



Environmental
Defenders Office

**Submission to the Review of Queensland Energy
Legislation Options Paper**

6 February 2020

About EDO

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 30 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

Environmental Defenders Office is a legal centre dedicated to protecting the environment.

www.edo.org.au

Submitted to:

Department of Natural Resources, Mines and Energy
Queensland Government

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Submission to Review of Queensland Energy Legislation Options Paper

We welcome the opportunity to provide comments on the Review of Queensland Energy Legislation (**the Review**) and the Options Paper provided to guide this review.

Summary

- 1. Queensland's emissions reduction and renewable energy targets must be reflected in our energy legislation.**
- 2. Fossil fuels are a serious threat to our emissions reduction targets - the phase out of these fuels must be a key part of our energy planning and decision-making frameworks.**
- 3. Topic 1: Purpose of state energy laws - Option 3 preferred as environmental impacts must be consideration of energy decisions.**
- 4. Topic 2: Energy efficiency and demand management- further work needed on these policy options and finalisation of Qld Energy Efficiency and Demand Management Strategy.**

Detailed submissions

1. Queensland's emissions reduction and renewable energy targets must be reflected in our energy legislation

The Queensland Renewable Energy Target, which commits the Queensland Government to increasing the state's proportion of energy generation derived from renewables to 50% by 2030¹, is one of the Government's three key climate commitments; the other two are achieving zero net emissions by 2050², with an interim target of achieving at least a 30% reduction in emissions on 2005 levels by 2030.³

These emissions reductions targets cannot be achieved without satisfying the Renewable Energy Target and phasing out fossil fuel-based energy generation. As such, the three targets are interlinked and cannot be viewed in isolation of each other. While we understand the composition of state energy priorities is not subject to this Review, we strongly recommend the emissions reductions targets and renewable energy targets be reflected specifically in the energy laws under review and that the framework is developed around the achievement of these targets.

2. Fossil fuels are a serious threat to our emissions reduction targets - the phase out of these fuels must be a key part of our energy planning and decision-making frameworks

¹ Powering Queensland Plan, found here:

https://www.dnrme.qld.gov.au/_data/assets/pdf_file/0008/1253825/powering-queensland-plan.pdf

² Queensland Climate Transition Strategy, Pathways to a Clean Growth Economy, found here:

https://www.qld.gov.au/_data/assets/pdf_file/0026/67283/qld-climate-transition-strategy.pdf

³ Queensland Government, Our Future State Advancing Queensland's Priorities, Protecting the Great Barrier Reef, found here: <https://www.ourfuture.qld.gov.au/protect-the-gbr.aspx>

Climate change is the single biggest issue facing Queensland right now, with impacts being experienced and likely to increase across all sectors of society, none the least in the energy sector as both a leading cause and a victim of the impacts of climate change. Insufficient action by the Federal Government means that the states and territories must take up responsibility for the necessary action to reduce greenhouse gas emissions. This lack of clear market signal from the Federal Government makes it even more important for state and territory governments to create clear statutory goals that provide the certainty the market needs to continue the clean energy transition.

This requires clear and coherent policy and decision making across all government departments, including and particularly, the Energy Department. We could be investing and signalling far more in internal and export opportunities for renewable energy. We could be reaping the benefits across the board of reduced power prices from renewable energy technologies.⁴ Instead we are seeing continued investment in fossil fuels with incoherent policy positions across government departments, meaning Queensland is missing a key opportunity to be a global leader in renewable energy. Instead, Australia's total emissions have risen in March 2019 and December 2018 due to the continued expansion of the liquified natural gas industries in Queensland and Western Australia.⁵

Technologies such as solar, wind and battery storage, combined with innovative energy efficiency programs and demand response should be incentivised and in many instances required to replace fossil-fuelled power plants. In addition to these, the fundamental question of transitioning Queensland communities, particularly rural communities, from dependence on fossil fuels to a clean energy system needs significant attention by the Queensland Government as a whole, including the Department of Natural Resources, Mines and Energy (DNRME) as a leader in this space.

3. Topic 1 Purpose of state energy laws - Option 3 preferred as environmental impacts must be consideration of energy decisions

Option 3 proposes to update Queensland energy legislation to align with both national energy objectives and state energy priorities. As acknowledged in the Options Paper,⁶ these state priorities include the environmentally sound use and supply of energy, reducing Queensland's contribution to climate change, supporting the transition to a low-carbon energy sector, and the Queensland Renewable Energy Target.

Option 3 provides a significantly better outcome than the alternatives offered. Option 1, maintaining the current energy laws, will mean that the state priorities of reducing Queensland's contribution to climate change and environmentally sound energy supply will not be required to be considered across all areas of the Queensland energy sector. This is inappropriate given the significant impact our energy systems have on the environment.

⁴ CSIRO GenCost Report 2019-2020, found here:

⁵ Australian Government, Progress of the National Greenhouse Gas Inventory, found here: <https://www.environment.gov.au/climate-change/climate-science-data/greenhouse-gas-measurement/progress-inventory>

⁶ Department of Natural Resources, Mines and Energy, Queensland Government, Review of Queensland Energy Legislation – Part 2: Options Paper (Report, October 2019) 18.

