22 September 2020

Committee Secretary
Senate Environment and Communications Legislation Committee
ec.sen@aph.gov.au

Submission to the Senate Environment and Communications Legislation Committee regarding the Clean Energy Finance Corporation Amendment (Grid Reliability Fund) Bill 2020

Dear Committee Secretary,

Our organisations welcome the opportunity to provide input into the Committee's scrutiny of the Clean Energy Finance Corporation Amendment (Grid Reliability Fund) Bill 2020 (the Bill).

Executive summary

We support additional funding for the Clean Energy Finance Corporation (CEFC), including the $1 billion that would be provided through the Bill.

We do not support changes to the CEFC's legislation that undermine its independence, low emissions remit, commitment to profitability, or its avoidance of fossil fuels as part of a clear commitment to assist in the reduction of Australia's climate emissions.

Recommendations

We recommend the Bill be amended to address the following critical issues.

1. **Uphold the CEFC's core objective** "to facilitate increased flows of finance into the clean energy sector" by:
    - Retaining the CEFC's existing requirement to invest at least half its funds in renewable energy.

- Retaining the existing definition of 'low emissions technology' under the *Clean Energy Finance Corporation Act 2012*, and as detailed under the CEFC's published Investment Guidelines.
- Not using CEFC funding for gas or fossil fuel projects.

2. **Protect the CEFC's independence and its ability to apply commercial rigour** by rejecting the Bill's proposed changes to:
   - Provide additional powers for the Minister to direct CEFC's investments.
   - Enable the transfer of the Government's Underwriting New Generation Investment (UNGI) scheme and its current short list of non-transparently pre-selected set of projects to the CEFC.

3. **Retain the CEFC's requirement to deliver a return on investment** by rejecting the Bill's proposed changes to:
   - Expand the definition of 'investment' to include the disbursement of money without an expectation of return.
   - Enable the CEFC to provide a 'revenue floor' for projects, as this places an unacceptable risk burden on the Australian public, when investment risks should be borne by private investors.

These flaws in the Bill must be corrected to ensure this $1 billion fund provides its full benefit to the Australian public and Australia's clean energy transition.

Introduction

The Prime Minister has referred to the CEFC as "the world's most successful green bank."

The CEFC has a strong track record of investing in renewable energy, energy efficiency and low emissions technologies, while also leveraging private finance and delivering a high rate of return on investments. The CEFC has played a critical role in supporting Australia's clean energy transition and has successfully acted as a catalyst for investment since its inception in 2012.

Critically, the CEFC also plays an important role in Australia's efforts to reduce climate emissions. CEFC has been "at the forefront of new investment in a wide range of activities to drive down emissions, touching on all areas of our economy, including agriculture, energy, infrastructure, property, transport and waste" (CEFC 2019).

We recommend that the CEFC's success be backed by additional funding, a guarantee of longevity, a reinforcement (not a change) of CEFC's current clean energy remit and a commitment to the CEFC's continued independence.

Further details are provided below.

Uphold the CEFC's core objective "to facilitate increased flows of finance into the clean energy sector"

The CEFC was established in 2012, with the legislated purpose of facilitating increased flows of finance into the clean energy sector. It does this through making strategic investments in renewable energy, energy efficiency and low emissions technologies.

The CEFC was established with a $10 billion investment fund, provided in annual appropriations of $2 billion per year for five years, commencing in 2012-13. CEFC investments have been consistently successful with cumulative investment returns of 5.29%. These investments have been able to take many forms including bonds, loans, project finance or equity investment, however the CEFC has always been required to make a positive return on its investments. Benchmarks for this return are set by the CEFC's Investment Mandate.

While making returns on investment, the CEFC has played an important role in supporting climate emissions reductions and Australia's transition to clean energy. In its 2018-19 Annual Report, the CEFC estimated that its investment commitments are targeting lifetime emissions abatement of more than 260 Mt CO_2-e.

Australia's electricity sector is responsible for around one-third of annual climate emissions, and the energy sector sits at the core of extensive decarbonisation opportunities that can be accessed through electrification and zero emissions electricity. The contribution of CEFC to clean energy investment is substantial and remains critical to Australia's continued decarbonisation efforts.

Retain the CEFC's existing requirement to invest at least half its funds in renewable energy technologies

This is a very poor time to remove the CEFC's investment requirement supporting renewable energy technologies. In 2020, investment in large-scale renewable energy projects fell to the lowest levels since 2017 due to grid delays and policy uncertainty (The Guardian 2020). The recent investment boom was largely driven by the tail end of the Renewable Energy Target (RET). The RET has been met and there is no climate and energy policy to provide the necessary investment certainty.

Australia's Paris Agreement commitments (limiting global temperature rise to 1.5 to 2 degrees Celcius) require renewable energy to reach a minimum of 75% of our electricity by 2030 (ClimateWorks 2020). Increasing renewable electricity generation will require additional policy incentives and CEFC investment to support a continued pipeline of projects and enabling infrastructure. The Australian Government's (2019) projections show that renewable energy will reach only around 48% of electricity by 2030. This indicates that without further renewable energy growth, Australia will likely fall short of current commitments.

