

the employer in a position where it should be able to provide evidence of adequate warnings and reasons for a particular dismissal. Whilst it remains for the applicant to demonstrate the required unfairness, it could be said that an employer who dismisses an employee summarily or with notice but has failed to provide adequate reasons and/or warnings, may still be exposed to an application for reinstatement or compensation by a dismissed employee under the Act.

In the light of the above amendments, employers are advised to take special care with the dismissal or threatened dismissal of employees in New South Wales. The amendments give some indication of the required steps in relation to warnings and procedures, and care must be taken to ensure that all warnings are adequately communicated and documented and that adequate reasons are given for dismissals.

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Environment

Ecologically Sustainable Development

On 2 December 1991, the Ecologically Sustainable Development ("ESD") Working Group reports were publically released on:

- agriculture;
- energy production;
- energy use;
- fisheries;
- forest use;
- manufacturing;
- mining;
- transport; and
- tourism.

As is evident from some of the recommendations set out below, the concept and implementation of ESD is likely to impact significantly upon the regime of laws, policies and procedures which govern the development and construction process.

On their release, the then Prime Minister, Bob Hawke, had the following to say about the ESD Working Group reports:

"The Working Groups have sought to provide recommendations to Government on ways of moving key industry sectors onto an ecologically sustainable pathway for the long term.

Achieving ecologically sustainable development is critical if governments are to ensure that not only present, but future generations of Australians benefit from sustainable improvements in their quality of life in both material and non-material terms.

Australia's environmental problems will not be immediately solved by these reports - rather, they mark the beginning of a long term process of transition. They provide an outline of the current position of our industries, and recommend a number of actions which can be pursued, in order to make

those industries more sustainable.

...

It is my hope that by the middle of [1992], we will be well down the track of having developed an initial national strategy for Ecologically Sustainable Development."

Executive Summaries of the reports are available on request by telephoning 008 020 663. The free ESD Newsbrief may also be obtained by telephoning 008 020 663. Full sets of the reports are available from the Australian Government Publishing Service Bookshops for \$14.95 each.

In the meantime, to assist those interested, some of the comments and recommendations contained in the reports are set out below:

Energy Production

This Working Group gave particular attention to:

- improving efficiency within the energy production and distribution sector;
- reducing greenhouse gas emissions;
- improving environmental protection;
- improving and making better use of information through research, development and demonstration, public involvement, education and training; and
- instituting integration of decision making.

The Energy Production Working Party's key recommendations are:

- to structure energy tariffs to incorporate the commercial cost of production and distribution;
- to encourage vigorous competition and innovation in the energy supply sector;
- to review the National Grid Management Council according to the principles for an

ESD energy production and distribution;

- to promote the commercial development of the Australian gas sector consistent with ESD principles;
- for governments to examine models of least cost planning for public electricity and gas utilities with a view to implementing the model or models which best suit Australian circumstances;
- to incorporate the environmental, social and health costs of pollution to land, air and water resulting from energy production activities into energy prices;
- to contribute to scientific research to the development of greater certainty on climate change induced by emissions of greenhouse gases and the likely nature and scale of its impact upon Australia;
- governments to review the relative merits and impacts of a carbon/energy tax and tradable emissions scheme;
- to increase government support for research development and demonstration, especially for renewable energy technologies.

Energy Use

The Energy Use Working Party's key recommendations include:

- review existing energy prices including government taxes and charges and environmental and social costs, prior to considering price as a mechanism to promote energy efficiency and greenhouse gas reductions;
- by 1993, mandatory energy labelling be extended to major electric, gas and solar appliances and equipment in residential, commercial and industrial sectors not now covered;
- all government agencies to specify minimum energy efficiency criteria for equipment purchases;
- there be urgent coordination of the presently fragmented activities aimed at developing nationally consistent energy rating schemes for residential and non-residential buildings;
- all energy utilities should offer subsidised energy audit programs;
- the Department, or the National Board, of Employment, Education and Training assume responsibility for coordinating the development and amendment of professional training courses relevant to energy use, energy conservation and the application of most appropriate energy technology;
- the National Training Board ensure that heightened emphasis is given to training with regard to energy use and energy management in industry training schemes under development;
- the Commonwealth Government to substantially increase its funding for energy effi-

ciency and renewable energy research, development and demonstration, as well as providing funds for early commercialisation of near-economic renewable and efficient technologies.

