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Australian Energy Year In Review

2024

Over the course of 2024, Australia continued its push to meet its energy transition aims. Policies designed to increase the nation’s attractiveness as a clean energy investment hub and leverage Australia’s competitive advantages in key clean energy sectors were well received. However, more needs to be done to bolster regulatory certainty and project approval processes.

In Thomson Geer’s Australian Energy 2024 Year in Review, we highlight the trends that mattered in 2024 for the energy sector. From blockbuster budgets to a Future Made in Australia, the Australian energy sector saw it all.

Key themes

Hits and misses

In a year of muted deal-making activity in Australia, 2024 will be more memorable for the energy & resources deal proposals that missed, rather than the spectacular completions.

A blockbuster A\$73.9 billion takeover was proposed by BHP for British mining company Anglo American, with Anglo American rejecting the bid due to ‘disproportionate execution risk associated with the proposed structure and (its) value’. Anglo American was not left empty-handed in 2024 however – the company struck a deal with US miner Peabody Energy and Indonesia’s BUMA to divest its five Queensland coal mines for A\$3.28 billion.

Australian oil & gas heavyweights, Woodside Energy and Santos, were also in talks early in 2024 to pursue a possible merger, which would have created an A\$80 billion global oil and gas juggernaut. The companies ended talks with a valuation failing to be agreed, with insufficient synergies identified by Santos for its shareholders to justify the deal.

Lithium chemicals producer Arcadium Lithium was formed in January 2024 from lithium producers Allkem and Livent for A\$10.6 billion, creating one of the world’s biggest lithium companies. And in October 2024, Rio Tinto announced its agreement to acquire Arcadium in an ‘all-cash transaction’ for US\$5.85 per share.



Consolidation

Portfolio consolidation was a major theme in 2024 as businesses considered their energy asset holding and acquisition strategies. Australian companies consolidated through divestment and stripping non-core assets from core business units, and drove synergies through domestic and cross-border bolt-on acquisitions.

Several acquisitions in the critical minerals and resources spaces saw Australian companies add to existing profitable asset portfolios. In August, Australian lithium miner Pilbara Minerals, announced its agreement to acquire 100% of the shares of Latin Resources via scheme of arrangement, gaining access to its flagship lithium project in Brazil. Thomson Geer-advised gold miner Westgold Resources also merged with Canadian-listed Karora Resources to create a top five Australian gold producer.

Notable renewable energy divestments included Brookfield’s divestment of a portfolio of solar farms, wind farms and a 300MW BESS system. As part of its acquisition of a 53% stake in renewable energy company Neoen, Brookfield provided an undertaking to the Australian Competition and Consumer Commission (ACCC) to divest Neoen’s Victorian assets post-acquisition.



Positive government intent

2024 brought signs of positive intent from the Australian Government to support its aim to source 82% of Australia's energy needs via renewable energy sources by 2030.

The 2024/25 Australian Federal Budget (detailed below) allocated funding to attract private investment in the energy transition into the future, including investment dedicated to building an Australian hydrogen industry.

The Australian Government flagged its commitment to meeting its renewable energy targets, with Australian energy minister Chris Bowen claiming that Australia is in a 'critical decade' that will determine Australia's successful rollout of the energy transition. In a sign of its financial commitment despite Australia's inflationary economic environment, the Australian Government released a round of energy rebates across the nation.



A wild ride for lithium

A common theme across international markets was the volatility of commodities prices. The story in Australia was no different, with major Australian mining businesses heavily exposed to commodities such as lithium.

Rio Tinto mounted its successful acquisition of Arcadium on the back of a collapse in global lithium prices throughout 2024, albeit with stabilising prices in the final months of the year. The world's largest hard rock lithium mine Greenbushes was reportedly the sole Australian lithium project to remain profitable in 2024. Australian lithium producers are optimistic that improved global consumer sentiment will drive increased lithium exports in 2025 and a resulting uptick in their profitability.



Retreat

The reality of financing a capital-intensive energy transition is being felt globally by businesses and we also witnessed this in Australia. The Australian Government announced substantial energy subsidies and programs to support profitability for investments in domestic renewable energy projects. Despite this support, 2024 saw some notable Australian companies wind back public commitments to invest in Australia's renewable energy project pipeline on economic grounds.

Australian energy giant Fortescue cut several hundred jobs in June 2024, abandoning an ambitious target to produce 15 million tonnes of green hydrogen by 2030. The decision was closely followed by energy retailer and generator Origin Energy's withdrawal from investment in the New South Wales Hunter Valley Hydrogen Hub, citing slower than anticipated development in hydrogen capture technologies.

Aside from cost pressures, a regulatory environment that is perceived as cumbersome and overly bureaucratic, continues to draw criticism from investors.