It's also clear that while solar and wind energy are now very competitive against other sources of electricity generation, government investment is still needed to widen the use of renewable energy to more sectors of the economy, for example transport, heating and industry. Expanding the use of renewable energy across the economy will require additional government support and the CEFC is well-placed to mobilise investment in this direction.

Retain the existing definition of 'low emissions technology' under the CEFC Act and as detailed under the CEFC's published Investment Guidelines

The Bill proposes an unnecessary and unacceptably vague expansion of the definition for 'low emissions technology'. It appears this change is intended to enable more investment in gas, which is likely to be further directed through the next CEFC Investment Mandate.

The Bill's explanatory memorandum states it is "to ensure the CEFC is able to invest in the technologies described in the Grid Reliability Fund announcement that support the achievement of a low-emissions energy system in Australia."

However, CEFC is already investing in the most cost-effective solutions to achieve the goals outlined and there is no legitimate need for this new definition. The current definition, which guides CEFC has been defined by the CEFC Board through transparent, published investment guidelines consistent with the CEFC Investment Mandate.

It appears the proposed changes outlined in the Bill are designed to require the CEFC to invest in projects that do not currently meet the CEFC's emissions reduction tests, or investment return requirements. Potential projects could include gas, coal or pumped hydro projects shortlisted under the Underwriting New Generation Investment (UNGI) scheme or other fossil fuel projects.

The specific section of the CEFC Act, which would be updated by the new definition in the Grid Reliability Fund amendment Bill is the following (see 4 and 5):

> **60 Clean energy technologies**
>
> (1) Technologies that are any one or more of the following are ***clean energy technologies***:
>
> > (a) energy efficiency technologies;
> >
> > (b) low-emission technologies;
> >
> > (c) renewable energy technologies.
>
> (2) ***Energy efficiency technologies*** includes technologies (including enabling technologies) that are related to energy conservation technologies or demand management technologies.
>
> (3) ***Renewable energy technologies*** include:
>
> > (a) hybrid technologies that integrate renewable energy technologies; and
> >
> > (b) technologies (including enabling technologies) that are related to renewable energy technologies.
>
> (4) A technology is a ***low-emission technology*** if the Board is satisfied, in accordance with guidelines made under subsection (5), that the technology is a low-emission technology.
>
> (5) The Board must, by writing, make guidelines setting out the matters to which the Board will have regard in satisfying itself that a technology is a low-emission technology.
>
> (6) The guidelines must not be inconsistent with the Investment Mandate.
>
> (7) The Board must publish guidelines made under subsection (5) on the Corporation's website.
>
> (8) Guidelines made under subsection (5) are not a legislative instrument.

The Bill's Amendment proposes to re-write subsection 4 of the Act (as above), with the following:

> **33 Subsection 60(4)**
>
> Omit all the words after "***low-emission technology***", substitute:
>
> > if:
> >
> > (a) the technology is for any of the following and supports the achievement of low-emission energy systems in Australia:
> >
> > > (i) energy storage;
> > >
> > > (ii) electricity generation, transmission or distribution;

(iii) electricity grid stabilisation; or

(b) the Board is satisfied, in accordance with guidelines made under subsection (5), that the technology is a low-emission technology.

Written in this way, the Amendment removes the CEFC Board's current responsibility for interpreting and providing investment guidelines for 'low emissions technology' and instead allows a range of technologies to meet the new vague definition if they support "the achievement of low-emission energy systems in Australia".

A key concern is that the Bill does not provide a clear definition for "the achievement of low-emission energy system". The result is that it can be very widely interpreted. These insufficient boundaries give excessive power to the relevant Minister whose Investment Mandate can be used to direct the CEFC into specific types of investments, as long as they are consistent with the (amended) CEFC Act.

Investment Mandates are not disallowable Instruments, and therefore do not have the protections provided by Parliamentary scrutiny.

Further, as noted above, this expanded definition is unnecessary. These sorts of investments are already being made by the CEFC and have already been encouraged through an Investment Mandate Direction. Earlier this financial year, the Australian Government issued a new Investment Mandate Direction for the CEFC, which required the CEFC to consider the potential effects on reliability and security of supply when evaluating potential renewable generation investments and to give priority to investments that support reliability and security of electricity supply.

As CEFC noted in its 2019 Annual Plan, this Investment Mandate has already caused the CEFC to increase its focus on grid augmentation and interconnection, addressing market constraints and marginal loss factors and harnessing a rapidly growing distributed energy market. The CEFC is also pursuing additional opportunities in firming technologies and services, large and small batteries, and projects that can solve several problems at once while looking ahead to new opportunities that may lie in hydrogen, electric vehicles, the internet of things and artificial intelligence.

While the expanded definition for low emissions technologies gives additional power to the designated Minister, it takes it away from the independent CEFC Board. Although the role of the Board is noted in the Act, the amending subsection (a) (iii) includes 'or' and this allows the Board's role in defining low emissions technology (subsection (b)) to be made irrelevant by subsection (a). As mentioned, subsection (a) is unacceptably vague and therefore allows a wide band for ministerial direction that could pull the CEFC outside of currently accepted definitions for clean energy.

