

# GOVERNMENT'S INNOVATION STATEMENT PUTS RENEWABLES BACK ON THE AGENDA

07 December 2015 | Australia, Brisbane, Melbourne, Perth, Sydney  
Legal Briefings - By **Chelsea Roche** and **Patrick Sands**

---

Commercialisation of research a key theme in Government's National Innovation and Science Agenda released today.

- It coincides with the Paris UN Climate Change conference where Australia has pledged a 5% reduction in greenhouse gases below 2000 levels.
- It is expected the shift in policy will reinvigorate investment in the renewables and clean tech sector.

## INTRODUCTION

Release of the Federal Government's much-anticipated National Innovation and Science Agenda<sup>1</sup> (the **Agenda**) on 7 December is expected to boost investor confidence in the cleantech and renewables sector. The \$1.1 billion investment package is intended to generate business-led innovation and comes hot on the heels of the Paris UN Climate Conference where Prime Minister Malcolm Turnbull pledged that Australia would ratify the second phase of the Kyoto Protocol. In doing so, Mr Turnbull has committed Australia to a 5% reduction in greenhouse gases below 2000 levels over the 2013 to 2020 period. Although Australia's reduction target has been criticised for being too low and much less than that of the US, Canada and the EU<sup>2</sup>, it provides much needed certainty around the future of renewables in Australia and together with the release of the Agenda, is expected to provide investors with greater confidence in the further development and diversification of Australia's clean energy sector.

The Agenda outlines the Government's ambition for Australia's economic growth to be innovation-led, embracing change and disruptive technologies.

### **Capital raising and enabling risk**

Policies that target capital raising are a feature of the Agenda and are designed to encourage a risk tolerant culture that is more accepting of business failure. This was undoubtedly one of the take home messages from Wyatt Roy MP's recent trade mission to Israel, an objective of which was to understand what makes Israel a world leader in fostering innovation and entrepreneurship.

Tax arrangements and changes to corporate legislation that enable risk and encourage commercialisation of research have been unveiled, including provisions relating to the tax treatment of intangible assets such as patents, CGT exemptions for investors that hold shares in start-ups for at least three years, and changes to insolvency laws that reduce the default period for bankruptcy from three years to one. In addition, it is hoped that skilled persons will be encouraged to serve on the boards of early ventures through the creation of a "safe harbour" from personal liability for insolvent trading for directors.

### **Commercialisation of research**

For cleantech innovation and commercialisation to flourish, a combination of favourable political, social and financial conditions are needed. Australia's research sector is highly productive and internationally recognised, and yet it was ranked last of 30 OECD nations on collaboration between business and public research institutes. A main focus of the Agenda is improving the translation of Australia's research and development (**R&D**) into commercial outcomes. The Agenda announces a \$200 million CSIRO Innovation Fund to support spin-offs and startups and a \$250 million Bio-medical Translation Fund to support medical discoveries "from the laboratory bench to the patient's bedside". In addition, changes to university funding criteria will mean that competitive grant bodies will be required to replace the traditional 'publish or perish' mentality with one that values collaboration between research and industry.

### **Boosting talent and skills**

The Agenda outlines the government's plans for growing Australia's talent pool by developing science, technology, engineering and maths skills, encouraging talented Australians to return home, and attracting young entrepreneurs from around the world to Australia under a new Entrepreneurs Visa scheme.

## **INGREDIENTS TO SUCCESS: A CULTURE OF INNOVATION AND ACCESS TO FINANCE**

The policies announced in the Agenda are intended to create the conditions under which innovation and entrepreneurs can flourish. Why is innovation so important? Innovation is estimated by the OECD to account for around 50 per cent of total GDP growth in its member countries.<sup>3</sup> The 2015 Australian Innovation System Report identified two factors that are critical to translating research into a commercial output: a culture of innovation and access to finance.