Key energy developments

A future made in Australia

The Future Made in Australia economic plan (the **FMIA**), announced in May 2024 alongside the Federal Budget, is Australia's proposed economic strategy to take advantage of emerging opportunities in clean energy industries. The FMIA Plan is supported by the *Future Made in Australia Act 2024*, with targeted funding allocated in the 2024/25 Australian Federal Budget (**Budget**).

Australia's economic success historically has been largely predicated on fossil fuel exports. The FMIA Plan acknowledges the growing prioritisation of renewable energy sources and the need for targeted investment in the energy transition to replace national income currently driven by Australia's fossil fuel industry.

The FMIA Plan also emphasises Australia's purported cost advantage in renewable energy production compared to its neighbours. Coupled with the nation's natural resource endowments, the FMIA Plan is designed to aid the development of domestic capabilities to service the renewable energy needs of Australia's closest neighbours.

How will the plan operate?

The *Future Made in Australia Act 2024*, enacted in December 2024 (access [here](#)), establishes a sector assessment regime to guide public investment decisions in Australia's clean energy industries. Sectors will be assessed based on their alignment with a National Interest Framework, which measures those sectors against either:

- The **Net Zero Transformation Stream**, for priority sectors in which Australia is expected to have a sustainable comparative advantage in a 'net zero' global economy and where public investment will be required to drive meaningful and cost-efficient emissions reductions (alongside private capital); or
- The **Economic Resilience and Security Stream**, for priority sectors where it is necessary to build a national capability in the interests of Australia's economic security (i.e., resistance to supply shocks) and where private sector participants will not deliver adequate investment without government support

Where assessments recommend public investment, funding support will be deployed to encourage private investment in identified sectors. Funding targeted to the renewable hydrogen and critical minerals industries in the 24/25 Budget suggests their early status as potential priority industries under the Net Zero Transformation Stream and Economic Resilience and Security Stream respectively.

What is the criteria?

Several factors are to be considered alongside the relevant stream criteria, including:

- Australia's likely competitiveness in the sector;
- The sector's potential to build local skills and create jobs;
- How supporting the sector could boost Australia's economic resilience and security; and
- The sector's impact on fossil fuel demand.

Domestic employment opportunities and engagement with First Nations communities must also be considered.

The extraction of coal, crude oil, or natural gas, and related infrastructure are ineligible for funding under the FMIA Plan.

Hydrogen

Supporting economies to reach net zero with considered and pragmatic public policy remains a complex challenge for governments worldwide. The Australian challenge continues to be one of striking a balance between leveraging existing competitive advantages in fossil fuel industries and devoting resources to a net zero future. The release of the revised National Hydrogen Strategy, together with the Future Gas Strategy (discussed below), are steps that Australia has taken towards striking this balance.

A comprehensive review of the National Hydrogen Strategy was a response to increasing questions about the utility of hydrogen as a renewable energy source. The revised National Hydrogen Strategy seeks to ensure Australia will remain both attractive for hydrogen investment and competitive in the hydrogen industry. Modelling published in the National Hydrogen Strategy estimates that 30 million tonnes of renewable hydrogen can be produced per year in Australia by 2050, supporting Australia's path to global hydrogen leadership.

Key changes to the strategy are primarily focused on increased long-term national hydrogen production targets, supported by production incentives including:

- **The Hydrogen Production Tax Incentive** – production incentive from 2027-28 to 2040-41 for producers of renewable hydrogen by awarding refundable tax offsets of A\$2 per kilogram of renewable hydrogen produced; and
- **An expanded Hydrogen Headstart Program** – a further A\$1.3 billion over 10 years to support another round of the Hydrogen Headstart program, awarding production credits to select Australian-based hydrogen projects to support subsidised investment in renewable hydrogen production.

The revised strategy outlines four key objectives:



Establishing trade at scale and leveraging purposeful partnerships.



Ensuring strong supply on the basis of global cost competitiveness.



Identifying and supporting prospective hydrogen demand sectors.



Ensuring communities are aware of hydrogen and its benefits.

Legislative snapshot – Guarantee of Origin Scheme

The Future Made in Australia (Guarantee of Origin Charges) Act 2024 (Cth) and Future Made in Australia (Guarantee of Origin Consequential Amendments and Transitional Provisions) Act 2024 (Cth)

These associated acts establish the Guarantee of Origin scheme, Australia's proposed internationally-aligned certification scheme, designed to track and verify emissions associated with hydrogen and other renewable energy products produced in Australia. The scheme aims to provide a robust certification mechanism for reliable and credible assessment of green credential claims.

- Product GO certificates; and
- Renewable Electricity Guarantee of Origin (**REGO**) certificates.

Product GO certificate holders will be able to make credible low emission claims about their products and will initially be available for the creation of hydrogen.

Tradeable REGO certificates are designed to allow renewable energy companies to prove where, when and how their renewable energy has been produced. The REGO scheme has been designed to replace the pre-existing Large-scale Generation Certificates (**LGC**) regime.

