

Energy and Water Legislation Amendment Bill 2013

Report No. 29

State Development, Infrastructure and Industry Committee

August 2013

State Development, Infrastructure and Industry Committee

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Acknowledgements

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Contents

Abbreviations and definitions	iii
Recommendations	iv
Point for clarification	v
1 Introduction	1
Role of the committee	1
The referral	1
The committee's inquiry process	1
Background to the Bill	1
Policy objectives of the Bill	2
The Government's consultation on the Bill	2
Should the Bill be passed?	3
2 Examination of the Bill	4
Cessation of the Queensland Gas Scheme	4
<i>How the Queensland Gas Scheme works</i>	4
<i>Decision to cease the Queensland Gas Scheme</i>	5
<i>Impacts of the cessation of the Queensland Gas Scheme</i>	5
<i>Committee comment</i>	8
Cessation of the Smart Energy Savings Program	8
<i>Smart Energy Savings Program (SESP)</i>	9
<i>Cessation of the Smart Energy Savings Program</i>	9
<i>Committee comment</i>	11
Transfer of water and sewerage services for Noosa Shire Council	11
<i>Committee comment</i>	12
3 Fundamental legislative principles	13
Sufficient regard to the rights and liberties of individuals	13
Sufficient regard to the institution of Parliament	14
Explanatory Notes	15
4 Appendices	16
Appendix A – List of submitters	16
Appendix B – Departmental representatives in attendance at the public briefing on 9 July 2013	17
Appendix C – Departmental correspondence	18

Chair's foreword

This report presents a summary of the State Development, Infrastructure and Industry Committee's examination of the Energy and Water Legislation Amendment Bill 2013.

The committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles to the legislation, including whether it has sufficient regard to rights and liberties of individuals and to the institution of Parliament.

On behalf of the committee, I thank those organisations who lodged written submissions on the Bill and others who informed the committee's deliberations, including the officials from the Department of Energy and Water Supply who briefed the committee, the committee's secretariat, and the Technical Scrutiny of Legislation Secretariat.

I commend the report to the House.

A handwritten signature in black ink, appearing to read 'D Gibson', is positioned above the printed name and title.

David Gibson MP
Chair

August 2013

Abbreviations and definitions

AGL	AGL Energy Limited
CEA	<i>Clean Energy Act 2008</i>
CPM	Commonwealth Government's carbon pricing mechanism, which puts a price on carbon as an incentive to reduce emissions.
committee	State Development, Infrastructure and Industry Committee
DAFF	Department of Agriculture, Forestry and Fisheries
department	Department of Energy and Water Supply
DEWS	Department of Energy and Water Supply
EDOs	Environmental Defenders Office of Queensland and North Queensland Office
Eligible gas fired electricity	Electricity generated from either natural gas, coal seam gas (including waste coal mine gas), liquefied petroleum gas or waste gases associated with conventional petroleum gas.
Energy savings measure	Measure that improves energy efficiency, energy conservation and/or energy management
Gas fired generators	Accredited generators who may create Gas Electricity Certificates
GECs	Gas Electricity Certificates
Generators	Those who generate gas-fired electricity, most likely power stations
GWh	Gigawatt hour i.e. 1,000,000,000 (1 billion) watt hours
Liable persons	Those, most often electricity retailers, who are required to participate in the Queensland Gas Scheme to surrender GECs worth approximately the equivalent prescribed percentage (currently 15 per cent) of the electricity load supplied to Queensland customers in that year or face penalties.
LSA	<i>Legislative Standards Act 1992</i>
SEQWA	<i>South-East Queensland Water (Distribution and Retail Restructuring) Act 2009</i>
SESP	Smart Energy Savings Program
TJ	Terajoule

Recommendations

Recommendation 1

3

The committee recommends that the Energy and Water Legislation Amendment Bill 2013 be passed.

Recommendation 2

11

The committee recommends that the Minister for Energy and Water continues to disseminate information to businesses on maintaining energy efficient practices and outlines, for the benefit of the House, other energy savings programs or initiatives which encourage businesses to adopt and maintain energy efficient practices.

Recommendation 3

14

The committee recommends that Clause 15 inserting new section 135DNA(3) be amended to remove the reference to '2013' and replaced with '2014' to rectify a typographical error.

Point for clarification**Point for clarification****6**

The committee requests the Minister for Energy and Water Supply outlines, for the benefit of the House, the industry costs of compliance with the Queensland Gas Scheme and how cessation of the Scheme may lower the cost of electricity prices.

1 Introduction

Role of the committee

The State Development, Infrastructure and Industry Committee (the committee) was established by resolution of the Legislative Assembly on 18 May 2012 and consists of government and non-government members.

Section 93 of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for considering:

- the policy to be given effect by the Bill, and
- the application of the fundamental legislative principles to the Bill.

The referral

On 5 June 2013, the Energy and Water Legislation Amendment Bill 2013 (the Bill) was referred to the committee for examination and report. Pursuant to Standing Order 136(2), the Committee of the Legislative Assembly fixed the committee's reporting date of 12 August 2013.

The committee's inquiry process

On 14 June 2013, the committee called for written submissions on the Bill on its website and an email was sent to the committee's subscribers for the same purpose. A letter was also sent on 21 June 2013 to relevant stakeholders inviting submissions on the Bill. The closing date for submissions was 2 July 2013. The committee received three submissions (see Appendix A for a list of submitters).

The Department of Energy and Water Supply (the department) provided the committee with a written briefing paper on the Bill on 28 June 2013. The committee was further briefed by officers of the department at a public briefing on 9 July 2013 (see Appendix B for a list of the departmental officers who attended).

Following the public briefing, the department provided a response to the issues raised in the submissions and answers to questions taken on notice.

The correspondence received from the department throughout the inquiry process is provided at Appendix C.

The written submissions and the transcript of the public departmental briefing are available from the committee's webpage at www.parliament.qld.gov.au/sdiic.

Background to the Bill

The Queensland Gas Scheme (QGS or the Scheme) was created via a new chapter 5A inserted into the *Electricity Act 1994*. The Scheme commenced on 1 January 2005 with the aim of maturing the gas industry in Queensland, reducing greenhouse gas emissions, diversifying the State's energy mix towards the greater use of gas in electricity generation and encouraging the development of new gas sources and gas infrastructure to meet the State's future energy requirements.¹ It is considered that the QGS has met its objectives.

The Smart Energy Savings Program (SESP), established by the *Clean Energy Act 2008* (CEA), was intended to encourage firms to understand their energy use and identify and implement cost-

¹ Queensland Government, Business and Industry Portal, [How the Queensland Gas Scheme works](#); *Electricity Act 1994*, s. 135A. All electronic material relating to the Queensland Gas Scheme referred to in this report was accessed on 3 July 2013.

effective energy management strategies. However, in the current policy and regulatory context it is considered that there are sufficient drivers for businesses to undertake energy management activities without the need for the SESP.²

The Queensland Government announced its decision to cease the QGS and the SESP on 8 March 2013.³ Accordingly, on 5 June 2013, the Minister for Energy and Water introduced the Bill to facilitate closure of both the QGS and SESP.⁴

Policy objectives of the Bill

The policy objectives of the Bill are to:

- amend the *Electricity Act 1994* to cease the Queensland Gas Scheme as at 31 December 2013 and make consequential amendments to the *Energy and Water Ombudsman Act 2006*
- repeal the *Clean Energy Act 2008* to cease the Smart Energy Savings Program immediately
- amend the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* to add Noosa Shire Council to the list of participating councils for the Northern SEQ Distributor-Retailer Authority from 1 January 2014.

The primary reasoning behind ceasing the Gas Scheme and the SESP is to:⁵

- reduce the administrative burden and complexity for government and private industry, and
- decrease pressure on electricity costs to consumers and remove programs duplicated by the Commonwealth Government's carbon pricing mechanism (CPM).

A detailed examination of the policy objectives is provided in section 2 of this report.

The Government's consultation on the Bill

The proposed transitional provisions and legislative amendments were made available for public consultation via an exposure draft of the Bill. The explanatory notes for the exposure draft of the Bill were not ready for public consultation at that time; however, a summary of the legislative changes was made available.⁶

Queensland Gas Scheme

Following the announcement to close the Scheme, the proposed legislative amendments were made available for public consultation via an exposure draft.⁷

The department did not receive any submissions or queries from Gas Scheme participants or interested parties following the Government's announcement to cease the Scheme and the circulation of the exposure draft.⁸

It is pleasing to note that AGL Energy Limited (AGL) advised in its submission to the committee that the early notice given to industry of the proposed changes, and that the Bill had remained in substantially the same form since the department's initial consultation with stakeholders, was 'helpful in providing some market certainty on these issues'.⁹

² Explanatory Notes, p 1.

³ Ibid, p 5.

⁴ Queensland Parliament, Record of Proceedings, 5 June 2013, p 1940.

⁵ Explanatory Notes, p 1.

⁶ Department of Energy and Water Supply, Written briefing, 28 June 2013, p 4.

⁷ Explanatory Notes, p 5.

⁸ Department of Energy and Water Supply, Written briefing, 28 June 2013, p 4.

⁹ AGL Energy Limited, Submission No. 2, p 1.

The committee commends the department for consulting with industry during the early stages of announcing the cessation of the Scheme.

Smart Energy Savings Program

No consultation was undertaken in relation to the proposal to cease the SESP. The explanatory notes state:¹⁰

Advice was circulated to SESP participants in July 2012 that the program was undergoing review and that participants' obligations would not be enforced during this period.

