

Senate Committee Submission

Inquiry into the Clean Energy Finance Corporation Amendment (Grid Reliability Fund) Bill 2020

Introduction

I thank the Committee for providing the opportunity to comment on the Clean Energy Finance Corporation Amendment (Grid Reliability Fund) Bill 2020.

The CEFC has become a highly successful organisation and is renowned as the largest and one of the most effective publicly owned green banks worldwide. Despite the multiple abolition attempts by the current Government, the CEFC has survived and prospered. The CEFC remains as a legacy of the Gillard Government and is one of the few remaining climate policy levers for emissions reduction. The CEFC is a careful steward of taxpayer's money and has deep banking, finance, energy, and industry sector experience to fulfil its mandate of accelerating investments that reduce national emissions, whilst remaining profitable.

I had the honour of being the inaugural CEO of the CEFC, from 2012 to 2017. Given my role in building the organisation within the existing CEFC Act, to achieve early and sustainable success, I am able to provide a clear perspective on the detrimental changes the Government proposes to make to the organisation under the Clean Energy Finance Corporation Amendment (Grid Reliability Fund) Bill 2020.

I strongly advise Senators to reject this Bill in its current form, unless clarity about its integrity, intent and legal application is very clear. I draw your attention to a lack of integrity in such proposals that would appear endemic in the current Government.

My comments will address five issues, namely:

1. The argument for why this Bill is unnecessary
2. The detrimental effect this Bill could have on CEFC staff and expertise
3. The dilemma of asking the CEFC to do what ARENA is best placed to do
4. The unnecessary change to the definition of low emissions technology
5. The deception of the World Heritage Committee.

1. Why the Bill is unnecessary

The CEFC Act already provides to the CEFC with the power to invest in any "enabling technologies". Therefore any technologies that the Grid Reliability Fund is supposed to invest in is ALREADY permitted under the CEFC Act and within the CEFCs existing investment mandate.

The biggest barriers to the uptake of renewable energy are both grid constraints and the ability of renewable energy generators to balance their variable production patterns. Therefore, the CEFC can invest in technologies to address these issues such as "*energy storage, electricity generation, transmission or distribution or electricity grid stabilisation*" that enable renewable energy, as well as gas fired generation to perform more efficiently. Therefore, this Bill is not needed if its purpose is genuinely and simply to allow the CEFC to invest in such enabling technologies.

The CEFC also has power to apply concessionally to the loans it makes of up to \$300 million a year. It can already provide finance on terms that incentivises investment in certain technologies if needed.

Therefore, no change to the Act is required to enable the CEFC to invest in *“energy storage, electricity generation, transmission or distribution or electricity grid stabilisation”*.

If the genuine intention of the Minister is to provide the CEFC with a pool of capital to invest in grid reliability assets as he suggests, then he does not need this Bill because the CEFC already has the authority, the capital and indeed an existing statutory obligation to do that.

Therefore, this Bill would seem to be just an announcement stunt. Senators would be right to assume that the Minister must be attempting to achieve some ulterior motive. I worry that the Minister is seeking to create an arrangement where he can effectively direct the CEFC in what to specifically invest in, which is not allowed under the current CEFC Act, rather than allowing the organisation to use its skills and independent analysis to make these choices.

It is perfectly acceptable under the current CEFC Act for the relevant Minister to direct the CEFC, through the investment mandate, to focus more on certain eligible technologies, such as grid stability assets. It would be inconsistent with the framework of the existing CEFC Act and the CEFC’s statutory purpose to create a new legislative arrangement that demands that CEFC invests in gas assets that will in effect, displace the uptake of renewables.

To ensure that the money allocated from the so-called Grid Reliability Fund cannot be used in a way that would displace and delay the uptake of renewables, Senators should confirm for themselves three fundamental legal points.