Gas

The Future Gas Strategy was released in 2024, outlining the Australian Government's approach to managing gas production and consumption as a bridging fuel. The strategy adopts a number of core principles as a guide for the government's future policy actions:

- **Achieving net zero emissions by 2050** – Optimising gas production and use through the transition to net-zero.
- **Maintaining affordability of gas during the energy transition** – Australia's competitive advantage and plans to achieve net zero will require affordable and reliable gas.
- **Finding new sources of gas to meet demand** – Implementing policies to optimise existing discoveries and infrastructure.
- **The utility of gas will shift over time** – Reliable gas supply will gradually support a shift toward higher-value and non-substitutable gas uses.
- **Adapting the gas market** – Gas markets must remain fit for purpose throughout the energy transition for businesses and households.
- **Remaining a reliable trade partner for gas** – Many of Australia's regional trade partners rely on the nation's gas industry for their energy needs to the benefit of Australia's economy.

In line with those core principles, the strategy outlines a number of immediate actions for the Australian Government, including:

- Updating retention lease policies to encourage more timely development of existing gas discoveries, and considering a 'use it or lose it' policy
- Working with regulators and industry to reduce gas venting and flaring
- Releasing additional offshore acreage for greenhouse gas storage
- Establishing a new 'Transboundary Carbon Capture and Storage Program' to provide options for carbon management solutions for regional trade partners
- Revising consultation requirements for offshore petroleum and greenhouse gas storage as part of a broader review into Australia's current offshore environmental management regime.

Carbon capture and storage

Carbon capture and storage (CCS) as a tool to support the energy transition continues to be contested globally and the position was no different in Australia throughout 2024. The Australian Government is looking to leverage CCS as a key pillar of its Future Gas Strategy, although the success of pilot CCS projects such as Western Australia's Gorgon LNG plant may be decisive in proving its viability.

2024 saw the long-awaited Moomba CCS project in South Australia achieve first injection in September, with the potential to store up to 1.7 million tonnes of CO₂. The project takes Australia's tally to two operational CCS storage projects, with an additional 14 projects in feasibility or under development.

Under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth), 10 greenhouse gas assessment permits were awarded last year to potential project proponents for areas located offshore of Western Australia, Victoria and Tasmania. Greenhouse gas assessment permits enable successful applicants to explore the declared permit area for potential greenhouse gas storage formations or injection sites.

Amendments to the *Environment Protection (Sea Dumping) Act 1981* (Cth) in 2023 also require proponents to obtain a sea dumping permit to enable the export and sequestration of captured CO₂ from Australia to another country. The amendment does not explicitly consider importation of CO₂ produced by other countries. Future plans to import CO₂ captured outside Australia for sequestration in Australian waters will need to be effected through bilateral agreements between governments. Compliance with the necessary domestic permit and approvals requirements will also be required.

Offshore wind

There were a number of key developments in Australia's offshore wind sector in 2024, in particular:

- **Offshore wind zones were declared suitable for offshore wind development** in the Southern Ocean near Victoria, in the Pacific Ocean near Illawarra in New South Wales and in the Indian Ocean off the Bunbury region in Western Australia. These zones now bring Australia's tally of declared offshore wind zones to 6, joining the Gippsland offshore wind area off Victoria and the Hunter offshore wind zone off NSW.
- **The first round of feasibility licences to offshore wind project developers for the Gippsland offshore wind zone were awarded under the *Offshore Electricity Infrastructure Act 2021***. As at the end of 2024, 12 feasibility licences have been granted and one application for the declared Hunter region wind zone has advanced to the next stage of the licensing process. Licence holders are permitted to assess the feasibility of an offshore wind project in the area covered by the feasibility licence. Based on the feasibility assessment, a commercial licence may be granted permitting the holder to carry out a commercial project – commercial licences are yet to be granted and guidelines for their award are still to be finalised.

The launch of Australia's offshore wind industry has not come without its obstacles. Offshore wind has been criticised for its capital-intensive nature, the lack of specialised labour to construct offshore wind infrastructure in Australia, and the additional transmission infrastructure required to connect offshore wind into the grid. Measures taken under the FMIA Plan may help to alleviate these factors, although it is unlikely to be helpful in the short-term.

There has also been significant opposition in Australia to offshore wind projects from environmental activists, as well as from local citizens, for perceived detrimental effects to aquatic life and loss of amenity owing to noise and sight obstruction.

Whilst significant headway was made in Australia's offshore wind industry in 2024, the challenges remain and will continue to shape the sector's trajectory.

Legislative snapshot – Offshore Electricity Infrastructure

Offshore Electricity Infrastructure Amendment Regulations 2025 (Cth)

Offshore electricity infrastructure in Australia is governed by the *Offshore Electricity Infrastructure Act 2021* (Cth) and associated regulations including the *Offshore Electricity Infrastructure Amendment Regulations 2024* (Cth), which came into force on 12 December 2024.