We do not support Option 2 as it would entirely remove environmental aims from mandatory consideration, leaving decision-makers free to take actions that damage the environment and weaken the ability to fulfil our state and national climate commitments.

Option 3 is the only solution that ensures that energy decisions will be made having regard to Queensland's environmental aims and state priorities, including reducing Queensland's contribution to climate change. We are encouraged that the Review has recommended Option 3 and agree that with the Review's reasoning that it would "*promote environmentally sound energy supply and use*".⁷

The Options Paper correctly states that removing express environmental aims from the purposes of energy legislation, as Option 2 would do, confers no express consideration of those aims on decision-makers.⁸ AEMC also wisely acknowledges that Option 2 would reduce the significance of environmental aims as a factor for decision-makers to consider under the *Electricity Act 1994 (Qld) (Electricity Act)*.⁹

Option 3 is the only option that would advance environmental objectives in Queensland energy legislation. We agree with the suggestion in the Options Paper¹⁰ that the removal of environmental objectives in state energy legislation, as proposed by Option 2, is inconsistent with the state priority of reducing Queensland's contribution to climate change. Option 1 is similarly inconsistent with the priority, as in maintaining the status quo it proposes to exclude environment objectives from all Queensland energy legislation except the Electricity Act. Indeed, while we approve of the amendments that Option 3 would implement, we recommend extending them to insert environmental objectives in the purposes of all Queensland energy legislation.

As stated above, we understand that the Review's rationale for not addressing the inclusion of the renewable energy and emissions reductions targets in state energy legislation is because it would pre-empt measures taken under the Queensland Climate Transition Strategy.¹¹ We anticipate that specific actions to achieve the targets will be included in the Strategy, and welcome the prospect of those actions being discussed in the Decision Paper.¹²

We agree with the Review's observation that as "the energy sector is Australia's largest contributor to carbon emissions...climate change policy must intersect with energy policy".¹³ As such, we reject AEMC's suggestion that environmental policy should not be taken into account when making rules or recommendations on energy, as governments may take other actions with narrower societal impacts to support the environment.¹⁴ Environment and climate change impacts of energy decision making are as important as any other factor taken into account as part of the national energy objectives, if not more so given the environmental impacts of our energy related decisions across society and globally.

⁷ Ibid 22.

⁸ Ibid 18.

⁹ Ibid 21.

¹⁰ Ibid 20.

¹¹ Ibid 11.

¹² Ibid 11, 253-4, 255, 257, 258.

¹³ Ibid 11.

¹⁴ Ibid 21.

We therefore strongly recommend that Option 3 is taken for Topic 1 Purpose of state energy laws (i.e. Objectives of the Acts), however that it be implemented to introduce objectives that safeguard the achievement of state priorities and environmental aims, including the environmentally sound use and supply of energy, reducing Queensland's contribution to climate change, supporting the transition to a low-carbon energy sector, and the Queensland Renewable Energy Target. Further, these objectives should be inserted in the objects of all Queensland energy legislation.

4. Topic 2 Energy efficiency and demand management- further work needed on these policy options and finalisation of Qld Energy Efficiency and Demand Management Strategy

We concur that duplication between state and federal laws should be removed. However, this options paper fails to address the need for far greater investment in strategies and initiatives to improve energy efficiency and demand management across all sectors of society. For example, low-income households often cannot afford the up-front costs associated with improving energy efficiency and demand management, and landholders lack sufficient incentives to provide for this on their properties. The recent review of the *Residential Rooming and Accommodation Act 2008* (Qld), rejecting the imposition of minimum standards for energy efficiency due to the cost to owners and ignoring that this would increase costs for renters, demonstrates clearly the need for better prioritisation of these two initiatives in Queensland's policies and laws. The relatively extreme heat and humidity experienced in Queensland, destined to increase with climate change, creates further demands for efficient, affordable, low emission energy options for all.

Further, elements of this strategy could be best reflected in legislative change, particularly where there are holes in the national regulations. For example, while Greenhouse and Energy Minimum Standards are covered in national laws, not all appliances are included, and most new efficient appliances are unaffordable to low-income people. To resolve this rules could be implemented around when to replace or install efficient appliances, for example subsections 266 (e) and (f) of the Electricity Act should remain in place. State laws could also regulate government operations, infrastructure or property.

The Queensland Government is yet to deliver its commitment to the development of a Demand Management and Energy Efficiency strategy.¹⁵ We understand the Queensland Energy Security Taskforce has been tasked with developing the Demand Management and Energy Efficiency Strategy, however the final report is stated to have been due to Government in third quarter of 2018,¹⁶ making it far overdue for release. We eagerly await the delivery of this scheme prior to the Queensland election this year.

Please do not hesitate to contact us if you have any questions or would like to discuss this matter further.

¹⁵ Letter of Hon Jackie Trad MP to the Queensland Branch - Australian Association of Social Workers, found here: <https://www.aasw.asn.au/document/item/10406>.

¹⁶ Queensland Energy Security Taskforce, December 2017, found here: https://www.dnrme.qld.gov.au/_data/assets/pdf_file/0006/1377690/taskforce-quarterly-project-update-dec2017.pdf.