

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Department of Industry, Science and Resources
Inquiry into the Future Made in Australia (Production Tax Credits and Other Measures) Bill
2024 [Provisions]

AGENCY/DEPARTMENT: Department of Industry, Science and Resources

TOPIC: Green Aluminium Production Credit

REFERENCE: Written Question - Senator Dean Smith

QUESTION No.: 2

1. Is this a Future Made in Australia support under the FMA Act?
2. The Australian Financial Review has reported that the Green Aluminium Production Credit would not require legislation. What is the legal basis of the funding if there is no specific appropriation? Is the Department satisfied with the constitutional basis of this under *Williams v Commonwealth* and has the Department sought any external legal advice on the constitutionality of the payment?
3. Is it accurate to characterise the Green Aluminium Production Credit as a production payment?
4. Is the Green Aluminium Production Credit a Future Made in Australia support under the FMIA act, and if so, is that grant subject to the Community Benefit Principles?
5. Was the National Interest Framework used to assess the \$2 billion spend on the Green Aluminium Production Credit, and if not, why?

ANSWER

1. The Australian Government identified green metals (iron, steel, alumina and aluminium) as a priority sector under the Future Made in Australia (FMA) National Interest Framework – Net Zero Transformation stream in the 2024-25 Budget. The Green Aluminium Production Credit (the Credit) is not currently prescribed as FMA support under the *Future Made in Australia Act 2024* (the Act). The Act prescribes FMA support as funding provided under:
 - a. ARENA's FMA Innovation Fund, and
 - b. the domestic National Interest Account administered by Export Finance Australia.

The Act also establishes that funding can be prescribed as FMA support through legislation or rules under the Act. The Act prescribes under Section 10(2) the definition of FMA support.

2. The Department of Industry, Science and Resources (DISR) obtained all necessary constitutional and legislative advice as part of the standard policy development process. In line with other industry support administered by DISR, it is intended the Credit will be supported via a legislative instrument under section 33 of the *Industry Research and Development Act 1986*.
3. While payments under the Credit will be tied to the tonnage of production of green aluminium, it would not be accurate to characterise the Credit as a “production payment” of the type used in the mining, oil and gas industries.

4. See response to question 1.
5. The Credit is an outcome of the assessment in the 2024-25 Budget which identified green metals as a priority sector under the Net Zero Transformation stream, and extensive public consultation and advice from the Industrial Decarbonisation and Green Metals Advisory Panel.