The amendments will be impactful at the commercial project stage (i.e., provision of financial security to cover decommissioning liabilities) and will bolster the visibility of Australia's offshore wind regime for prospective project developers with the hope of attracting additional capital for offshore wind.

Recent efforts to strengthen the regulatory framework around offshore electricity infrastructure led the Department of Climate Change, Energy, the Environment and Water (**DCCEEW**) to propose a set of new regulations that aim to establish arrangements around:

- Management plans;
- A design notification scheme;
- Financial securities;
- Safety and protection zones;
- Work health and safety;
- Record keeping; and
- Fees

Capacity investment scheme

In 2024, the Australian Government achieved a key milestone in the rollout of its Capacity Investment Scheme (**CIS**) with the first round of renewable generation projects approved under the scheme. The CIS is a national support scheme designed to promote investment in Australian renewable energy projects, with an estimated A\$67 billion injection into Australia's renewable energy industry as a result.

The CIS is intended to support investment into renewable energy projects in two ways:

- Supporting long-term government agreements awarded to successful projects, by underwriting projects against a pre-agreed floor or ceiling; and
- Enabling Renewable Energy Transformation Agreements between the Australian Federal Government and each of the states/territories to support a favourable investment environment in each of those states.

The CIS is aimed at providing additional investment certainty to investors whose primary barrier to entry in the Australian renewable energy market is lack of profitability in projects.

Access to the CIS is apportioned via tender processes, with regular competitive tenders held approximately every 6 months. The tender process commenced with first release in May 2024. The first round of successful renewable generation projects was approved on 11 December 2024, with nineteen projects approved for a total of 6.4 GW.

Successful project entities will enter into a CIS agreement (**CISA**) with the Australian Government setting out the terms and conditions of financial support to be provided. Draft CISAs released by the Australian Government indicate that contracts will set an agreed price floor and ceiling – a percentage of any revenue earned above the revenue ceiling will be paid to the Commonwealth and any revenue below the agreed price floor will be paid by the Commonwealth.

Major changes were made in late 2023 to the CIS to include support of renewable capacity, alongside the initial plan to support dispatchable capacity. The Australian Government intends to deliver 23GW of renewable capacity and 9GW of dispatchable capacity by 2030 via the CIS.

BESS

Together with the Capacity Investment Scheme, the National Battery Strategy released by the Australian Government in May 2024 recognises the need for investment in energy storage capacity alongside generation capacity. While Australia is already a leading producer of battery minerals, providing approximately 45% of global lithium demand, new initiatives proposed under the National Battery Strategy aim to build manufacturing capabilities and 'move up the battery supply value chain'. Recent supply shocks caused by international conflict have also accelerated efforts to build a strong domestic battery supply that is not susceptible to, or reliant on, offshore supply chains.

The National Battery Strategy relies on four key value-creating opportunities for Australia, including:

- **Manufacturing energy storage systems for renewable grids** – High demand for energy storage systems at the grid level and at smaller scales for businesses and households will require batteries with varying durations and utilising different technologies.
- **Provide battery active materials to the world** – Australia's competitive advantage in providing battery active minerals will help the nation integrate into global supply chains, including for global electric vehicle industries.
- **Provide batteries for our transport manufacturing industry** – As the industry continues to electrify and decarbonise, increasing demand for batteries can be met by local batteries that are adapted to local manufacturing needs.
- **Use Australian innovation to build safer, more secure batteries** – Cybersecurity is critical to the safety of the wider grid serviced by large scale energy storage systems. Current software and power solutions utilised by Australian businesses comply with world-leading standards.

The Battery Breakthrough initiative was announced in line with the National Battery Strategy to promote development of battery manufacturing capabilities by delivering targeted production incentives. The Australian Renewable Energy Agency is expected to provide financial support through incentive payments, grant funding paid on completion of milestones or a combination of the two.

Australia’s landmark climate reporting regime goes live

Australia has now implemented a new mandatory climate reporting scheme. The regime commenced on **1 January 2025** and will affect more than 6,000 Australian entities (not limited to entities listed on the ASX), although political uncertainty hangs over the regime.

Change in legislation

The *Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024* (Cth) (**Bill**) (passed on 17 September 2024) amended the *Corporations Act 2001* (Cth) (**Corporations Act**) to phase-in the new climate-related financial reporting requirements for entities.

The new climate-related disclosure is to form part of an entity’s annual reporting suite as a ‘**Sustainability Report**’, which will sit alongside the financial report and the director’s report (likely as a separate standalone report).

Who is required to report?

The new climate related disclosure requirements apply to all companies required to provide audited annual financial reports to the Australian Securities and Investment Commission (**ASIC**) under Chapter 2M of the Corporations Act, that meet specific size thresholds or have emission reporting obligations under Australia’s existing National Greenhouse and Energy Reporting (**NGER**) scheme.