The department did not receive any submissions from SESP participants following the circulation of this advice. No other consultation was undertaken on the basis that participating businesses would be unlikely to object to the closure of the program due to the costs of compliance and reporting requirements.¹¹

The repeal of an Act in its entirety (by this Bill) warrants wider consultation with groups in addition to those who are likely to agree to the proposal. For example, community, environmental or other interest groups may have benefited through some form of consultation in relation to this proposal.

Transfer of water and sewerage services for Noosa Shire Council

Unitywater was consulted on the process to transfer water and sewerage services in order to facilitate the voluntary deamalgamation of Noosa from the Sunshine Coast Regional Council and no issues were highlighted.¹²

Should the Bill be passed?

Standing Order 132(1)(a) requires the committee to determine whether to recommend that the Bill be passed. After examining the Bill, and considering issues raised in submissions and information provided at the departmental briefing, the committee determined that the Bill should be passed.

Recommendation 1

The committee recommends that the Energy and Water Legislation Amendment Bill 2013 be passed.

¹⁰ Explanatory Notes, p 5.

¹¹ Department of Energy and Water Supply, Written briefing, 28 June 2013, p 6.

¹² Explanatory Notes, p 5; Department of Energy and Water Supply, Written briefing, 28 June 2013, p 6.

2 Examination of the Bill

Cessation of the Queensland Gas Scheme

The Bill proposes to amend the *Electricity Act 1994* to cease the Queensland Gas Scheme (QGS or the Scheme) as at 31 December 2013 and make consequential amendments to the *Energy and Water Ombudsman Act 2006*.¹³

How the Queensland Gas Scheme works

Chapter 5A of the *Electricity Act 1994* provides for the QGS. The QGS commenced in 2005 as a method of maturing the gas industry in Queensland and reducing greenhouse gas emissions.¹⁴ The Scheme requires participants to source 15 per cent of their electricity from accredited gas-fired generators.¹⁵

There are a number of participants within the Scheme including generators, retailers, and other liable persons. Participation in the QGS for generators is optional; however, the Scheme provides an incentive for generators to use gas in the generation of electricity. The Scheme is open to any power station that does, or will, generate eligible gas-fired electricity.¹⁶

Generators that produce electricity and meet certain criteria are granted accreditation under the Scheme.¹⁷ Accredited generators can create Gas Electricity Certificates (GECs). A GEC is an electronic certificate for each whole megawatt-hour (MWh) of eligible gas-fired electricity generated and is a mechanism for providing an incentive for generating electricity using eligible fuels. The accredited parties can trade GECs with other registered Scheme participants through the GEC market.¹⁸

Liable persons are required to surrender the appropriate number of GECs to the regulator on an annual basis to demonstrate they have met their liability (i.e. the prescribed 15 per cent of gas-fired electricity). If insufficient GECs are surrendered, a penalty is imposed on the liable person.¹⁹

GECs measure how much gas electricity is generated and can then be traded in a market. They provide a dual mechanism that monitors compliance with the Scheme and creates a market-driven revenue stream for gas-fired power stations that produce gas certificates.²⁰ The additional revenue stream offsets the higher cost of gas-fired generation (when compared with coal).

The Scheme is administered by a web-based GEC Registry which allows participants to create, transfer and surrender GECs online. The registry also assists the regulator (the Director-General of the department) in monitoring compliance.²¹

¹³ Amending section 19(a) of the *Energy and Water Ombudsman Act 2006* to remove the reference to chapter 5A of the *Electricity Act 1994*.

¹⁴ Queensland Government, Business and Industry Portal, *How the Queensland Gas Scheme works*.

¹⁵ Ibid; *Electricity Act 1994*, s. 135AA.

¹⁶ Eligible gas-fired electricity is electricity generated from either, natural gas, coal seam gas (including waste coal mine gas), liquefied petroleum gas or waste gases associated with conventional petroleum refining.

¹⁷ The requirements for accreditation are that the electricity is produced from an eligible fuel source above a baseline level that supports the electricity load in Queensland.

¹⁸ Queensland Government, Business and Industry Portal, *How the Queensland Gas Scheme works*.

¹⁹ Ibid; and *Electricity Act 1994*, s.135A. The types of penalties under the Act include penalty units, imprisonment, amendment or cancellation of an accreditation and suspension of an accredited generator's right to create GECs.

²⁰ Department of Energy and Water Supply, Public briefing transcript, 9 July 2013, pp 2-3; Queensland Government, Business and Industry Portal, *How the Queensland Gas Scheme works*.

²¹ Queensland Government, Business and Industry Portal, *How the Queensland Gas Scheme works*.

Decision to cease the Queensland Gas Scheme

On 8 March 2013, the Queensland Government announced the closure of the Scheme from the end of 2013 in order to cut red tape from Queensland's energy sector and place a downward pressure on electricity prices.²² This announcement followed the Government's review of the Scheme which identified:²³

- the introduction of the Commonwealth Government's carbon pricing mechanism (CPM)²⁴ on 1 July 2012 would provide an advantage to gas-fired generators
- the Scheme likely duplicates the expected impacts of the CPM
- the Scheme had met its key objective to establish a mature gas industry in the state.

The announcement in March 2013 to close the Scheme at the end of 2013 has given the gas industry time to:²⁵

- renegotiate any relevant contracts in place
- calculate the amount of GECs currently in the market
- calculate the number of GECs required to meet retailers liability for the 2013 calendar year.

There will be no further creation of GECs or liability after 31 December 2013; however, administration of the Scheme and the registry will continue until the penalty imposition day of 30 June 2014.

Impacts of the cessation of the Queensland Gas Scheme

The committee examined the potential impacts of the closure of the Scheme relating to gas-fired generation in Queensland; electricity and gas prices; financial implications for traders; the administrative costs for government and the compliance costs for industry.

Gas-fired generation in Queensland

At the time of the introduction of the Scheme, gas made up 2.4 per cent of Queensland's electricity generation mix. In announcing the closure of the Scheme, the Minister for Energy and Water Supply stated that the Scheme had achieved its objective with almost 20 per cent of electricity currently being sourced from gas-fired generators, exceeding the Scheme's mandated target of 15 per cent.²⁶

In relation to any impacts on the level of gas-fired generation resulting from the closure of the Scheme, the department advised that the promotion of gas-fired generation, 'is likely to be already supported by other market mechanisms', such as the Commonwealth Government's carbon pricing mechanism.²⁷

²² Queensland Government, Business and Industry Portal, *Queensland Gas Scheme*; Minister for Energy and Water, Media Statement, [Further cuts to Queensland's energy sector](#), 8 March 2013.

²³ Queensland Government, Business and Industry Portal, *Queensland Gas Scheme*.

²⁴ At the time of writing this report, on 17 July 2013, the Treasurer of the Commonwealth of Australia, Hon C Bowen MP, announced that Australia would move to a floating price on carbon pollution in 2014, meaning that the price of carbon will be set by market factors as opposed to being fixed. This announcement does not have a significant bearing on the decision to cease the Queensland Gas Scheme. See: Hon C Bowen MP, Treasurer of the Commonwealth of Australia, Joint Media Release with Hon K Rudd MP, Prime Minister and Hon M Butler MP, Minister for Climate Change, [Australia to move to a floating price on carbon pollution in 2014](#), 17 July 2013.

²⁵ Queensland Government, Business and Industry Portal, *Queensland Gas Scheme*.

²⁶ Queensland Parliament, Record of Proceedings, 5 June 2013 pp 1940-1941; Department of Energy and Water Supply, Written briefing, 28 June 2013, p 1.

²⁷ Department of Energy and Water Supply, Written briefing, 28 June 2013, p 3.

AGL considers that the Scheme is ‘unnecessary and inefficient under current market conditions’ to incentivise gas-fired generation in Queensland ‘given the current oversupply of generation (which will be added to further by generation that will need to be developed to meet the Renewable Energy Target)’.^{28,29}

Based on the current information given to the committee, the committee is satisfied that the closure of the Queensland Gas Scheme will not adversely impact levels of gas-fired generation in Queensland as incentives to continue generating gas are supported by other market measures, such as the Commonwealth Government’s carbon pricing mechanism.

Electricity prices

Double subsidisation occurs as a result of the dual operation of the Scheme and the CPM which is said to create additional costs to electricity retailers, which in turn adds upward pressure on electricity prices.³⁰ Closing the Scheme may ‘decrease pressure on electricity prices’,³¹ as it removes the duplication of costs to industry related to the dual operation of the Scheme and the CPM.

During the public briefing, the department initially advised that the closure of the Scheme would result in ‘a marginal reduction in retail electricity prices’.³² However, when asked for specifics regarding how the Scheme would lower electricity prices, the department clarified that the impact of the closure of the Scheme would result in ‘less pressure on pricing’ rather than definitive lower electricity prices.³³ The department stated:³⁴

Certainly, market forces dictate what the price of generation is in the market, and a number of different factors affect that—in terms of not only fuel prices in terms of coal versus gas fuel demand, in terms of how much demand and what peak demand is. There is a series of factors. It is difficult to say that prices will necessarily decline, but there will be less pressure on prices because of the Gas Scheme being removed.

While the closure of the Scheme may not lead to direct reductions in electricity prices, it may reduce compliance costs for electricity retailers which may indirectly flow on to consumers. The committee supports the cessation of the Scheme on the basis that it is considered duplicative and unnecessary in conjunction with the CPM. However, based on the limited information the committee has received, in relation to the costs of industry compliance with the QGS, no definitive conclusions can be drawn in relation to the impact of ceasing the Scheme on electricity prices.