- a) That any investment by the CEFC made from the Grid Reliability Fund must “support the achievement of low-emission energy systems in Australia” as required by the CEFC Act.
- b) That the change to the definition of “Investment “to include “doing a thing prescribed by the regulations for a purpose related to making a grid reliability fund investment”, doesn’t provide the Minister with regulatory powers to direct the CEFC to make investments that do not “support the achievement of low-emission energy systems in Australia”; and
- c) Determine WHY the Minister wants or needs special regulatory power to direct the CEFC in doing what he wants with the Grid Reliability Fund.

Senators will understand that the construction of new long-life gas generation assets cannot just be to support short term transition. Gas investors will want a long-term return and will seek to generate for decades. In doing so, they will crowd out the construction of new renewable energy investment. Gas fired power stations are not, and never will be an investment that “supports the achievement of low-emission energy systems in Australia”. In fact, the emissions from gas fired generation will hinder that objective.

I would strongly suggest you ask the Minister what type of gas assets he could think of that would “supports the achievement of low-emission energy systems in Australia”. I can only think of that being possible if the gas assets were reserve assets that are controlled by AEMO and only operate in times when an unexpected weather event or other outage has occurred. Such genuine transitional gas assets would be uncommercial and could ever be financed in the commercial market unless the Government want to have the assets available and not operating using a capacity payment mechanism.

2. The detrimental effect this Bill will have on CEFC staff and expertise

As any experienced business person knows, the quality of staff and an organisation's culture and values are vital keys to its success. There is no other statutory authority in Australia that has such a high international reputation and solid track record of success as the CEFC. One only needs to contrast the CEFC with the early challenges of the Northern Australian Infrastructure Facility to highlight how important it is to have a clear, workable, and consistent mandate and an ability to operate without the interference of Ministers.

It is the social policy purpose of driving down emissions that binds the CEFC staff and which has been the foundation for its success to date. Staff have mostly joined the CEFC from the private sector, inspired by their genuine desire to assist Australia's economic transition to a low carbon economy through its commercial investments. Staff are motivated by the dual responsibility to reduce emissions and make a return for the taxpayer. Most CEFC staff will struggle to contemplate lending to assets at a loss, that do not lower emissions, or don't enable low emissions technologies. Therefore, through this misguided Bill, the CEFC risks losing its most valuable asset, its people.

The CEFC has no experience in assessing and transacting in loss making investments. . It is not, and has never been, a grants organisation. There are real skills required in assessing the value of grants. Those skills reside in ARENA. The CEFC is a commercial investor.

It is inconsistent to expect the CEFC to act with full legal recourse to recovering funds from the borrower to protect taxpayers' funds, and then the very next day give money away or make loss-making loans to assets and businesses favoured by the Minister. This dichotomy in the business would cause a massive moral dilemma across the organisation.

The CEFC is currently managing billions of dollars of taxpayers' money. Taxpayers need a highly skilled team to do this. Under no circumstances should staff be directed to make loans that are inconsistent with the CEFC's purpose to accelerate commercial investments that reduce emissions and protect the taxpayer's money.

3. The dilemma of asking the CEFC to do what ARENA is best placed to do

Losing or granting taxpayers' money for particular purposes involves significant probity challenges that ARENA is well established to manage. The CEFC operates with a commercial mindset. It interacts with the market in a highly responsive fashion. It doesn't have complex application arrangements, and project proponents approach the CEFC seeking financial assistance with an understanding of its commercial expectations.

From its very earliest days, the CEFC had the ability to provide concessionality in its loans of up to \$300 million a year, but that discretion was hardly ever needed. We were able to achieve the emissions reduction objectives of the organisation as well as earn a commercial return, without providing concessional terms or losing taxpayers' money. What's more, it was clear that if the CEFC started to provide uncommercial or loss-making loans, a precedent would be established to the detriment of the entire CEFC business. These loans would be seen as an industry subsidy that all new borrowers would expect from the CEFC.

Where an eligible project needs additional monetary support to make it viable, it should partner with ARENA, which has the skills to determine which projects provide the most public value for a given loss, and can run the complex probity processes required for giving away taxpayers' money.

