

## A RETROSPECTIVE OF THE CLEANTECH & RENEWABLE ENERGY SECTOR FOR 2011 AND A PREDICTION FOR 2012

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### 2011: A Year of Change

2011 has been a landmark year in the cleantech and renewable energy sectors in Australia with assent of the *Clean Energy Act 2011* on 18 October 2011. Many in the industry viewed the passing of the Clean Energy Act 2011 with relief rather than elation and see Durban as forming a platform for future consolidation and growth.

Despite a tumultuous year of national debate on the carbon price as well as the various complementary measures, our Energy and Environmental team have been busy on some landmark pieces of work including:-

- Acting for a large international law firm by advising their gas transmission client on carbon liability and carbon transfer mechanisms under the *National Greenhouse and Energy Reporting Act* and *Clean Energy Act* for the sale of gas transmission assets;
- Acting for one of Australia's largest venture capitalists and providing an energy efficiency market report for the Australian market;
- Advising a technology company on raising \$4M worth of finance through convertible notes and prospectus as well as advising on take-over requirements;
- Establishing the REC Agents Association on behalf of Australia's leading REC traders;
- Acting for numerous energy efficiency/renewable energy technology companies;
- Acting for several leading REC traders helping them with regulatory and contractual requirements as well as resolving disputes;
- Acting for energy saving certificate traders in NSW and Victoria and drafting ESC Contracts;
- Acting for both creditors and debtors on several renewable energy and energy efficiency industry administrations and insolvencies;
- Acting for an ASX listed waste company drafting their Hazardous Waste Contract; and
- Various agricultural clients in respect of farm cropping licencing and administration issues.

### 2012: Year of the ESCO

We look forward to 2012 as it promises to be an exciting year in the cleantech/renewable energy sector. Some of the sub-sectors we believe strong growth will occur include:-

- **The Building Sector:** we anticipate strong growth in building upgrades following the recent finalisation of the NSW Environmental Upgrade Agreement with likely skills/supply chain constraints in the second third/fourth quarter of 2012;

- **Renewable Energy Trading:** with the implantation of the *Clean Energy Act*, the reduction of surplus REC washing through the market as well as greater compliance requirements being imposed by the ORER/Clean Energy Regulator, the renewable energy market will need to review their compliance strategies as the regulator may make sweeping changes in the new year to shore up instances of phoenix REC traders such as WellBeingGreen;
- **Energy Efficiency Trading:** with recent supply pressures of ESCs under the NSW ESS for 2011, some liable entities were forced to pay the shortfall penalty. IPART have been busy streamlining the accreditation and project approval phases to facilitate the creation of ESCs to provide liable entities with a least cost option;
- **Cleantech Listings:** with the price of carbon being implemented from July 2012, we have already started to see cleantech companies seek to list on the ASX; the National Stock Exchange in Newcastle; and SIM Venture Securities Exchange and we believe listings will continue to occur in higher frequencies as technologies seek to leverage funding from the capital markets; and
- **NGERS/Clean Energy Compliance:** we also believe their will be continued growth in liable entities seeking advice on NGERS/Carbon compliance and pass through mechanisms for their contracts.

What is clear is that building owners need to understand the REC/ESC market as they are currently forgoing additional revenue opportunities due to a lack of understanding of how the market works.

We anticipate the REC/ESC traders will continue gearing up to trade carbon farming permits even though we assume that most of the 5% offset demand will have been met by those ASX listed carbon farming companies and major trading opportunities will not eventuate until 2015. We also believe that the Design, Build, Finance & Operate of Renewable Energy Facilities will increase primarily due to the introduction of the carbon price, although, the extent of this growth will depend on the availability of PPAs, funding (i.e. listings) and of course the LGC price which has been steady around \$40-41.

We have listed in our complementary December Newsflash the revised list of drivers which we initially published in May 2011 for building owners to undertake energy efficiency upgrades of their commercial buildings following the *Clean Energy Act* and the Australian Property Institute's and Property Funds Association's *Building Better Returns Report*.

We will be holding our third **Environmental Leaders' Forum** in the first quarter of 2012 titled "Meet the Traders" which will enable building owners/agents, liable entities and farmers to meet the leading REC/ESC/Carbon traders: so please contact Dermot Duncan or Glenn Crisp to reserve your place.