Point for clarification

The committee requests the Minister for Energy and Water Supply outlines, for the benefit of the House, the industry costs of compliance with the Queensland Gas Scheme and how cessation of the Scheme may lower the cost of electricity prices.

²⁸ AGL Energy Limited, Submission No. 2, p 1.

²⁹ The Renewable Energy Target (RET) scheme is an initiative of the Australian Government and its commitment to ensure that the equivalent of at least 20 per cent of Australia’s electricity comes from renewable sources by 2020. As an important complement to a carbon price, the RET will speed up the adoption of renewable energy technologies and is said to help smooth the transition to a clean energy future.

³⁰ Department of Energy and Water Supply, Public briefing transcript, 9 July 2013, p 5; Department of Energy and Water Supply, Written briefing, 28 June 2013, p 1.

³¹ Department of Energy and Water Supply, Public briefing transcript, 9 July 2013, p 2.

³² Ibid, p 3.

³³ Ibid.

³⁴ Ibid, p 5.

Gas prices

It has also been suggested that ceasing the Scheme may put downward pressure on gas prices. This is because:³⁵

...the gas market is a little bit tight in terms of supply and demand. If there is less demand for gas in terms of gas-fired generation, it will put a downward pressure on gas prices as well.

However, the impacts on gas prices have not been modelled which makes it difficult to determine the impact the cessation of the Scheme will have on gas prices. It is argued that the closure of the Scheme will reduce demand for gas, which may reduce the pressure on gas prices.³⁶ However, there are other factors that contribute to gas prices and without any modelling on the impact of the cessation on the Scheme it is difficult to conclude that gas prices will decrease.

Financial implications for gas-fired generators

The committee discussed with the department the potential financial implications for gas-fired generators. The department argued that the additional revenue stream for accredited generators created through GECs is no longer a significant driver in the purchase of gas-fired electricity. This is because the current fee that generators are required to pay for creating a single GEC is 19 cents and the current price a GEC is sold for is approximately 30 cents. Therefore, given the small profit margins involved, the department concluded 'it is likely the financial implications of ceasing the Gas Scheme will be minimal.'³⁷

Financial implications for traders

The department advised that while GECs are almost exclusively bought by electricity retailers, such as Origin Energy and AGL, there 'is the ability for intermediary trade because they [GECs] are a financial instrument'.³⁸

When questioned about the impact of ceasing the Scheme on traders on the Queensland Gas Registry, the department responded that the 'two or three' traders currently registered had not been trading GECs as far as it was aware. Rather they were 'on the registry just to obtain information about the market...',³⁹ and therefore would not be significantly impacted by the cessation of the Scheme.

Departmental costs associated with administering the Queensland Gas Scheme

Table 1 below provides a breakdown of the departmental operating costs associated with administering the Scheme. The costs to administer the Scheme included employee and contractor costs, totalling \$411,180 each financial year.⁴⁰

It should be noted that all funding ceased on 8 March 2013 following the Government's announcement to close the Scheme.

The committee ascertained that 'following the closure of the QGS at the end of July 2014, all staff will be redeployed to other work that has been placed on hold whilst the close-out is being conducted.'⁴¹

³⁵ Department of Energy and Water Supply, Public briefing transcript, 9 July 2013, p 3.

³⁶ Ibid.

³⁷ Department of Energy and Water Supply, Written briefing, 28 June 2013, p 3.

³⁸ Department of Energy and Water Supply, Public briefing transcript, 9 July 2013, p 4.

³⁹ Ibid.

⁴⁰ Department of Energy and Water Supply, Correspondence, 11 July 2013, p 2.

⁴¹ Ibid.

Table 1: Queensland Gas Scheme departmental administering costs

Item	2012-13	2013-14
<i>Employee and related costs</i>		
Director – S03 (0.2 x \$149,800pa)	\$29,960	\$29,960
Manager – A08/3 (0.5 x \$128,200pa)	\$64,100	\$64,100
Principal Project Officer – A07/4 (0.2 x \$119,500)	\$23,900	\$23,900
Senior Project Officer – A06/4 (0.8 x \$106,500)	\$85,200	\$85,200
Employee and related costs total	\$203,160	\$203,160
<i>Consultancies / Contractors</i>		
QGS Registry – DAFF – System Support (\$17,335 per month)	\$208,020	\$208,020
TOTAL	\$411,180	\$411,180

Source: Department of Energy and Water Supply, Correspondence, 11 July 2013, p 2.

Committee comment

The committee only received one submission commenting on the closure of the Scheme from AGL Energy Limited (AGL). AGL is a significant retailer of energy (electricity and gas) and stated that on the basis of the current federal climate change policy, it did not have significant concerns with the cessation of the QGS.⁴²

Further, AGL agreed the closure of the Scheme will reduce the administrative burden for industry and stated:⁴³

...with the carbon pricing mechanism in place, a separate scheme that provides additional benefits to gas-fired generation is unnecessary and duplicative.

Based on the evidence before the committee, the committee supports the proposed cessation of the QGS. The committee considers that the objective of the Scheme to mature the Queensland gas industry has been achieved and that the closure of the Scheme will not adversely affect gas-fired generation in Queensland given the introduction of the Commonwealth Government's carbon pricing mechanism. Ceasing the Scheme may reduce both compliance costs for industry and the administrative burden of regulating the Scheme for the Queensland Government. In relation to the impact on electricity and gas prices, it is a logical assumption that the cessation of the Scheme may contribute to a downward pressure on prices, but the committee has not received any firm evidence in this regard.

Cessation of the Smart Energy Savings Program

The Bill proposes to repeal the *Clean Energy Act 2008* (the CEA).⁴⁴ The objective of the CEA is to improve the efficiency and management of the use of energy, and the conservation of energy, in relation to particular businesses. The repeal of the CEA would formally bring the Smart Energy Savings Program to an end.

⁴² AGL Energy Limited, Submission No. 2, p 1.

⁴³ Ibid.

⁴⁴ *Electricity Act 1994*, proposed new s. 336.

Smart Energy Savings Program (SESP)

The Smart Energy Savings Program (SESP or program) commenced on 1 July 2009.⁴⁵ The program targeted Queensland's medium-to-large business energy users who annually spent between \$2.5 and \$10 million on electricity, or between \$350,000 and \$2.25 million on gas.⁴⁶ The objective of the program was to require these businesses to 'improve the efficiency and management of the use of energy, and the conservation of energy',⁴⁷ thereby reducing greenhouse gas emissions.⁴⁸

The program required participants to:⁴⁹

- review their energy use
- identify energy savings measures
- develop an energy savings plan of measures to implement
- publicly report on the measures to be implemented through their plan
- in the third year, review progress
- in the fifth year, undertake an audit in preparation for the next five-year cycle.

Penalties applied to participants who failed to comply with SESP requirements.⁵⁰

Currently, there are only 37 businesses required to participate in the SESP.⁵¹ Businesses with sites in Queensland that are registered in the Australian Government's Energy Efficiency Opportunities Program are not required to participate in the SESP.

The thresholds required for mandatory participation in the SESP have reduced since the SESP commenced and are determined by a business's annual energy use. In the first year of the program (June 2010), the only participants were those whose annual energy use was between 100 and 500 terajoules (TJ) (27.8 – 138.8GWh). The following year, the program included smaller businesses whose annual energy use was between 30 and 500TJ (8.3 – 138.8GWh). If the program was to continue it was intended that the requirements be further reduced to 10TJ⁵² in June 2015.⁵³

Cessation of the Smart Energy Savings Program

After its election, the Newman Queensland Government instructed departments to 'identify any government programs which added a compliance burden to the operations of Queensland businesses without providing clear commensurate benefits'.⁵⁴ The Department of Energy and Water Supply identified the SESP as meeting these criteria. In July 2012, the department notified the SESP

⁴⁵ Proclamation, Subordinate Legislation 2008 No. 191 made under the *Clean Energy Act 2008*.

⁴⁶ Queensland Government, [Smart Energy Savings Program: Fact sheet](#). All links relating to the Smart Energy Savings Program were accessed on 29 July 2013.

⁴⁷ *Clean Energy Act 2008*, s. 3.

⁴⁸ See for example, Clean Energy Bill 2008, [Explanatory Notes](#), p 2.

⁴⁹ Hon G Wilson MP, Minister for Mines and Energy, Response to Question on Notice No. 1277, 'Greenhouse gas emissions', asked on 10 September 2008 (response tabled 10 October 2008); Queensland Government, *Smart Energy Savings Program: Fact sheet*; Queensland Government, [Smart Energy Savings Program: Clean Energy Act 2008 Guide for participants](#); Environment and Resources Committee, [Energy Efficiency: Queensland's first energy resource](#), Report No. 2, February 2010, pp 71 – 72.

⁵⁰ Queensland Government, *Smart Energy Savings Program: Fact sheet*.

⁵¹ Department of Energy and Water Supply, Written briefing, 28 June 2013, p 5.

⁵² 10TJ is approximately equal to the energy usage of 270 households.

⁵³ Queensland Government *Smart Energy Savings Program: Fact sheet*.