The CEFC has no skills in giving away or losing money. It assesses eligible investments based on their likelihood to make a return to taxpayers, whilst accelerating the transition to a low carbon economy. This is an entirely different business model to issuing loss-making loans.

The Minister is well within his right to give away or lose taxpayers' money for proper purpose, but he should make sure that such activity is undertaken by the right statutory authority with the necessary skillsets. The agency that could subsidise the Minister's favoured gas projects is ARENA. The same applies to any emerging carbon capture and storage projects, noting that there are no commercial CCS projects on the current horizon.

Senators, your fundamental concern with this Bill is that it will threaten the CEFC's successful business model by undermining its commerciality, independence, culture, staffing and highly specialised skills. If you allow this Bill to pass, you are threatening the custody of the \$10 billion of taxpayers' funds that the CEFC has under its control.

4. The unnecessary change to the definition of low emissions technology

Senators must ask why the Minister is seeking to change the definition of low emissions. Currently all the stated assets mentioned in the Bill are already complying investments under the existing CEFC Act because they "enable" more renewables.

The Minister has been crystal clear that he expects a considerable amount of the Grid Reliability Fund to be spent on new gas assets but Senators should ask what long-life gas investment could "support the achievement of low-emission energy systems in Australia"?

Senators would be aware that any new gas assets will crowd out further renewable energy investment. This would just delay rather than support the achievement of a low-emission energy system. Independent reports from energy experts like Aurora are available that will confirm this.

In the recent research report issued by Aurora Energy Research, analysts clearly identified the construction of any new gas assets as a clear risk to achieving a low-emission system.

Their analysis suggests that these assets, especially if subsidised into existence, will actually delay the transition to a low-emission system. They will either crowd out the much-needed clean investment solutions or worse, become assets that operate most of the time and for decades to come, contrary to gas being purported to be a transition fuel. Also, if the assets operate all the time it will not be available to provide additional capacity at the very time it might be needed. It will therefore fail in a primary purpose claimed which is to provide additional capacity should the combined capacity of renewables and storage assets fall short.

Unfortunately for the Minister, this analysis is very clear and reflects the views of most participants in the energy market. It is already hard enough to build and finance pumped hydro assets or batteries because price forecasting is complex, but for the Government, through the CEFC, to finance gas assets that exacerbate that problem is not consistent with the CEFC's Act and will actually delay the achievement of a low-emission system.

Given all this, what is the Minister and the Government seeking to achieve?

I can't be sure, but I can only see five political objectives - and none of them would justify allowing this Bill to pass the Senate:

1. Even though the CEFC can technically already invest in gas generation assets under the existing CEFC Act, the Minister is trying to create a wedge in the Opposition, by making the rejection of the amendments seem like a rejection of gas.
2. The Government is also taunting the Senate to reject these changes so it can claim it's stopping investment in gas and can establish a double dissolution bill.
3. The Minister is trying to undermine the culture of the CEFC and its independence by forcing it to invest in gas assets that, rather than enabling renewable energy or achieving a low-emissions system, are just old fashioned, dirty gas assets.
4. To give the Minister new powers to direct the CEFC in what it can invest in without Parliament's approval.
5. The Government is trying to find a use for stranded gas resources of party donors that should remain stranded as they have been eclipsed by renewables. Just as there was a mad scramble and effort by the government support the opening of the Galilee for Coal by donors, the government is now under pressure to do the same for Gas donors. The problem that Government faces is that the Gas these donors have is "dry gas" or gas that is basically only useful to delay or replace renewables. This gas from fracking in Narrabri, Bowen or the Galilee basins contains little ethane and is therefore close to useless for complex chemical processes like the production of plastics. This fracking Gas is really only useful for processes that renewables can already do like the production of power or hydrogen and ammonia. The Governments claim that using this gas from these stranded resources to make Hydrogen with CCS would be "clean" is also flawed. It is unlikely that Japan or Korea would accept Hydrogen from fracked gas due to the damage it will do due to methane leakages, fracking chemicals and salt along with the overall damage to farms. Basically, the Government is in the same unsustainable position with these Gas donors as it was with Coal baron's and just squirming to try and find a way to keep their promises to donors.

