
 - Stapylton Green Energy
- City of Moreton Bay Council
- Western Downs Regional Council
- Burdekin Shire Council (BSC)
- Mackay Regional Council (MRC)
- Levyable waste disposal sites as nominated by BSC and MRC for handling and disposal of this waste:
 - Kirknie Road Landfill (BSC)
 - Hogan's Pocket Landfill (MRC)
- Townsville City Council (TCC)
- Whitsunday Regional Council (WRC)
- Levyable waste disposal sites as nominated by TRC and WRC for the handling and disposal of this waste:
 - Stuart Waste Disposal Facility (TCC)
 - Kelsey Creek Landfill and Bowen Landfill (WRC).

Information on [local authorities currently granted waste levy exemptions](#) is available.

Notices have been provided to these councils and privately run site operators. DESI has advised that they can waive levies for waste that has been generated because of a State-declared disaster or following a serious local event.

Minor updates to the end of waste code for irrigation of associated water (CSG water)

Updates have been made to the [end of waste \(EOW\) code irrigation of associated water \(including CSG water\)](#) to streamline requirements by removing the requirement to submit a resource monitoring and management plan (RMMP) to the chief executive prior to the commencement of operation under the EOW code.

The chief executive retains the power to require a copy of a RMMP at any time through requirements in the EOW code for the registered resource producer to:

- provide a RMMP, and evidence that the RMMP has been complied with, to the chief executive upon request; and
- retain RMMPs as a record, for at least five years.

This change is not a change of substance and does not adversely affect the interests of a registered resource producer or a person who is likely to receive a resource from the registered resource producer.

SOUTH AUSTRALIA

Climate Change Amendments to the Environment Protection Act 1993:

Commenced 1 March 2024

Recent climate change related amendments made to the *Environment Protection Act 1993* came into effect on 1 March 2024.

The amendments define and then add the terms 'climate change adaptation', 'climate change mitigation' and 'greenhouse gas emissions' explicitly into the Objects of the Act.

They also require SA EPA Board to have practical knowledge and experience in climate change adaptation and mitigation as part of the attributes held across its membership.

These amendments were made to clarify the role of the Act, in particular

the EPA's role in climate change regulation, and also better position the EPA Board to address climate change when administering the Act.

The EPA will commence informal engagement with key stakeholders during 2024, with a view to scoping and developing a draft climate change focused Environment Protection Policy (EPP) during 2025/2026.

The EPP is intended to provide certainty and transparency about how the climate change related 'Objects of the Act' will translate into policy, assessments, licensing and compliance.

State of the Environment Report launched

SA EPA has released its latest 5 yearly State of the Environment Report, making a number of recommendations to help safeguard South Australia's environment, with a strong focus on climate change and biodiversity losses.

The report has been developed to improve understanding of the environmental challenges and opportunities SA faces, and further support the effort towards sustainability.

The report has also incorporated the views of indigenous people as the traditional custodians in protecting and restoring Country, including an expert report and recommendations on how indigenous peoples' cultural perspectives can be more effectively incorporated in the State's approaches to environmental protection.

Remaking of the Environment Protection Regulations:

Commences 1 April 2024

The SA Government has approved the remake of the [Environment Protection Regulations](#) to commence from 1 April 2024, as part of the 10-yearly review and expiry of subordinate legislation.

The new regulations will incorporate minor corrections and updates such as

changing numbering to be consecutive and updating lists of prescribed bodies and Acts so they are current.

A [table](#) is now available that shows the changes between current Environment Protection Regulations 2009 and the remade Environment Protection Regulations 2023.