⁵⁴ Department of Energy and Water Supply, Correspondence, 10 July 2013, p 2.

participants that the program was undergoing review and that participant obligations would not be enforced during this time.⁵⁵

On 8 March 2013, the Queensland Government announced that the SESP would be discontinued.⁵⁶ Neither the department nor the committee received any formal feedback from SESP participants in relation to the cessation of the program. Since the announcement that the SESP would be discontinued, the department has not undertaken any compliance action with respect to the program.⁵⁷

The Environmental Defenders Offices (EDOs) stated in their submission to the committee that the *Clean Energy Act 2008* should not be repealed because it ‘provides many benefits to Queensland including encouraging businesses to reduce costs and greenhouse gas emissions through Smart Energy Savings Plans’.⁵⁸

In response to the issues raised by the EDOs, the department stated that:⁵⁹

There was no requirement for businesses to implement or report on any of the actions identified in their savings plans. Rather, it was expected that by identifying opportunities to reduce their energy use and provide potential savings, businesses would be more likely to take action to improve their energy efficiency where doing so was cost-effective. In this regard the SESP was seen merely as a mandatory investigation and reporting requirement that added a compliance burden on SESP participants.

Further, it is the Government’s view that ‘the CPM, combined with Commonwealth Government funding for investment in energy-efficient technologies, is sufficient to achieve the objectives of the SESP without the need for Queensland legislation.’⁶⁰ Ceasing the program will also result in less regulation and associated costs for the Government and SESP participants.

There is a distinct lack of information about the total energy savings made as a result of the program and the total cost for businesses of complying with the program, and the program’s overall effectiveness.⁶¹ Anecdotal evidence provided to the department suggests that, for some businesses, the cost of participating in the SESP was greater than the potential energy cost savings.⁶²

Compliance costs under the program are said to have ranged from \$2,000 to tens of thousands of dollars for the initial audit. It was also possible for the implementation of any energy saving measures to also cost tens of thousands of dollars.⁶³ These costs may have, however, been offset by savings as a result of a reduction in energy consumption.

As there was no requirement under the SESP for businesses to implement the energy saving activities reported on, it appears that the cessation of this program fits with the Government’s instruction to identify and cease programs that increase the administrative burden on businesses without clear, commensurate benefits. The committee supports the cessation of the SESP in this regard.

⁵⁵ Department of Energy and Water Supply, Written briefing, 28 June 2013, p 5.

⁵⁶ Hon M McArdle MP, Minister for Energy and Water Supply, [Further cuts to Queensland energy sector red tape](#), Ministerial Media Release, 8 March 2013. Participants were formally notified of the closure of the program: Department of Energy and Water Supply, Written briefing, 28 June 2013, p 6.

⁵⁷ Hon M McArdle MP, Minister for Energy and Water Supply, [Further cuts to Queensland energy sector red tape](#), Ministerial Media Release, 8 March 2013; Queensland Government, [Smart Energy Savings Program](#).

⁵⁸ Environmental Defenders Offices, Submission No. 3, p 2.

⁵⁹ Department of Energy and Water Supply, Correspondence, 10 July 2013, p 2.

⁶⁰ Ibid.

⁶¹ Department of Energy and Water Supply, Written briefing, 28 June 2013, p 5.

⁶² Ibid.

⁶³ Department of Energy and Water Supply, Public briefing transcript, 9 July 2013, p 7. See also, Department of Energy and Water Supply, Written briefing, 28 June 2013, p 5.

In relation to the continuation of energy saving practices by businesses, the department advised the committee:⁶⁴

There are a number of different incentives that are not necessarily regulatory in Queensland. Obviously, the increasing price of energy, particularly electricity, is a significant factor for large businesses with very energy-intensive operations... businesses certainly have a commercial incentive to do so and that should not stop them from undertaking any initiatives to implement more energy-efficient activities.

The committee agrees that there are commercial incentives for businesses to adopt energy-saving practices and it may not be necessary to have Queensland legislation in this regard. The committee still considers that the Government has an obligation to encourage businesses to adopt and maintain energy efficient practices. Despite the carbon pricing mechanism, the State Government should continue to disseminate information to businesses which encourages them to adopt and maintain energy efficient practices.

The committee seeks the Minister's assurances that information in relation to energy saving practices will continue to be disseminated to businesses and that the Minister outlines, for the benefit of the House, any other energy savings programs or initiatives which encourage businesses to maintain energy saving practices without the SESP.

Recommendation 2

The committee recommends that the Minister for Energy and Water continues to disseminate information to businesses on maintaining energy efficient practices and outlines, for the benefit of the House, other energy savings programs or initiatives which encourage businesses to adopt and maintain energy efficient practices.

Committee comment

Based on the information the committee has received, the committee supports the proposed cessation of the Smart Energy Savings Program. It considers that there are sufficient other drivers, such as the cost of energy and the Commonwealth Government's carbon pricing mechanism, to encourage energy reduction. These drivers will ensure that businesses will continue to look for ways to lower their energy usage and hence their greenhouse gas emissions. Current SESP participants may benefit from reduced compliance costs and ceasing the program will enable the Queensland Government to reallocate the funds it would have spent administering the program to other priorities.

Transfer of water and sewerage services for Noosa Shire Council

Clause 41 of the Bill provides for the amendment of the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* (SEQWA).

The SEQWA provides for the establishment, functions and governance of water distribution-retail businesses in South-East Queensland. These entities deliver water and sewerage services within the combined geographic area of the participating local governments.

Section 5(1) of the SEQWA defines who a distributor-retailer's participating local governments are. Currently, the Northern SEQ Distributor-Retailer Authority (Unitywater) has the Sunshine Coast Regional Council and the Moreton Bay Regional Council as participating local governments.

⁶⁴ Department of Energy and Water Supply, Public briefing transcript, 9 July 2013, pp 7-8.

On 1 January 2014, Noosa will be deamalgamated from the Sunshine Coast Regional Council. In order for Unitywater to continue to provide the Noosa area with water and sewerage services, the new Noosa Shire Council will be added to the list of participating councils.⁶⁵

Accordingly, clause 42 of the Bill amends section 5(1)(a) by adding Noosa Shire Council to the list of participating councils for the Northern SEQ Distributor-Retailer Authority commencing 1 January 2014.

Unitywater provided a submission to the committee and acknowledged the proposed amendment to include the new Noosa Shire Council as a participating local government for the Northern South East Queensland Distributor-Retailer Authority and made no further comments with respect to the Bill.⁶⁶

Committee comment

The committee notes that the amendment to the SEQWA is necessary to ensure that Noosa continues to be provided with sewerage and water services following its voluntary deamalgamation from the Sunshine Coast Regional Council as of 1 January 2014.

⁶⁵ Queensland Parliament, Record of Proceedings, 5 June 2013, p 1941.

⁶⁶ Unitywater, Submission No. 1.

3 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (LSA) provides that ‘fundamental legislative principles’ are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of parliament.

The committee has examined the application of fundamental legislative principles to the Bill and brings the following issues to the attention of the Legislative Assembly.

Sufficient regard to the rights and liberties of individuals

Does the Bill have sufficient regards to the rights and liberties of individuals?

Clause 31 of the Bill inserts new section 135JUA into the *Electricity Act 1994* to make it clear to participants of the Gas Scheme that no compensation is payable by the state in relation to the closure of the Queensland Gas Scheme.

In order to mitigate the possible negative effects of the provision precluding compensation, the Government has taken a number of actions including:⁶⁷

- providing participants with sufficient actual and legislative notice of the Gas Scheme’s closure
- assisting Gas Scheme participants regarding the necessary changes in their business practices throughout the ‘transition’ period to 30 June 2014
- consulting with Gas Scheme participants following the Ministerial announcement that the Scheme will cease at 31 December 2013 and during the legislative drafting stage.

The department also advised that the industry has been ‘on notice’ since 2007 that the Gas Scheme would be either substantially amended or ceased upon the introduction of a Commonwealth scheme imposing a price or tax on carbon emissions.

The committee asked the department to expand on how the industry had been ‘on notice’. The department advised that this was announced by the former Queensland Government following the release of the *Climate Smart 2050 Strategy* in June 2007. As the Commonwealth did not introduce a carbon pricing mechanism⁶⁸ until July 2012, the Gas Scheme has continued to operate.⁶⁹

In relation to compensation, the committee noted the former Scrutiny of Legislation Committee’s acceptance of a legal opinion that the enactment of legislation interfering with pre-existing rights does not normally at law give rise to any legal claim on the part of those persons adversely affected, unless a statute has the effect of compulsorily acquiring property. Therefore, an entitlement to fair compensation would more readily arise in a circumstance such as that.⁷⁰

⁶⁷ Explanatory Notes, p 4.

⁶⁸ The carbon pricing mechanism was introduced on 1 July 2012. It applies to Australia’s biggest polluters who have to report on, and pay a price for, their carbon pollution. This creates incentives to reduce emissions. The Clean Energy Regulator administers Australia’s carbon pricing mechanism. For further information see: <http://www.cleanenergyregulator.gov.au/Carbon-Pricing-Mechanism/Pages/default.aspx>.

⁶⁹ Department of Energy and Water Supply, Correspondence, 11 June 2013.

⁷⁰ Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook* (as amended January 2008), pp 73-74.

The department advised that the advice received by the committee in relation to the fundamental legislative principles and Clause 31 was consistent with the advice the departmental received during the preparation of the Bill.⁷¹

AGL Energy Limited (AGL), the one submission the committee received from an energy retailer, stated that it 'does not have significant concerns with the proposed cessation of the Queensland Gas Scheme.' In relation to timing, AGL stated that '... the early notice being given of the proposed changes, and the fact that the changes have remained in substantially the same form' since the department's initial consultation has 'been helpful in providing some market certainty on these issues.'⁷²

Based on the above, the committee considers that this issue in relation to fundamental legislative principles has been adequately explained and justified.

Is the Bill unambiguous and drafted in a sufficiently clear and precise way?

Section 4(3)(k) of the LSA provides that a bill must be unambiguous and drafted in a sufficiently clear and precise way.