Mandatory climate-related financial disclosure is required for all public companies and large proprietary companies from 1 January 2025, otherwise referred to as ‘Group 1’ entities. ‘Group 2’ and ‘Group 3’ entities will become subject to the disclosure requirements over the phase-in period of the following two financial years.

Entity	First reporting period	Entities and their controlled entities meeting at least 2 of the 3 thresholds	NGER reporters	Assest owners
Group 1	FY commencing between 1 January 2025 and 30 June 2026	<ul style="list-style-type: none"> ■ Consolidated revenue of \$500m or more ■ Consolidated gross assets of \$1bn or more ■ 500 or more employees 	NGER Act entities that meet the s 13(1)(a) threshold	
Group 2	FY commencing between 1 July 2026 and 30 June 2027	<ul style="list-style-type: none"> ■ Consolidated revenue of \$200m or more ■ Consolidated gross assets of \$500m or more ■ 250 or more employees 	All other NGERA entities	Registered schemes, registrable superannuation entities or retail CCIV’s with assets of \$5 billion or more
Group 3	FY commencing on or after 1 July 2027	<ul style="list-style-type: none"> ■ Consolidated revenue of \$50m or more ■ Consolidated gross assets of \$25m or more ■ 100 or more employees 		

Application to foreign and multinational corporate groups

Determining whether an entity is required to report may be complex when considering multinational corporate groups. For example, the mandatory climate reporting may apply to an entity with a holding company that is incorporated outside Australia or an entity incorporated outside Australia that is undertaking activities within Australia. Further complexity arises for group entities as separate sustainability reports may be required for each subsidiary if that entity meets the threshold criteria set out above.

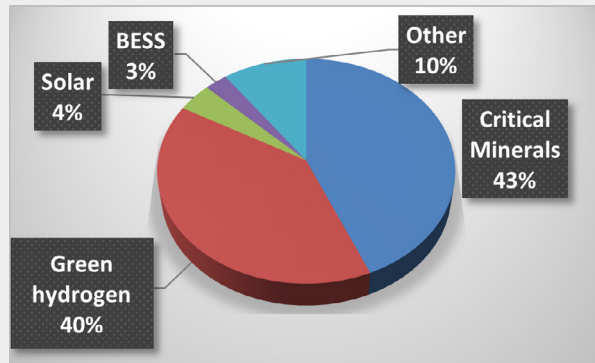
Key takeaways

Australia’s new mandatory climate related financial reporting regime introduces significant and complex new disclosure obligations on reporting entities. Multinational corporate groups will need to assess the interaction of this regime with their existing global sustainability reporting processes.

Directors and officers of reporting entities will need to seek appropriate advice to meet these complex disclosure obligations, and contingency planning is required, keeping a close eye on potential future changes, including the potential for a repeal or watering down of the regime.

Funding announcements

Future Made in Australia - Funding Breakdown



Amid growing public scepticism about Australia's capacity to meet its 2030 climate targets, the Australian Government's 2024/25 Federal Budget (**Budget**), released in May, delivered promising news for the nation's renewable energy sector.

The Australian Government committed A\$19.7 billion over the next decade to support its ambition of becoming 'a renewable energy superpower', as part of the broader Future Made in Australia plan.

The Budget funding aligns with Australia's aim to support key industries for the nation's net-zero transition. Those industries include renewable hydrogen and critical minerals processing. Hydrogen is prioritized for its alignment with the needs of Australia's international trade partners and its potential for low-emission production. Funding for critical minerals processing, aims to stabilize and diversify supply, and mitigate current vulnerabilities to disruptions.

What is the budget expectation for future years?

With the recent passage of the Future Made in Australia Bill in November, the Australian Government has secured bilateral commitment to deliver targeted investment to the nation's energy industries over the next decade.

The Government is expected to announce the 2025/26 Australian Federal Budget in March this year, in advance of a likely federal election in April/May 2025. Domestic economic pressures are creating uncertainty around the Government's estimated direction in 2025 and short-term cost of living relief is likely to be prioritised over long-term energy transition priorities. The outcome of the federal election will significantly impact the direction and amount of funding for the energy transition from 2026 onward, although Australia's intent to pursue a net-zero economy is clear.

Critical minerals - A\$8.8 billion

The Australian Government pledged to support the refining and processing of critical minerals with:

- The Critical Minerals Production Tax Incentive, with an expected A\$7 billion investment from 2023-24 to 2034-35.
- Pre-feasibility studies for common user processing facilities to enhance Australia's processing capabilities.
- Strategic investments in priority projects up to A\$1.2 billion, including alumina projects in Queensland and the Nolans Rare Earth project in the Northern Territory.