Further, the CEFC was set up as an independent Statutory Authority with a Board that "operates and makes its investment decisions independently of government, based on rigorous commercial assessments." This independence and commercial rigour have been important to the CEFC's success and should not be compromised or reduced.

Do not use CEFC funding for gas or fossil fuel projects

The CEFC has not previously invested in gas. The primary reason is that gas is not a clean energy.

The CEFC Board has published Investment Guidelines for 'low emissions technologies' that require projects to demonstrate their ability to achieve significant emissions reductions. This requirement, as well as the required return on investment and condition that all CEFC investments advance goals to decarbonise the economy, have made investing in gas virtually impossible.

We are very concerned about the government's dominant gas agenda, which has been inserted into the Technology Investment Roadmap, and many elements of COVID-19 economic recovery planning. There is significant evidence that gas investment is not good for stimulating the economy, creating jobs or reducing climate emissions (The Australia Institute 2020a; The Australia Institute 2020b). However, there is a wide body of evidence that renewable energy and energy efficiency investments are excellent for achieving all three of these important objectives.

Re-directing CEFC away from renewable energy, energy efficiency and low emissions technologies to support gas-related investment is a recipe for disaster – it is not good for our economy, our climate, or CEFC's bottom line.

Protect the CEFC's independence, its ability to apply commercial rigour and to deliver a return on investments

The CEFC invests public money and has consistently delivered a return on its investments. The CEFC has been highly successful in mobilising clean energy investment and accelerating clean technology solutions while maintaining strong profitability.

Since its commencement in 2012, the CEFC has committed $8 billion to nearly 200 large-scale clean energy projects, and more than 18,000 to smaller scale projects. With this investment, CEFC has leveraged private investment at the rate of $2.3 for every CEFC dollar of public investment. A total of $27.3 billion dollars has been invested as a result of the CEFC's activities. Current investment commitments total $6.4 billion.

Further, the CEFC Board is tasked with considering the impact of CEFC investments on the efficient operation of the markets within which it acts. An independent statutory review in 2018 confirmed that CEFC takes this task seriously and has, for example, declined finance to project proponents where it was available elsewhere.

The Bill removes the requirement that the CEFC can only invest in projects that will provide a return on investment, permitting it to fund loss-making activities as directed by the Minister. Loss-making investments are contrary to the core mission of the CEFC, and such ministerial direction to fund particular loss-making activities would be a clear infringement on the independence of the CEFC and its Board.

By allowing loss-making investments directed by the designated Minister, there is a clear risk that the Grid Reliability Fund could be mis-used to fund the Minister's personally preferred projects. At the very least these proposed changes would unnecessarily put public funds at risk and jeopardise the CEFC's investment reputation, which is critical to the credibility, trust and partnerships the CEFC has built across the investment community.

There is no rational justification for allowing CEFC to invest in projects where no return on investment is anticipated.

Reject the transfer of the Underwriting New Generation Investment (UNGI) Scheme to CEFC

As noted above, independence and commercial rigour have been central to the CEFC's success. Transfer of pre-selected UNGI projects to the CEFC offends both these important elements of independence and commercial rigour.

Transferring the UNGI program to CEFC is a form of direction, since there are already 12 short-listed projects. Most (i.e. the five gas projects and one coal project) would not meet the current CEFC guidelines for low emissions investment, and they may also be loss making propositions that CEFC would not otherwise consider.

What is clear is that CEFC has not had the opportunity to apply its current level of risk management and investment scrutiny to these projects, the process of choosing them has been extremely opaque and the UNGI program itself has never been fully defined. While it is possible that some of the UNGI projects (i.e., the six pumped hydro projects) would be good candidates for CEFC investment, none of them should be forced on the CEFC.

Previous direction has re-allocated significant portions (a total of $2.2 billion) of the CEFC budget for specific purposes, including:

- $1 billion Smart Cities Investment Program
- $1 billion Reef Funding Program
- $200 million Clean Energy Innovation Fund

Each of these new areas of focus, added to support the Government's own agenda, have required CEFC to divert staff and resources, gain new skills and expertise, and find new investment opportunities. While there is likely some value in CEFC involvement in the three programs outlined above, particularly as they are consistent with the CEFC's broader decarbonisation objectives, there must be limits to how wide CEFC can be compelled to extend its investment focus. CEFC should not be considered the answer to every government program that lacks legislative authority for funding. Making CEFC the catch-all for government programs is a sure way to undermine this very successful organisation.

These flaws in the Bill must be corrected to ensure this $1 billion fund provides its full benefit to the Australian taxpayers and Australia's clean energy transition.

Kind regards,

The Australian Conservation Foundation

350.org

Greenpeace Australia

Solar Citizens

Uniting Church in Australia, Synod of Victoria and Tasmania

WWF Australia

For further information please contact:

Suzanne Harter

Petra Stock

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