The explanatory notes provide that Clause 15 of the Bill inserts new section 135DNA into the *Electricity Act 1994* to allow accredited generators with eligible electricity to create GECs to meet their 2013 GEC liability if they have not surrendered the required number before 3 June 2014.⁷³

New section 135DNA(3) provides that the generator may, before 3 June 2013, apply in writing to the regulator for approval to create and register GECs for meeting its 2013 GEC liability. Section 135DNA(4) then provides that the regulator must, before 10 June 2014, decide whether to grant or refuse the application and give the generator notice.

Given that the Bill was introduced on 5 June 2013 and the detail provided in the explanatory notes, it seems likely that the reference to 3 June 2013 in section 135DNA(3) is a typographical error and should read 3 June 2014.

Recommendation 3

The committee recommends that Clause 15 inserting new section 135DNA(3) be amended to remove the reference to '2013' and replaced with '2014' to rectify a typographical error.

Sufficient regard to the institution of Parliament

Does the Bill have sufficient regard to the institution of Parliament?

Section 4(4) of the LSA provides that whether a bill has sufficient regard to the institution of Parliament depends on whether, for example:

- a) a bill allows the delegation of legislative power only in appropriate cases and to appropriate persons
- b) sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly
- c) authorised the amendment of an Act only by another Act.

The Environmental Defenders Offices of Queensland and North Queensland (EDOs) raised issues regarding fundamental legislative principles in their submission to the committee. In relation to the repeal of the *Clean Energy Act 2008* as a mechanism for reducing 'red tape', the EDOs stated that

⁷¹ Department of Energy and Water Supply, Correspondence, 11 July 2013.

⁷² AGL Energy Limited, Submission No. 2, p 1.

⁷³ Explanatory Notes, p 8.

‘... the institution of parliament is more than just a means for effecting ‘red tape reduction’ and that ‘the institution of parliament in a representative democracy involves balancing of short term cost benefit analysis against long term commitments to state, federal and international obligations.’

Based on the advice the committee has received, the Bill has sufficient regard to the institution of Parliament.

Explanatory Notes

Part 4 of the *Legislative Standards Act 1992* relates to explanatory notes. It requires that an explanatory note be circulated when a bill is introduced into the Legislative Assembly and sets out the information an explanatory note should contain.

Explanatory notes were tabled with the introduction of the Bill. The explanatory notes are fairly detailed and contain the information required by Part 4 and a reasonable level of background information and commentary to facilitate understanding of the Bill’s aims and origins.

The explanatory notes in this regard have assisted the committee in carrying out its examination of the Bill and the Bill’s compliance with the LSA.

4 Appendices

Appendix A – List of submitters


Sub #	Name
1	Unitywater
2	AGL Energy Limited
3	Queensland Environmental Defenders Offices

Appendix B – Departmental representatives in attendance at the public briefing on 9 July 2013

Witnesses	
1	Mr Andrew Burnett, Manager, Gas and Markets, Department of Energy and Water Supply
2	Mr Paul Connolly, Director, Gas and Markets, Department of Energy and Water Supply
3	Miss Josephine Doyle, Acting Senior Policy Officer, Gas and Markets, Department of Energy and Water Supply
4	Miss Josephine Doyle, Acting Senior Policy Officer, Gas and Markets, Department of Energy and Water Supply
5	Ms Gayle Leaver, General Manager, Water and Sewerage Reform, Department of Energy and Water Supply
6	Mr Darren Schneider, Acting General Manager, Generation and Fuel, Department of Energy and Water Supply
7	Mr Peter Wall, Principal Advisor, Networks and Demand Response, Department of Energy and Water Supply

Appendix C – Departmental correspondence

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**Queensland
Government**

Department of
Energy and Water Supply

CTS 14372/13

26 June 2013

Mr David Gibson MP
Chair
State Development, Infrastructure
and Industry Committee
Parliament House
George Street
BRISBANE QLD 4000

RECEIVED

28 JUN 2013

STATE DEVELOPMENT, INFRASTRUCTURE
AND INDUSTRY COMMITTEE

Dear Mr Gibson

Thank you for your letter of 14 June 2013 regarding the State Development, Infrastructure and Industry Committee's (the Committee) consideration of the *Energy and Water Legislation Amendment Bill 2013*.

As requested, the Department of Energy and Water Supply (DEWS) has prepared a written briefing on the Bill for the Committee's consideration which outlines the key policy proposals of the Bill and any alternatives considered; the evidence base for the proposals; and the details of the consultation undertaken (see attached).

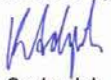
Officers from DEWS will also be available to provide a verbal briefing to the Committee from 1:00 pm until 2:00 pm on 9 July 2013. The following officers will be available for this briefing:

- Darren Schneider, A/General Manager, Generation and Fuel;
- Paul Connolly, Director, Gas and Markets;
- Andrew Burnett, Manager, Gas and Markets;
- Lorelle Hatch, Manager, Industry Services and Emergency Management;
- Josephine Doyle, A/Senior Policy Officer, Gas and Markets;
- Peter Wall, Principal Advisor, Networks and Demand Response; and
- Richard Scott, A/Director, Water and Sewerage Policy.

I have noted the details provided about the proposed public hearing and Committee report back date.

If you require further information please contact Ms Mardi Sheraton, Cabinet Legislation and Liaison Officer on (07) 3006 5973 in the first instance.

Yours sincerely



Ken Sedgwick
A/Director-General
Department of Energy and Water Supply

Enc

Page 1 of 1

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Briefing for the
State Development, Infrastructure and Industry Committee
on the
Energy and Water Legislation Amendment Bill 2013

Purpose of Briefing

This briefing has been prepared by the Department of Energy and Water Supply (DEWS) to provide information to the State Development, Infrastructure and Industry Committee (the Committee) on the *Energy and Water Legislation Amendment Bill 2013* (the Bill). As requested by the Committee, the briefing summarises the policy proposals in the Bill, the evidence base for those proposals, alternative approaches considered, and the consultation undertaken.

Objectives of the Bill

The objectives of the Bill are to:

- amend the *Electricity Act 1994* to cease the Queensland Gas Scheme as at 31 December 2013;
- repeal the *Clean Energy Act 2008* to cease the Smart Energy Savings Program immediately; and
- amend the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* to add Noosa Shire to the list of participating councils for the Northern South-East Queensland (SEQ) Distributor-Retailer Authority from 1 January 2014.

Policy proposals relating to the cessation of the Queensland Gas Scheme

The Queensland Gas Scheme (the Gas Scheme) commenced in 2005 to develop the gas industry and reduce greenhouse gas emissions from electricity generation. In accordance with the Gas Scheme, Chapter 5A of the *Electricity Act 1994* (the Electricity Act) requires electricity retailers to source 15 per cent of their electricity from gas-fired generators.

The Gas Scheme has been successful in encouraging gas production in the state. Currently electricity retailers source around 20 per cent of their electricity from gas-fired generators, exceeding the Gas Scheme's mandated target of 15 per cent. At the time of the introduction of the Gas Scheme, gas made up 2.4 per cent of the Queensland electricity generation mix.

The Gas Scheme requires electricity retailers to obtain and surrender Gas Electricity Certificates (GECs) to cover a prescribed proportion (currently 15 per cent) of their annual customer load or incur a penalty charge for the shortfall. The requirement to obtain GECs therefore creates an additional cost to electricity retailers in purchasing electricity for their customers.

In its Climate Smart 2050 Strategy (released June 2007) the former government announced it would transition the Gas Scheme into a National Emissions Trading Scheme as soon as practicable. As the Commonwealth did not introduce a Carbon Pricing Mechanism (CPM) until 2012, the operation of the Gas Scheme continued. Following the introduction of a CPM in 2012, DEWS commenced an internal review of the Gas Scheme to assess whether the CPM should be the main mechanism offering commercial support to gas-fired generation in Queensland.

The government determined that the continued application of the Gas Scheme in its present form, combined with the effect of the CPM in relation to the use of gas-fired electricity generation, would result in an unnecessary and inefficient duplication of costs, which would likely be passed on to customers.

On 8 March 2013, the government announced its decision to cease the Gas Scheme by 31 December 2013. Proposed amendments to the Electricity Act, will give effect to the government's decision. Without amendment to the Electricity Act the Gas Scheme would expire on 31 December 2020.

Key policy proposals in the Bill, and any alternatives considered:

A range of legislative changes are required to implement the government's decision to cease the Gas Scheme by 31 December 2013. The key legislative amendments required to cease the operation of the Gas Scheme are discussed in further detail below.

The proposed amendments clarify that 2013 will be the final liable year for the Gas Scheme. This means that all eligible generation produced on or before 31 December 2013 can be used for the creation of GECs. Similarly, the annual GEC liability will apply to all relevant electricity sales on or before 31 December 2013 with liability to be acquitted by the end of July 2014.

GEC creation is not instantaneous and requires accredited generators to input the relevant data on the Gas Scheme registry. To ensure that accredited generators have sufficient time to create GECs for eligible generation produced in the final liable year, the legislation allows GEC creations to occur on or before 30 April 2014. The proposed amendments do provide for a limited ability to create GECs after 30 April 2014, however this is only at the discretion of the Gas Scheme Regulator.

The proposed amendments also clarify that all GECs will expire at the end of 30 June 2014 (or earlier depending on the creation date). The proposed transitional arrangements for the Scheme clarify that GECs hold no value following expiry and the proposed legislative amendments make clear that no compensation is payable by the state in relation to the closure of the Gas Scheme.

