

Business, with an eye to political risk, usually views forecast environmental legislation with great caution. Interestingly, in the current political environment, some are calling for a new environmental framework in order to provide greater certainty in support of investment decisions. This particularly relates to the area of climate policy and it seems the Labor Party will respond to this unusual opportunity by offering a new wave of environmental legislation.

The last major wave of environmental legislation occurred under the Howard government following the 1996 election. Howard had shrewdly identified a changing sentiment from Greens-influenced Labor policies, which were threatening investment and economic growth. He saw a quiet majority wanting win-win outcomes, good for the economy and good for the environment. Howard offered the largest investment in Australia's history towards these objectives, the Natural Heritage Trust, supported by new environmental legislation, more firmly placing environmental responsibility for "matters of national environmental significance" in the hands of the Federal government. It was a policy change which surprised many commentators.

This policy prescription was implemented through establishing the Trust, passage of the Environmental Protection and Biodiversity Conservation (EPBC) Act, negotiating a demanding but economically achievable Kyoto climate change target and enacting the Renewable Energy Target (RET). The purpose of the RET was to build in mass and thus drive down the cost of renewable energy technologies.

Labor opposed the changes but largely out of displeasure. Being gazumped on environmental policy was something they found galling. But the most vociferous opposition was from the Greens who particularly attacked, not the Coalition, but the Labor Party, as having sold out the environmental movement. Mainstream Australia seemed happy with the new balance of major investment in conservation, stronger environmental protection and a sensible climate policy.

Unfortunately, the post Howard era has not given Australia a lot of environmental certainty. Apart from the RET doing its job, with wind and sun now arguably the cheapest form of electricity generation, subsequent climate change policies and law have come and gone with the fate of almost as many political leaders of both sides.

The Finkel Review was introduced as an attempt to step beyond the politics. It could have succeeded, but the key recommendation for an Emissions Reduction Target (ERT), which would have required legislated carbon reduction targets, was too much for the Coalition party room to stomach. Then for a moment it seemed Minister Josh Frydenberg, as Minister for Energy and the Environment, had snatched victory from the jaws of defeat by seizing on an independently advocated solution, the National Energy Guarantee (NEG). It held out hope of affordability, reliability and emissions reductions, but with the responsibility for the emission reductions being passed to the energy retailers rather than the government. The States gave support in principle, with widespread business and industry support, as well as the Labor Opposition who were also edging towards support, presumably reading the mood of a frustrated electorate. But again, on the verge of success, the government capitulated to those within the Party who could not bear the thought of a bipartisan climate solution, ditched the NEG, and another Prime Minister fell.

Until the NEG, Labor policy was to stick to its formerly politically unsuccessful cap and trade scheme, albeit with improvements from its last experience. However, it was always going to

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be a difficult political sell. The Coalition abandoning its own more electorally popular NEG, gave Labor the chance to reposition its own climate policies.

All the signs are now, that Labor will adopt the various coalitions policies, as a NEG 2.0 or similar. This would be very difficult for the Coalition to attack, having previously been its own policy. Furthermore, the Greens are already on the front foot arguing for a carbon tax. Labor is nicely positioned to claim the sensible centre, not so different from what Howard did in 1996.

Labor's new policies will be debated at its National Conference in mid-December. With reports hinting that the draft platform includes emission targets but is silent on mechanisms, leaving the critical policy decisions to the Shadow Cabinet and Caucus. This would also give Opposition Leader Bill Shorten the sort of policy flexibility and tactical advantage that Howard had pre-1996. Furthermore, Labor is now sensing that middle Australia wants the federal government to reassert a national responsibility in environmental protection. Thus, it is considering binding national plans and standards. No doubt the States will be given the opportunity to accredit these plans and standards to arguably limit the administrative burden. The language sounds very familiar! The EPBC Act will be overtaken by a Federal Environment Protection Agency and a National Environment Commission.

So according to the electoral polls, Australia will soon see a new wave of environmental legislation. Whether Labor is correct in thinking that these changes will be welcomed as offering greater certainty, and thus reducing business risk, is something which will be seen in due course. What is certain is that these changes will be presented not just as reformist, but as moderate, reasoned and business friendly. Labor could still overreach, but for the moment, it seems to have learned a lesson and the Coalition has given it a free kick.



Hon. Robert Hill AC, the Chairman of Dragoman who was Australia's Environment Minister at the time of the Kyoto Climate change conference, introduced the RET into the Parliament, and in the late 1990s commenced a dialogue with industry on the modalities of a future cap and trade scheme to reduce Australia's carbon emissions.