

Article Information

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UPDATE | WA statewide fuel emergency declared: What it means now for major projects and when contract relief will come

This note provides an update to our earlier insights dated 22 March 2026 ([Diesel Shortage in Australia: What EPC and Major Contractors Must Do Now](#)) and 28 March 2026 ([Update: Diesel shortage in Australia: EFA underwriting announced, but Contractors are still not “essential users”](#)).

State of emergency declared

Western Australia has formally declared a statewide fuel state of emergency under the *Fuel, Energy and Power Resources Act 1972* (WA) due to armed conflict and shipping disruptions in and near the Middle East affecting fuel provision, supply or distribution in or to Western Australia.

The *Fuel, Energy and Power Resources (Declaration of State of Emergency) Order 2026* was declared on 1 April 2026, applies to the whole State, vests administration of the Act in the Minister for Energy and Decarbonisation, and runs until 30 September 2026.

The declaration activates the statutory emergency framework. However further regulations, orders or directions are still required to introduce allocation, permitting or end use restrictions.

No user-facing restrictions yet

Despite this declaration, there are currently no WA user-facing regulations, orders or directions limiting construction fuel use. Current measures focus on compelling fuel suppliers to disclose supply chain information rather than restricting consumption, though further measures may follow shortly depending on how the situation develops.

This is important, as for most EPC projects, change-in-law or similar relief will generally only be available once a binding WA instrument directly affects the works or the Contractor's legal ability to perform them and necessitates a variation or resequencing to remain lawful.

Key takeaways

- The WA emergency framework is now live and could override inconsistent contract terms once used, but no end-use limits for construction have been published yet.
- In most fixed-price EPC and D&C forms, diesel price inflation and general scarcity remain Contractor risks unless a defined adjustment event is triggered.
- Force majeure provisions commonly used on EPC projects are narrow and usually operate as time-only relief; they seldom address cost exposure and may not extend to events outside of Australia (depending on how the clause was negotiated).
- A credible change-in-law pathway typically requires a binding WA regulation, order or direction that applies to users and requires a variation or resequencing to comply, in order to make out a claim for relief.
- Principals and Contractors should preserve entitlements, ready compliance materials, and scenario-plan for potential allocation, permitting or rationing.

What changes on WA projects today

- The declaration alone does not limit site consumption, refuelling or haulage. No WA user-facing emergency regulations, orders or directions doing so have been published as at today.
- Higher diesel prices or general scarcity therefore remain with the Contractor unless a defined adjustment event is engaged.
- Force majeure in many EPC forms is unlikely to assist on cost and, even when engaged, typically operates as time-only relief.

Impacts for Principals and Contractors

- Principals should anticipate that any future WA emergency instruments will apply according to their terms and may necessitate prompt resequencing or method changes to remain lawful. Contract administrators should be prepared for rapid assessment of extension of time claims, directed variations and change-in-law entitlements where the contract provides for them.
- Contractors should tighten claims discipline now by preserving their position with timely likely-delay and actual-delay notices linked to critical-path activities rather than general market conditions. Records of allocations, missed deliveries and site fuel consumption should be maintained contemporaneously, and compliance packs should be prepared in anticipation of any user-level information reporting requirements.

When change-in-law or equivalent relief is likely to be available

- Relief will usually turn on a binding WA regulation, order or direction that directly affects the works or the Contractor's legal ability to perform and necessitates a variation or resequencing to comply.
- Typical triggers include: a permit, allocation or rationing system constraining site consumption or refuelling windows; a determination of user priority or a prohibition on specified uses relevant to construction activities; or a user-addressed direction that compels a change in work methodology or programme to remain lawful.
- A declaration on its own, without regulations, orders or directions imposing user-level restrictions, does not typically meet this threshold.

What to watch next

- Any WA emergency regulations, ministerial orders or directions that move beyond supply chain transparency into allocation, permitting, user-priority or end-use restrictions for "users."
- National posture changes, including any escalation under the National Fuel Security Plan that signals demand reduction or allocation for non-essential users, which may be mirrored or accelerated in WA.
- Confirmed supplier allocation notices or missed deliveries that begin to affect critical-path activities, which should be captured promptly in contractual notices and records.

If you would like to discuss further, please contact [Martin Lovell](#).

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