It is proposed that applications to become an accredited Gas Scheme participant must take place before 1 October 2013 and that all accreditations under the Scheme expire on 30 June 2014. Any amendments to accreditations must be made before 1 January 2014.

It is proposed that all requests for relevant exemptions (excluding applications to amend state development or liable load exemptions) under the Gas Scheme must be submitted before 1 October 2013. In the case of state development exemptions, applications to amend the supply schedule must be made before 1 January 2014. All exemptions expire on 30 June 2014.

The proposed amendments identify that a civil penalty (i.e. the shortfall charge) is still applicable for the 2013 liable year. Any outstanding liability should be acquitted by paying the shortfall charge post 30 June 2014 in accordance with an issued invoice. The transitional arrangements clarify instances where a review application has been made. Should it be determined following a review that a liability remains and an appropriate number of GECs are not surrendered by 30 June 2014, the Regulator has discretion to charge a civil penalty of an amount up to the shortfall charge per GEC (i.e. the Regulator may decide to charge an amount less than the shortfall charge per GEC).

On administrative matters, the proposed amendments identify that liable persons must submit self-assessment reports for the 2013 liable year by the last business day in April 2014. It has also been decided that no Gas Scheme participants will be charged annual fees for the 2014 calendar year.

Evidence base for the proposals:

Since the commencement of Gas Scheme in 2005, gas-fired generation has become a significant contributor to generation in Queensland. Electricity retailers currently source around 20 per cent of their electricity from gas-fired generation, far in excess of the Gas Scheme's 15 per cent mandated target.

The Regulator has recorded the creation of 43,784,131 GECs, equating to 43,784,131 megawatt hours (MWh) of additional gas-fired electricity since the commencement of the Gas Scheme to June 2013. This additional gas-fired generation has reduced greenhouse gas emissions by around 17.1 million tonnes¹ (compared with coal fired power stations).

While the Gas Scheme and the CPM share the objective of reducing greenhouse gas emissions, the mechanisms by which they achieve this objective are different. It is important to understand the interaction effects of the two operating in conjunction.

The Gas Scheme operates as a targeted subsidy (similar to the Renewable Energy Target), which enables eligible gas-fired generators to earn revenue from both the sale of electricity and GECs. This increases the revenue earning potential of gas-fired generators, making them more competitive, and resulting in relatively greater gas generation investment and output in the market.

The CPM operates by increasing the costs of generation of coal and gas by differing amounts. Given its higher emissions, the cost of coal-fired generation increases by more than gas-fired generation, again improving its competitiveness and leading to increased output from gas-fired generation in the market. As the CPM will improve the competitiveness of gas-fired generation, it reduces the necessity for an additional subsidy from GECs.

GECs are currently trading on the spot market at particularly low prices (\$0.30, 24 June 2013), which are only marginally higher than the cost incurred by gas-fired generators to register GECs (\$0.187 per GEC, from 1 July 2013 this will increase to \$0.1942). Given this small residual benefit to gas-fired generators, it is likely the financial implications of ceasing the Gas Scheme will be minimal.

The current GEC price is significantly lower than the civil penalty rate for non-acquittal of GECs, currently \$13.50/GEC, indicating that the Scheme has achieved its objective of promoting gas-fired generation. Electricity retailers sourcing additional electricity from gas-fired generators in excess of the mandated target indicates that other commercial factors are likely to be driving this greater use of gas. The continued operation of a Scheme to achieve an objective that is likely to be already supported by other market mechanisms will impose unnecessary compliance costs, administrative burden and complexity on both business and government.

The cessation of the Gas Scheme will reduce administrative burden on government, reduce compliance cost to industry and lower the cost of living by contributing to lower electricity prices as electricity retailers pass the cost of complying with the Scheme onto consumers.

The administrative dates in the Bill are based on previous practices, feedback and experience in administering the Gas Scheme. These dates seek to ensure Gas Scheme participants and the

¹ In 2012, the average emission intensity of coal was 0.897 tCO₂/MWh and the average for gas was 0.506 tCO₂/MWh.

Regulator have sufficient time to undertake all the necessary tasks to finalise the closure of the Scheme.

No alternative approaches were considered to effect the government's decision to cease the Gas Scheme by 31 December 2013.

Details of the consultation undertaken:

The proposed transitional provisions and legislative amendments were made available for public consultation via an exposure draft of the Bill. The explanatory notes for the exposure draft of the Bill were not ready for public consultation and a summary of the legislative changes was used instead.

DEWS did not receive any submissions or queries from Gas Scheme participants or interested parties.

Policy proposals relating to the cessation of the Smart Energy Savings Program

The Smart Energy Savings Program (SESP) commenced on 1 July 2009 with the objective of driving energy saving improvements in Queensland businesses with very high energy use. The SESP required businesses with energy consumption above certain thresholds to undertake energy audits, develop energy savings plans and publish their actions for each relevant site on a five-yearly cycle.

The main objectives of the SESP were to drive change in Queensland commercial and industrial businesses to:

- increase the adoption of energy-efficient technologies and practices;
- reduce growth in Queensland's electricity demand; and
- Improve business competitiveness by reducing energy costs.

At the 2012 state election, the Liberal National Party (LNP) committed to reduce the regulatory burden for Queensland businesses. The SESP was identified as a government initiative which offered little benefit for participating businesses and added to the regulatory burden.

In December 2012, Cabinet endorsed the cessation of the SESP as a means to reduce the regulatory burden for Queensland businesses.

On 8 March 2013, the government announced its decision to cease the SESP immediately and repeal the *Clean Energy Act 2008* (the Clean Energy Act) at the earliest opportunity.

Key policy proposals in the Bill, and any alternatives considered

Termination of the SESP requires the repeal of the Clean Energy Act as there are no alternative ways to implement the government's decision to cease the SESP. Legislative amendment and repeal of the Clean Energy Act is the only means to effect the cessation of the SESP.

Evidence base for the proposals

The government's decision to cease the SESP considered the following issues:

1. Changed policy context

There have been a number of significant changes to the policy environment since the commencement of the SESP. These include:

- Rising energy prices provide an incentive for businesses to manage their energy use better. Businesses should seek to reduce their costs as a matter of good business practice.
- The introduction of the national CPM in 2012 provides further incentive for businesses to minimise their cost exposure by reducing energy consumption.
- Jurisdictions agreed through Council of Australian Governments (COAG) to review all existing climate change schemes for complementarity with the CPM.

2. Limited number of parties captured

Only 37 businesses are currently required to participate in the SESP. This is due primarily to the fact that many Queensland-based businesses and operations consuming large amounts of electricity already participate in the Commonwealth Energy Efficiency Opportunities program and are accordingly exempted from the SESP.

3. Costs for participants

Some participating businesses advised that the cost of undertaking the required audits and preparation of energy savings plans was not justified by the potential energy cost savings.

The extent of compliance costs associated with SESP obligations was not reported or collected under the program. Given the variety of industries reporting under the SESP, and the differences in size and scale of businesses involved, it is difficult to estimate total costs for participants.

However, costs associated with SESP compliance for participants could include, as a minimum, an energy audit (estimated at between \$2,000 and \$20,000 depending on the size and complexity of the business' operations), plus internal reporting and administration costs.

On this basis, the government's decision to cease the SESP is unlikely to have any negative impact on SESP participants. In fact, cessation of the SESP is expected to reduce industry compliance costs.

4. Administration

Despite there being no requirement for businesses to implement their energy savings plans, the government was required to undertake ongoing enforcement activity to ensure compliance. DEWS has reported that many businesses had difficulties meeting the minimum reporting requirements, and DEWS has acknowledged inadequate resourcing impacting effective administration of the SESP.

Cessation of the SESP will reduce administrative burden for the government and free up associated resources.

Details of the consultation undertaken

In July 2012, advice was circulated to all 37 SESP participants, informing them that the program was undergoing review and that participant obligations would not be enforced during this period. Following the circulation of this advice, the Department did not receive any submissions from SESP participants requesting that the SESP continue.

Energy and Water Legislation Amendment Bill 2013

No further consultation was undertaken on the basis that participating businesses would be unlikely to object to the closure of the program due to the costs of compliance and the reporting effort it required.

Following the public announcement on 8 March 2013 of the government's decision to cease the SESP immediately and repeal the Clean Energy Act, SESP participants were formally notified in writing.

The Department has not received any objections from SESP participants regarding the cessation of the SESP or any requests that the SESP continue.

Policy Proposals relating to the transition of water and sewerage services for the Noosa Shire Council

The deamalgamation of Noosa from the Sunshine Coast Regional Council will take effect on 1 January 2014. The *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* (the SEQ Water Act) provides for the establishment, functions, and governance of water distribution-retail businesses in South-East Queensland. These entities deliver water and sewerage services within the combined geographic area of the participating local governments.

Key policy proposals in the Bill, and any alternatives considered:

Under the SEQ Water Act the Northern SEQ Distributor-retailer (Unitywater) comprises the participating local governments, which are Sunshine Coast Regional Council and the Moreton Bay Regional Council. In line with the deamalgamation, an amendment is required to add the new Noosa Shire Council to the list of participating local governments from 1 January 2014. Unitywater will continue to provide the Noosa Shire Council area with water and sewerage services.

There are no other simple alternatives to ensure Unitywater continues to provide the Noosa Shire Council area with services.

Evidence base for the proposals:

This is a minor amendment to facilitate the voluntary deamalgamation of Noosa from the Sunshine Coast Regional Council. This amendment will ensure the continued provision of water and sewerage services by the existing provider Unitywater.