Forest Use

The Forest Use Working Party's recommendations include:

- State and Territory agencies responsible for conservation, commercial and all other uses in public forests develop ways to achieve ecologically sustainable forest use;
- enforceable codes of practice to minimise adverse impacts on the ecological processes of forests be applied to all users of public forests and to wood production in private forests;
- that there be controls over permanent land clearing of public and private forests;
- managers of public forests continue to monitor, and adjust as necessary, harvesting rates based on sustainable yields;
- to improve understanding of ecosystem dynamics, forest growth rates and ways for calculating sustainable yields.

Manufacturing

The Manufacturing Working Group has concluded that Australia's longer term goal for manufacturing should be a robust, internationally competitive, export-orientated sector contributing to economic diversity and quality of life, based on environmentally benign products and processes and appropriately located and structured to obviate adverse environmental and social impacts.

The Manufacturing Working Group's recommendations include the following:

- any anomalies in the taxation of spending on environment-related plant and equipment, (including energy efficiency technologies), be removed and incentives provided for installation;
- employment impacts of ESD policies be assessed, taking into account effects at regional and national levels, and impacts on women, those of non-English speaking background, aboriginal and other disadvantaged groups of workers;
- best practice environmental management to become an industry goal;
- firms to increase the transparency of their manufacturing operations to improve community understanding and awareness;
- governments implement a national approach to environmental monitoring and reporting to ensure effective coordination of pollution controls, environmentally acceptable waste disposal and recycling;
- whole-life-cycle of products or processes, and

disposal technologies, be part of product development;

- the application of the polluter-pays principle be pursued through greater use of market measures keeping social equity implications in mind;
- there should be a register of contaminated sites; application of the polluter-pays principle regarding clean-up costs; if the original polluter cannot be found and the current owner-occupier took reasonable measures to ascertain the status of the land and was unaware of the contamination at the time of occupation, they should not be liable. In addition there should be no liability where contamination of the land in the past was within the existing environmental laws and regulations;
- governments facilitate further recycling through encouragement of improved product design, better consumer education and support for local councils in kerbside collection and planning and operation of landfill disposal sites;
- conditional upon there being appropriate legislation and regulations phasing out the generation of intractable waste, a high temperature incinerator for such waste be installed. This should be conditional on it meeting the highest international standards and subject to it meeting strict operational control and siting criteria; and
- individual companies and their associations have the prime responsibility for making sustainable environmental claims about their products but governments should: ensure trade practices and fair trading legislation and enforcement is adequate to control potentially misleading claims; collaborate with industry in developing education and information programs to increase consumer knowledge about the environmental impacts of goods and services.

Mining

The Mining Working Group's report comments:

"By their nature mining activities involve some degree of environmental disturbance, with potential implications for ecological systems and biodiversity. Processing of minerals can have a more substantial effect by generating pollution, including toxic wastes. The coal industry (as a major supplier to the electricity industry) and the mineral processing industry (as a major consumer of electricity) indirectly make a substantial contribution to greenhouse gas emissions.

The issue of potential climate change particularly concerns the coal industry, which is individually Australia's major export industry.

Competition between industry and conservation interests for particular areas of land has been intensifying in recent years and is likely to increase in the future. Mining has also often been at the edge of interaction between economic development and Aboriginal communities and culture and the question of land rights for Australian Aborigines."