Hydrogen - A\$8 billion

The Australian Government pledged to support the refining and processing of critical minerals with:

- Supporting the Hydrogen Production Tax Incentive from 2027-28 to 2040-41 for producers of renewable hydrogen by awarding refundable tax offsets of A\$2 per kilogram of renewable hydrogen produced, at an estimated cost of A\$6.7 billion.
- A\$1.3 billion over 10 years to support another round of the Hydrogen Headstart program, awarding production credits to select Australian-based hydrogen projects to support subsidised investment in renewable hydrogen production.
- A\$17.1 million over four years to deliver the National Hydrogen Strategy.

BESS - A\$549 million

- Establishing the Battery Breakthrough initiative, supporting the development of battery manufacturing capabilities through targeted production incentives.
- A\$20.3 million over five years for the Powering Australia Industry Growth Centre and the Future Battery Industries Cooperative Research Centre to foster industry and research collaboration.
- A\$5.6 million to support an Australian Made Battery Manufacturing Precinct.

Solar - A\$835.6 million

- Financial support to the Solar SunShot program, which aims to support select solar PV manufacturing facilities across Australia.

Other legislative, regulatory and judicial updates

Australian Energy Regulator

Compliance and Enforcement Priorities

The Australian Energy Regulator (AER) published its Compliance and Enforcement Priorities for 2024-2025, which focus on:

- Improving outcomes for vulnerable customers;
- Making it easier for consumers to understand their energy plan and engage in the market;
- Supporting power system security and an efficient wholesale electricity market;
- Improving market participants' compliance with performance and critical infrastructure standards; and
- Monitoring and enforcing compliance with reporting requirements under the new Gas Market Transparency Measures.

State of the Market

- **National Electricity Market** – continues to transition from a centralised system of large fossil fuel generation towards an array of smaller scale, widely dispersed wind and solar generators, hydro-electric generation and grid-scale batteries.
- **Gas markets in eastern Australia** – seasonal patterns have persisted in 2024, with a heightened awareness of the intricate interplay between electricity and gas markets following periods of peak electricity demand which often coincide with increased reliance on gas-powered generation.
- **Retail Energy Markets** – consumers continue to invest in consumer energy resources such as rooftop solar and home batteries; however, rising living costs pose a challenge to consumer affordability and the ability to manage energy expenses.

Shareholder activism in Australia

Traditionally focused on strategy and governance, Australia shareholder activism now increasingly targets energy companies, particularly those in the oil and gas industry, to accelerate decarbonisation efforts.

Growing investor pressure is compelling companies to set more ambitious emissions reduction targets, as evidenced by the increasing success of climate shareholder resolutions.

Two of Australia's largest oil & gas companies were targeted by shareholder activist campaigns throughout 2024. The Australasian Centre for Corporate Responsibility (ACCR) brought shareholder action against Woodside Energy in February. The ACCR, in a members' statement filed with Woodside, opposed the re-election of its chairman due to purported failures to deliver a credible climate risk management strategy in the face of the "global energy transition".

A similar campaign was brought against Santos by the ACCR alleging that Santos' plan for reaching its net zero goals were misleading and deceptive. The campaign led to ACCR ultimately bringing an action against Santos in the Australian Federal Court for misleading and deceptive conduct.

Legislative updates

Statutes Amendment (National Energy Laws) (Other Gases) Act 2023 (SA)

The National Gas Law (NGL) and National Energy Retail Law (NERL) were amended in 2024, primarily to support the National Hydrogen Strategy. The previous regulation of 'natural gas' now extends to 'covered gases' under the NGL and 'natural gas equivalents' and 'prescribed covered gases' under the NERL, comprised:

- Natural gas;
- Hydrogen;
- Biomethane;
- Synthetic methane; and
- Blends of these gases.

Petroleum Legislation Amendment Bill 2023 (WA)

The Petroleum Legislation Amendment Bill in May effected amendments to key legislation (including the *Petroleum and Geothermal Energy Resources Act 1967 (WA)*), establishing a CCS regulatory regime on the lands and waters within Western Australia's jurisdiction.

The newly enacted framework will provide regulatory certainty for CCS initiatives in Western Australia and substantially mirrors the current offshore waters regime under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006 (Cth)*. Key amendments include establishing GHG injection licensing and exploration permit requirements and extending ministerial discretion to grant overlapping GHG and petroleum titles on the same block.

Clean Economy Jobs Act 2024 (QLD); Energy (Renewable Transformation and Jobs) Act 2024 (QLD)

Queensland's first package of clean energy legislation took effect on 26 April 2024. The Clean Economy Jobs Act seeks to lower greenhouse gas emissions in Queensland, primarily by legislating the state's emission reductions targets and supporting development of sector-specific emissions reduction plans. The Renewable Transformation Act is targeted towards accelerating the transition to net-zero by simplifying project approvals, increasing project funding access, and providing training to support jobs in the clean energy industry.