Details of the consultation undertaken:

Unitywater has been consulted on the process to achieve the transition.

Explanatory Table – Clause by Clause

Clause Summary of Clause

- 1 *Clause 1* establishes the short title of the Act as the *Energy and Water Legislation Amendment Act 2013*.
- 2 *Clause 2* states that part (pt) 4 commences on 1 January 2014 and that sections 4, 34 (other than to the extent it inserts pt 15, divisions 1 and 2); 36 and 37, and pt 3 of the Act are intended to commence on 1 July 2014. All other sections commence on assent.
- 3 *Clause 3* provides that pt 2 amends the *Electricity Act 1994*.
- 4 *Clause 4* amends section 117 to insert wording 'or to a dispute about what is a chargeable amount under section 309' in section 117(1A) to clarify that section 117 does not apply to disputes that are regulated by the Queensland Competition Authority or under the National Electricity Rules or to a dispute about what is a chargeable amount under section 309.
- 5 *Clause 5* amends section 135AA by omitting '2019' from section 135AA (3) (c) and inserting '2013' to clarify that the final liable year of the Gas Scheme is 2013.
- 6 *Clause 6* amends section 135AL by inserting 'before 1 October 2013' in section 135AL(1) to clarify that applications to become an accredited generator received after 30 September 2013 will not be considered. This amendment has been made to allow for the administrative closure of the Gas Scheme.
- 7 *Clause 7* amends section 135AR by omitting '31 December 2020' from section 135AR and inserting '30 June 2014'. To allow for the administrative closure of the Gas Scheme, accreditation will continue to be in force until 30 June 2014.
- 8 *Clause 8 (1)* amends section 135AT by omitting '31 December 2019' from section 135AT(1)(a)(ii) and inserting '30 April 2014' to provide clarity to accredited generators that GECs cannot be created after 30 April 2014.
Clause 8 (2) amends section 135AT by omitting '31 December 2020' from section 135AT(1)(b) and inserting '24 June 2014' to provide clarity that accredited generators cannot mortgage or transfer GECs for which they have ownership of after 24 June 2014.
- 9 *Clause 9* amends section 135B by inserting a note in section 135B(1) to ensure accredited generators are aware that electricity generated after midnight 31 December 2013 will not be eligible gas-fired electricity for GEC creation.
- 10 *Clause 10* amends section 135BE by inserting a new section 135BE(1A) to clarify that accredited generators will not be required to pay an annual fee for 2014 despite their accreditation continuing to be in force until 30 June 2014.
- 11 *Clause 11* amends section 135BK by inserting 'before 1 January 2014' in section 135BK(1) to clarify that accredited generators cannot apply to the Regulator to transfer accreditation after 31 December 2013, to allow for the administrative closure of the Gas Scheme.
- 12 *Clause 12* amends section 135BP by inserting 'before 1 January 2014' in section 135BP(1) to clarify that any applications by an accredited generator to the Regulator to amend the accreditation must occur before 1 January 2014.
- 13 *Clause 13* amends section 135CA by inserting a new section 135CA(1A) to provide clarity that electricity generated from 1 January 2014 will not be eligible gas-fired electricity.
- 14 *Clause 14* amends section 135DG by inserting a new section 135DG(2) to provide clarity that a GEC can only be created after 30 April 2014 with the Regulator's approval under section 135DNA.
- 15 *Clause 15* inserts new chapter 5A, pt 4, division 1A, section 135DNA to allow accredited generators with eligible electricity to create GECs to meet their 2013 GEC liability if they have not surrendered the required number before 3 June 2014. Applications to the Regulator will need to be in writing and given to the Regulator before 3 June 2014. The Regulator must, before 10 June 2014, decide whether to grant or refuse the application and give the generator notice of the decision.
- 16 *Clause 16* replaces the old section 135DS Automatic Expiry with the new section 135DS expiry to

Energy and Water Legislation Amendment Bill 2013

- provide clarification that a GEC expires either on the last day of the second year after the year the GEC was created or on 30 June 2014 whichever is the earlier date.
- 17 *Clause 17* amends section 135DU by inserting 'before 24 June 2014' to provide clarity to registered owners of GECs that they can only transfer GECs up to 24 June 2014.
- 18 *Clause 18* amends section 135EP and inserts 'to 2013' in section 135EP(1) to clarify that 2013 will be the final year that a liable person has an annual liability to the Regulator.
- 19 *Clause 19* amends section 135ET by inserting 'to 2013' in section 135ET(1) to clarify that the final year that a liable person has an annual liability is 2013.
- 20 *Clause 20* amends section 135FA(1)(h) by omitting '2019' and inserting '2013' to provide clarity that 2013 will be the last liable year of the Gas Scheme and therefore the last year that the shortfall charge can be charged or will be relevant.
- 21 *Clause 21* amends section 135FD(1) by inserting 'to 2014' to provide clarity to a liable person that 2014 will be the last year they are required to give the Regulator a self-assessment report.
- 22 *Clause 22* amends section 135GJ(1) by inserting 'before 1 October 2013' to clarify that applications by interested persons for a state development exemption received after 30 September 2013 will not be considered. This amendment has been made to allow for the administrative closure of the Gas Scheme.
- 23 *Clause 23* amends section 135GO(1) by inserting 'before 1 January 2014' to clarify that if a state development exemption holder wishes to amend its supply schedule, this must occur in writing to the Regulator before 1 January 2014.
- 24 *Clause 24* amends section 135GS(1) by inserting 'before 1 October 2013' to clarify that applications for renewable energy exemptions received after 30 September 2013 will not be considered.
- 25 *Clause 25* amends section 135H(1) by inserting 'before 1 October 2013' to clarify that applications for a liable load exemption by interested persons for an electricity load (used for an auxiliary load for a power station) received after 30 September 2013 will not be considered.
- 26 *Clause 26* amends section 135HF by inserting new section 135HF(2A) to clarify that Gas Scheme participants are not required to pay an annual fee for 2014.
- 27 *Clause 27* amends section 135HH(1) by omitting 'may, in the approved form, apply' and inserting 'may, before 1 January 2014, apply in the approved form' to clarify that applications to amend a liable load exemption by interested persons with an exempt load received after 31 December 2013 will not be considered.
- 28 *Clause 28* amends section 135I(1) by omitting 'may, in the approved form, apply' and inserting 'may, before 1 January 2014, apply in the approved form' to clarify that applications to the Regulator to be registered as a Gas Scheme participant received after 31 December 2013 will not be considered.
- 29 *Clause 29* amends section 135IB(3) by omitting '31 December 2020' and inserting '30 June 2014' to ensure Gas Scheme participants are aware that registration as a scheme participant will continue until 30 June 2014 to allow for the administrative closure of the Scheme.
- 30 *Clause 30* amends section 135IC by inserting section 135IC(3) to clarify that Gas Scheme participants are not required to pay an annual fee for 2014.
- 31 *Clause 31* inserts a new section 135JUA to make it clear to scheme participants that no compensation is payable by the state in relation to the closure of the Gas Scheme.
- 32 *Clause 32* amends section 135JW by omitting '31 December 2020' and inserting '30 June 2014' to provide clarity that chapter 5A expires on 30 June 2014.
- 33 *Clause 33* omits section 135JX.
- 34 *Clause 34* Inserts new chapter 14, pt 15 Transitional provisions for the *Energy and Water Legislation Amendment Bill 2013*.
- New Section 336 repeals the *Clean Energy Act 2008*.
- New section 337 provides definitions for the new Division 2 Transitional provisions for repeal of the *Clean Energy Act 2008*.

Energy and Water Legislation Amendment Bill 2013

New section 338 ends any further action proceeding on an existing application from assent of the *Energy and Water Legislation Amendment Bill 2013*.

New section 339 provides and determines that if existing offence proceedings are not finalised by assent of the *Energy and Water Legislation Amendment Bill 2013*, the proceedings end from that date.

New section 340 provides that no new offence proceedings will be started under the repealed Act after assent of the *Energy and Water Legislation Amendment Bill 2013*.

New section 341 provides that no applications for an internal review under section 28 of the repealed Act will be considered after assent of the *Energy and Water Legislation Amendment Bill 2013*.

New section 342 provides that if an external review proceeding had been started in the Queensland Civil and Administrative Tribunal (QCAT) prior to assent of the *Energy and Water Legislation Amendment Bill 2013*, but had not been finalised, it ends on that date and no further action is taken, although QCAT can make an order about the costs incurred up to assent of the Bill.

New section 343 provides that a person entitled to apply to QCAT for an external review under section 31 of the repealed Act, who had not done so before assent of the *Energy and Water Legislation Amendment Bill 2013*, cannot apply after that date.

New section 344 provides definitions for the new division 3 Transitional provisions for the expiry of chapter 5A.

New section 345 provides that words defined in the former chapter 5A and used in division 3 of the *Energy and Water Legislation Amendment Bill 2013* have the same meaning as they had under the former chapter.

New section 346 provides clarity to scheme participants that no compensation is payable by the state in relation to the closure of the Scheme.

New section 347 provides that all rights, privileges, liabilities and obligations imposed under the former chapter 5A and the former schedule 1, pt 2, including offences, continue to apply to a pre expiry matter after expiry.

New section 348 has been provided to remove any doubt that all GECs will expire on 30 June 2014 and will have no value and will be of no effect.

New Section 349 provides for a person who makes a review application under chapter 10 on any civil liability assessment of the Regulator. If the person is unsuccessful in the review application, the person is still liable for the civil penalty under the former section 135EY.