The Mining Working Group's recommendations include the following:

- further research on market-based options to facilitate decision making in the mining sector including security bonds for mine rehabilitation which provide incentives for improved environmental performance; tradable pollution rights for mines or processing plants; penalties and fines for poor environmental performance linked directly to level of emissions or environmental damage; ways of assigning monetary value to non-economic environmental resources, such as aesthetic values;
- governments progressively replace pseudo royalties, such as excessive transport costs and the coal levy, with more transparent, efficient and direct methods for collecting community returns;
- the Australian and New Zealand Environment and Conservation Council (ANZECC) immediately undertake to review and clarify existing land classifications for the entire Australian land mass, to improve the general level of knowledge about land and current land uses, and to help governments take decisions about future land uses as particular proposals for change come forward. This review should be undertaken in close consultation with other appropriate Ministerial Councils such as the Australian and New Zealand Minerals and Energy council, and be open for public scrutiny;
- governments ensure that land-use guidelines are available to indicate whether, and under what circumstances, mineral exploration and mining activities would be acceptable for various land-use categories;
- ANZECC to develop a national framework to guide the future development of the conservation estate in Australia, including regional planning with biogeographic regions not being limited by State or Territory borders;
- the process for identification and protection of, and availability of information on, sites of special significance to Aborigines be agreed between the States and Territories and the Commonwealth, in a manner that satisfies the interests of Aborigines and the mining industry;

- mining industry and Aboriginal interests to improve consultation processes;
- Governments articulate and publicise their objectives, policies and requirements for environmental management of exploration and mining activities;
- environmental management to be treated as an integral component of the decision-making and regulatory process in relation to exploration and mining;
- companies be required to lodge security bonds or similar financial instruments to ensure that the cost of rehabilitation of mine sites can be met by the miner rather than through public funding.

Transport

The Transport Working Groups recommendations include that:

- all governments take account of ESD in their decision making regarding investment in transport infrastructure;
- the development and implementation of policies to reduce the use of motor vehicles;
- comprehensive air quality studies be carried out in all major Australian population centres to provide a basis for determining the most effective means of achieving air quality objectives;
- work to increase the level of understanding of urban planners and managers in the general community of the ways in which the social, economic, lifestyle and environmental benefits of higher urban densities and alternative urban forms in Australian urban communities can be achieved;
- subsidies on greenfield suburbanisation be phased out to achieve full cost pricing of urban development;
- inappropriate regulations and processes preventing re-urbanisation be removed;
- particular attention be paid to redevelopment of land around key public transport nodes to include dense housing and some commercial activity so that travel is minimised and public transport facilities are made more inherently attractive and safe;
- policies be finalised and implemented immediately to ensure that affordable housing is in locations accessible to public transport, employment, and other essential community facilities, and that the need for travel is lessened;
- environmental impact assessment be applied to transport policies, programs and projects as an essential part of transport planning and decision making.

Tourism

Tourism is an industry that is capable of contributing

to sound economic development and substantial employment generation in Australia over the coming years. Because of the complementarities that exist between tourism and the environment, it will be in the best interest of both economic and ecological values if the tourism industry develops in accordance with the principles of ESD.

General environmental impacts of tourism include those resulting from the development of tourism infrastructure and facilities and those arising from the presence of tourists themselves.

The Tourism Working Group's recommendations include the following:

- that ongoing ESD decision-making processes should continue to emphasise the cooperative involvement of all stakeholders, including governments, industry and conservation organisations; indigenous people should also be represented in this process;
 - governmental recognition in legislation that integrated land use plans, based on ecological systems or biophysical regions, are the central components of a multi-tiered land use planning process.
 - conduct environmental impact assessments to determine the cumulative, interactive and long-term environmental impacts of development projects on neighbouring areas and regional resources;
 - EIAs be extended to formally include assessment of the social and cultural impacts of any proposed development;
 - national guidelines on the application of EIAs be developed and ratified intergovernmentally;
 - nationally recognised accreditation system for individuals and organisations preparing environmental impact statements (EIS);
 - appropriate authorities address restrictions and inhibitions to community participation in the EIA process to ensure that such participation is facilitated at the earliest possible opportunity;
 - strategic tourism plans be developed by State and Territory Governments in collaboration with local governments and tourism industry bodies.
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