Energy and Public Land Legislation Amendment (Enabling Offshore Wind Energy) Bill 2024 (VIC)

The Enabling Offshore Wind Energy Bill, passed in May 2024, amended a number of Victorian acts including the *Land Act 1958* and the *Electricity Industry Act 2000*. Key amendments included:

- Enabling ministers to make agreements with electricity companies for the development of new infrastructure, including with offshore wind companies;
- Give ministers authority to declare an offshore wind energy generation company, and update the *National Parks Act 1975* to treat such companies as a public authority.
- Enabling certain entry licences under the *Land Act 1958* to be granted for up to 21 years, for the purpose of assessing the feasibility of constructing offshore electricity transmission infrastructure.

Greenwashing: ASIC & ACCC

Australian Securities & Investment Commission

The Australian Securities & Investments Commission (**ASIC**) published its enforcement priorities, identifying 'greenwashing and misleading conduct involving ESG claims' as a key area of concern and a significant focus for its enforcement efforts'.

"greenwashing" – the overrepresentation to the extent to which an entities practices are environmentally friendly, sustainable, or ethical"

ASIC has commenced litigation against a number of companies for misleading claims about greenwashing. As at 2 August 2024, ASIC had issued over A\$270,000 in infringement notices in response to concerns about alleged greenwashing by companies.

Australian Competition & Consumer Commission

The ACCC took a similar hard-line stance to greenwashing in 2024, following the release of guidance to companies on its compliance and enforcement approach on environmental claims in late 2023. The ACCC commenced its first Federal Court case on greenwashing in April against Clorox for false and misleading representations on the composition of its products.

ASIC Greenwashing Infringement Notices: **Black Mountain Energy Limited**

- ASIC issued three infringement notices to Black Mountain Energy (BME) in relation to concerns about false or misleading sustainability-related statements made to the Australian Securities Exchange (ASX).
 - BME made three ASX announcements which claimed:
 - BME was creating a natural gas development project with 'net-zero carbon emissions; and
- The greenhouse gas emissions associated with Project Valhalla would be net-zero.
- ASIC determined that the representations were false or misleading because at the time they were published, BME did not have a reasonable basis to make the representations or that the representations were factually incorrect.

ACCC Greenwashing Infringement Notices: **Clorox Australia Pty Ltd**

- ACCC instituted proceedings in the Federal Court against Clorox Australia for allegedly making false or misleading representations that some of its kitchen and garbage bags were partially made of recycled 'ocean plastic'.
- ACCC expressed concerns that Clorox's alleged conduct "deprived consumers of the opportunity to make informed purchasing decisions" and constituted misleading and deceptive conduct pursuant to the Australian Consumer Law.
- Court proceedings are yet to commence – the ACCC's concise statement can be accessed [here](#).

ASIC v Mercer Superannuation (Australia) Limited 2024 [FCA] 850

- Mercer made representations that its Sustainable Plus Superannuation Options excluded, and would continue to exclude, investments in companies involved in, or deriving profit from the extraction or sale of carbon intensive fossil fuel.
- The Court held that the representations misled the public as to the nature and characteristics of the Sustainable Plus Options, as the options actually included investments which were involved in, or extracted profit from or sale of carbon intensive fossil fuels.
- Mercer's conduct contravened section 12DB(1)(a) of the *ASIC Act 2001* (Cth) as its representations were made in trade and commerce in connection with the supply of financial services, and was false and misleading as to the current and future standard, quality and value of the Sustainable Plus Options.
- The Court ordered Mercer to:
 - Pay the Commonwealth a pecuniary penalty of \$11.3 mil; and
 - Issue an Adverse Publicity Notice on the "Sustainable investing with Mercer Super" webpage.

Notable cases

Case note 1: *Munkara v Santos NA Barossa Pty Ltd (No 3) [2024] FCA 9*

In 2023, members of the Indigenous people of the Tiwi Islands began proceedings against Santos NA Barossa Pty Ltd (**Santos**) to bar the planned construction of a 262km long gas export pipeline in the Timor Sea.

The Applicants obtained an injunction against Santos on 15 November 2023, citing their cultural and spiritual connections to the sea forming part of their clan country and that construction of the pipeline would significantly impact their cultural heritage.

The Federal Court dismissed the Applicants' case. It was held that for a belief to constitute a cultural feature, "it must be a belief of those people as a people" requiring "more than the evidence of a single member of the group, irrespective of the cultural authority of that single member". However, the evidence presented by the applicants was insufficient to prove that the cultural heritage of the area was a belief held by the Jikilaruwu, Munupi and Malawu people "as a people".

Their evidence was held to be vague, lacking in detail, or at times "coach[ed]... so as to achieve their objective of stopping the pipeline" and "distorted and manipulated before being presented to this Court via an expert report".

