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Diesel shortage in Australia: what EPC and major contractors must do now

This alert is a must-read for EPC and major contractors delivering remote energy and infrastructure projects across Australia's regions, and relevant for Principals assessing risk allocation and program impacts, or negotiating new contracts.

Australia is experiencing tightening diesel supply in several regions, driven by Middle East hostilities, notably shipping disruption through the Strait of Hormuz. While the Commonwealth says national stocks remain adequate, contractors on remote works are already seeing delivery delays, capped allocations and rising spot prices that threaten program and margin. This alert explains what is happening, what Government may do next through its new Fuel Supply Taskforce, and how to protect your position under existing and new contracts.

Key points

- **Localised diesel supply impact now**: Intermittent allocations and delivery delays are biting across regional Australia, impacting remote projects. National stocks remain adequate overall but not necessarily at site level.
- **Government coordination (19 March 2026):** The Commonwealth appointed Anthea Harris as Fuel Supply Taskforce Coordinator to lead a new Taskforce in PM&C coordinating with States/Territories and industry. To date, no national emergency has been declared.
- **If conditions worsen:** The Commonwealth can make a declaration under the Liquid Fuel Emergency Act and activate the National Liquid Fuel Emergency Response Plan following consultation with States and Territories through established mechanisms (NOSEC/NCM), likely with a staged escalation from voluntary restraint to targeted rationing.
- **Contract Force Majeure (FM) reality check:** In many Australian EPC/BOP/D&C contracts, FM definitions are exhaustive and limited to events in Australia, commonly exclude insurance unavailability, and provide time-only relief. Price spikes and shortages often remain a contractor risk unless the contract says otherwise.
- **Lump sum pricing structure:** Many EPC/BOP/D&C contracts are lump-sum with no right to re-price for diesel increases. Unless a defined adjustment or escalation mechanism applies, fuel cost risk typically sits with the contractor.
- **Notices and other action:** Protect your program now (demand management, logistics), protect entitlement fast (timely notices, contemporaneous records), and re-price or negotiate terms for new work to share diesel risk.

What's happening now (as at 22 March 2026)

The Fuel Supply Taskforce is acting as the Commonwealth's central coordination point with industry and the States/Territories, with NOSEC and the National Coordination Mechanism providing national coordination and a consistent view of supply and demand. On 19 March 2026, Anthea Harris was appointed Fuel Supply Taskforce Coordinator within PM&C. The Commonwealth has announced targeted reserve releases, a temporary relaxation of fuel standards (currently in effect), and a compliance focus on price-gouging. However, no national liquid fuel emergency has been declared. Ministers continue to reference "days of cover" at historically higher levels while acknowledging localised tightness in regional areas.

At site level, contractors report missed or late fuel deliveries, supplier-imposed caps on diesel volumes, in some regional areas retail outlets refusing to refuel construction equipment, and road transport delays. These issues, coupled with sharp spot-price increases, are already affecting earthworks, crane operations, concrete batching and temporary site power on remote projects.

Remote projects are most exposed

Remote EPC/BOP packages have little slack in their fuel and logistics chains. High daily diesel consumption combined with long and fragile supply lines means a missed delivery can halt earthworks or lifting campaigns within days. With critical activities such as foundations, major lifts, stringing and commissioning tied to narrow outage windows, even short-lived shortages can push activities onto the critical path, heightening LD exposure.

Government intervention: what happens next

As at 22 March 2026, Australia remains in the coordination and monitoring phase. No national liquid fuel emergency has been declared and measures to date are voluntary or administrative (the Fuel Supply Taskforce, targeted reserve releases, temporary fuel-standards flexibilities and a compliance focus on price-gouging).

If conditions deteriorate, the Commonwealth can move to a formal declaration under the Liquid Fuel Emergency Act following consultation with States and Territories through established mechanisms (NOSEC/NCM). A declaration would enable binding directions – bulk allocation, possible retail rationing and essential-user prioritisation – implemented through the National Plan and State/Territory instruments. These measures are intended to be temporary and would be reviewed and wound back as conditions improve.

Existing contracts: protect your entitlements first, then your program and margin

Start by identifying the legal entitlements in your contract, then secure them with timely notices and evidence, and finally pursue pragmatic mitigation or negotiated solutions.

Step 1 — Identify entitlement pathways (what relief may be available)

- **Force Majeure (FM):** Is FM exhaustive and limited to events "in Australia" or defined jurisdictions? Are supply-chain failure and insurance withdrawal excluded? Is relief time-only or time-and-cost? If FM is narrow or excludes fuel shortages, do not assume coverage.
- **Change in Law (CIL):** Many EPC/BOP forms define CIL to include new or amended laws, regulations, mandates or directions by a competent authority after the contract date. Binding directions that ration or prioritise fuel under the LFE Act/National Plan, or other mandatory restrictions, can trigger CIL for time and (in some forms) cost. Non-mandatory guidance or voluntary coordination typically will not.
- **Directed change/Compensation Event/Principal's instructions:** If the Principal instructs resequencing or alternative methods in response to fuel scarcity, use variation/compensation mechanisms rather than relying on FM.
- **Suspension/Prevention:** If authority action (or a Principal direction) prevents access to site or key activities, consider suspension or prevention relief (often time, sometimes prelims costs), subject to strict notice.
- **Frustration doctrine (last resort)**: This is only where performance is radically different or impossible. In practice the argument is likely to be hard to run in a major projects context where risk allocation provisions in the contract expressly address the scenario (or purport to exclude the doctrine) and there are negotiated force majeure provisions.