So in summary, if the Minister is concerned that the CEFC can't currently invest in gas assets that support the stability of the grid and supports the achievement of low-emission energy systems in Australia, I believe he is wrong as they can.

Therefore, I believe that the Minister is simply seeking a way to make the CEFC, through the Grid Reliability Fund, finance new gas assets that he will falsely claim support the achievement of low-emission energy systems in Australia. This will lead to litigation, confusion, and paralysis in the energy market, again delaying new investment by renewables. This will create another 'home goal' as Australia will not have constructed enough new generation assets to replace failing coal clunkers. Maybe this is what the Government wants as it will create lots of room for a political squabble that the Government seeks to take to the next election

Senators have a fundamental right to reject this Bill because it:

- Is simply not clear what it is trying to achieve other than find a way to finance gas assets to burn useless “dry gas” that will delay the transition to a low emission energy system; and
- Commercially threatens the culture and function of the CEFC which taxpayers depend on to soundly invest in emissions reduction technologies and protect the \$10 billion entrusted to it.

5. The deception of the World Heritage Committee

The use of the CEFC as a “pile of money” to wave around for political announcements and to deceive World Heritage Committee is not acceptable. The CEFC has a clear role to play in the transition to a low carbon economy and to use the organisation to deceive the public and multi-lateral organisations is unbecoming

This Grid Reliability Fund is the third fund established within the CEFC to deceive people that genuine new investments are being made. Previously it established the Great Barrier Reef Fund and the Smart Cities Fund with a pretence that the CEFC would be making demonstrable investments to improve the health of the reef and the wellbeing of designated cities. In the case of the Great Barrier Reef Fund, this was a blatant attempt deceive the World Heritage Committee that genuine investment funds had been made available. This deception was a way to stop the Great Barrier Reef being put on the world threatened list. As proudly declared by the Liberal government in their policies at the last election “The decisive actions by the Coalition resulted in the World Heritage Committee declaring that the Reef would not be listed ‘in danger.’ “

Well let’s look at that action.

It is now several years since the CEFC’s Great Barrier Reef Fund was established and in carbon speak, it has generated “no additionality”. Scrape a fingernail across the claimed success and you will just find investments that would have happened anyway.

No investments listed within the Great Barrier Reef Fund have been done that would not have been done by the CEFC anyway and therefore the World Heritage Committee is being deceived.

The then Minister spruiked it as a policy at the time “that the Coalition will create a new and profoundly important \$1 billion Reef Fund focussed on the great task of improving Reef water quality. The Reef Fund will mobilise investment finance to tackle the two biggest threats facing the Great Barrier Reef: climate change and improving water quality”.

As we sit here today, four years on from that announcement, water treatment plants up and down the Great Barrier Reef (GBR) have not been touched. The Government has been fully aware for years now that based on Queensland Water’s 2017 report, 96 of the 129 Sewage Treatment Plants (STPs) in GBR catchments do not meet recognised international tertiary discharge standards of 5 mg N/L & 1 mg P/L .

The 42 large plants are releasing more than 500MLpa on to the GBR account for some 80% of the sector’s total discharge. More than half of these plants do not have tertiary treatment in place .The 22 large, non-compliant plants are discharging a total of 508t of nitrogen onto the reef each year.

The volume of high-nutrient discharge released onto the GBR by these large, non-compliant plants is 27GL pa (equivalent to 11,000 Olympic pools per year). How do we all feel about having 11,000 Olympic pools of not compliant sewerage water pouring onto the GBR?

Senators have a key role in holding the Government accountable. If there is \$1billion for unnecessary gas assets, perhaps that is some real money for genuine investment into improving the health of the Great Barrier Reef.

Doing nothing on climate change or even with regard to protecting the Reef is not actually doing nothing... instead it is actually knowingly and wilfully causing destruction and heightening risk to the climate, the Reef and all vulnerable climate sensitive situations across all of Australia.

I thank Senators for their time and indulgence.

Oliver Yates