The standard of evidence required to establish cultural heritage has been raised as a result of the case, and greater scrutiny may be given to the method by which evidence is adduced where culturally affected bodies are considered. The case continues to have ripple effects in relation to Santos' pursuit of costs against the funders of the Environmental Defenders Office (as representatives for the Applicant).

[Link to judgment](#)

Case note 2: *Australian Conservation Foundation Incorporated v Woodside Energy Ltd & Anor*

Alleged failure to consider environmental impact on Great Barrier Reef via the burning of fossil fuels under the EPBC Act; Proceeding discontinued.

On 21 June 2022, the Australian Conservation Foundation through its legal representatives the Environmental Defenders Office, filed an application in the Federal Court of Australia seeking an injunction against Woodside Energy. The application concerned Woodside Energy's proposed A\$16 billion Scarborough Gas Project (**Project**) in the Carnarvon Basin that had received approval under a streamlined process by NOPSEMA.

The Applicants alleged that the Project would cause harm to the Great Barrier Reef as a World Heritage property and National Heritage place through the release of greenhouse gas emissions; an environmental concern that required consideration under the EPBC Act.

Specifically, it was alleged that the likely impacts of the Project include the creation of at least 878 million tonnes of carbon dioxide-equivalent greenhouse gas emissions via the burning and consumption of recovered gas that would contribute to anthropogenic climate change and increase the global surface temperature by at least 0.000394°C. This would in turn lead to mass coral bleaching events, coral death and help cause a 'tipping cascade' whereby the global average temperature irreversibly increases to 4°C above pre-industrial levels.

After more than 2 years of legal proceedings, the Applicants discontinued the proceedings on 20 August 2024 with each party bearing their own costs. The Applicants noted in a public statement that "it became apparent that the case was unlikely to succeed" and that "there is still no explicit requirement for climate damage to be considered under [the] key national nature law, the [EPBC Act]".

What lies ahead - Election 2025: A fork in the road?

The impending Australian Federal election in April or May 2025 may strongly influence the Australian energy landscape in the years to come. If the incumbent Australian Labor Party (**ALP**) retains government, there is likely to be a 'full steam ahead' approach on current energy policy and commitments. A victory by the opposing Coalition could deliver a sharp pivot in Australia's planned energy mix.

In the run-in to the election, the Coalition has progressively released its proposed energy policies, some of which involve unwinding plans the ALP has committed to deliver (notably including a proposed repeal of the mandatory climate-related financial disclosure regime). We outline below the three major policy changes which will likely result from a Coalition victory.

Nuclear

The Coalition's keystone proposal is its commitment to bring nuclear power to Australia - its economic case was rolled out in December 2024 and purports to be \$263 billion cheaper than the ALP's energy transition plan to 2050.

The proposal is based on two small nuclear reactors and five large-scale power plants to be built across Australia, proposed to be operational by 2035 and 2037 respectively. The ALP has argued that a nuclear Australian future is not achievable and has criticised the economic assumptions of the Coalition's nuclear costings. Similar criticisms have been shared by the Commonwealth Scientific and Industrial Research Organisation (**CSIRO**) and the Climate Council, with the CSIRO claiming that Australia's first nuclear plant would not be operational before 2040 at the earliest.



Wind

The Coalition has also proposed to scrap plans for three of six wind farms proposed by the Australian Government, including the proposed wind farm off the coast of Hunter in NSW. Origin Energy and Fortescue have recently rescinded their support for the Hunter offshore wind farm.

The Coalition has stated that the Australian Government's proposed wind farm sites are ignorant of the 'serious economic, social and environmental concerns raised by local residents'.



Gas

The Coalition has revealed plans to commission new gas peaking plants to support demand in peak periods, in response to industry fears of shortfalls as the nation transitions to net-zero. The plan would require reliance on gas into the future, particularly as the Coalition government rolls out its nuclear plans.



The Thomson Geer energy team

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With more than 700 people, including over 150 partners, operating out of our offices in Sydney, Melbourne, Brisbane, Perth, Adelaide and Canberra, we are one of the 10 largest firms operating in Australia.

Australia's energy and resources industry is a key economic driver that presents significant opportunities for those engaged in the sector.

With the energy transition towards lower emissions underway, demand for minerals and alternative sources of energy is strong. While conventional energy sources remain critical, when retired they raise issues around rehabilitation and decommissioning.

Thomson Geer has a team of lawyers with specialist expertise in the energy and resources sector to help navigate this important sector and seize opportunities.

We advise across the energy and resources spectrum, including mining and minerals, oil and gas, conventional power, energy regulation and storage, renewables, hydrogen and other forms of clean energy.

Our clients include sponsors, developers, financiers, contractors and regulators.

We assist with project structuring, joint ventures, project development, construction, capital markets and finance transactions, transportation and supply, mergers and acquisitions, competition, foreign investment approvals, property, environment, planning and native title and disputes.

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