Step 2 — Preserve entitlement (notices, time bars, causation and records)

- **Serve timely notices:** FM/CIL/Compensation Event and any suspension or stop-work notices must meet strict time limits. If in doubt, lodge protective notices. Set out the facts, causal mechanism, expected delay/cost, and mitigation, and provide required updates.
- **Prove causation and impact:** Use supplier allocation letters, missed-delivery confirmations, transport advisories, price data and site diaries. Link impacts to the program's critical path and quantify delay.
- **Track cost cleanly:** Set up separate codes for fuel price variance, idle plant/crews, resequencing and additional logistics so recoverable items are evidenced where allowed.
- **Mitigate and record:** Show reasonable mitigation (alternate suppliers, revised haulage windows, load consolidation, method changes) and why further steps were impracticable or disproportionate.

Step 3 — Mitigate and, if needed, negotiate commercial solutions

- **Interim frameworks:** Where entitlement is unclear, seek without-prejudice agreements for interim EOTs, shared prelims for idle plant/crews, or a capped diesel-adjustment factor for a defined period.
- **Method and sequencing changes:** Table targeted variations to protect critical lifts/commissioning windows (e.g., alternate plant mix, shift patterns, temporary generation strategies) with priced impacts.

- **Supply resilience:** Move to multi-supplier arrangements; require weekly stock-on-hand and ETA reporting; validate and, where possible, increase on-site storage; secure alternate haulage routes/carriers; ensure dangerous goods licensing and insurer notifications are in place for any increased on-site storage.
- **Stakeholder communications (must be disciplined):** Issue only the notices required under the contract to the Principal/Superintendent (and any head contractor), and make lender updates strictly in accordance with your financing documents (e.g., MAE/default/information undertakings). Keep all notices factual and non-concessional, reserve rights, and ensure consistency with your program and claims strategy. If additional updates are requested, first agree a written protocol (for example, a weekly data-only dashboard). Mark negotiation communications without prejudice and obtain legal review before circulation.

New contracts: Negotiate diesel and hostilities risk now

For upcoming tenders or variations, move diesel from an unmanaged contractor risk to a shared and transparent framework. This might involve going beyond standard FM by adding an express "*Fuel Supply Constraint*" adjustment event, confirming that binding rationing/directions under the LFE Act/National Plan constitute a Change in Law with defined time and cost relief, and adopting diesel price escalation mechanisms with collars/caps.

Some of the "upgrades" to your contract terms that could be negotiated include:

- **Broader scope of Force Majeure relief**:
  - Capture hostile acts/sanctions/closure of key sea lanes and "downstream effects on Australian supply", regardless of where the cause occurs.
  - Remove insurance carve-out for war-risk withdrawal where it directly prevents performance despite mitigation.
  - Allow cost relief (not just time, which is more typical for FM) for specific instances where performance is prevented or materially hindered by government directions/rationing under the LFE Act/National Plan.
- **Targeted risk-sharing outside FM**:
  - Fuel adjustment mechanism: Include a diesel price escalation mechanism with collars/caps and shared pain/gain against a transparent benchmark (e.g., TGP diesel by region).
  - Compensation Event for rationing/sanctions: Pre-agreed entitlement when supplier allocations or government directions cut available fuel below a baseline.
  - Principal-procured fuel option: Provide for owner-furnished fuel supply where market access is constrained, with transparent pricing and service levels.
  - Long-lead logistics relief: Defined relief for missed haulage windows where caused by industry allocation rather than contractor default.
  - Early-warning and reprogramming: Consider adopting NEC-style early warnings with joint risk-reduction meetings; agreed resequencing/change in method as priced variations.
- **Commercial levers:** Allow alternate plant/fuels where efficient; agree standing rates for standby and partial productivity; include a quick-decision process for EOT/cost within 10 business days.

At the same time ensure you watch for terms that materially increase program and margin risk, like:

- Exhaustive (rather than inclusive) list of FM events restricted to "in Australia" only.
- Explicit exclusion of fuel shortages and insurance withdrawal from FM.
- Absolute price risk on diesel with no escalation or sharing (noting FM commonly provides time but not cost relief).
- Strict notice time bars with "condition precedent" language and no relief for evolving events.

Key takeaways

- **Act now:** issue protective notices, start clean evidence files, and model 10%, 30% and 50% diesel reductions against the critical path.
- **Map your entitlement:** do not rely on FM alone. Check Change in Law for any binding rationing/directions under the LFE Act/National Plan, plus variations, prevention/suspension and compensation events.
- **Use contract processes to your advantage:** adopt early warning/risk-reduction meetings and agree reprogramming as priced variations with defined EOT and capped prelims.
- **Strengthen supply resilience:** diversify suppliers, require weekly allocation/ETA reporting, and increase on-site storage where practicable.
- **New contracts:**
  - include an express "*Fuel Supply Constraint*" adjustment event, confirm rationing/directions as Change in Law (time and defined cost), add diesel price escalation mechanisms with collars/caps, and keep FM inclusive and extraterritorial.
  - watch out for FM limited to "in Australia", time-only FM relief, exclusions for fuel shortages/insurance

withdrawal, absolute diesel price risk, and strict condition-precedent time bars.

Our Projects, Infrastructure & Construction team is already working with a number of contractors affected by these developments. We can help you stress-test entitlements, prepare protective notices and negotiation positions, and tailor a site-specific checklist so your project and margins are protected.

If you would like to discuss further, please contact Martin Lovell.