New Section 350 provides for the monitoring of an auditable person with a matter relevant to the former chapter 5A.

35 *Clause 35(1)* amends schedule 1, pt 2 by inserting heading 'Division 1, Decisions under chapter 5A', pts 2 and 3'.

Clause 35(2) amends schedule 1, pt 2 by inserting 'Division 2, Decisions under chapter 5A, pts 4 to 6' before entry for section 135DJ(1).

Clause 35(3) amends schedule 1, pt 2, by inserting 'Division 3, Decisions under chapter 5A, pts 7 and 8' before entry for section 135IH(3).

36 *Clause 36* amends schedule 1, pt 2 to provide clarity that there will be no review of administrative decisions following the closure of the Gas Scheme.

37 *Clause 37* amends the dictionary by omitting certain definitions as a result of the expiry of chapter 5A.

38 *Clause 38* provides that pt 3 amends the *Energy and Water Ombudsman Act 2006*.

39 *Clause 39* provides that pt 3 amends section 19(a) by removing reference to chapter 5A of the *Electricity Act 1994*.

40 *Clause 40* inserts new pt 13 'Transitional provision for *Energy and Water Legislation Amendment Act 2013*' after section 112.

Energy and Water Legislation Amendment Bill 2013

New section 113 provides for the continuing prohibition of referrals for dispute under chapter 5A of the *Electricity Act 1994*.

- 41 *Clause 41* provides that pt 4 amends the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.
- 42 *Clause 42* amends section 5 by adding 'Noosa Shire Council' to the list of participating local governments for the Northern SEQ Distributor-Retailer Authority.

CTS 16156/13



Department of
Energy and Water Supply

10 July 2013

Mr David Gibson MP
Chair
State Development, Infrastructure and Industry Committee
Parliament House
Brisbane QLD 4000



Dear Mr Gibson

Thank you for your email of 4 July 2013, advising the Department of Energy and Water Supply (DEWS) of three written submissions received by the State Development, Infrastructure and Industry Committee (SDIIC) for the *Energy and Water Legislation Amendment Bill 2013* (the Bill).

In accordance with the SDIIC's letter of 14 June 2013, DEWS is writing to provide a written response to issues raised in the submissions received by AGL Energy Ltd (AGL), Unitywater, the Environmental Defenders Office of Queensland (EDO Qld) and the Environmental Defender's Office of Northern Queensland (EDO NQ).

AGL Energy Ltd Submission

No issues were raised by AGL in its submission to the SDIIC regarding the government's decision to cease the Queensland Gas Scheme. Instead AGL noted "that with the carbon pricing single mechanism in place, a separate scheme that provides additional benefits to gas-fired generation is unnecessary and duplicative. Further, to the extent that the Queensland Gas Scheme is intended to incentivise the development of additional gas-fired generation in Queensland, this is unnecessary and inefficient under current market conditions given the current oversupply of generation in the market". AGL further noted that the early notice given to participants and the initial consultation undertaken by DEWS in May 2013 provided market certainty.

Unitywater

No issues were raised by Unitywater in its submission to the SDIIC regarding the proposed changes to the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*. The submission provided by Unitywater simply acknowledged the proposed amendment to include Noosa Shire Council as a participating local government for the Northern South East Queensland Distributor-Retail Authority commencing 1 January 2014.

Page 1 of 3

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Environmental Defenders Office of Queensland (EDO Qld) and Environmental Defender's Office of Northern Queensland (EDO NQ)

EDO Qld and EDO NQ raised concerns regarding the implications of the *Legislative Standards Act 1992* on the implementation of the government's policy of red tape reduction, and the importance of the Smart Energy Savings Program (SESP) to increase energy efficiency and reduce costs and greenhouse gas emissions.

The Queensland Government was elected with a commitment to reduce the regulatory burden for Queensland businesses and reduce duplication with Australian Government programs and initiatives. Subsequently, all Queensland government departments were directed to identify any government programs which added a compliance burden to the operations of Queensland businesses without providing clear commensurate benefits. Accordingly, DEWS identified the SESP, among others, as one such program and was directed to undertake an internal review.

The objectives of the SESP were to encourage Queensland businesses to better understand their energy use and to identify and implement energy management activities and strategies that are cost effective. This was to be achieved by requiring large businesses with energy consumption above prescribed thresholds to undertake an energy audit, develop an energy savings plan and publish their actions for each relevant site on a five-yearly cycle.

However, there was no requirement for businesses to implement or report on any of the actions identified in their energy savings plans. Rather, it was expected that by identifying opportunities to reduce their energy use and provide potential savings, businesses would be more likely to take action to improve their energy efficiency where doing so was cost-effective. In this regard the SESP was seen merely as a mandatory investigation and reporting requirement that added a compliance burden on SESP participants.

The government also contemplated the wider business and regulatory environment in which there have been a number of significant changes since the commencement of the SESP in July 2009. These changes provide sufficient financial incentive for businesses to become more engaged in considering their energy use and develop strategies to reduce energy consumption.

Firstly, rising energy prices provide an incentive for businesses to manage their energy use better. It is the government's view that businesses would seek to reduce their costs as a matter of good business practice, and it should be left to businesses to determine the most appropriate way to deliver these savings.

Secondly, the commencement of the national carbon pricing mechanism (CPM) in July 2012 provides further incentive for businesses to minimise their cost exposure by reducing energy consumption. It is the government's view that the CPM, combined with Commonwealth Government funding for investment in energy-efficient technologies, is sufficient to achieve the objectives of the SESP without the need for Queensland legislation. In principle, a carbon price also addresses the externalities associated with carbon dioxide emissions.

Thirdly, the government received advice from some participating businesses which claimed that the cost of undertaking the required audits and preparation of energy savings plans was not justified by the potential energy cost savings. This outcome was not consistent with the intent of the SESP where there was an expectation that there would be significant savings.

Finally, following the announcement that the SESP was under review, and the subsequent announcement of the government's decision to cease the SESP, DEWS has not received any objections from SESP participants to the closure of the SESP or requests that the SESP continue in its current form or in an altered form.

This demonstrates that, despite an intention to encourage Queensland businesses to become more aware of their energy consumption practices, the SESP is not delivering practical benefits for participants.

If you require further information please contact Mr Darren Schneider, A/General Manager, Generation and Fuel on (07) 3898 0695.

Yours sincerely



Ken Sedgwick
Acting Director-General
Department of Energy and Water Supply

CTS16457/13

Queensland
GovernmentDepartment of
Energy and Water Supply

11 July 2013



Mr David Gibson MP
Chair
State Development Infrastructure and Industry Committee
Parliament House
Brisbane QLD 4000

Dear Mr Gibson

I am writing to respond to the questions taken on notice by the Department of Energy and Water Supply (DEWS) on 9 July 2013 at the State Development, Infrastructure and Industry Committee (SDIIC) public briefing on the *Energy and Water Legislation Amendment Bill 2013* (the Bill).

I provide the following responses.

Proportion of gas-fired generation from peaking, intermediate and baseload power stations

In providing this response, DEWS has assumed that power stations that operate:

- less than 20% of a year are considered peaking plant;
- between 20% and 65% of a year are considered intermediate plant; and
- more than 65% of a year are considered baseload plant.

Of the 20% of total electricity generated in Queensland that is provided by gas-fired generation, more than 99% is provided by power stations that operate in intermediate or baseload cycles, with the vast majority operating in intermediate cycles.

Costs associated with the Queensland Gas Scheme (QGS)

Listed below is the estimated expenditure for the regulation of the QGS for the 2012-13 and 2013-14 financial years. These figures include human resources and Queensland Gas Scheme Registry IT support provided by the Department of Agriculture, Forestry and Fisheries (DAFF).

Page 1 of 2

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It is important to note that since the Government's announcement of its decision to close the Scheme on 8 March 2013, all funding for the regulation of the Scheme ceased. Following the closure of the QGS at the end of July 2014 all staff will be redeployed to other work that has been placed on hold whilst the close-out is being conducted.

Queensland Gas Scheme Expenditure		
Item	2012-13	2013-14
Employee & Related Costs		
Director - SO3 (0.2 x \$149,800pa)	\$29,960	\$29,960
Manager - AO8/3 (0.5 x \$128,200pa)	\$64,100	\$64,100
Principal Project Officer - AO7/4 (0.2 x \$119,500)	\$23,900	\$23,900
Senior Project Officer - AO6/4 (0.8 x \$106,500)	\$85,200	\$85,200
Employee and Related Costs Total	\$203,160	\$203,160
Consultancies / Contractors		
QGS Registry - DAFF - System Support (\$17,335 per month)	\$208,020	\$208,020
TOTAL	\$411,180	\$411,180

Clarification of 'how the industry was put 'on notice' in 2007' in relation to the closure of the QGS

In its Climate Smart 2050 Strategy (released June 2007), the former Queensland Government announced it would transition the QGS into a National Emissions Trading Scheme as soon as practicable. As the Commonwealth did not introduce a carbon pricing mechanism until July 2012, the QGS continued in 2012.

Advice in relation to fundamental legislative principles

The advice provided by the Technical Scrutiny of Legislation Secretariat in relation to Clause 31 of the Bill is consistent with advice provided to DEWS in the preparation of the Bill.

The DEWS representatives present at the briefing on 9 July 2013 have reviewed the draft transcript. Some minor clarifications and amendments were suggested and these have been provided to the Secretariat.

If you require further information please contact Mr Darren Schneider, Acting General Manager, Generation and Fuel on 3898 0695.

Yours sincerely



Ken Sedgwick
Acting Director-General
Department of Energy and Water Supply