Australia ranks lower than the US, Europe, Canada and the UK on the number of public research spin-off companies per US \$100 million of research expenditure<sup>4</sup> which suggests a lack of entrepreneurial culture within organisations. Investment in R&D is key to creating an environment where innovation can thrive. Micro businesses that undertake R&D are more likely to exhibit higher growth in sales and profitability than similar sized businesses that do not invest in R&D.<sup>5</sup> The Office of the Chief Economist reports that for every 1 per cent increase in R&D expenditure, a 0.35 increase was estimated in the number of patent filings.<sup>6</sup>

### **Fostering an innovative business culture**

For many businesses investment in R&D is key. Ways of encouraging innovation could include using innovation as a measure of performance, rewarding the development and commercialisation of ideas, encouraging networking and collaboration and by adjusting your organisation's tolerance to commercial or technological risk.

### **The role of intellectual property**

The role of intellectual property (**IP**) and its potential to bring considerable value to an organisation is set to increase under the innovation-led economy forecasted by the Agenda. Identification of IP is crucial to realising value from investment in R&D and businesses need to take steps to ensure that innovation worth protecting is identified. This could include skills training for staff in IP awareness. Once IP is identified, its value to the business needs to be established and a decision taken as to whether any IP rights can and should be secured. It will be important to have an awareness of what competitors are doing and, where third party rights are identified, a commercial solution might include pursuit of any collaboration opportunities. Source IP<sup>7</sup> is IP Australia's new digital IP marketplace which has been created to help businesses identify and access IP held by the public sector. The organisations hosting content on Source IP include Australian universities, Commonwealth organisations such as the CSIRO and Australia's Medical Research Institutes.

Every organisation needs to have an IP strategy in place and there is no 'one-size-fits-all' approach. For example, the objectives and resources of a start-up will differ to those of a large established corporation, as will the IP strategy.

### **Access to finance**

Stable, predictable funding is an important factor for a high performing national research sector and the Agenda carves out a role for third party intermediaries such as the CSIRO Innovation Fund and the Bio-medical Translation Fund to help start-ups bridge the 'valley of death' where negative cash flows can mean the end of a business before steady revenue can be generated. Similar services have been successful in the UK, Germany and the Netherlands<sup>8</sup> and are intended to support the R&D needed to get a project to the point of being commercially viable, after which it is easier to attract private equity.

## CONCLUSION

Many look to innovation in renewable energy and clean technologies as being necessary to combat climate change and to address issues of energy security. However, Australian innovation in these areas has been hampered by a lack of coherent government policy. The Agenda is not framed on the need to tackle climate change by reducing carbon emissions to meet renewable energy targets. Instead, it justifies investment in innovation across all sectors as a means of securing Australia's future prosperity, something even climate sceptics can get on board with. In any event, the shift to an innovation-led economy can only be good news for a renewables sector that is heavily reliant on investment for development of innovative technologies.

## ENDNOTES

1. [Department of Industry, Innovation and Science](#).
2. The US and Canada have pledged a reduction of 17% below 2005 levels by 2020. The EU has pledged a reduction of 20% below 1990 levels by 2020.
3. OECD (2015) OECD Innovation Strategy 2015 - An agenda for policy action, OECD Publishing, Paris, p 4.
4. [Boosting the Commercial Returns from Research](#).
5. [Australian Innovation System Report 2015, page IX](#).
6. Ibid, p X.
7. [IP Australia website](#).
8. Germany's Fraunhofer Institutes, the UK's Technology Strategy Board and Catapult Centres, and the Netherlands' Organisation for Applied Scientific Research.

# LEGAL NOTICE

The contents of this publication are for reference purposes only and may not be current as at the date of accessing this publication. They do not constitute legal advice and should not be relied upon as such. Specific legal advice about your specific circumstances should always be sought separately before taking any action based on this publication.

© Herbert Smith Freehills 2021

---

**SUBSCRIBE TO STAY UP-TO-DATE WITH INSIGHTS, LEGAL UPDATES, EVENTS, AND MORE**

Close

© HERBERT SMITH FREEHILLS LLP 2021